



**MINUTES
BOARD OF ZONING APPEALS
SEPTEMBER 1, 2021**

Chairman David Whitley, called to order the **Board of Zoning Appeals** at the Council Chamber, on Wednesday, September 1, 2021.

The Board members' staff briefing, was held at 1:00 p.m. in the Council Chamber to provide the Board members information pertaining the agenda of September 1, 2021.

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

Case 2021-BZA-00040: A. Wayne & Carolyn Myrick Variances to a 10-foot side corner setback from the property line adjacent to 60th Street instead of 18-feet as required for a proposed single-family dwelling **200 60th St** Zoning: R5R (NE) GPIN: 2419-71-7523

Board Action: APPROVED WITH 2 CONDITIONS ON SEPTEMBER 1, 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 Lot I-B-2, Block 4, 60th Street Virginia Beach, Virginia for Wayne Myrick" dated July 12, 2021 and prepared by Tim Fallon Land Surveying, PLLC.
2. The proposed two-story single-family dwelling shall be constructed in substantial adherence to the submitted untitled renderings provided in the file.

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

There was no opposition present.

A motion was made by Mr. Holland, seconded by Mrs. Kovner to approve the variance with 2 conditions as listed in the staff report. All voted for the motion except Mr. Pocta who was abstained because the applicants are personal friends of his.

AYE 7 NO 0 ABSTAIN 1 ABSENT 0

HALL AYE
HOLLAND AYE
KOVNER AYE
NEWTON AYE
POCTA ABSTAINED
PURKEY AYE
THORNTON AYE
WHITLEY AYE

Case 2021-BZA-00044: Stacie Hummel Variance to a 5-foot north side yard setback, instead of 8-feet as required for a proposed deck **5549 Chandler Scott Court** Zoning: GPIN: 1466-01-6044

Board Action: DEFERRED ON SEPTEMBER 1, 2021 TO OCTOBER 6, 2021

Stacie Hummel appeared before the Board.

There was no opposition present.

A motion was made by Mr. Purkey, seconded by Mr. Holland to defer the application to October 6, 2021 with no fee. All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

HALL NO VOTED NEEDED
HOLLAND AYE
KOVNER AYE
NEWTON AYE
POCTA AYE
PURKEY AYE
THORNTON AYE
WHITLEY AYE

Case 2021-BZA-00045: Gordon Echols & Christine Pryately Variances to a 14.4-foot north side and 14.3-foot south side yard setbacks, instead of 15-feet each as required for proposed decks **3616 Sandfiddler Road** Zoning: R10 GPIN: 2432-75-2331

Board Action: APPROVED WITH 2 CONDITIONS ON SEPTEMBER 1, 2021

Conditions:

1. The proposed deck shall be constructed in substantial adherence to the submitted site plan entitled "PHYSICAL SURVEY LOT 6 SECTION 3 TRACT D SANDBRIDGE BEACH MAPBOOK 70 PAGE 44 VIRGINIA BEACH VIRGINIA" dated August 3, 2011 and prepared by Bonifat Land Survey.
2. The proposed decking will not be covered or enclosure behind it.

Christine Pryately appeared before the Board.

There was no opposition present.

A motion was made by Mr. Newton, seconded by Mr. Pocta to approve the variance with 2 conditions as listed in the staff report. All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

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| HALL | NO VOTED NEEDED |
| HOLLAND | AYE |
| KOVNER | AYE |
| NEWTON | AYE |
| POCTA | AYE |
| PURKEY | AYE |
| THORNTON | AYE |
| WHITLEY | AYE |

Case 2021-BZA-00047: James & Kimberly Brock Variance to a 2.2-foot front yard setback from the property line adjacent to Abbey Drive, instead of 30-feet as required for a proposed privacy fence 6-feet in height **4500 Cambria Street** Zoning: GPIN: 1478-61-4565

Board Action: DEFERRED INDEFINITELY ON SEPTEMBER 1, 2021

Kimberly Brock appeared before the Board.

There was no opposition present.

A motion was made by Mr. Purkey, seconded by Mr. Thornton to defer the application indefinitely with a new fee. All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

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| HALL | NO VOTED NEEDED |
| HOLLAND | AYE |
| KOVNER | AYE |

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| NEWTON | AYE |
| POCTA | AYE |
| PURKEY | AYE |
| THORNTON | AYE |
| WHITLEY | AYE |

Case 2021-BZA-00049: David Shope Variances to a 12-foot side (northeast) yard setback; instead of 15-feet as required for a proposed covered/screened room addition; and to a 1.5-foot side (northeast) setback; instead of 5-foot as required for an existing storage shed **2163 Lords Landing** Zoning: R20 GPIN: 1499-84-9356

Board Action: APPROVED WITH 4 CONDITIONS ON SEPTEMBER 1, 2021

Conditions:

1. The existing covered deck/ porch shall not be substantially altered from its present state without further consideration from the Board of Zoning Appeal.
2. The existing covered deck/ porch shall remain unenclosed.
3. A building permit for the existing covered deck/ porch shall be obtained within seven (7) business days of this hearing.
4. The request to a 1.5 foot side (Northeast) setback instead of 5 feet as required for an existing storage shed was withdrawn.

Allison Shope appeared before the Board.

There was no opposition present.

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

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

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| HALL | NO VOTED NEEDED |
| HOLLAND | AYE |
| KOVNER | AYE |
| NEWTON | AYE |
| POCTA | AYE |
| PURKEY | AYE |
| THORNTON | AYE |
| WHITLEY | AYE |

Case 2021-BZA-00050: Elsie Roberts Variance to a 7.5-foot east side yard setback, instead of 10-feet as required for a proposed first floor foyer and elevator **4414 Lee Court** Zoning: GPIN: 1570-81-4521

Board Action: APPROVED WITH 2 CONDITIONS ON SEPTEMBER 1, 2021

Conditions:

1. The proposed foyer and elevator addition will be constructed in substantial adherence to the submitted site plan entitled “Physical Survey Lots 7 & 8 Block 10 Chesapeake Park MB 96 P13 Virginia Beach, Virginia “dated February 16, 2021 and prepared by Phil M. Bonifat Land Surveyor.
2. The proposed foyer and elevator addition will be constructed in substantial adherence to the submitted building plans entitled “The Roberts Residence Elevator Addition 4412 Lee Court Virginia Beach, Virginia 23455” dated June 9, 2021 and prepared by ARCHITEC(H)TONICS, architecture + furniture + graphic.

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. Newton, seconded by Mr. Thornton to approve the variance with 2 conditions as listed in the staff report. All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

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| HALL | NO VOTE NEEDED |
| HOLLAND | AYE |
| KOVNER | AYE |
| NEWTON | AYE |
| POCTA | AYE |
| PURKEY | AYE |
| THORNTON | AYE |
| WHITLEY | AYE |

Case 2021-BZA-00033: Gwynn Malikian Variances to a 27.8-foot front yard setback instead of 30-feet as required; and to a 11.5-foot side corner setback from the property line adjacent to Croatan Road, instead of 30-feet as required; and to a 9.5-foot north side yard setback instead of 10-feet as required; and to a 26-foot side corner setback from the property line adjacent to Croatan Road; instead of 30-feet as required; and to 2.5-foot rear yard setback instead of 10-feet as required for the existing dwelling, proposed second and third floors deck/balconies, rooftop deck, spiral staircase and proposed spa with swim/exercise pool **641 S Atlantic Avenue** Zoning: R-10 GPIN: 2426-39-6148

Board Action: APPROVED WITH 2 CONDITIONS ON SEPTEMBER 1, 2021

Conditions:

1. When constructed, the deck expansions, stairs and rooftop deck shall be in substantial adherence to the submitted site layout entitled, "Physical Survey of Lot B, Block 22, Croatan Beach," dated 03/31/2021 and prepared by Jeffrey D. Williams. (shown on page 6 of this report).
2. The proposed rooftop deck shall not be covered, and the 1st, 2nd and 3rd floor decks shall not be enclosed.

Gwynn Malikian appeared before the Board.

There was no opposition present.

A motion was made by Mr. Purkey, seconded by Mr. Holland to approve the variance with conditions 1 and 2 as listed in the staff report . All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

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| HALL | NO VOTE NEEDED |
| HOLLAND | AYE |
| KOVNER | AYE |
| NEWTON | AYE |
| POCTA | AYE |
| PURKEY | AYE |
| THORNTON | AYE |
| WHITLEY | AYE |

Case 2021-BZA-00054: Lynnhaven Area Properties LLC Request an appeal of the Zoning Administrator's Zoning Determination letter dated November 13, 2019 previously upheld on February 5, 2020 and remanded to the Board of Zoning Appeal by the Circuit Court for reconsideration, **Westminster La** Zoning: A-18 GPIN: 2407-09-6257

Tori Eisenburg, Assistant City Attorney appeared before the Board to defend the interpretation of the Zoning Administrator.

Ashby Moss, Interim Zoning Administrator appeared before the Board to provide commentary.

James Harvey, Attorney with Vandeventer Black, LLP appeared before the Board to represent the applicant.

Chris Wood, Vice President of McLesky & Associates appeared before the Board on the applicant's behalf.

Nancy Neal of 401 Biltmore Court appeared before the Board to make commentary and support the Zoning Administrator's interpretation.

A motion was made by Mr. Newton, seconded by Mrs. Hall to uphold the Zoning Administrator's interpretation. All voted for the motion except Mr. Purkey who works at 303 34th Street, Suite 5, Virginia Beach VA 23451 was abstained because he provides services to the applicant.

AYE 5 NO 2 ABSTAIN 1 ABSENT 0

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| HALL | AYE |
| HOLLAND | NO |
| KOVNER | AYE |
| NEWTON | AYE |
| POCTA | AYE |
| PURKEY | ABSTAINED |
| THORNTON | NO |
| WHITLEY | AYE |

Respectfully Submitted

Thomas Holland
Secretary

lmr