



**MINUTES
BOARD OF ZONING APPEALS
JANUARY 5, 2022**

Chairman David Whitley, called to order the **Board of Zoning Appeals** at the Council Chamber, on Wednesday, January 5, 2022.

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 January 5, 2022.

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

Case 2021-BZA-00072: Stephen and Georganne Long Variances to a 11-foot front yard setback, instead of 20-foot as required for a proposed screened (front) porch; and to a 5.6-foot side yard setback instead of 8-foot as required for a proposed building addition, front screened porch, and rear deck; and to a 5-foot side yard setback instead of 8-feet and to 5-foot rear yard setback instead of 10-feet each as required for a proposed detached garage **115 54th Street**
Zoning: R5R (NE) GPIN: 2419-80-4019

Board Action: APPROVED WITH 3 CONDITIONS ON JANUARY 5, 2022

Conditions:

1. If approved, the proposed two-story building addition, screened porch, rear deck and storage shed shall be constructed in substantial adherence to the submitted site plan entitled "THE LONG RESIDENCE 115TH STREET VIRGINIA BEACH, VIRGINIA" dated November 8, 2021 and prepared by SMS Architects.
2. The proposed front screened porch shall not be enclosed.
3. The exterior building materials used to construct the proposed shed shall be consistent with the exterior building materials of the existing dwelling.

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. Thornton, seconded by Mr. Pocta to approve the variance with 3 conditions as modified, adding condition 3. All voted for the motion except Mrs. Anderson, Mr. Newton and Mr. Whitley who voted no.

AYE 4 NO 3 ABSTAIN 0 ABSENT 0

| | |
|-----------------|-----------------------|
| ANDERSON | NO |
| HALL | No Vote Needed |
| HOLLAND | AYE |
| NEWTOWN | NO |
| POCTA | AYE |
| PURKEY | AYE |
| THORNTON | AYE |
| WHITLEY | NO |

Case 2021-BZA-00074: George Webb Jr. and Lelia Webb Variances to a 7.39-foot front yard setback, instead of 30-feet as required; and to a 12.59-foot side corner setback from the property line adjacent to Holly Road; instead of 30-foot as required for a proposed pergola **401 49th Street** Zoning: R7.5 GPIN: 2418-78-8383

Board Action: APPROVED WITH 2 CONDITIONS ON JANUARY 5, 2022

Conditions:

1. The proposed building addition shall be constructed in substantial adherence to the submitted Webb Residence site plan, created by WPL engineer Eric A. Garner on October 27, 2021.
2. The proposed pergola structure shall be constructed in substantial adherence to the color 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. Pocta, seconded by Mr. Holland 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

ANDERSON AYE
HALL No Vote Needed
HOLLAND AYE
NEWTOWN AYE
POCTA AYE
PURKEY AYE
THORNTON AYE
WHITLEY AYE

Case 2021-BZA-00075: Brandon and Hillary Kopp Variance to a 7.5-foot side yard setback, instead of 10-foot as required for proposed building addition **919 Carolina Avenue** Zoning: R5S GPIN: 2417-82-8691

Board Action: APPROVED WITH 4 CONDITIONS ON JANUARY 5, 2022

Conditions:

1. If approved, the proposed addition will be constructed in substantial adherence to the submitted site plan by Altruistic Design dated October 5, 2021.
2. Modified to a 9 foot side yard setback instead of 10 feet as required for proposed building addition.
3. The existing room addition encroaching on the east side yard setback and the existing sheds located on the west side and northeast corner of the lot shall be demolished/removed as depicted on the submitted (demolition) site plan.
4. Remove the white vinyl fence in the front.

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

Keith Pullen of 923 Carolina Avenue appeared before the Board in opposition.

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

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

ANDERSON AYE
HALL No Vote Needed
HOLLAND AYE
NEWTOWN AYE
POCTA AYE
PURKEY AYE
THORNTON AYE
WHITLEY AYE

Case 2021-BZA-00076: Young Living Trust (James and Joanne Young) Variances to a 16.9 foot front yard setback instead of 30 feet as required for proposed two story building additions, and to a 17.48 foot front yard setback instead of 30 feet as required for a proposed replacement stoop and steps **308 45th Street** Zoning: R7.5 GPIN: 2418-86-7918

Board Action: APPROVED WITH 1 CONDITION ON JANUARY 5, 2022

Conditions:

1. The proposed building addition shall be constructed in substantial adherence to the submitted physical survey entitled “BZA EXHIBIT OF LOT 77A RESUBDIVISION OF LOT 77 & WESTERN ½ OF LOT 78, SECTION B” dated October 28, 2021.

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

There was no opposition.

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

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

| | |
|-----------------|-----------------------|
| ANDERSON | AYE |
| HALL | No Vote Needed |
| HOLLAND | AYE |
| NEWTOWN | AYE |
| POCTA | AYE |
| PURKEY | AYE |
| THORNTON | AYE |
| WHITLEY | AYE |

Case 2021-BZA-00077: Russell Primack and Barbara Boecker Variances to a 25.30-foot rear (east side) yard setback from the property line adjacent to Atlantic Ocean instead of 30-feet as required for proposed three (3) story building addition; and to a 15.38-foot rear (east side) yard setback from the Atlantic Ocean, instead of 30-feet as required for proposed unenclosed patio, first and second floor porches and third floor balcony; and to a 6.25-foot south side yard setback, instead of 8-feet as required for a proposed first floor and second floor covered porches, third story balcony and three (3) story building addition; and to a 5.17-foot north side yard setback, instead of 8-foot as required for proposed three (3) story building addition **8208 Ocean Front Avenue** Zoning: R5R (NE) GPIN: 2419-69-1768

Board Action: APPROVED WITH 3 CONDITIONS ON JANUARY 5, 2022

Conditions:

1. The proposed improvements (three-story addition, porches and balcony) will be constructed in substantial adherence to the submitted site plan entitled "BZA EXHIBIT OF LOT 2 2 & WESTERN 10' OF LOT 1, BLOCK 11 SECTION D CAPE HENRY MB 1, PG 8B VIRGINIA BEACH, VIRGINIA EXCLUSIVELY FOR PRIMACK RESIDENCE" dated October 21, 2021 prepared by WPL.
2. The proposed improvements will be constructed in substantial adherence to the submitted color renderings provided in the file.
3. The proposed decks shall not be enclosed.

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. Newton, seconded by Mr. Pocta to approve the variance with 3 conditions as listed in the staff report. All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

| | |
|-----------------|-----------------------|
| ANDERSON | AYE |
| HALL | No Vote Needed |
| HOLLAND | AYE |
| NEWTOWN | AYE |
| POCTA | AYE |
| PURKEY | AYE |
| THORNTON | AYE |
| WHITLEY | AYE |

Case 2021-BZA-00078: Ryan and Kate Leon Variances to a 12.62 foot front yard setback instead of 20 feet as required for proposed second floor covered porch, and to a 7.54 foot side yard setback instead of 10 feet as required for uncovered second floor deck/landing and uncovered stairway, and to allow two off street parking spaces instead of a total of four off street parking spaces as required **208 82nd Street, A** Zoning: R5R (NE) GPIN: 2419-59-5240-0002

Board Action: APPROVED WITH 3 CONDITIONS ON JANUARY 5, 2022

Conditions:

1. If approved, the proposed second floor and uncovered stairway will be constructed in substantial adherence to the submitted site plan entitled "BZA EXHIBIT OF LOT 9, BLOCK 14, Section D CAPE HENRY SYNDICATE MP7, PG. 79 VIRGINIA BEACH, VIRGINIA EXCLUSIVELY FOR CAPE HENRY BUILDERS, INC" dated October 28, 2021 and prepared by WPL.

2. If approved, the proposed second floor and uncovered stairway will be constructed in substantial adherence to the submitted unentitled building elevations provided in the file.
3. The proposed uncovered second floor deck and stairway will not be enclosed.

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. Pocta, seconded by Mrs. Anderson to approve the variance with 3 conditions as listed in the staff report. All voted for the motion except Mr. Purkey who works at 303 34th Street, Suite 5, Virginia Beach VA 23451 was abstained because he is the registered agent for the general contractor.

| | | | | | | | |
|-----------------|----------|------------------|----------|----------------|----------|---------------|----------|
| AYE | 7 | NO | 0 | ABSTAIN | 1 | ABSENT | 0 |
| ANDERSON | | AYE | | | | | |
| HALL | | AYE | | | | | |
| HOLLAND | | AYE | | | | | |
| NEWTOWN | | AYE | | | | | |
| POCTA | | AYE | | | | | |
| PURKEY | | ABSTAINED | | | | | |
| THORNTON | | AYE | | | | | |
| WHITLEY | | AYE | | | | | |

Case 2021-BZA-00079: Thomas and Ann Gottwald Variances to a 17-foot rear yard setback, instead of 20-foot as required for proposed inground swimming pool; and to allow a total of 2,100.4 square feet in accessory structure floor area, instead of a maximum 1034.6 square foot in floor area accessory structure allowance for a proposed addition to an existing accessory (pool house) structure **4504 Ocean Front Avenue** Zoning: R-7.5 GPIN: 2418-97-4279

Board Action: DEFERRED TO FEBRUARY 2, 2022 ON JANUARY 5, 2022

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. Thornton, seconded by Mr. Purkey to defer the application to February 2, 2022. All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

ANDERSON AYE
HALL No Vote Needed
HOLLAND AYE
NEWTOWN AYE
POCTA AYE
PURKEY AYE
THORNTON AYE
WHITLEY AYE

Case 2021-BZA-00080: C and C Development Company Inc Variances to a 14.22-foot side corner setback from the property line adjacent to Meer Street, instead of 20-foot as required for a proposed detached single-family (units A & B) dwellings; and to a 15.05-foot side corner setback from the property line adjacent to Meer Street, instead of 20-foot as required for a proposed covered front (units A & B) porches; and to a 8.06-side yard setbacks; instead of 10-foot as required for proposed detached single-family (unit A& B) dwellings **5709 Meer Street**
Zoning: R5R (NE) GPIN: 2419-60-8621

Board Action: APPROVED WITH 2 CONDITIONS ON JANUARY 5, 2022

Conditions:

1. The proposed detached single-family dwellings shall be constructed in substantial adherence to the submitted site plan entitled “BZA EXHIBIT OF LOT 20 PLAT OF CRYSTAL ACRES MB 27, PG. 75 (recorded 1948) VIRGINIA BEACH, VIRGINIA EXCLUSIVELY FOR C & C DEVELOPMENT COMPANY, INC.” dated September 22, 2021 prepared by WPL.
2. The proposed detached single-family dwellings shall be constructed in substantial adherence to the submitted site plan unentitled or dated prepared by Residential Design, LTD 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. Newton, seconded by Mr. Holland to approve the variance with 2 conditions as listed in the staff report. 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
HALL AYE
HOLLAND AYE
NEWTOWN AYE
POCTA AYE
PURKEY ABSTAINED
THORNTON AYE
WHITLEY AYE

Case 2021-BZA-00081: Cape Henry Collegiate School, Inc. Variance to allow 55 feet in building height instead of 35 feet in building height as allowed for a proposed building (Auditorium/Theater) addition **1320 Mill Dam Road** Zoning: R-15 /R-20 GPIN: 2408-58-4284

Board Action: APPROVED WITH 1 CONDITION ON JANUARY 5, 2022

Conditions:

1. The proposed building addition/expansion shall be building substantial adherence to the submitted colored and computer generated rendering prepared by TMA Tymoff- Moss Architects.

R J Nutter, Attorney with Troutman Pepper, LLP appeared before the Board representing the applicant.

Michael Schnekser with Tymoff Moss Architects appeared before the Board to provide commentary.

There was no opposition present.

A motion was made by Mr. Holland, seconded by Mr. Pocta to approve the variance with 1 condition as listed in the staff report. All voted for the motion except Mr. Thornton, as he left prior to the case being heard.

AYE 7 NO 0 ABSTAIN 0 ABSENT 1

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

Case 2021-BZA-00083: Sarah Wright Variance to a 15 foot rear yard setback, instead of 20 feet as required for proposed rear (replacement) deck **720 Lord Dunmore Drive** Zoning: A12 GPIN: 1466-55-1537

Board Action: APPROVED WITH 2 CONDITIONS ON JANUARY 5, 2022

Conditions:

1. The proposed deck replacement and renovations shall be made in substantial adherence to the submitted physical survey entitled "PHYSICAL SURVEY OF LOT 41, BLOCK F, SUBDIVISION PLAT OF BLOACK E, F AND G FAIRFIELD MILL SECTION I" dated September 26, 1985.
2. The proposed deck shall not be covered above it, unless it complies with the rear yard setback or without further consideration from the Board of Zoning Appeals.

Sarah Wright appeared before the Board.

There was no opposition.

A motion was made by Mr. Purkey, seconded by Mr. Holland to approve the variance with 2 conditions as listed in the staff report. All voted for the motion except Mr. Thornton, as he left prior to the case being heard.

AYE 7 NO 0 ABSTAIN 0 ABSENT 1

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

Case 2021-BZA-00084: Evan and Lori Kalfus Variance to allow 72% or 5,400 square feet in impervious cover; instead of 60% or 4,500 square feet in impervious cover as allowed for a proposed single-family dwelling, driveway, patio, sidewalks and inground swimming pool **8202 Ocean Front Avenue** Zoning: R5R (NE) GPIN: 2419-69-2603

Board Action: DEFERRED INDEFINITELY ON JANUARY 5, 2022

The applicant requested a deferral.

There was no opposition present.

A motion was made by Mrs. Anderson, seconded by Mr. Pocta to approve defer the application indefinitely. All voted for the motion except Mr. Purkey who works at 303 34th Street, Suite 5, Virginia Beach VA 23451 was abstained because he represents a neighbor.

AYE 7 NO 0 ABSTAIN 1 ABSENT 0

| | |
|----------|-----------|
| ANDERSON | AYE |
| HALL | AYE |
| HOLLAND | AYE |
| NEWTOWN | AYE |
| POCTA | AYE |
| PURKEY | ABSTAINED |
| THORNTON | AYE |
| WHITLEY | AYE |

Respectfully Submitted

Thomas Holland
Secretary

lmr