



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

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

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

Case 2021-BZA-00087: Timothy Siviter A variance to allow 40-feet in building height; instead of 37-feet in building height as allowed for a proposed single-family dwelling **2220 Leeward Shore Drive** Zoning: R-20 GPIN: 2409-19-8659

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

Conditions:

1. The proposed two-story dwelling shall be constructed in substantial adherence to the submitted site plan "CBPA VARIANCE SITE PLAN TIMOTHY D. SIVITER" dated October 1, 2021, prepared by Chesapeake Bay Site Solutions.
2. The stand of trees located on the southwest corner of the lot shall be saved as identified on the submitted site plan.
3. Tree protection barriers in accordance with the "Landscaping Guide -Tree Planting, Preservation and Replacement" shall be installed for the trees to be preserved.

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

There was no opposition present.

A motion was made by Mr. Newton, seconded by Mr. Holland 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

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

Case 2021-BZA-00096: 4500 Ocean Front LLC Variance to a 22.5-foot side corner setback from the property line adjacent to 46th Street; instead of 30-feet as required for a proposed storage shed **4500 Ocean Front Avenue** Zoning: R-7.5 GPIN: 2418-97-5240

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

Conditions:

1. The proposed storage shed will be installed in substantial adherence with the submitted site plan entitled "BZA EXHIBIT OF LOT 1 & THE SOUTHERN 6.5' OF LOT 2 Plat Showing LOTS 1 TO 6 THE HOLLIES exclusive for 4500 OCEAN FRONT L.L.C." dated January 10, 2022, and prepared by WPL.
2. The proposed storage shed will be constructed with quality building materials compatible with the existing dwelling and in substantial adherence with the submitted untitled building elevations provided in the file.

Dee Oliver, applicant appeared before the Board to make commentary.

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

There was no opposition present.

A motion was made by Mr. Pocta, 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

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

Case 2021-BZA-00097: Kenneth Baker 2020 Irrevocable Trust Variance to an 11-foot rear yard setback from the property line adjacent to the Atlantic Ocean; instead of 20-feet as required for a proposed inground swimming pool **4204 Ocean Front Avenue** Zoning: R-7.5 GPIN: 2418-96-7443

Board Action: APPROVED WITH 1 CONDITION ON MARCH 2, 2022

Conditions:

1. The proposed inground swimming pool shall be installed in substantial adherence to the submitted site plan entitled "BZA EXHIBIT FOR LOT 51 MAP OF CAVALIER SHORES EXCLUSIVELY FOR TWD HOMES "dated April 8, 2021, and prepared by WPL.

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. Pocta 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

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

Case 2021-BZA-00099: Ocean Condominium Developers, LLC Variances to a 24.5-foot front yard setback, instead of 30-foot as required; and to an 8.2-foot east and west side yard setbacks; instead of 10-foot each as required; and to allow 39.5% (sq ft) in lot coverage, instead of 30% (sq ft) in lot coverage as allowed for proposed duplex **402 34th Street/403 33rd Street**
Zoning: A-12 GPIN: 2418-92-4847

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

Conditions:

1. The proposed duplex shall be constructed in substantial adherence to the submitted site plan entitled “BZA EXHIBIT OF PROPOSED REDUCED SETBACKS LOT 11 AND LOT 12, BLOCK 106 SUBDIVISION OF LINKHORN PARK EXCLUSIVELY FOR BISHARD HOMES” dated 12-13-2021 and prepared Aling survey & Design, P.C.
2. Tree protection in accordance with the “Virginia Beach Landscaping Guide” shall be installed around all trees to be preserved.
3. A tree preservation plan acceptable to the Zoning Administrator or his/her designee shall be submitted, prior to obtaining a building permit.

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. Pocta, seconded by Mr. Holland 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 represents the applicant.

AYE 7 NO 0 ABSTAIN 1 ABSENT 0

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

Case 2021-BZA-00100: WPL Ventures, LLC A variance to a 5.1-foot east side yard setback; instead of 8-feet as required for a proposed single-family dwelling **111 73rd Street** Zoning: R-5R (NE) GPIN: 2419-66-7586

Board Action: DEFERRED INDEFINITELY ON MARCH 2, 2022

Eddie Bourdon, Attorney with Sykes Bourdon Ahern & Levy appeared before the Board representing the applicant requesting the application be deferred indefinitely.

There was no opposition present.

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

AYE 7 NO 0 ABSTAIN 0 ABSENT 0

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

Case 2021-BZA-00101: Jonathan Neal Variances to a 13.09-foot north side and 13.14-foot south side yard setbacks; instead of 20-feet each as required for a proposed single-family dwelling **1413 Rylands Road** Zoning: R-40 GPIN: 1469-71-8439

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

Conditions:

1. The proposed two-story dwelling shall be constructed in substantial adherence to the submitted site plan entitled “BZA EXHIBIT OF LOT D PLAT OF LAKE SMITH SITES VIRGINIA BEACH, VIRGINIA EXCLUSIVELY FOR NEAL RESIDENCE” dated December 20, 2021, and prepared by WPL.
2. The proposed two-story dwelling shall be constructed in substantial adherence to the submitted colored renderings entitled “1413 RYLANDS ROAD” not dated and prepared by TMA.
3. The existing storage sheds as well as any other accessory structure(s) not in compliance with the required setbacks shall be removed or relocated in compliance with the required setbacks.

4. The wrap around porch shall never be enclosed.

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

Michael Schnesker, Architect appeared before the Board to make commentary.

There was no opposition present.

A motion was made by Mr. Thornton, seconded by Mr. Purkey to approve the variance as modified (adding Condition 4). All voted for the motion.

AYE 6 NO 1 ABSTAIN 0 ABSENT 0

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

Case 2022-BZA-00005: Thomas and Cynthia Potter Variances to a 48.6-foot front yard setback, instead of 50-feet as required; and to a 14.8-foot south side yard setback; instead of 20-feet as required for proposed building additions **1229 Candlewood Drive** Zoning: R-20 GPIN: 1475-28-6758

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

Conditions:

1. The proposed building addition shall be constructed in substantial adherence to the submitted site plan entitled "PHYSICAL SURVEY AND EXHIBIT OF PROPOSED GARAGE LOT 17 SECTION C5 BELLAMY MANOR FOR THOMAS A, POTTER" dated April 4, 2021, and prepared by DTK Associates.
2. The proposed addition shall be constructed with building materials and colors compatible with the existing dwelling.

Thomas Potter appeared before the Board.

There was no opposition present.

A motion was made by Mr. Newton, seconded by Mr. Purkey 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

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

Case 2021-BZA-00086: Joseph Montgomery Variance to an 8.61-foot side (east) yard setback, instead of 10-foot as required; for proposed second floor wood deck **107 88th Street** Zoning: R-5R GPIN: 2510-51-5827

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

Conditions:

1. The proposed deck shall be constructed in substantial adherence to the submitted entitled “BZA EXHIBIT OF LOT 8 CAPE HENRY PROPERTY OF COOKE, GORDAN, & HUME EXCLUSIVELY FOR MONGOMERY RESIDENCE” dated December 8, 2021, and prepared by WPL.
2. The proposed second-floor deck shall not be enclosed.

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. Holland, 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

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

Case 2022-BZA-00006: Martin Piazzola Requests an appeal of the Zoning Administrator's determination or his/her designee to a "Determination Letter" dated November 29, 2021 pertaining to a short-term rental zoning permit application **524 20th 1/2 Street** Zoning: OR GPIN: 2417-98-7030-0003

Board Action: DEFERRED INDEFINITELY ON MARCH 2, 2022

Grady Palmer, Attorney with Williams Mullen appeared before the Board representing the applicant, and requesting that the appeal be deferred indefinitely.

Kay Wilson, Deputy City Attorney appeared before the Board to make commentary.

A motion was made by Mr. Thornton, seconded by Mr. Pocta to 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 represented the applicant when the property was purchased.

AYE	7	NO	0	ABSTAIN	1	ABSENT	0
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HALL	AYE
HOLLAND	AYE
KOVNER	AYE
NEWTON	AYE
POCTA	AYE
PURKEY	ABSTAINED
THORNTON	AYE
WHITLEY	AYE

Respectfully Submitted

Thomas Holland
Secretary

lmr