



**MINUTES
BOARD OF ZONING APPEALS
JANUARY 6, 2021**

Chairman David Whitley, called to order the **Virtual Board of Zoning Appeals** at the Convention Center, on Wednesday, January 6, 2021.

The Board members' virtual staff briefing, was held at 1:00 p.m. at the Convention Center to provide the Board members information pertaining the agenda of January 6, 2021.

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-00072: Freedom Land Investment LLC to allow a total of 208 off-street parking space instead of 268 as required for existing and proposed shopping center with multiple uses (indoor recreational facility, retail, restaurant and standalone restaurant) **5070 VIRGINIA BEACH BLVD** Zoning: B-2 GPIN: 1467-96-0131

Board Action: APPROVED WITH 3 CONDITIONS ON JANUARY 6, 2021

Conditions:

1. The proposed improvements and parking layout shall be developed in substantial adherence to the submitted site and landscape plans entitled "Conceptual Site Layout Plan of Freedom Corner" dated August 29, 2020 and prepared by Orbis Landscape Architecture.
2. The proposed buildings shall be constructed in substantial adherence to the submitted building elevations entitled "Freedom Center Retail Outparcels" dated August 27, 2020 and prepared by Lemole Architects.
3. All of conditions of the modification of conditions approved by City Council on December 1, 2020 shall be met.

Jeff Hodgson appeared before the Board virtually representing the applicant.

There was no opposition present.

A motion was made by Mr. Pocta, seconded by Mr. Newton to approve the variance with 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 No Vote Needed

Case 2020-BZA-00073: Falcon Dunes, LLC A variance to allow 70.3% or (6,325 square feet) in impervious cover; instead of 60% or (5,400 square feet) in impervious cover as allowed for proposed inground swimming pool and pavers **8110 OCEAN FRONT AVE** Zoning: R-5R NE GPIN: 2419-69-24460

Board Action: APPROVED WITH 1 CONDITION ON JANUARY 6, 2021

Conditions:

1. If approved, the proposed swimming pool and pavers shall be installed in substantial adherence to the submitted site plan entitled “BZA Exhibit of Lot 1-A Block 13 prepared for Sokol and Weech” by WPL.

Eddie Bourdon, Attorney with Sykes Bourdon Ahern & Levy appeared before the Board virtually to represent the applicant.

No opposition was present.

A motion was made by Mr. Purkey, 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 No Vote Needed

Case 2020-BZA-00074: Geof and Mary Voorhees A variance to a 36.55-foot front yard setback instead of 50-feet as required for proposed two-story building addition above existing garage **685 THALIA POINT RD** Zoning: R-20 GPIN: 1488-01-6268

Board Action: APPROVED WITH 2 CONDITIONS ON JANUARY 6, 2021

Conditions:

1. The proposed room over the garage addition will be constructed in substantial adherence to the submitted site plan entitled “BZA Exhibit for GPIN 1488-01-6268, 685 Thalia Point Road Virginia Beach Blvd, VA 23452” dated October 29, 2020.
2. The proposed room over the garage addition will be constructed in substantial adherence to the submitted building elevations entitled “Voorhees Residence Room Over Garage” dated November 2, 2020 and prepared by 1230 Architects”.

Eddie Bourdon, Attorney with Sykes Bourdon Ahern & Levy appeared before the Board virtually to represent the applicants.

No opposition was present.

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

AYE	7	NO	0	ABSTAIN	0	ABSENT	0
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ANDERSON	AYE
HOLLAND	AYE
NEWTON	AYE
POCTA	AYE
PURKEY	AYE
THORNTON	AYE
WHITLEY	AYE
KOVNER	No Vote Needed

Case 2020-BZA-00077: WH CHESAPEAKE LLC Variances to a 26.50-foot front yard setback instead of 30-feet as required; and to a 20-foot rear yard setback from the property line adjacent to Northampton Blvd instead of 30-feet as required for proposed two-story single-family dwelling **4776 HOOK LN** Zoning: R 7.5 GPIN: 1479-45-1423

Board Action: APPROVED WITH 2 CONDITIONS ON JANUARY 6, 2021

Conditions:

1. 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 Property Known As 4776 Hook Lane” dated October 30, 2020 and prepared by Fox Land Surveyors.
2. The proposed two-story single-family dwelling shall be constructed in substantial adherence to the submitted untitled building elevations found in the file.

Eddie Bourdon, Attorney with Sykes Bourdon Ahern & Levy appeared before the Board virtually to represent the applicant.

No opposition was present.

A motion was made by Mrs. Anderson, seconded by Mr. Thornton to approve the variance with 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	No Vote Needed

Case 2020-BZA-00078: Carl Unterbrink Variances to a zero front yard setback from the property line adjacent to King Street instead of 20-feet as required; and to a zero north side yard setback instead of 10-feet as required for existing decking **911 13TH ST** Zoning: R5D GPIN: 2417-84-5906-0911

Board Action: APPROVED WITH 3 CONDITIONS ON JANUARY 6, 2021

Conditions:

1. The existing deck will remain 'as-is'; the decking will not be enlarged or expanded without further considerations from the Board of Zoning Appeals.
2. A building permit must be obtained for the decking within seven (7) business days of this Board of Zoning Appeals hearing.
3. Any required lot grading changes or drainage issues created due to the installation of the decking will be addressed, prior to receiving a final building inspection for the decking.

Carl Unterbrink appeared before the Board virtually.

No opposition was present.

A motion was made by Mr. Thornton, seconded by Mr. Holland to approve the variance with 3 conditions. All voted for the motion except Mr. Purkey who works at 303 34th Street, Suite 5, Virginia Beach VA 23451 was abstained because he represented the applicant.

AYE 7 NO 0 ABSTAIN 1 ABSENT 0

ANDERSON AYE
HOLLAND AYE
NEWTON AYE
POCTA AYE
PURKEY ABSTAIN
THORNTON AYE
WHITLEY AYE
KOVNER AYE

Case 2020-BZA-00080: Kathleen Lindblad A variance to a zero side corner setback from the property line adjacent to Eco Drive; instead of 10-feet as required for proposed 6-foot wood privacy fence **128 BOB LN** Zoning: R 7.5 GPIN: 2407-74-1874

Board Action: APPROVED WITH 1 CONDITION ON JANUARY 6, 2021

Conditions:

1. The proposed six-foot wooden privacy fence shall be installed in substantial adherence to the submitted site plan with treated fencing materials.

Ms. Walker, sister, appeared before the Board virtually.

No opposition was present.

A motion was made by Mr. Thornton, 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 No Vote Needed

Case 2020-BZA-00081: Kelsey and Mark Kinnane A variance to a 12-foot south side yard setback instead of 20-feet as required for proposed detached garage **1200 KAMICHI CT** Zoning: R-40 GPIN: 2418-42-957

Board Action: APPROVED WITH 4 CONDITIONS ON JANUARY 6, 2021

Conditions:

1. The proposed detached garage shall be constructed in substantial adherence to the revised submitted site plan entitled “Kinnane Residence 1200 Kamichi Ct GPIN 2418-42-9570-0000” dated December 28, 2020 and prepared by Clark Design Group.
2. The proposed detached garage will maintain a minimum 16-foot south side yard setback and the proposed parking space will be eliminated as depicted on the revised site plan.
3. The garage will have the same material to match the home.
4. Modified by the applicant’s representative to a 4 foot to a 16 foot south side yard setback instead of 20 feet as required

Billy Garrington with Governmental Permitting Consultants appeared before the Board virtually.

No opposition was present.

A motion was made by Mrs. Anderson, seconded by Mr. Holland to approve the variance with 4 conditions as modified (Modified Condition 1, and added Condition 3 and 4). 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	No Vote Needed

Case 2020-BZA-00082: Ginger Royals A variance to a 25-foot side corner setback from the property line adjacent to Wake Forest Street, instead of 30-feet as required for proposed building addition **2609 POINCIANA DR** Zoning: R 7.5 GPIN: 1590-60-3043

Board Action: APPROVED WITH 2 CONDITIONS ON JANUARY 6, 2021

Conditions:

1. The proposed room addition shall be constructed in substantial adherence to the submitted site plan entitled “Physical Survey of Lot 30 #2609 Poinciana Drive dated April 20, 1994 and prepared by Meridian Associates Inc.

- The proposed room addition shall be constructed in substantial adherence to the submitted untitled building elevations and interior building plans entitled Interior Renovations for residence located at 2609 Poinciana Drive Virginia Beach, VA for Cote Home Repair dated September 4, 2020 and prepared by Design Counts.

Ginger Royals, owner, and Francois Cote, of Cote Home Repair appeared before the Board virtually.

No opposition was present.

A motion was made by Mr. Pocta, seconded by Mr. Thornton to approve the variance with 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	No Vote Needed

Deferred Agenda:

Case 2020-BZA-00054: Mariner Associates, LP A modification of conditions of a previously approved variance on September 7, 2000 for a 6-foot fence and required parking spaces; and to a zero front yard setback from the property line adjacent to Atlantic Ave instead of 35-feet as required and to a zero side corner setback from the property line adjacent to 56th Street instead of 20-feet as required for an existing 6-foot privacy fences **5600 OCEAN FRONT AVE** Zoning: H-1 GPIN: 2419-80-4985

Board Action: APPROVED WITH 3 CONDITIONS ON JANUARY 6, 2021 (See all notes below pertaining the final Board actions)

Conditions:

- If approved, the existing six-foot white solid vinyl installed along both 56th and 57th Streets shall remain as it is currently installed. No additional fencing shall be added without further approval from the Board of Zoning Appeals.
- A fence permit must be obtained within Seven (7) business days of the hearing date of the Board of Zoning Appeals approval.
- Category I landscape screening shall be installed along the entire fence installed, where parallel to 57th Street.

Jeff Hodgson appeared before the Board virtually to represent the applicant.

No opposition was present at the time this case was originally heard.

A motion was made by Mrs. Anderson, seconded by Mr. Holland to approve the variance with 3 conditions. All voted for the motion except Mr. Purkey who voted no.

AYE 6 NO 1 ABSTAIN 0 ABSENT 0

ANDERSON	AYE
HOLLAND	AYE
NEWTON	AYE
POCTA	AYE
PURKEY	NO
THORNTON	AYE
WHITLEY	AYE
KOVNER	No Vote Needed

After the case was approved, the Board was informed by the City Attorney that there was a citizen in opposition that wanted to speak virtually. Note, that the citizen did not register in time to speak and/or had problems with registering. The Board made a motion to rehear the case so the citizen can speak regarding his concerns. A new motion was made to reopen the case by Mrs. Anderson, seconded by Mr. Holland. All voting for the motion to rehear this case.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

ANDERSON	AYE
HOLLAND	AYE
NEWTON	AYE
POCTA	AYE
PURKEY	AYE
THORNTON	AYE
WHITLEY	AYE
KOVNER	No Vote Needed

Jeff Hodgson appeared before the Board virtually to represent the applicant.

Mark Chase, of 111 57th Street appeared before the Board virtually in opposition.

Final Board Action: A motion was made by Mrs. Anderson, seconded by Mr. Holland to approve the variance with 3 conditions as stated in the staff reports. All voted for the motion except Mr. Purkey who voted no.

AYE 6 NO 1 ABSTAIN 0 ABSENT 0

ANDERSON AYE
HOLLAND AYE
NEWTON AYE
POCTA AYE
PURKEY NO
THORNTON AYE
WHITLEY AYE
KOVNER No Vote Needed

Case 2020-BZA-00063: Valuecraft Homes Inc to an 8 foot front yard setback from the property line adjacent to 13th Street instead of 20 feet as required for a proposed covered porch; to a 13 foot front yard setback from the property line adjacent to 13th Street instead of 20 feet as required; and to a 10 foot rear yard setback instead of 20 feet as required for a proposed single-family dwelling and covered porch **620 13th St** Zoning: R5R(NE) GPIN: 2417-95-8147

Board Action: APPROVED WITH 3 CONDITIONS ON JANUARY 6, 2021

Conditions:

1. The proposed three story single-family dwelling shall be constructed in substantial adherence to the submitted site plan entitled "BZA Exhibit of Lots 31A & 32A, Block 107 Resubdivision of Lot 31 & 32 block 107 plat of Lakewood" dated May 5, 2020 and prepared by WPL.
2. The proposed three-story single-family shall be constructed in substantial adherence to the submitted building elevation entitled "SINGLE-FAMILY DWELLING 13th Street & Cypress Ave" dated June 23, 2020 prepared by Lemole Architects.
3. The proposed porch shall not ever be enclosed or enlarged without further considerations from the Board of Zoning Appeals.

Eddie Bourdon, Attorney with Sykes Bourdon Ahern & Levy appeared before the Board virtually to represent the applicant.

No opposition was present.

A motion was made by Mr. Newton, seconded by Mr. Pocta to approve the variance with 3 conditions as modified (Modified Condition 2). 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 No Vote Needed

Case 2020-BZA-00064: VALUECRAFT HOMES INC Variances to an 8 foot side corner yard setback from the property line adjacent to 13th Street instead of 18 feet as required for a proposed covered porch; and to an 13 foot side corner yard setback from the property line adjacent to 13th Street instead of 18 feet as required and to a 8 foot rear yard setback instead of 20-feet as required for a proposed single-family dwelling and covered porch **1221 Cypress AVE** Zoning: R5R(N) GPIN: 2417-95-7196

Board Action: APPROVED WITH 3 CONDITIONS ON JANUARY 6, 2021

Conditions:

1. The proposed three story single-family dwelling shall be constructed in substantial adherence to the submitted site plan entitled “BZA Exhibit of Lots 31A & 32A, Block 107 Resubdivision of Lot 31 & 32 block 107 plat of Lakewood” dated May 5, 2020 and prepared by WPL.
2. The proposed three-story single-family shall be constructed in substantial adherence to the submitted building elevation entitled “SINGLE-FAMILY DWELLING 13th Street & Cypress Ave” dated June 23, 2020 prepared by Lemole Architects.
3. The proposed porch shall not ever be enclosed or enlarged without further considerations from the Board of Zoning Appeals.

Eddie Bourdon, Attorney with Sykes Bourdon Ahern & Levy appeared before the Board virtually to represent the applicant.

No opposition was present.

A motion was made by Mr. Purkey, seconded by Mr. Pocta to approve the variance with 3 conditions as modified (Modified Condition 2). 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	No Vote Needed

Case 2020-BZA-00065: Michele Graham A variance to a 12-foot front yard setback from the property line adjacent to 45th Street; instead of 30-feet as required for a proposed storage shed **4408 ATLANTIC AVE** Zoning: R 7.5 GPIN: 2418-87-9021

Board Action: APPROVED WITH 4 CONDITIONS ON JANUARY 6, 2021

Conditions:

1. The proposed storage shed shall be installed in substantial adherence to the submitted site plan and hand-drawing provided in the file.
2. The proposed storage shed shall be constructed with exterior building materials compatible with the existing dwelling.
3. The existing mature hedgerow installed along the east side property line and along 45th Street shall be maintained. Should the mature hedgerow become diseased or damaged the hedgerow will be replaced with comparable landscaping materials.
4. The existing wood trellis located on the east side of the lot adjacent to Atlantic Ave shall be removed, prior to installing the proposed storage shed.

Michele Graham appeared before the Board virtually.

No opposition was present.

A motion was made by Mrs. Anderson, seconded by Mr. Holland to approve the variance with 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	No Vote Needed

Respectfully Submitted

Thomas Holland
Secretary

lmr