



**MINUTES
BOARD OF ZONING APPEALS
APRIL 7, 2021**

Chairman David Whitley, called to order the **Virtual Board of Zoning Appeals** at the Convention Center, on Wednesday, April 7, 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 April 7, 2021.

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

Case 2021-BZA-00004: James Labouve Variances to a 5.9-foot rear yard setback; instead of 10-feet as required and to allow 554.69 square feet in accessory structure square footage instead of 500 square feet as allowed for a proposed one-story detached garage and existing storage shed **312 Caren Dr** Zoning: R 7.5 GPIN: 1487-34-6517

Board Action: DENIED ON APRIL 7, 2021

Jonathan Dozier with Pennoni appeared before the Board virtually representing the applicant.

There was no opposition present.

A motion was made by Mrs. Anderson, seconded by Mr. Holland to deny the variance. All voting 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
HALL	NO VOTE NEEDED

Case 2021-BZA-00005: Chad Ewell Variance to allow 1,600 square feet in accessory structure square footage; instead of 500 square feet as allowed for a proposed one-story detached garage **244 Middle La** Zoning: R-5D GPIN: 2417-05-0576

Board Action: DENIED ON APRIL 7, 2021

Chad Ewell appeared before the Board virtually.

There was no opposition present.

A motion was made by Mr. Newton, seconded by Mrs. Anderson to deny the variance. All voting 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
HALL	NO VOTE NEEDED

Case 2021-BZA-00008: John Schaefer Variance to a 14.9-foot side corner setback from the property line adjacent to Angel Fish Lane; instead of 30-feet as required for proposed deck replacement and renovations **3357 Sandfiddler Rd** Zoning: R7.5 GPIN: 2432-58-8503

Board Action: APPROVED WITH 2 CONDITIONS ON APRIL 7, 2021

Conditions:

1. The proposed deck replacement and renovations will be made in substantial adherence to the submitted physical survey entitled "PHYSICAL SURVEY LOT E SECTION 2 TRACT D SANDBRIDGE BEACH" dated December 18, 2020.
2. The deck shall not be enclosed beneath it or covered above without further consideration from the Board of Zoning Appeals.

John and Carol Schaefer appeared before the Board virtually.

There was no opposition present.

A motion was made by Mr. Pocta, seconded by Mr. Holland to approve the variance with 2 conditions. All voting 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
HALL NO VOTE NEEDED**

Case 2021-BZA-00010: John Morton Variances to a 9.8-east side yard setback, instead of 10-feet as required for the existing dwelling; and to a 21-foot side corner setback from the property line adjacent to Sunnyside Drive, instead of 30-feet as required for a proposed building addition **801 Morgan Trl** Zoning: R-10 GPIN: 1456-44-4826

Board Action: APPROVED WITH 4 CONDITIONS ON APRIL 7, 2021

Conditions:

1. The one-story room addition shall be constructed in substantial adherence to the submitted site plan entitled "PHYSICAL SURVEY OF LOT 49 SECTION ONE LAKEVILLE ESTATES" dated June 3, 2009 prepared by ROOD Land Surveying P.C.
2. The one-story room addition shall be constructed in substantial adherence to the submitted color renderings entitled "PLANS PREPARED FOR MORTON RESIDENCE -ADDITION".
3. The one-story room addition shall be constructed in substantial adherence to the submitted floor plans entitled "MORTON RESIDENCE -ADDITIONS" dated November 13, 2020 prepared by MJA Design, LLC.
4. The existing shed shall be relocated to meet the required setbacks.

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

There was no opposition present.

A motion was made by Mr. Purkey, seconded by Mr. Pocta to approve the variance with 4 conditions as modified (added Condition 4). All voting 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
HALL NO VOTE NEEDED

Case 2021-BZA-00013: Kenneth & Nancy Hunt Variances to a 8.06-foot west yard setback; instead of 12-feet as required; and to a 7.59-foot east side yard setback instead 8-feetas required; and to a 9.86-foot rear yard setback; instead of 20-feet; and to allow 65.7% in impervious cover instead of 60% in impervious cover for existing and proposed detached single-family dwellings **211 84th St** Zoning: R5R(NE) GPIN: 2510-50-2153

Board Action: APPROVED WITH 3 CONDITIONS ON APRIL 7, 2021

Conditions:

1. The proposed detached two and half story dwelling shall be constructed in substantial adherence to the submitted site plan entitled “BZA Exhibit of Lot 12, Block 6 Cape Henry” dated January 28, 2021 prepared by WPL Landscape Architecture Land Surveying Civil Engineering.
2. The proposed detached two and half story dwelling shall be constructed in substantial adherence to the submitted unentitled building plans prepared by Residential Designs, LTD provided in the file.
3. An additional variance request will be necessary to increase the impervious cover, if the proposed deck and stairway that received a setback variance in 2008 is ever constructed.

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

There was no opposition present.

A motion was made by Mr. Newton, seconded by Mr. Thornton 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 the applicant is a client of his.

AYE 7 NO 0 ABSTAIN 1 ABSENT 0

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

Case 2021-BZA-00014: Benjamin Waldron Variance to a 16.4-foot rear yard setback; instead of 20-feet as required for a proposed second floor and attached garage building additions **2000 Alphine Ct** Zoning: R-10 GPIN: 1499-77-7989

Board Action: APPROVED WITH 3 CONDITIONS ON APRIL 7, 2021

Conditions:

1. The proposed second-floor addition and two-story detached garage shall be constructed in substantial adherence to the submitted site plan entitled "CBPA SITE PLAN OF 2000 ALPHINE COURT LOT 29 BROAD BAY COLONY" dated December 4, 2020 prepared by Fox Land Surveyors.
2. The proposed second-floor addition and two-story detached garage shall be constructed in substantial adherence to the submitted building elevations entitled "BAY ISLAND RESIDENCE -ELEVATIONS EXTERIOR" dated December 9, 2020 prepared by IONIC DEZIGN STUDIOS.
3. The applicant must provide documentation from a certified structural engineer or design professional verifying the existing foundation and first floor can structurally support the proposed second-floor addition, prior to receiving a building permit.

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

There was no opposition present.

A motion was made by Mr. Newton, seconded by Mrs. Anderson to approve the variance with 3 conditions. All voting 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
HALL NO VOTE NEEDED

Case 2021-BZA-00015: Gerald O’Hara Variance to a 24-foot side corner setback from the property line adjacent to Bruton Lane; instead of 30-feet as required for proposed two-story attached three-car garage/building addition **1100 Bay Colony Dr** Zoning: R-20 GPIN: 2418-27-6955

Board Action: DEFERRED TO MAY 5, 2021 ON APRIL 7, 2021

No one appeared before the Board at the time the case was being heard virtually to present their request. The applicant was logged onto the online hearing and later disconnected. Staff attempted to contact the applicant without success. However, the applicant did text staff after the conclusion of the hearing explaining his absence.

There was opposition that were registered and present to speak at the virtual hearing.

A motion was made by Mr. Thornton, seconded by Mr. Pocta to defer the variance to May 5, 2021. All voting 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
HALL NO VOTE NEEDED

Case 2021-BZA-00016: Andrew Wood Variance to an 18.7-foot side corner setback from the property line adjacent to Patton Lane; instead of 30-feet as required for proposed second-story building addition **4109 Edinburgh Dr** Zoning: R 7.5 GPIN: 1487-07-8147

Board Action: APPROVED WITH 3 CONDITIONS ON APRIL 7, 2021

Conditions:

1. The proposed second-floor addition shall be constructed in substantial adherence to the submitted site plan entitled "PHYSICAL SURVEY OF LOT 1 BLOCK 13 SUBDIVISION OF THALIA MANOR" dated March 19, 2020 prepared by Hassell & Folkes, P.C.
2. The proposed second-floor addition shall be constructed in substantial adherence to the submitted building plans entitled "WOOD RESIDENCE" dated January 21, 2021 prepared by STURDEBUILT CONSTRUCTION.
3. The applicant must provide documentation from a certified structural engineer or design professional verifying the existing foundation and first floor can structurally support the proposed second-floor addition, prior to receiving a building permit.

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

There was no opposition present.

A motion was made by Mr. Pocta, seconded by Mr. Holland to approve the variance with 3 conditions. All voting 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					
HALL		NO VOTE NEEDED					

Case 2021-BZA-00017: Christopher Dement Variance to a 9.8-foot east side yard setback; instead of 20-feet as required proposed second floor addition and renovations **3365 Eagle Nest Point** Zoning: R-40 GPIN:1489-80-7447

Board Action: APPROVED WITH 2 CONDITIONS ON APRIL 7, 2021

Conditions:

1. The proposed second-floor addition shall be constructed in substantial adherence to the submitted site entitled "PHYSICAL SURVEY OF SITE B-2 PLAT OF SURVEY OF SITES B-1 AND B-2 PARKVIEW" dated January 11, 2021 prepared by Owen & Jordal.

- The proposed second-floor addition shall be constructed in substantial adherence to the submitted site entitled "Project Whole House Redo Using Same Footprint Mr. & Mrs. Dement 3365 Eagle Nest Point" dated January 19, 2021 prepared by Dement Development, LLC.

Christopher Dement appeared before the Board virtually.

There was no opposition present.

A motion was made by Mr. Holland, seconded by Mr. Thornton to approve the variance with 2 conditions. All voting 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
HALL	NO VOTE NEEDED

Case 2021-BZA-00020: Pat and Donna Feliciano Variance to a zero (south) side yard setback instead of 10-feet as required for a proposed elevated walkway, Baylake Beach North Zoning: GPIN: 1570-91-5219

Board Action: APPROVED WITH 2 CONDITIONS ON APRIL 7, 2021

Conditions:

- The proposed elevated walkway shall be installed in substantial adherence to the submitted site plan entitled "EXHIBIT A PROPOSED ENCROACHMENT REQUEST OF PAT S AND DONNA J FELICIANO SITE ADDRESS 4304 SANDY BAY DRIVE VIRGINIA BEACH, VA" dated January 27, 2020 prepared by WPL.
- No portion of the proposed elevated walkway shall be covered.

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

There was no opposition present.

A motion was made by Mrs. Anderson, seconded by Mr. Thornton to approve the variance with 2 conditions. All voting 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
HALL NO VOTE NEEDED

Case 2021-BZA-00019: Allegra Staicer An appeal to the Zoning Administrator’s or his designee letter dated February 9, 2021 entitled “Determination for Conditional Use Permit (Tattoo Parlor), 2133 Upton Drive Suite 120” considering if a tattoo parlor and/or permanent makeup operation is within 600 feet of another tattoo parlor and/or permanent makeup operation
Zoning: B-2 GPIN: 2414-35-2667

Board Action: DEFERRED TO MAY 5, 2021 ON APRIL 7, 2021

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

There was no opposition present.

A motion was made by Mr. Thornton, seconded by Mr. Holland to defer the appeal to May 5, 2021. 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
HALL NO VOTE NEEDED

Respectfully Submitted

Thomas Holland
Secretary

lmr