



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

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

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

**Case 2022-BZA-00039: 5000 Lauderdale Avenue, LLC** Variances to an 18-foot front yard setback, instead of 30-feet as required; and to a 1.96-foot side corner setback from the property line adjacent to Bay View Ave; instead of 30-feet as required for a proposed single family dwelling and decks, **5000 Lauderdale Ave** Zoning: R-7.5 GPIN: 1570-42-5938

**Board Action:** DEFERRED ON OCTOBER 5, 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. Holland, seconded by Mr. Thornton to defer the application as requested by the applicant. All voted for the motion except Mr. Purkey who works at 303 34<sup>th</sup> Street, Suite 5, Virginia Beach VA 23451 was abstained because he provides legal services to the construction contractor.**

**AYE 7 NO 0 ABSTAIN 1 ABSENT 0**

**ANDERSON AYE  
HALL AYE  
HOLLAND AYE  
NEWTON AYE**

<b>POCTA</b>	<b>AYE</b>
<b>PURKEY</b>	<b>ABSTAINED</b>
<b>THORNTON</b>	<b>AYE</b>
<b>WHITLEY</b>	<b>AYE</b>

**Case 2022-BZA-00040: Kevin Hickey and Christina Campbell** Variances to a 41-foot front yard setback, instead of 50-feet as required; and to a 10-foot north side yard setback instead of 20-feet as required for proposed two-story building addition, **832 Cardinal Rd** Zoning: R-40 GPIN: 2418-31-8962

**Board Action:** APPROVED WITH 1 CONDITION ON OCTOBER 5, 2022

1. The proposed improvements shall be made in substantial adherence to hand-written improvements depicted on the submitted physical survey provided in the file.

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.**

<b>AYE</b>	<b>7</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>0</b>
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<b>ANDERSON</b>	<b>AYE</b>
<b>HALL</b>	<b>NO VOTE NEEDED</b>
<b>HOLLAND</b>	<b>AYE</b>
<b>NEWTON</b>	<b>AYE</b>
<b>POCTA</b>	<b>AYE</b>
<b>PURKEY</b>	<b>AYE</b>
<b>THORNTON</b>	<b>AYE</b>
<b>WHITLEY</b>	<b>AYE</b>

**Case 2022-BZA-00041: Patricia Clarke-Ettel** Variance to a 6.49-foot north side yard setback, instead of 20-feet as required for a pergola/arbor; and to a 5.73-foot south side yard setback for proposed two-car garage; and to a 16.12-foot south side yard setback instead of 20-feet each as required for proposed front porch, landing and steps, **908 Holladay Pt** Zoning: R-40 GPIN: 2418-53-7550

**Board Action:** APPROVED WITH 2 CONDITIONS ON OCTOBER 5, 2022

1. The proposed improvements shall be constructed in substantial adherence to the submitted site plan entitled "BZA EXHIBIT OF LOT C PLAT SHOWING LOTS 19, 20, 22 LINKHORN PARK

M.B. 13, PG. 22 VIRGINIA BEACH, VIRGINIA EXCLUSIVELY FOR CLARKE RESIDENCE” dated July 28, 2022, and prepared by WPL.

- 2. The existing deck and proposed expansion shall only be covered with the proposed pergola/arbor.

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 Mrs. Hall 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 34<sup>th</sup> Street, Suite 5, Virginia Beach VA 23451 was abstained because he provides legal services to the construction contractor.**

**AYE 7 NO 0 ABSTAIN 1 ABSENT 0**

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

**Case 2022-BZA-00042: C & C Development Company, Inc.** Variance to a 13.5 side corner setback from the property line adjacent to Powhatan Ave; instead of 18-feet as required for steps to be installed on a proposed single-family dwelling, **2236 Powhatan Ave** Zoning: R5R GPIN: 1489-39-0730

**Board Action:** WITHDRAWN ON OCTOBER 5, 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. Pocta, seconded by Mrs. Anderson to withdraw the application as requested by the applicant. All voted for the motion except Mr. Purkey who works at 303 34<sup>th</sup> Street, Suite 5, Virginia Beach VA 23451 was abstained because he provides legal services to the applicant.**

AYE 7 NO 0 ABSTAIN 1 ABSENT 0

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

**Case 2022-BZA-00043: Roger Schultz and Beth Scharlop** Variance to allow 70.8% or 5,312 square feet in maximum impervious cover; instead of 60% or 4,500 square feet in maximum impervious cover as allowed for an existing single-family dwelling, detached garage, driveway, sidewalks and proposed inground swimming pool and patio, **8206 Ocean Front Ave** Zoning: R5R (NE Overlay) GPIN: 2419-69-1783

**Board Action:** APPROVED WITH 1 CONDITION ON OCTOBER 5, 2022

1. If approved, the proposed swimming pool, patio pavers and associated improvements shall be installed in substantial adherence to the submitted site plan entitled "BZA EXHIBIT OF LOT 3, BLOCK 11 SECTION D CAPE HENRY M.B 7, PG. 79 VIRGINIA BEACH, VIRGINIA EXCLUSIVELY FOR SCHULTZ RESIDENCE" dated July 28, 2022, 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. Thornton, 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  
NEWTON AYE  
POCTA AYE  
PURKEY AYE  
THORNTON AYE  
WHITLEY AYE

**Case 2022-BZA-00045: John and Melissa Dixon** Variance to a 46-foot front yard setback, instead of 50-feet as required for proposed front covered unenclosed porch, **1504 Front Cove Ct** Zoning: R-20 GPIN: 1499-91-4024

**Board Action:** APPROVED WITH 3 CONDITIONS ON OCTOBER 5, 2022

1. The proposed covered porch shall be constructed in substantial adherence to the submitted site plan provided in the provided in the file.
2. The proposed covered porch shall be constructed in substantial adherence to the submitted colored renderings and building plans provided in the file.
3. The covered enclosed porch shall not be enclosed without further consideration from the Board of Zoning Appeals.

John Dixon appeared before the Board.

There was no opposition present.

**A motion was made by Mr. Newton, seconded by Mrs. Anderson 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**

<b>ANDERSON</b>	<b>AYE</b>
<b>HALL</b>	<b>NO VOTE NEEDED</b>
<b>HOLLAND</b>	<b>AYE</b>
<b>NEWTON</b>	<b>AYE</b>
<b>POCTA</b>	<b>AYE</b>
<b>PURKEY</b>	<b>AYE</b>
<b>THORNTON</b>	<b>AYE</b>
<b>WHITLEY</b>	<b>AYE</b>

**Case 2022-BZA-00046: Glenn Burnett** Variance to a 19.67-foot front yard setback, instead of 20-feet as required for proposed flat (replacement) roof and roof-top deck, **404 Mediterranean Ave** Zoning: R5S GPIN: 2427-02-9327

**Board Action:** APPROVED WITH 1 CONDITION ON OCTOBER 5, 2022

1. The proposed roof and rooftop deck shall be constructed in substantial adherence to the submitted site plan.

Glenn Burnett 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 1 condition. All voted for the motion except Mr. Purkey who works at 303 34<sup>th</sup> Street, Suite 5, Virginia Beach VA 23451 was abstained because he provides legal services to the construction contractor, and Mr. Whitley who was abstained because he personally knows and working with the applicant.**

**AYE 6 NO 0 ABSTAIN 2 ABSENT 0**

<b>ANDERSON</b>	<b>AYE</b>
<b>HALL</b>	<b>AYE</b>
<b>HOLLAND</b>	<b>AYE</b>
<b>NEWTON</b>	<b>AYE</b>
<b>POCTA</b>	<b>AYE</b>
<b>PURKEY</b>	<b>ABSTAINED</b>
<b>THORNTON</b>	<b>AYE</b>
<b>WHITLEY</b>	<b>ABSTAINED</b>

**Case 2022-BZA-00048: Richard Goggin** Variance to a 10.67-foot rear yard setback, instead of 20-feet as required; and to a 4.5-foot east side yard setback instead of 10-feet as required for existing second-floor deck, stairs, and landing, **4608 Guam St** Zoning: R5R GPIN: 1570-61-2451-4608

**Board Action:** DENIED ON OCTOBER 5, 2022

Richard Goggin and Sarah Huffly appeared before the Board.

There was no opposition present.

**A motion was made by Mr. Newton, seconded by Mrs. Anderson to deny the variance. All voted for the motion except Mr. Thornton.**

**AYE 6 NO 1 ABSTAIN 0 ABSENT 0**

<b>ANDERSON</b>	<b>AYE</b>
<b>HALL</b>	<b>NO VOTE NEEDED</b>
<b>HOLLAND</b>	<b>AYE</b>
<b>NEWTON</b>	<b>AYE</b>
<b>POCTA</b>	<b>AYE</b>
<b>PURKEY</b>	<b>AYE</b>
<b>THORNTON</b>	<b>NO</b>
<b>WHITLEY</b>	<b>AYE</b>

**Case 2022-BZA-00049: Joyful Eyecare, PC** Variances to a 20-foot front yard setback from the property line Old Towne Lane, and to a 20-foot side corner setback from the property line adjacent to S. Lynnhaven Road; instead of 35-feet each as required for proposed medical (eye care) office building, **889 S Lynnhaven Rd** Zoning: B2 GPIN: 1496-34-2200

**Board Action:** APPROVED WITH 2 CONDITIONS ON OCTOBER 5, 2022

1. The proposed medical (eye care) building shall be constructed in substantial adherence to the submitted site plan entitled "CONCEPTUAL SITE PLAN PEARL VISION VIRGINIA BEACH, VIRGINIA PREPARED FOR JOYFUL EYECARE, P.C." dated July 8, 2022, and prepared John Sandow Engineering, L.L.C.
2. The proposed medical (eye care) building shall be constructed in substantial adherence to elevations presented to the board at the meeting.

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. Pocta to approve the variance with 2 conditions as modified (Condition 2 was revised). All voted for the motion.**

**AYE 7 NO 0 ABSTAIN 0 ABSENT 0**

<b>ANDERSON</b>	<b>AYE</b>
<b>HALL</b>	<b>NO VOTE NEEDED</b>
<b>HOLLAND</b>	<b>AYE</b>
<b>NEWTON</b>	<b>AYE</b>
<b>POCTA</b>	<b>AYE</b>
<b>PURKEY</b>	<b>AYE</b>
<b>THORNTON</b>	<b>AYE</b>
<b>WHITLEY</b>	<b>AYE</b>

**Case 2021-BZA-00084: Evan and Lori Kalfus** Variance to allow 68.75% or 5,156.25 square feet in maximum impervious cover; instead of 60% or 4,500 square feet in maximum impervious cover as allowed for a proposed single family dwelling, driveway, patio, sidewalks and inground swimming pool **8202 Ocean Front Ave** Zoning: R5R (NE) GPIN: 2419-69-2603

**Board Action:** APPROVED WITH 2 CONDITIONS ON OCTOBER 5, 2022

1. If approved, the proposed single-family dwelling, deck, porch, inground swimming pool and associated improvements shall be made in substantial adherence to the submitted site plan entitled "CAPE HENRY, LOT 5, BLK 11 8202 OCEAN FRONT AVE MAPBOOK 7,

PAGE 79 2419-69-2603-0000 ZONING R-5R” dated July 28, 2022, and prepared by Kellam Gerwitz, ENGINEERING-SURVEYING-PLANNING.

2. The proposed single-family dwelling shall be constructed in substantial adherence to the submitted site plan entitled “EVAN AND LORI KALFUS RESIDENCE 8202 OCEAN FRONT AVE VIRGINIA BEACH, VA” dated January 17, 2022, prepared by D.W. Chase R.A, Architect.

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. Holland to approve the variance with the 2 conditions as listed in the staff report. All voted for the motion except Mr. Purkey who works at 303 34<sup>th</sup> Street, Suite 5, Virginia Beach VA 23451 was abstained because he provides legal services to the applicant.**

**AYE 7 NO 0 ABSTAIN 1 ABSENT 0**

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

Respectfully Submitted

Thomas Holland  
Secretary

lmr