



**MINUTES
BOARD OF ZONING APPEALS
FEBRUARY 2, 2022**

Chairman David Whitley, called to order the **Board of Zoning Appeals** at the Council Chamber, on Wednesday, February 2, 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 February 2, 2022.

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

Case 2021-BZA-00082: David Anderson Variances to a 20-foot front yard setback and to a 29.3-foot front yard setback, instead of 30-foot each as required; and to a 12-foot rear yard setback; instead of 20-feet as required for existing dwelling, proposed second floor and two-story additions **2488 Bayview Ave** Zoning: R7.5 GPIN: 1570-42-5225

Board Action: APPROVED WITH 4 CONDITIONS ON FEBRUARY 2, 2022

Conditions:

1. Except for the attached garage addition, the proposed second-story addition shall be constructed in substantial adherence to the submitted site plan entitled "PHYSICAL SURVEY LOT 20 SUBDIVISION PLAT OF CHUBB LAKE VILLA FOR VIRGINIA BEACH, VIRGINIA DAVID ANDERSON AND JENNIFER ANDERSON" dated November 4, 2012 prepared Ward Holmes.
2. Except for the attached garage addition, the proposed second-story addition shall be constructed in substantial adherence to the submitted building elevations entitled "Anderson Residence Alterations" undated and prepared by unknown.
3. The 20-foot front setback variance request for the attached garage addition shall be omitted.
4. The detached shed shall be brought into compliance with the side and rear yard setbacks for accessory structures.

David Anderson appeared before the Board.

There was no opposition present.

A motion was made by Mrs. Anderson, seconded by Mr. Purkey, to approve the variance with 4 conditions as modified (adding condition #4). All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

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

Case 2021-BZA-00085: Bartholomew Sinanis Variance to allow 32% or 4,500 square feet in lot coverage instead of 30% or 4,224 square feet as allowed for a proposed one-story single-family dwelling **525 Virginia Dare Dr** Zoning: R15 GPIN: 2427-30-0325

Board Action: APPROVED WITH 2 CONDITIONS ON FEBRUARY 2, 2022

Conditions:

1. If approved, the proposed one-story dwelling shall be constructed in substantial adherence to the submitted site plan entitled "BZA EXHIBIT OF LOT 28 REDIVISION OF PART OF CROATAN BEACH M.B. 7, PG 11 VIRGINIA BEACH, VIRGINIA EXCLUSIVELY FOR SINANIS RESIDENCE" dated 11.29.2021 prepared by WPL.
2. The proposed one-story dwelling shall be constructed in substantial adherence to the submitted building elevations entitled "DEANA AND BART SINANIS RESIDENCE 525 VIRIGNIA DARE DRIVE VIRGINIA BEACH, VA" dated 09.23.2021 prepared JMDG Architecture.

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. Purkey, 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

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

Case 2021-BZA-00086: Joseph Montgomery Variances to an 8.63-foot side (east) yard setback, instead of 10- foot as required for third floor building expansion; and to a 9.18-foot side (east) yard setback, instead of 10-foot as required for a proposed second floor wood deck **107 88th St** Zoning: R5R GPIN: 2510-51-58270

Board Action: DEFERRED TO MARCH 2, 2022 ON FEBRUARY 2, 2022

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. Purkey, seconded by Mr. Pocta to defer the application to the March 2, 2022 hearing with a new fee. All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

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

Case 2021-BZA-00088: Chesapeake Beach Properties, LLC Variances to a 18.9-foot front yard setback from the property line adjacent to Seaview Ave, instead of 30-foot as required for proposed canopy and covered unenclosed patio; and to a 2.5-foot east side yard setback and 10-foot (south) side yard setback instead of 15-feet each as required and to waive category I landscape screening as required along the east side as required when adjacent to a residential or apartment districts for proposed parking lot; and to allow a total of (8) off-street parking spaces; instead of a total of (18) off-street parking spaces **2420 Seaview Ave** Zoning: B1 GPIN: 1570-71-0157

Board Action: APPROVED WITH 3 CONDITIONS ON FEBRUARY 2, 2022

Conditions:

1. The proposed improvements and renovations shall be made in substantial adherence to the submitted entitled “CONCEPT PLAN OF LOTS 1-A & 1-B SUBDIVISION OF LOT 1, BLOCK 2, AMENDED PLAT OF CHESAPEAKE SHOES” dated 10.18.2021 and prepared by Gallup Surveyors & Engineers.
2. Allow a variance to a 2.5-foot east side yard setback instead of 15 feet as required and to waive category I landscaping for existing parking lot along the east side property line where adjacent to a residential zoning district.
3. The proposed covered patios shall not be enclosed.

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

Hayden Dubay of Chesapeake Beach Properties, LLC and Jeremy Maloney, Architect from Altruistic Design appeared before the Board to make commentary.

There was no opposition present.

A motion was made by Mr. Purkey, seconded by Mr. Newton to approve the variance with 3 conditions as modified (Deleted Condition #2 from the staff report, and added an additional condition). All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

**ANDERSON AYE
HALL AYE
NEWTON AYE
POCTA AYE
PURKEY AYE
THORNTON AYE
WHITLEY AYE**

Case 2021-BZA-00089: Chesapeake Beach Properties, LLC Variances to a 2.61-foot side corner setback from the property line adjacent to Seaview Avenue, instead of 30-feet as required for proposed unenclosed patio; and to a 2.5-foot side yard setback instead of 15-feet as required and waive Category I Landscape screening as required along the east side as required when adjacent to a residential or apartment districts for proposed parking lot; and to allow a total of (10) off-street parking spaces instead of a total of (33) off street parking spaces **4497 Lookout Rd** Zoning: B1 GPIN: 1570-71-0266

Board Action: APPROVED WITH 3 CONDITIONS ON FEBRUARY 2, 2022

Conditions:

1. The proposed improvements shall be made in substantial adherence to the submitted entitled "CONCEPT PLAN OF LOTS 1-A & 1-B SUBDIVISION OF LOT 1, BLOCK 2, AMENDED PLAT OF CHESAPEAKE SHORES" dated 10.18.2021 and prepared by Gallup Surveyors & Engineers.
2. Allow a variance to a 2.5-foot east side yard setback instead of 15 feet as required and to waive category I landscaping for existing parking lot along the east side property line where adjacent to a residential zoning district.
3. The proposed covered patios shall not be enclosed.

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

Hayden Dubay of Chesapeake Beach Properties, LLC and Jeremy Maloney, Architect from Altruistic Design appeared before the Board to make commentary.

There was no opposition present.

A motion was made by Mr. Purkey, seconded by Mr. Thornton to approve the variance with 3 conditions as modified (Deleted Condition #2 from the staff report, and added an additional condition). All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

**ANDERSON AYE
 HALL AYE
 NEWTON AYE
 POCTA AYE
 PURKEY AYE
 THORNTON AYE
 WHITLEY AYE**

Case 2021-BZA-00090: Patrick Grube Variance to a 5-foot side (west) yard setback, instead of 8 feet as required for a proposed residential building addition **211 66th St** Zoning: R5R (NE) GPIN: 2419-63-8862

Board Action: APPROVED WITH 2 CONDITIONS ON FEBRUARY 2, 2022

Conditions:

1. The proposed addition shall be constructed in substantial adherence to the submitted site plan entitled "PHYSICAL SURVEY OF LOT 12, BLOCK 16 CAPE HENRY SECTION E VIRGINIA BEACH, VIRGINIA OCTOBER 15, 2018 EXCLUSIVELY FOR PATRICK. R GRUBE AND JORDAN E. CAMPBELL" prepared by ALPHATEC Surveyors, LTD.
2. The proposed addition shall be constructed of colors and building materials compatible with the existing dwelling.

Tom Davis, Contractor appeared before the Board representing the applicant.

There was no opposition present.

A motion was made by Mr. Pocta, seconded by Mrs. Hall 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	AYE
NEWTON	AYE
POCTA	AYE
PURKEY	AYE
THORNTON	AYE
WHITLEY	AYE

Case 2021-BZA-00091: Algernon Keith Variances to a 2.5-foot side yard setback; instead of 5 feet as required for proposed home generator **3736 Dupont Cir** Zoning: R5R GPIN: 1489-49-5209-3736

Board Action: DENIED ON FEBRUARY 2, 2022

Algernon Keith appeared before the Board.

There was no opposition present.

A motion was made by Mr. Newton, seconded by Mrs. Hall to deny the variance. All voted for the motion except Mr. Thornton who voted no.

AYE 6 NO 1 ABSTAIN 0 ABSENT 0

ANDERSON AYE
HALL AYE
NEWTON AYE
POCTA AYE
PURKEY AYE
THORNTON NO
WHITLEY AYE

Case 2021-BZA-00092: Jessica Allert Requesting a modification of conditions of a 20 foot front yard setback variance previously approved on November 3, 2021 for a proposed residential building addition **757 Largo Dr** Zoning: R7.5 GPIN: 1466-35-2204

Board Action: APPROVED WITH 3 CONDITIONS ON FEBRUARY 2, 2022

Conditions:

1. The proposed building addition shall be constructed in substantial adherence to the revised site plan.
2. The proposed flex suite shall comply with all requirements of a Flex Suites as defined in section 507 of the City Zoning Ordinance.
3. A flex suite permit must be obtained, prior to occupying the proposed building addition as a flex suite.

Jessica Allert appeared before the Board.

There was no opposition present.

A motion was made by Mr. Pocta, seconded by Mr. Thornton 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 AYE
NEWTON AYE
POCTA AYE
PURKEY AYE
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 3,135 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 Ave** Zoning: R-7.5 GPIN: 2418-97-4279

Board Action: APPROVED WITH 3 CONDITIONS ON FEBRUARY 2, 2022

Conditions:

1. If approved, the proposed building additions and inground pool shall be constructed in substantial adherence site plan entitled “BZA EXHIBIT LOT 3 & NORTHERN 46.5’ OF LOT 2 PLAT SHOWING LOS 1 TO 8 THE HOLLIES M.B 8, PG 47 VIRGINIA BEACH, VIRGINIA EXCLUSIVELY for GOTTWALD RESIDENCE” dated 12.17.2021 and prepared WPL.
2. The proposed building additions inground pool shall be constructed in substantial adherence site plan entitled “ADDITION AND RENOVATIONS FOR GOTTWALD RESIDENCE 4502 OCEAN FRONT AVE, VIRGINIA BEACH, VIRGINIA 23451 BUILDING PERMIT SUBMITTAL dated 08.27.2021 and prepared by Altruistic Design provided in the file.
3. The existing pool/bath house shall not be used as guest house and/or living quarters.

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 3 conditions as listed in the staff report. All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

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

Case 2021-BZA-00064: GALE L HIGGS REVOCABLE TRUST An appeal to the Zoning Administrator's Determination or his/her designee to a "Notice of Violation" dated July 1, 2021 in reference to a guest house being used for a short rental **1844 N Alanton Dr** Zoning: R40 GPIN: 2409-53-9547

Board Action: UPHELD ZONING ADMINISTRATOR'S INTERPRETATION ON FEBRUARY 2, 2022

Gale L. Higgs appeared before the Board.

Lisa Murphy, Attorney with Wilcox & Savage appeared before the Board representing Gale L. Higgs Revocable Trust.

Scott Higgs appeared before the board in favor of the applicant.

Kay Wilson, Deputy City Attorney appeared before the Board to defend the interpretation of the Zoning Administrator.

Ashby Moss, Planning Evaluation Coordinator and Hannah Sabo, Zoning Administrator appeared before the Board to make commentary.

Jerry Bryan of 1800 Windy Ridge Point appeared before the board to make commentary and in opposition of the appeal.

A motion was made by Mr. Purkey, seconded by Mr. Newton to uphold the interpretation of the Zoning Administrator. All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

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

Case 2021-BZA-00093: WC Capital LLC An appeal to the Zoning Administrator's Determination or his/her designee to a "Notice of Violation" dated October 15, 2021 in reference to a fence/wall being erected without a fence permit **3100 Arnold Palmer Dr** Zoning: P-1 GPIN: 14936378940000

Board Action: WITHDRAWN ON FEBRUARY 2, 2022

It was noted that the applicant requested the appeal be withdrawn.

There was no opposition present.

**A motion was made by Mr. Thornton, seconded by Mrs. Anderson to withdraw the appeal.
All voted for the motion.**

AYE	7	NO	0	ABSTAIN	0	ABSENT	0
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ANDERSON	AYE
HALL	AYE
NEWTON	AYE
POCTA	AYE
PURKEY	AYE
THORNTON	AYE
WHITLEY	AYE

Respectfully Submitted

David Whitley
Chairman

lmr