



**MINUTES  
BOARD OF ZONING APPEALS  
DECEMBER 7, 2022**

Chair David Whitley, called to order the **Board of Zoning Appeals** at the Council Chamber, on Wednesday, December 7, 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 December 7, 2022.

Board Members Present: Janice Anderson, Kevin Newton, Myles Pocta, Harry Purkey, David Whitley, and Elizabeth Kovner sat as the alternate.

**Administrative Business:**

- Election of Officers for 2023

A motion was made by Mr. Purkey, seconded by Mr. Newton to elect Mr. Whitley as the Chair, Mrs. Anderson as the Vice Chair and Mr. Pocta as the Secretary for 2023. All voted for the motion.

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

<b>ANDERSON</b>	<b>AYE</b>
<b>KOVNER</b>	<b>AYE</b>
<b>NEWTON</b>	<b>AYE</b>
<b>POCTA</b>	<b>AYE</b>
<b>PURKEY</b>	<b>AYE</b>
<b>WHITLEY</b>	<b>AYE</b>

- Resolution to Schedule Monthly Meetings for 2023

A motion was made by Mr. Purkey, seconded by Mr. Newton to approve the resolution to schedule monthly meetings for 2023. All voted for the motion.

AYE	6	NO	0	ABSTAIN	0	ABSENT	0
ANDERSON			AYE				
KOVNER			AYE				
NEWTON			AYE				
POCTA			AYE				
PURKEY			AYE				
WHITLEY			AYE				

**Case 2022-BZA-00055: Thomas and Kimberly Henderson** Variances to a 13.9-foot side corner setback from the property line adjacent Myrtle Ave, instead of 30-feet each as required for proposed pergola and privacy fence 6- feet in height **300 48<sup>th</sup> Street** Zoning: R-7.5 GPIN: 2418-87-5957

**Board Action:** APPROVED WITH 5 CONDITIONS ON DECEMBER 7, 2022

**Conditions:**

1. The proposed pergola/outdoor kitchen shall be constructed in substantial adherence to the submitted site plan entitled “BZA EXHIBIT FOR LOT 139 A MAP OF THE HOLLIES VIRGINIA BEACH EXCLUSIVE FOR OCEANSIDE STRUCTURES, INC” dated October 31, 2022, and prepared by WPL.
2. The 6-foot wood fence shall maintain a minimum 5-foot setback from the property line adjacent to the 15-foot alley and a 10-foot side corner, where the fence is perpendicular and parallel with the property line adjacent to Myrtle Ave.
3. Category I landscaping shall be installed along the 6-foot fence where it a parallel with the 15-alley and directly inside of the existing 4-foot aluminum ‘wrought-iron style’ fence, where it is parallel with Myrtle Ave.
4. A fence permit shall be obtained within 15 business days of the hearing.
5. Prior to the application for a building permit for the pergola, the applicant shall submit an as built survey to the City showing the installation of the Category I Landscaping where required and the reduction of the fence to 6 feet tall for the first 13.9 feet along the alley running from Myrtle Avenue and the required Category I Landscaping to be installed.

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

There was no opposition present.

**A motion was made by Mr. Purkey, seconded by Mr. Pocta to approve the variance with 5 conditions as modified (modified condition #3 and added condition #5). All voted for the motion.**

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

**ANDERSON AYE  
KOVNER AYE  
NEWTON AYE  
POCTA AYE  
PURKEY AYE  
WHITLEY AYE**

**Case 2022-BZA-00057: Eric and Sarah Shirley** Variance to a 18.08-foot front yard setback instead of 30-feet as required; and to 5.75-foot side yard setback, instead of 10-feet as required for an attached garage addition **2001 English Cedar Circle** Zoning: R-10 GPIN: 1499-78-8080

**Board Action:** DEFERRED TO JANUARY 4, 2023 ON DECEMBER 7, 2022

**A motion was made by Mrs. Anderson, seconded by Mr. Newton to defer the application to January 4, 2023. All voted for the motion.**

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

**ANDERSON AYE  
KOVNER AYE  
NEWTON AYE  
POCTA AYE  
PURKEY AYE  
WHITLEY AYE**

**Case 2022-BZA-00058: Konstantinas Angelopoulos** Variance to a 4-foot side yard setback, instead of 10- feet as required for a second floor landing and steps **4483 Ocean View Avenue** Zoning: R5R (SD Overlay) GPIN: 1570-71-3675

**Board Action:** DENIED ON DECEMBER 7, 2022

Jared Phipps, with Flips by Phipps, LLC appeared before the Board representing the applicant.

**A motion was made by Mrs. Anderson, seconded by Mrs. Kovner to deny the application. All voted for the motion.**

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

**ANDERSON AYE  
KOVNER AYE  
NEWTON AYE  
POCTA AYE  
PURKEY AYE  
WHITLEY AYE**

**Case 2022-BZA-00059: Konstantinas Angelopoulos Variance to a 4-foot side yard setback, instead of 10- feet as required for proposed second and third-floor decks **4485 Ocean View Avenue** Zoning: R5R (SD overlay) GPIN: 1570-71-3783**

**Board Action:** DEFERRED INDEFINITELY ON DECEMBER 7, 2022

Jared Phipps, with Flips by Phipps, LLC appeared before the Board representing the applicant.

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

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

**ANDERSON AYE  
KOVNER AYE  
NEWTON AYE  
POCTA AYE  
PURKEY AYE  
WHITLEY AYE**

**Case 2022-BZA-00039: 5000 LAUDERDALE AVE LLC Variances to a 15.12-foot front yard setback, instead of 30-feet as required; and to a 3-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, front porch, and rear decks **5000 Lauderdale Avenue** Zoning: R-7.5 GPIN: 1570-42-5938**

**Board Action:** APPROVED WITH 4 CONDITIONS ON DECEMBER 7, 2022

**Conditions:**

1. The proposed three-story single-family dwelling shall be constructed in substantial adherence to the submitted site plan entitled "BZA EXHIBIT PROPOSED HOUSE LOT 21 PLAT

SHOWING RESUBDIVISION OF LOTS 21 & 22, BLOCK 19 CHESAPEAKE PARK M.B. 132, PG. 10 VIRGINIA BEACH, VIRGINIA FOR: 5000 LAUDERDALE AVE. LLC” dated July 7, 2022, and prepared by Gallup Surveyor & Engineers.

2. The proposed three-story single-family dwelling shall be constructed in substantial adherence to the submitted building elevations and colored renderings entitled “5000 Lauderdale Ave revision 10/5/2022 A101 & A102” and prepared by Designer Ray French.
3. A minimum 3-foot side corner setback shall be maintained from the property line adjacent to Bay View Ave.
4. The proposed third-floor rear deck shall not be covered and the first and second-floor decks below it shall not be enclosed.

**A motion was made by Mr. Newton, seconded by Mrs. Anderson to approve the variance with 3 conditions as modified (modified condition #3). 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 represents the general contractor.**

**AYE 5 NO 0 ABSTAIN 1 ABSENT 0**

<b>ANDERSON</b>	<b>AYE</b>
<b>KOVNER</b>	<b>AYE</b>
<b>NEWTON</b>	<b>AYE</b>
<b>POCTA</b>	<b>AYE</b>
<b>PURKEY</b>	<b>ABSTAINED</b>
<b>WHITLEY</b>	<b>AYE</b>

Respectfully Submitted

David Whitley  
Chairman

lmr