Board of Zoning Appeals

February 5, 2020

David Whitley, Chairman
Thomas Holland, Vice Chairman
Janice Anderson, Secretary

James Oglesby, Myles Pocta, Harry Purkey, Jr., Robert Thornton
Alternates: Pending

City Staff:
Chris Langaster, Planner III
Kevin Kemp, Zoning Administrator
Victoria Eisenberg, City Attorney
**FEBRUARY 5, 2020**  
**BOARD OF ZONING APPEALS AGENDA**

<table>
<thead>
<tr>
<th>A. COMMENTS BY ZONING ADMINISTRATOR AND CHAIRMAN</th>
</tr>
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<tbody>
<tr>
<td>B. REVIEW OF PUBLIC HEARING CASES</td>
</tr>
<tr>
<td>C. STAFF BRIEFINGS</td>
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</table>

The Board of Zoning Appeals will conduct a Public Hearing on **Wednesday, February 5, 2020, at 2:00 p.m.**, in the City Council Chambers of the City Hall Building, Municipal Center, Virginia Beach, Virginia. The Board members’ staff briefing, **which is open to the public**, will be held at 1:00 p.m. in the City Manager’s conference room of Building 1, Room 234. The following applications will appear on the agenda. **Please Note: IF NO ONE APPEARS BEFORE THE BOARD TO REPRESENT THE APPLICATION, THE VARIANCE COULD BE DENIED.**
## 2:00 P.M. – PUBLIC HEARING

<table>
<thead>
<tr>
<th>Case: 2019-BZA-00117</th>
<th>Project: Existing Single-Family Dwelling</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Applicant:</strong> Michael Wiswell</td>
<td><strong>Requests:</strong></td>
</tr>
<tr>
<td><strong>Representative:</strong> Courtney McKinney</td>
<td>• 28.5 foot front yard setback, instead of 30-feet required.</td>
</tr>
<tr>
<td><strong>Address:</strong> 3329 MacDonald Road</td>
<td></td>
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<tr>
<td><strong>Zoning District:</strong> R-10</td>
<td></td>
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<tr>
<td><strong>Staff:</strong> Chris Langaster</td>
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<tr>
<th>Case: 2019-BZA-00120</th>
<th>Project: Proposed Sign Addition</th>
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<tbody>
<tr>
<td><strong>Applicant:</strong> Lynnhaven Mall LLC</td>
<td><strong>Requests:</strong></td>
</tr>
<tr>
<td><strong>Representative:</strong> Brandon McGeehan</td>
<td>• To allow a building/wall mounted sign totaling 254.75 square-feet, instead of 150-square-foot as allowed.</td>
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<tr>
<td><strong>Address:</strong> 1001 Lynnhaven Mall Loop</td>
<td></td>
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<tr>
<td><strong>Zoning District:</strong> B-2</td>
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<td><strong>Staff:</strong> Kevin Kemp</td>
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<tr>
<th>Case: 2019-BZA-00121</th>
<th>Project: Proposed 2nd Story Addition and Existing Trellis</th>
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<tbody>
<tr>
<td><strong>Applicant:</strong> Christopher Zettervall</td>
<td><strong>Requests:</strong></td>
</tr>
<tr>
<td><strong>Representative:</strong> Billy Garrington Governmental Permitting Consultants</td>
<td>• 11.88 foot front yard setback, instead of 50-feet as required; and</td>
</tr>
<tr>
<td><strong>Address:</strong> 1208 Curlew Place</td>
<td>• 5-foot west side yard setback, instead of 20-feet as required.</td>
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<tr>
<td><strong>Zoning District:</strong> R-40</td>
<td></td>
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<tr>
<td><strong>Staff:</strong> Chris Langaster</td>
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<tr>
<td>Case: 2019-BZA-00123</td>
<td>Project: Raise Portion of Roof of an Existing One-Story Single-Family Dwelling</td>
</tr>
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<tr>
<td><strong>Applicant:</strong> Melissa Morelli</td>
<td><strong>Requests:</strong></td>
</tr>
<tr>
<td><strong>Representative:</strong> Self Represented</td>
<td>- 17.6 foot front yard setback from the property line adjacent to Elgin Road, instead of 50-feet as required; and</td>
</tr>
<tr>
<td><strong>Address:</strong> 624 Baden Avenue</td>
<td>- 17.8 foot setback from the property line adjacent to Baden Ave, instead of 50-feet as required.</td>
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<tr>
<td><strong>Zoning District:</strong> R-30</td>
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<td><strong>Staff:</strong> Chris Langaster</td>
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<table>
<thead>
<tr>
<th>Case: 2019-BZA-116 (Appeal)</th>
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<tbody>
<tr>
<td><strong>Applicant:</strong> Lynnhaven Area Properties, LLC</td>
<td><strong>Requests:</strong></td>
</tr>
<tr>
<td><strong>Representative:</strong> Lisa Murphy, Willcox and Savage</td>
<td>- Requests an appeal of the Zoning Administrator’s determination letter dated November 13, 2019.</td>
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<tr>
<td><strong>Address:</strong> Westminster Lane</td>
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<td><strong>Zoning District:</strong> A-18</td>
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<tr>
<td><strong>Staff:</strong> Kevin Kemp and Kay Wilson</td>
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</table>
Project: Existing Single-Family Dwelling

Variance Requested:

1. 28.5-foot front yard setback, instead of 30-feet required.

Staff Planner
Chris Langaster

Variance initiated by:
Applicant Inquiry

Location
3329 Macdonald Road

GPIN
1446-98-2104

Zoning District
R-10 Residential

Site Size
19,845 square feet

Year Constructed
1953
Existing Site Conditions
Proposal:
The applicant is requesting a variance to a 28.5-foot front yard setback, instead of 30-feet as required for an existing single-family dwelling. The subject lot was created by plat in 1952 and presently meets the minimum dimensional requirements for the R-10 zoning district. With the exception of the front yard setback, the existing dwelling complies with all required setbacks and other dimensional requirements for this zoning district.

On October 13, 2005, the applicant obtained demolition permit to remove an attached carport in anticipation of constructing a two-story garage addition. On November 01, 2005, a building permit for a two-story garage addition was issued by the Permits and Inspections Office. Based on the aerial maps, it appears the addition was completed between the year 2005 and 2006. A final inspection was never scheduled and the permit was subsequently closed by the Permit & Inspection’s Office in 2008 during a purging of the permit files.

The applicant is in the process of selling the home. During the process of selling the home it was discovered the building permits for two room additions never received a final inspection. In an effort to resolve the outstanding building and zoning infractions, the applicant hired a structural engineer to address any building code concerns, as well as requested a setback variance to address the front yard setback encroachment.

As a result of the homeowner/contractor not requesting the appropriate building inspections during the construction process, a self-imposed hardship has been created. Although, staff was unable to identify a legitimate hardship with the request, staff believes the setback variance requested is minimal. Furthermore, the existing addition has been in place for approximately 14 years and it is not expected to create detriment to the adjoining property owners or surrounding community.

Permits Required / Obtained:
Permits will be required by the Development Services Center and the Permits and Inspections Division.
## Variance Request

<table>
<thead>
<tr>
<th>REQUIREMENT</th>
<th>REQUESTED</th>
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<tbody>
<tr>
<td>FRONT YARD SETBACK</td>
<td>30’</td>
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</table>

![Diagram showing MACDONALD ROAD with dimensions and setback details.](image)

Michael Wiswell  
Case Number 2019-BZA-117  
Page 4
The existing home addition has been in place for approximately 14 years. In staff’s opinion, the 1.5-foot setback encroachment is minimal.

A building permit was obtained for the work; however, the required building inspections were never requested by the contractor or homeowner. As result, the existing encroachment was not discovered prior to completion of the addition.

The applicant hired a structural engineer in an effort of verifying the structural worthiness of the two room addition that received building permits.

If approved, the outstanding building and zoning infractions would be resolved.

This applicant has produced a self-imposed hardship as a result of failing to request the appropriate inspections from the Permits and Inspections Office.

1. The existing two-story garage shall not be enlarged or expanded within the existing front yard setback without further consideration from the Board of Zoning Appeals.

2. All required building permits, and/or amendments required to the previous building permits, shall be obtained within 10 business days of this hearing.
Applicant’s Hardship Statement

Board of Zoning Appeals Application

Criteria for Variance Approval
Section 15.2-2309 of the Code of Virginia states that the Board of Zoning Appeals shall not approve a variance unless it finds:

a. That the strict application of the ordinance would produce an undue hardship.
b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
c. That the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of this variance.
d. That the granting of the variance is in harmony with the intended spirit and purpose of the ordinance.

Description of Hardship (attach additional sheets if necessary)
Please describe the hardship, how the ordinance prohibits or restricts use of the property, any unique topographic, size, or shape features of the lot, why the proposal is in the character of the neighborhood, and how the request meets the spirit of the code section you wish to vary.

In 2004-05 Additions were put on the existing house.
The Company never finished the permit. First Rockland to 2018 then trying to sell the house. We found out about the permit.

Description of Variance Request (attach additional sheets if necessary)

Description of the Project and Proposed Improvements (attach additional sheets if necessary)

No improvements. The house is already built.

I/We certify that the information above is true and correct.

Signature of Property Owner or Representative

Signature of Condo/co-owner

4 Page
June 28, 2019

Michael and Courtney Wiswell
442 D Manila Road
Virginia Beach, VA. 23451
757-266-2459, 757-434-2994
courtneywiswell@gmail.com

RE: Structural Engineers Review of Constructions for Additions at 3329 MacDonald Road

Dear Michael and Courtney,

At your request, we conducted a site visit at 3329 MacDonald Road, located in the Sherry Park section in the City of Virginia Beach, Virginia on June 16th, 2019. The purpose of our site visit was to review the construction of two additions that were being constructed under decade old permits and ensure that the structural components of the additions comply with the 2005 Virginia Statewide Building Code. Our review consisted of visual observations made around the perimeter of the residence, in the interior of the residence, and in the crawl space. The scope of our review was limited to the concern stated above. We did not remove any finishes to access structural components out of view. We did not make a comprehensive or general structural review of the original residence. We did not perform any material, environmental, or soils testing. We did not employ any testing apparatus in our investigation.

The residence at 3329 MacDonald Road is a ranch style house originally constructed circa 1953. The construction of the residence is light wood framing over a crawl and slab on grade supported on shallow foundations. The house is covered with brick veneer and vinyl sidings and the roofs are covered with asphalt shingles. At the front left elevation is an addition that is a garage with a room over it constructed over slab on grade. At the right rear elevation is the other addition that provides 2 stories with the first level being a living space and the second story being bedrooms constructed over a crawl space. The contractor for permits for both additions pulled under the 2005 Building Code left the job unfinished with electrical and plumbing still needed to be installed. The records for the original structural inspections are lost; therefore the
RE: Structural Engineers Review of Constructions for Additions at 3329 MacDonald Road
Page 2 of 2

structural adequacy of the additions to complete the construction is the concern of this letter.

Our review around the perimeter did not reveal any apparent distress to the perimeter walls, roof slopes, or finishes. We excavated a hole that revealed the footing for the additions project 8" and is 18" deep and the soil is medium stiff grade clay.

Our review in the interior of the residence revealed the ceiling framing is still exposed and we were able to verify the ceiling framing and roof framing. Most of the walls were not completely covered and we were able to review the studs and wall framing. We did not note any structural deficiencies to the framing for the walls, ceilings, or roofs.

Our review in the crawl space for the right rear elevation addition revealed the first floor is framed with 2x10 joists on a 6x6 girder supported on 8x16 CMU piers 6' on center maximum. We did not note any structural deficiencies in the crawl space. We did note some moisture and mold that should be addressed.

Based on our review and analysis of our observations, we feel the structural framing and foundation for the decade old additions was built in conformance to the 2005 Virginia Statewide Building Code and was performed in a workman like manner.

Based on our findings, we feel it is acceptable to cover the framing and finish other aspects of the work under a new building permit.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Michael W. Schooley, P.E.
President

COMM. OF THE commonwealth OF VIRGINIA
PROFESSIONAL ENGINEER

6-28-15
This is to certify that on November 06, 2019, I surveyed the property shown on this plat, and that the title lines and the walls of the building are as shown on this plat. The improvements stand strictly within the title lines and there are no encroachments or visible easements, except as shown. This survey was performed without the benefit of a title report and consequently may not depict all matters affecting the title of the property shown.
APPLICANT'S NAME

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

<table>
<thead>
<tr>
<th>Acquisition of Property by City</th>
<th>Disposition of City Property</th>
<th>Modification of Conditions of Proffers</th>
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<tbody>
<tr>
<td>Alternative Compliance, Special Exception for</td>
<td>Economic Development Investment Program (EDIP)</td>
<td>Nonconforming Use Changes</td>
</tr>
<tr>
<td>Board of Zoning Appeals</td>
<td>Encroachment Request</td>
<td>Rezoning</td>
</tr>
<tr>
<td>Certificate of Appropriateness (Historic Review Board)</td>
<td>Floodplain Variance</td>
<td>Street Closure</td>
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<tr>
<td>Chesapeake Bay Preservation Area Board</td>
<td>Franchise Agreement</td>
<td>Subdivision Variance</td>
</tr>
<tr>
<td>Conditional Use Permit</td>
<td>Lease of City Property</td>
<td>Wetlands Board</td>
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<tr>
<td>License Agreement</td>
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</table>

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting(s) that pertains to the application(s).

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<tbody>
<tr>
<td>APPLICANT NOTIFIED OF HEARING</td>
<td>DATE:</td>
</tr>
<tr>
<td>NO CHANGES AS OF</td>
<td>DATE:</td>
</tr>
<tr>
<td>REVISIONS SUBMITTED</td>
<td>DATE:</td>
</tr>
</tbody>
</table>
Disclosure Statement

☐ Check here if the APPLICANT IS NOT a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the APPLICANT IS a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant’s name: ________________________________
If an LLC, list all member’s names:

If a CORPORATION, list the names of all officers, directors, members, trustees, etc. below: (Attach list if necessary)

(B) List the businesses that have a parent-subsidiary or affiliated business entity relationship with the Applicant: (Attach list if necessary)

See next page for information pertaining to footnotes and

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

☐ Check here if the PROPERTY OWNER IS NOT a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the PROPERTY OWNER IS a corporation, partnership, firm, business, or other unincorporated organization, AND THEN, complete the following.

(A) List the Property Owner’s name: ________________________________
If an LLC, list the member’s names:

Page 2 of 7
Disclosure Statement

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: (Attach list if necessary)

(B) List the businesses that have a parent-subsidiary or affiliated business entity relationship with the Property Owner: (Attach list if necessary)

1 "Parent-subsidiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

2 "Affiliated business entity relationship" means "a relationship, other than parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPARATELY

Page 3 of 7
### Disclosure Statement

**Applicant**

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>Service</th>
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<td>Accounting and/or preparer of your tax return</td>
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<td>☑</td>
<td>☑</td>
<td>Architect / Landscape Architect / Land Planner</td>
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<td>☑</td>
<td>☑</td>
<td>Contract Purchaser (if other than the Applicant) – Identify purchaser and purchaser’s service providers</td>
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<td>☑</td>
<td>☑</td>
<td>Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser’s service providers)</td>
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<td>Construction Contractors</td>
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<td>Engineers / Surveyors / Agents</td>
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<td>Financing (Include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)</td>
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<td>Legal Services</td>
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<td>Real Estate Brokers / Agents / Realtors for current and anticipated future sales of the subject property</td>
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**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

**Yes** | **No**
---|---

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?

If yes, what is the name of the official or employee and what is the nature of the interest?

---

Hassell & Folkes, P.C.
Michael W. Schooley, P.E., P.C.
CERTIFICATION:
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

[Signature]

APPLICANT’S SIGNATURE  PRINT NAME  DATE

2/3/19
## Disclosure Statement

**Service Providers**

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<thead>
<tr>
<th>YES</th>
<th>NO</th>
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<tr>
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**Providers**

Hassell & Folkes, P.C.

Michael W. Schooley, P.E., P.C.

## SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

**Yes**

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contiguous on the subject public action?

If yes, what is the name of the official or employee and what is the nature of the interest?
Disclosure Statement

CERTIFICATION:
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

<table>
<thead>
<tr>
<th>Property Owner's Signature</th>
<th>Print Name</th>
<th>Date</th>
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<tbody>
<tr>
<td>[Signature]</td>
<td>Courtney Mckinney</td>
<td>1/2/19</td>
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</tbody>
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Page 7 of 7
Project: Proposed Sign Addition

Variances Requested:
1. To allow a building/wall mounted sign totally 254.75 square feet, instead of 150 square foot as allowed.

Staff Planner
Kevin Kemp

Variance initiated by:
Applicant Inquiry

Location
1001 Lynnhaven Mall Loop

GPIN
1496-35-3639

Zoning District
B-2 Community Business

Site Size
291,603 square feet

Year Constructed
2003

Previous Board Actions
No Board actions were found on this particular parcel.
Existing Site Conditions

South Façade- Picture Taken 01/31/2020

West Façade- Picture Taken 01/31/2020
Background / Proposal:
The applicant proposes to install a third building mounted sign on the south façade of the movie theater located at the Lynnhaven Mall development. The property is zoned B-2 Community Business District. In the B-2, an establishment with the frontage width of the movie theater is permitted three signs. The total square feet of all signs cannot exceed 150 square feet. The applicant wishes to have 254.75 square feet and therefore has requested this variance.

The theater currently has three signs. The first is an “AMC” sign. “AMC” is the name of the theater company. The second sign reads “IMAX”. “IMAX” is one partner of premium large format viewing. The theater also has a partnership with Dolby Cinema premium large format viewing and wishes to represent both partners equally in regard to signage.

The “IMAX” sign is 57.75 square feet. The proposed “Dolby Cinema” sign is 65 square feet. Combined with the 132 square foot “AMC” sign, the total requested signage is 104.75 square feet more than permitted.

Permits Required / Obtained:
A permit will be required from the Zoning Division for the proposed sign.
Variance Requests

<table>
<thead>
<tr>
<th>Variance 1</th>
<th>REQUIREMENT</th>
<th>REQUESTED</th>
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<tbody>
<tr>
<td></td>
<td>150 square feet</td>
<td>254.75 square feet</td>
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Considerations

- The “AMC” movie theatre has no freestanding sign dedicated to the use. All signage for the property is mounted to the building. Visibility for the movie theater is dependent upon the wall mounted signage.

- Although the Lynnhaven Mall Loop Road is public right-of-way, the closest major road to the movie theater is South Lynnhaven Road. The building is approximately 290 feet from this road.

- The horizontal spans of the building are substantial. The north and south façades of the movie theater building area approximately 220 feet. The west façade is approximately 380 linear feet.

- The variance request is only for the south façade of the building. No additional signage is proposed to the other facades.

Recommended Conditions

1. When installed, the sign shall be installed as substantially as shown on the submitted exhibits by Chandler Signs, dated 03/22/2019.

2. When installed, the sign shall be installed on the south façade in substantial conformance to the location shown in on the submitted aerial view, submitted by Chandler Signs, and dated 03/22/2019.
Criteria for Variance Approval
Section 15.2-2309 of the Code of Virginia states that the Board of Zoning Appeals shall not approve a variance unless it finds:
   a. That the strict application of the ordinance would produce an undue hardship.
   b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
   c. That the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of this variance.
   d. That the granting of the variance is in harmony with the intended spirit and purpose of the ordinance.

Description of Hardship (attach additional sheets if necessary)
Please describe the hardship, how the ordinance prohibits or restricts use of the property, any unique topographic, size or shape features of the lot, why the proposal is in the character of the neighborhood, and how the request meets the spirit of the code section you wish to vary.

Description of Variance Request (attach additional sheets if necessary)
See below info regarding description:

Description of the Project and Proposed Improvements (attach additional sheets if necessary)
We would like to add a "Dolby Cinema" sign that is 65 sq ft in size (same as AMC) on the other side of the AMC lettering in the southwest corner of the building.

I/WE CERTIFY THAT THE INFORMATION ABOVE IS TRUE AND CORRECT.

Michael Harris
Signature of Property Owner or Representative

Signature of Condo/co-owner
Proposed Signage on South Facade

DOLBY CINEMA

DOLBY FRONT-LIT LETTERS - BLACK

SCALE: 1/8" = 1'-0"

1. REMOVE ALL EXISTING DOG LEGS & CHAIN LINK FENCE
2. REMOVE EXISTING MORTAR Joints
3. REMOVE EXISTING TIMBER BARS
4. REMOVE EXISTING ILLUMINATION
5. REMOVE EXISTING LIGHTS

EXISTING

PROPOSED

REMOTE "DOLBY CINEMA" LETTER SECTION - EXTERIOR

1. REMOVE EXISTING DOG LEGS & CHAIN LINK FENCE
2. REMOVE EXISTING MORTAR JOINTS
3. REMOVE EXISTING TIMBER BARS
4. REMOVE EXISTING ILLUMINATION
5. REMOVE EXISTING LIGHTS

REMOTE "DOLBY CINEMA" LETTER SECTION - EXTERIOR

1. REMOVE EXISTING DOG LEGS & CHAIN LINK FENCE
2. REMOVE EXISTING MORTAR JOINTS
3. REMOVE EXISTING TIMBER BARS
4. REMOVE EXISTING ILLUMINATION
5. REMOVE EXISTING LIGHTS

VERIFY WALL AND LETTER DIMENSIONS
VERIFY A-C-1 (3.1A) WALL FOR EXTERIOR, & INSTALL
VERIFY VISIBILITY TO PUBLIC & RECEIVE POINT OF ATTACK ON WALL
VERIFY HEIGHT FROM FLOOR TO TOP OF CIP & OLD CEMENT & TOP OF PLANT TO ROOF

Informative Designation: INCLUDED BY COO

Lynnhaven Mall, LLC
Case Number 2019-BZA-120
Page 7
Disclosure Statement

APPLICANT'S NAME

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

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The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated ten (10) weeks prior to any Planning Commission and City Council meeting that relates to the property.

- ☐ APPLICANT NOTIFIED OF HEARING |
- ☐ NO CHANGES AS OF |
- ☐ REVISIONS SUBMITTED |

Page 1 of 7
Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant’s name: **AMC Theatres Brandon McGeohan**

If an LLC, list all member’s names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidiary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes¹ and ²

---

**SECTION 2 / PROPERTY OWNER DISCLOSURE**

*Complete Section 2 only if property owner is different from Applicant.*

☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☒ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner’s name: **Lynnhaven Mall LLC**

If an LLC, list the member’s names:
Disclosure Statement

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: (Attach list if necessary)

(B) List the businesses that have a parent-subsidiary or affiliated business entity relationship with the Property Owner: (Attach list if necessary)

1 "Parent-subsidiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

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SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY
**Disclosure Statement**

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<td>Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property</td>
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**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?</th>
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<tr>
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If yes, what is the name of the official or employee and what is the nature of the interest?
CERTIFICATION:
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

<table>
<thead>
<tr>
<th>Applicant's Signature</th>
<th>Brandon McGeohan</th>
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<tr>
<td>Applicant's Signature</td>
<td>Print Name</td>
</tr>
<tr>
<td>Date</td>
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## Disclosure Statement

### Owner

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Disclosure Statement

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<table>
<thead>
<tr>
<th>Michael Harris</th>
<th>Michael Harris</th>
<th>11/14/19</th>
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<tbody>
<tr>
<td>PROPERTY OWNER'S SIGNATURE</td>
<td>PRINT NAME</td>
<td>DATE</td>
</tr>
</tbody>
</table>
Case # 2019-BZA-121

Property Owner Christopher Zettervall
Representative Billy Garrington, Governmental Permitting Consultants
Public Hearing February 5, 2020

Project: Proposed 2nd Story Addition and Existing Trellis
Variance Requested:
- 11.88-foot front yard setback, instead of 50-feet as required; and
- 5-foot west side yard setback, instead of 20-feet as required.

Staff Planner
Chris Langaster

Variance initiated by:
Applicant Inquiry

Location
1208 Curlew Place

GPIN
2418-34-8213

Zoning District
R-40 Residential

Site Size
27,816 square feet

Year Constructed
1935
Existing Site Conditions
Proposal:
The applicant is proposing to construct a second-story addition above a one-story single-family dwelling as well as retain an existing trellis. A variance to an 11.8-foot front yard setback, instead of 50-feet as required for the home addition, and to a 5-foot west side yard setback, instead of 20-feet as required for an existing trellis installed above a patio are requested. The subject home was built in 1935, prior to the adoption on the first City zoning ordinance and is therefore nonconforming in respects to the front yard setback. The proposed second-story addition will be constructed within the same footprint as the first floor, therefore, the existing encroachments into the required setbacks will not be increased with this proposal.

Development of this site is restricted due to the CBPA features located in the rear lot. Staff has encouraged all proposed improvements to be made within the existing impervious areas. On November 27, 2019, a Preliminary Project Request (PPR) was submitted to the Planning & Community Development for review by staff. On December 5, 2019, staff approved the proposed improvements: a driveway, walkway, outdoor bathroom/shower, fire pit and existing patio and arbor. The proposed second-story addition will not increase the impervious area, and therefore was not included in the approval.

Permits Required / Obtained:
On November 22, 2019, a demolition and building permit was issued to the contractor to proceed with work at their own risk. Should this variance request be denied, the applicant has agreed to make the appropriate adjustments to correct any zoning infractions.
### Variance Requests

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Requested</th>
</tr>
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<tbody>
<tr>
<td>Front Yard Setback</td>
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</tr>
<tr>
<td>Side Yard Setback</td>
<td>20'</td>
</tr>
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[Diagram of LOT 168 showing variance requests and referenced setback requirements.]
Considerations

- The existing dwelling is nonconforming in respects to the encroachment of the home into the front yard setback.
- The proposed second-story story addition will be constructed within the same footprint of the existing dwelling, therefore the encroachments into the required setbacks will not increase with this proposal.
- The development of the site is restricted and impacted by the CBPA features located at the rear of lot.
- Because of the CBPA features, all proposed improvements are encouraged to be within existing impervious areas to minimize environmental impacts.

Recommended Conditions

1. The proposed addition shall be constructed in substantial adherence to the submitted site plan and building elevations entitled, “Zettervall Residence,” dated November 18, 2019.

2. A letter from a structural engineer verifying the structural capacity of the existing foundation and first floor to support the proposed second-story addition shall be submitted to the Zoning Office prior to receiving a final inspection for the addition.
December 17, 2019

Mr. Chris Langaster
Zoning Division

Re: 1208 Curlew Place, BZA Variance request

Mr. Langaster,

On behalf of the owner please find a BZA application to request a variance to allow a 2nd story addition to be placed over the existing dwelling located at the above address.

The home was obviously built many years ago and does not come close to the current required front yard setback of 50 feet, currently it is located 11.88 feet from the front property line south side and the second story addition will be the same. It would be almost impossible to meet the 50 foot setback request with the current home location and the property is impacted by the Bay Act and we have already received administrative approval for the 2nd story addition.

By building on the existing footprint we feel it is the minimum relief both for the Bay Act compliance as well as the zoning requirements. Strict application of the setbacks would render this property unbuildable in our judgement.

There is also a 12 X 12 arbor in the sideyard over a existing patio which will meet the 5 foot side yard setback so no variance should be necessary for this structure.

Feel free to contact me if you have any questions and thank you for your assistance in this request.

Billy Garrington Agent
Disclosure Statement

Applicant's Name: Christopher & Pamela Zettervall

Disclosure Statement Form

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Section 1 / Applicant Disclosure

For city use only / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).

☐ Applicant notified of hearing: date:
☐ No changes as of: date:
☐ Revisions submitted: date:

Page 1 of 7
Disclosure Statement

Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant’s name: Christopher & Pamela Zettervall
If an LLC, list all member’s names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidiary\(^1\) or affiliated business entity\(^2\) relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes\(^1\) and \(^2\)

---

**SECTION 2 / PROPERTY OWNER DISCLOSURE**

*Complete Section 2 only if property owner is different from Applicant.*

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If an LLC, list the member’s names:
If a Corporation, list the names of all officers, directors, members, trustees, etc. below: (Attach list if necessary)

(B) List the businesses that have a parent-subsidiary ¹ or affiliated business entity ² relationship with the Property Owner: (Attach list if necessary)

¹ "Parent-subsidiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

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SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY
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### Section 4. Known Interest by Public Official or Employee

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If yes, what is the name of the official or employee and what is the nature of the interest?
Disclosure Statement

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Christopher Zettervall

CHRISTOPHER ZETTERVALL
11/10/19

APPLICANT'S SIGNATURE
PRINT NAME
DATE
## Disclosure Statement

### Owner

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**YES** ☐ **NO** ☒

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[Signature]
[Print Name]
[Date]
Case # 2019-BZA-123

Property Owner  Melissa Morelli
Representative  Self Represented
Public Hearing  February 5, 2020

Project: Raise portion of roof of an Existing One Single-Family Dwelling

Variances Requested:

- 17.6-foot front yard setback from the property line adjacent to Elgin Road, instead of 50-feet as required; and
- 17.8-foot setback from the property line adjacent to Baden Avenue, instead of 50-feet each as required.

Staff Planner
Chris Langaster

Variance initiated by:
Applicant Inquiry

Location
624 Baden Avenue

GPIN
1466-05-1662

Zoning District
R-30 Residential

Site Size
30,073 square feet

Year Constructed
1951
Existing Site Conditions
Proposal:
The applicants are proposing to replace a portion of the roof over an existing one-story single-family dwelling. Variances to a 17.6-foot setback from Elgin Road and a 17.8-foot setback from Baden Avenue are required for this proposal. The home was built in 1951, prior to adoption of the City’s first zoning ordinance and is nonconforming in respects to the setbacks adjacent to the property lines from both Elgin Road and Baden Avenue.

The area of the roof proposed to be replaced was once covered a 16-foot by 36-foot sunroom. It is the applicant’s intention to change the pitch of the roof to improve the water flow. The roof will be raised two feet to increase the interior ceiling height, as well as allow for plumbing to be installed in the floor.

Staff does not expect the proposed minor roof improvements to create a detriment impact to the adjacent property owners or surrounding community. In fact, the proposed work will improve the roof’s drainage system and the overall value of the home.

Permits Required / Obtained:
Permits will be required by the Permits and Inspections Division for the proposed improvements.
Variance Requests

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</thead>
<tbody>
<tr>
<td>Baden Ave</td>
<td>50’</td>
<td>17.6’</td>
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</table>
Considerations

- The existing dwelling was built prior to the adoption of the zoning ordinance and is nonconforming in respects to setback from the property lines adjacent to both Elgin Road and Baden Avenue.

- The proposed roof improvements will be contained within the existing footprint of the existing dwelling. Therefore, the existing encroachments into the require setbacks will not increase with this proposal.

- The proposed improvements are expected to add value to an aging dwelling constructed in the early 1950’s.

Recommended Condition

1. The proposed roof improvements shall be made in substantial adherence to the submitted site plan in the file.
Applicant’s Hardship Statement

Criteria for Variance Approval

Section 15.2-2309 of the Code of Virginia states that the Board of Zoning Appeals shall not approve a variance unless it finds:

a. That the strict application of the ordinance would produce an undue hardship.
b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
c. That the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of this variance.
d. That the granting of the variance is in harmony with the intended spirit and purpose of the ordinance.

Description of Hardship (attach additional sheets if necessary)

Please describe the hardship, how the ordinance prohibits or restricts use of the property, any unique topographic, size or shape features of the lot, why the proposal is in the character of the neighborhood, and how the request meets the spirit of the code section you wish to vary.

Low SLOPEd Roof in Center of Structure not best for water flow. Property situated in Middle of Corner Lot. Subject area to Mix roof slopes in Middle of home need 50% more roof setbacks. Subject property is from the 50’s. Single story 40+40 trying to raise roof 2’ on Ranch back portion for greater ceiling height, insulation (proper) to allow for plumbing in floor.

Description of Variance Request (attach additional sheets if necessary)

Only Raising Highlighted (green) area 2 on Back former sunroom portion 36’x16’ room. Roof Structure (proposed to stay within existing footprint of Home and carry to the Existing Ridge. Plans do not call for any additions.

Description of the Project and Proposed Improvements (attach additional sheets if necessary)

Attached are a copy of the plans to Reslope & Raise a 36’ x 8’ portion of the back roof line.

I/WE CERTIFY THAT THE INFORMATION ABOVE IS TRUE AND CORRECT.

Signature of Property Owner or Representative

Signature of Condo/co-owner

Melissa Morelli
Case Number 2019-BZA-123
Page 6
Disclosure Statement

APPLICANT’S NAME  Kevin Foster & Melissa Morelli

DISCLOSURE STATEMENT FORM

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SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).

☐ APPLICANT NOTIFIED OF HEARING DATE:
☐ NO CHANGES AS OF DATE:
☐ REVISIONS SUBMITTED DATE:
Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant’s name: **Kevin Foster, Melissa Morelli**.

If an LLC, list all member’s names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidiary or affiliated business entity relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes and

---

**SECTION 2 / PROPERTY OWNER DISCLOSURE**

*Complete Section 2 only if property owner is different from Applicant.*

☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner’s name: **Kevin Foster, Melissa Morelli**.

If an LLC, list the member’s names:
If a Corporation, list the names of all officers, directors, members, trustees, etc. below. (Attach list if necessary)

(B) List the businesses that have a parent-subsidiary \(^1\) or affiliated business entity \(^2\) relationship with the Property Owner: (Attach list if necessary)

---

1. "Parent-subsidiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

2. "Affiliated business entity relationship" means "a relationship, other than parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

---

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY

\[ \text{NO} \]
### SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

**YES** | **NO**
---|---

**ACCOUNTING AND/OR PREPARER OF YOUR TAX RETURN**

**ARCHITECT / LANDSCAPE ARCHITECT / LAND PLANNER**

**CONTRACT PURCHASER (IF OTHER THAN THE APPLICANT) - IDENTIFY PURCHASER AND PURCHASER'S SERVICE PROVIDERS**

**ANY OTHER PENDING OR PROPOSED PURCHASER OF THE SUBJECT PROPERTY (IDENTIFY PURCHASER(S) AND PURCHASER'S SERVICE PROVIDERS)**

**CONSTRUCTION CONTRACTORS**

**ENGINEERS / SURVEYORS / AGENTS**

**FINANCING (INCLUDE CURRENT MORTGAGE HOLDERS AND LENDERS SELECTED OR BEING CONSIDERED TO PROVIDE FINANCING FOR ACQUISITION OR CONSTRUCTION OF THE PROPERTY)**

**LEGAL SERVICES**

**REAL ESTATE BROKERS / AGENTS/REALTORS FOR CURRENT AND ANTICIPATED FUTURE SALES OF THE SUBJECT PROPERTY**

---

**Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?**

If yes, what is the name of the official or employee and what is the nature of the interest?
Disclosure Statement

CERTIFICATION:
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

APPLICANT’S SIGNATURE

PRINT NAME

DATE

SAME AS OWNER

Page 5 of 7
<table>
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**SERVICE**

- Accounting and/or preparer of your tax return
- Architect / Landscape Architect / Land Planner
- Contract Purchaser (If other than the Applicant) – identify purchaser and purchaser's service providers
- Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser’s service providers)
- Construction Contractors
- Engineers / Surveyors / Agents
- Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)
- Legal Services
- Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property

**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

<table>
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[Signature]
Melissa Morelli

[Signature]
Kevin Foster

Melissa Morelli

12/4/19

Page 7 of 7
**Appeal Request:**


**Staff Planner**

Kevin Kemp, Zoning Administrator
Beverly Wilson, Deputy City Attorney

**Variance initiated by:**

Applicant Inquiry

**Location**

Westminster Lane

**GPIN**

2407-09-6257

**Zoning District**

A-18 Apartment

**Site Size**

Approximately 5.2 acres

**Year Constructed**

N/A

**Relevant Previous Board Actions**

8/12/1968- Rezoning and Use Permit for Multi-family housing.
8/21/1972- Conditional Use Permit for Multi-family housing.

This item was deferred from the January 15, 2020 Board of Zoning Appeals agenda at the request of the applicant.
Existing Site Conditions
November 13, 2019

Wilcox Savage
440 Monticello Avenue, Suite 2200
Norfolk, VA 23510
Attn: Lisa M. Murphy, Esq.

Re: Zoning Determination, Proposed development within Washington Square

Dear Ms. Murphy,

The Planning Department has reviewed your letter dated August 8, 2019 regarding the development potential for several properties owned by Lynnhaven Area Properties, LLC, and located in the Washington Square development at Wolfe Road at Westminster Lane. Please see the following determinations that have been reached by the Zoning Administrator, with consult from the City Attorney’s office.

1. **Lots located at 2221 Chadwick Drive and 2229 Wyndham Place:** These lots may not be developed with any additional dwelling units.
   a) Applications for development of these sites were submitted for consideration with the Board of Zoning Appeals. Both applications have been withdrawn at the request of the applicant. It is the determination of staff that no increase to the number of units in that section of Washington Square is permitted, pursuant to Conditional Use Permit approved on August 12, 1968.

2. **Carnaby Court Lots 9A and 10A:** These lots may be developed with two semi-detached dwelling units as proposed. Please see the following details below.
   a) The two lots on the southeast side of Carnaby Court were created with the plat for Washington Square, Section Seven, Part one, recorded with the Clerk of the Court on May 15, 1981. City records indicate that the townhomes along the east side of Carnaby Court, a total of eight units, were subsequently constructed in 1981. Lots 9A and 10A were not developed.
   b) A letter to City building inspector Edward Williams from the property owner (McLeskey Realty Co., Inc.), dated December 10, 1980, indicates that foundations were poured to construct two townhomes on the subject lots. These townhomes would be the last two...
Zoning Determination: Proposed development, Washington Square
November 13, 2019

units of a six unit row on the southeastern side of Carnaby Court. The letter informs that due to settling of the soil, the units were not able to be constructed at the time of the other four units. It was determined that the units would be constructed independent of the other townhome units due to additional requirements needed to stabilize the foundation, making them semi-detached dwellings.

Because the unit on lot 9A was no longer going to be attached to the unit on lot 8A, a Board of Zoning Appeals variance was required to the side yard setback. This variance was obtained by the property owner.

The subject lots are included under the density provisions of the Conditional Use Permit for multi-family development granted on August 21, 1972. Due to the fact that these lots were included on the plat for the development, it is decided that these lots may be developed under the density provisions defined in the Council approval.

The Conditional Use Permit approved in 1972 required that there be a fifty-foot setback from the edge of the marsh directly adjacent to lot 10A. Although the location of the edge of marsh at the time the condition was made is not known, it is assumed that because foundations were constructed in the location of the proposed development, the proposed location meets the intent of this requirement.

On November 20, 2018, a text amendment to the Zoning Ordinance clarified the definition of a “townhouse,” to be three or more attached units. These attached dwelling units are considered “semi-detached.” Prior to the amendment, two attached units could be considered “townhouses,” and therefore had a ten-foot setback, instead of fifteen feet as required in semi-detached dwellings. Significant design efforts and costs were incurred prior to this ordinance change, therefore it is my decision that a ten foot side yard setback may be used for development of these lots.

3. Single-family home development along Wolfsnare Road: The area zoned R-10 residential district along Wolfsnare Road at the northwestern side of Washington Square may be developed with single-family homes. Please see details below.
   a) On August 12, 1968, the area encompassing the Washington Square development was rezoned from R-3/R-4 (single-family) districts to R-M (multi-family) district. Included in this approval, a strip of land along Wolfsnare Road, with the depth of a typical residential lot along Wolfsnare Road, would remain zoned for single-family development. Since this approval, Wolfsnare Road was realigned; however, the single-family zoning, now R-10, still remains along the location of the previous Wolfsnare Road alignment.
   b) The land encompassed in this R-10 zoning district can be developed as a matter of right with single-family development.
   c) It should be noted that this determination is by the Zoning Administrator and is only regarding the ability for development of the land with single-family dwellings at a density permitted under the R-10 zoning district. Additional approvals or board actions may be required, depending on the specific proposal for development.

4. Proposed multi-family development in vacant area zoned A-18 Apartment District near the corner of Wolfsnare Road and Westminster Lane: This property cannot be developed with multi-family dwellings as proposed; land is determined to be included in 1968 Use Permit, to which no additional units are permitted. Please see details below.
   a) The subject property, approximately 3.3 acres, was included in the rezoning approved by Council on August 12, 1968. The current zoning of the property is A-18 Apartment District.

Portion of determination being appealed by the property owner.
At the same time as the rezoning application, Council approved a Conditional Use Permit for the development of 164 units. It is staff’s belief that these 3.3 acres is included in this use permit, along with the area north of Westminster Lane. The density permitted by this Use Permit has been built-out, therefore additional units may not be constructed.

b) The map showing the meets and bounds included in the 1968 application depicts the subject area, south of Westminster Lane, as “Proposed Channel Dredging,” and therefore having no intention of developing.

c) The subject area was intentionally not included in the Conditional Use Permit for multifamily approved by Council on August 21, 1972. This use permit approved the remaining development of the area within Washington Square south and east of the area included in the 1968 use permit. By omission of the subject area, it is staff’s contention that the land was in fact a “Proposed Channel Dredging” site and that it remains included under the 1968 Council actions.

In accordance with Section 15.2-2311 of the Code of Virginia, you have the right to appeal this decision/Notice of Violation to the Board of Zoning Appeals within 30 days. The appeal application and additional information regarding the filing of an appeal may be obtained at the Zoning Division located at 2875 Sabre Street, Suite 500, Virginia Beach, VA 23452, from the City’s Web Site at http://www.vbgov.com/BZA, or by calling the Zoning Division at (757) 383-8074. The application, along with a filing fee in the amount of $400.00 for residential uses (includes costs of notification and advertising) and $500.00 for commercial uses (includes costs of notification and advertising), payable to the Treasurer, City of Virginia Beach, must be filed with the Zoning Division. If you do not appeal, this decision/Notice of Violation shall be final and unappealable.

Sincerely,

Kevin Kemp
Zoning Administrator, City of Virginia Beach

Cc: Kay Wilson, Deputy City Attorney
Paul Scully, Planning Evaluation Coordinator, CBPA
December 10, 2019

VIA HAND DELIVERY

City of Virginia Beach
Department of Planning & Community Development
Zoning Division
2875 Sabre Street, Suite 500
Virginia Beach, Virginia 23452

Board of Zoning Appeals (“BZA”) Application
Virginia Code Section 15.2-2311
Lynnhaven Area Properties, LLC (“Applicant”)
Wolfsnare Road @ Westminster Lane Property Zoned A-18
A portion of GPIN #2407-08-6257 (Wolfsnare Parcel B)

Appeal of Zoning Administrator’s Determination

Dear Sir or Madame:

In response to Kevin Kemp’s November 13, 2019 correspondence to me entitled “Zoning Determination, Proposed Development within Washington Square” (“Washington Square Determination”), a copy of which is enclosed for reference, enclosed you will find our client’s Board of Zoning Appeals Application appealing the portion of the Washington Square Determination related to the development of eleven (11) townhomes on the approximately 3.3 acre portion of the referenced property, which is currently zoned A-18 Apartment District (“Wolfsnare Multi-Family Property”). To that end, enclosed you will find the following:

1) A completed Board of Zoning Appeals Application (“BZA Application”) signed by me as attorney for the Applicant, who is also the owner of the Wolfsnare Multi-Family Property;

2) A completed signed Disclosure Statement signed by me as attorney for the Applicant/Owner.

Lisa M. Murphy
(757) 626-5540
lsmurphy@willcoxsavage.com

440 Monticello Avenue, Suite 2200
Norfolk, VA 23510
757.628.5500
Facsimile 757.628.5586
222 Central Park Avenue, Suite 1100
Virginia Beach, Virginia 23452
757.628.5500
Facsimile 757.628.5586
www.willcoxsavage.com

Page 6
Willecox & Savage

Department of Planning & Community Development
Zoning Division
December 10, 2019
Page 2

3) Four (4) 11” x 17” copies and one (1) 8.5” x 11” of the conceptual site plan entitled “PROPOSED PLAN OF PROP OF ALLEN E PERREL LOT 4 GPIN: 2407-09-4415-0000, CLOSED PORTION OF WOLFSNARE ROAD GPIN: 2407-09-5412-0000 AND WOLFSNARE PARCEL B GPIN: 2407-09-6257-0000 (M.B. 148, PG. 4) WASHINGTON SQUARE SECTION SEVEN-PART ONE” prepared by MSA, P.C. dated October 30, 2019.

4) Four (4) 11” x 17” copies and one (1) 8.5” x 11” of the survey entitled “Topographical Survey of Parcel B (INSTR. 20080818000676290) GPIN 2407-09-6257” prepared by MSA, P.C. dated June 25, 2018.

5) Our firm’s check in the amount of $400.00 for fees associated with filing this BZA Application appealing a portion of the Washington Square Determination.

A copy of our narrative and supporting evidence will be sent to you under cover of separate correspondence. Please sign, date and time stamp the enclosed copy of this letter documenting your receipt of the same. Please do not hesitate to call or email me should you have any questions regarding the enclosed BZA Application appealing the portion of the Washington Square Determination related to the development of the Wolfsnare Multi-Family Property. With kind regards, I am

Very truly yours,

Lisa M. Murphy

City of Virginia Beach
Planning Department
Zoning Division

Received by: ____________________________
Date/Time Received: _____________________

Enclosures
cc: Mr. Kevin Kemp (via email)(w/o encls.)
    B. Kay Wilson, Esq. (via email)(w/o encls.)
    Mr. Paul J. Scully (via email)(w/o encls.)
    Mr. Chris Wood (via email)(w/o encls.)
    Mr. Mark Rosenfield (via email)(w/o encls.)
    Mr. Willie Wilcox (via email)(w/o encls.)
    Mr. Robert Miller (via email)(w/o encls.)
Board of Zoning Appeals Application

Date Submitted: December 9, 2019

Contact Information

Applicant's Name: Lynnhaven Area Properties, LLC
Address: c/o McLeskey & Associates, LLC, 2859 Virginia Beach Blvd.
City: Virginia Beach State: VA ZIP: 23452
Phone: 757-340-1251 Email: chris@mcleskey.com

Applicant's Representative: Lisa M. Murphy, Esquire
Address: 440 Monticello Avenue, Suite 2200
City: Norfolk State: VA ZIP: 23510
Phone: 757-628-5540 Email: lmurphy@wilsav.com

Property Owner's Name: Lynnhaven Area Properties, LLC
Address: c/o McLeskey & Associates, LLC, 2859 Virginia Beach Blvd.
City: Virginia Beach State: VA ZIP: 23452
Phone: 757-340-1251 Email: chris@mcleskey.com

Property Information

Address or Location: Westminster Lane, Wolfsnare Parcel B
GPH(s): 2407-09-6257
Land area (acres or square feet): 5.152 ac
City Council Election District: Beach
Existing Zoning: A-18 Overlay District: Yes ☐ No ☒ (If yes, specify)
Strategic Growth Area (SGA): ☐ Yes ☒ No ☐ (If yes, specify)
AICUZ: >75 dB DNL Watershed:
Lot number: Block: Subdivision:

Board of Zoning Appeals Use Only
Approved Date: ____________________________
Conditions: Yes ☐ No ☒
Denied Date: ____________________________

Chairman Signature ____________________________
**APPLICANT’S NAME**  
Lynnhaven Area Properties, LLC

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☐ Check here if the APPLICANT IS NOT a corporation, partnership, firm, business, or other unincorporated organization.

☒ Check here if the APPLICANT IS a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant’s name: Lynnhaven Area Properties, LLC
If an LLC, list all member’s names:
   Cheryl P. McLeskey
   William Wilcox
If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: (Attach list if necessary)

(B) List the businesses that have a parent-subsidiary \(^1\) or affiliated business entity \(^2\) relationship with the Applicant: (Attach list if necessary)

See attached

See next page for information pertaining to footnotes \(^1\) and \(^2\)

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

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☐ Check here if the PROPERTY OWNER IS a corporation, partnership, firm, business, or other unincorporated organization, AND THEN, complete the following.

(A) List the Property Owner’s name: ______________________________
If an LLC, list the member’s names:

Page 2 of 7
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<th>Co. #</th>
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<td>30</td>
<td>Lynnhaven Shopping Center, LLC (dba MarketSquare) – Div. 20</td>
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<td>31</td>
<td>Satellite A – Division 21 of Co. 30 (all included in Co. 30)</td>
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<td>Satellite B – Division 22 of Co. 30</td>
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<tr>
<td>33</td>
<td>Riverwalk LLC</td>
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<td>35</td>
<td>Newtown Convenience Center, LLC</td>
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<td>38</td>
<td>Front Street Investors LLC</td>
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<tr>
<td>40</td>
<td>MGM Associates</td>
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<tr>
<td>41</td>
<td>Fuberfax LLC</td>
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<td>Terri-Fic Company</td>
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<td>46</td>
<td>Lotsalisa LLC</td>
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<td>Air Taco, LLC</td>
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<td>103, LLC</td>
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<td>83</td>
<td>CPM Properties LLC</td>
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<td>VBFC Properties, LLC</td>
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<td>Bayliner Building, LLC</td>
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<tr>
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<th>Disclosure Statement</th>
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<tr>
<td>87</td>
<td>Little Neck Commercial Property, LLC</td>
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<tr>
<td>88</td>
<td>McLeskey &amp; Associates, LLC</td>
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<td>91</td>
<td>Shore Drive Area Properties LLC</td>
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<td>92</td>
<td>Lynnhaven Area Properties, LLC</td>
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<td>93</td>
<td>Little Creek Road Properties, LLC</td>
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<td>94</td>
<td>Radec Heights Properties, LLC</td>
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<tr>
<td>73</td>
<td>F. Wayne McLeskey, Jr. OTIP Marital Trust</td>
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<td>74</td>
<td>FWM Memorial Martin Open Inc.</td>
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<td>75</td>
<td>The McLeskey Family Foundation, Inc.</td>
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<td>55</td>
<td>Regency Hilltop Associates, LLP</td>
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<td>55</td>
<td>Croupier, LLC</td>
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</table>
Disclosure Statement

If a Corporation, list the names of all officers, directors, members, trustees, etc. below. (Attach list if necessary)

(B) List the businesses that have a parent-subsidiary ¹ or affiliated business entity ² relationship with the Property Owner: (Attach list if necessary)

¹ “Parent-subsidiary relationship” means “a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.” See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² “Affiliated business entity relationship” means “a relationship, other than parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities.” See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: if the owner and applicant are different, each must complete the section separately.
## APPLECTANT

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**SERVICE**

- Accounting and/or preparer of your tax return
- Architect / Landscape Architect / Land Planner
- Contract Purchaser (if other than the Applicant) - Identify purchaser and purchaser's service providers
- Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)
- Construction Contractors
- Engineers / Surveyors / Agents
- Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)
- Legal Services
- Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property

**PROVIDER** (use additional sheets if needed)

- Dixon Hughes Goodman
- Progressive Designs
- MSA PC
- Wilcox & Savage, PC

## SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

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**Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?**

If yes, what is the name of the official or employee and what is the nature of the interest?
Disclosure Statement

CERTIFICATION:
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

[Signature]
Lisa M. Murphy
[Print Name]
12/10/19

Page 5 of 7