



Board of Zoning Appeals

Public Hearing & Meeting

Cape Charles Civic Center
via Electronic Communications

June 16, 2020

10:00 a.m.

This Public Hearing and Special Meeting of the Cape Charles Board of Zoning was held by video conference in accordance with Code of Virginia § 2.2-3708.2, subsection A.3, resulting from Governor Northam's March 12, 2020 declaration of a state of emergency for the Commonwealth of Virginia arising from the Novel Coronavirus (COVID-19) pandemic. It was deemed impractical and unsafe to assemble physically due to the highly contagious nature of COVID-19.

The purpose of this meeting was to review an application for a variance from the rear yard setback requirements. An audio recording was made of the meeting, and the meeting was also live-streamed on Facebook, as well as video-taped for viewing from the Town's website after processing. Public comments were accepted in writing prior to the meeting. Viewers could also submit their comments via Facebook Live, emails to the clerk and by calling the clerk's office and leaving a voicemail during the public hearing.

At approximately 10:00 a.m. in the Cape Charles Civic Center, Chairman Bill Murphy called to order the Board of Zoning Appeals Public Hearing and Meeting. Physically present at the Civic Center were Town Clerk Libby Hume and Deputy Clerk Tracy Outten. In attendance via Zoom were Jim Holloway, Tom Weaver, Code Official Jeb Brady, and the applicants. Pete Baumann joined via Zoom after roll call. There was one vacancy on the board. There was one member of the public physically in attendance and 21 viewers on Facebook Live.

Bill Murphy read the public hearing advertisement.

PUBLIC HEARING

- A. *Hear public comment on proposed zoning variance from the rear yard setback requirements for a proposed single-family detached home in the Residential – 1\Historic District on lot 198B on Madison Avenue (tax map # 83A1-1-198B).*

There were no comments to be heard nor any written comments submitted prior to the meeting.

- B. *Close public hearing*

Motion made by Jim Holloway, seconded by Bill Murphy, to close the public hearing. The motion was approved by unanimous consent.

Bill Murphy led the Board in the recitation of the Pledge of Allegiance.

CONSENT AGENDA

Motion made by Jim Holloway, seconded by Bill Murphy, to accept the agenda format as presented. The motion was approved by unanimous consent.

SPECIAL ORDER OF BUSINESS:

- A. *Zoning variance application – to allow variance from the rear yard setback requirements for a proposed single-family detached home in the Residential – 1\Historic District on lot 198B on Madison Avenue (tax map # 83A1-1-198B).*

Bill Murphy gave an overview of the application being presented and explained to the applicant that the board had strict criteria to follow to grant a variance.

Discussion and questions were as follows: (i) Bill Murphy asked Jeb Brady about conforming lots. Jeb Brady answered that once the home was built, the interior lot would be a non-conforming lot and

explained that the applicants also owned the neighboring lots; (ii) Jeffrey and Linda Schroeder, the applicants, said they were not aware of the setback requirements when the property was purchased. Jeffrey Schroeder added that others had built close to the setback requirements; (iii) Tom Weaver asked the applicants if the front porch could be eliminated. Linda Schroeder explained that during this whole design process the only thing her husband asked for was a front porch; (iv) Jim Holloway reminded the board that they requested another applicant to redesign their home. He continued by informing the applicants that they could have a back porch; (v) Bill Murphy agreed that there was space for a porch behind the house. He added that the ordinance gave leeway for non-conforming lots and given the size of the lot the undue hardship may be having to give up a front porch and a redesign could be costly. The applicants said the house was designed with the future in mind. Jeb Brady said the house could be redesigned to meet the current setbacks and it was hard for him to make a case for undue hardship; (vi) Bill Murphy said that because of the lot size the hardship was not shared by other properties in the same zoning district. Tom Weaver and Jim Holloway agreed that other properties did not share this hardship; (vii) All agreed that authorization of this variance would not be of substantial detriment to adjacent property and that the character of the district would not be changed; (viii) Pete Baumann thought that the hardship was the size of the lot which was half the size of others and the application met all conditions for a variance; (ix) Tom Weaver said encroachments on the setbacks were an undue hardship but still thought that the plans could be modified. Jim Holloway agreed that the plans could be modified; (x) After much discussion regarding whether the lot size was an undue hardship, Bill Murphy said all criteria had to be met to grant a variance. He added that this was a tough call and thought that because this was a non-conforming lot that it could be a hardship. Pete Baumann agreed and reiterated that the lot was small compared to others; (xi) The applicants felt that asking for a couple of feet was not much; and (xii) Pete Baumann said in his opinion the house was small already and because it did not meet the requirements of the ordinance it needed a variance and thought that was the undue hardship. Tom Weaver and Jim Holloway agreed with Pete Baumann.

After reviewing the application and discussing the conditions that needed to exist, the board agreed that the application met the criteria as follows: (i) procured undue hardship; (ii) the hardship was not shared generally by other properties in the same zoning district and vicinity; and (iii) the authorization of such variance would not be a substantial detriment to adjacent property and that the character of the district would not be changed by granting the variance.

Motion made by Jim Holloway, seconded by Pete Baumann, to approve the zoning variance from the rear yard setback requirements in the Cape Charles Zoning Ordinance Section 3.2.G.1.c to allow the proposed single-family detached home in the Residential - 1\Historic District on lot 198B on Madison Avenue to be set into the setback 7' as submitted. The motion was approved by unanimous consent.

Motion made by Jim Holloway, seconded by Tom Weaver, to adjourn the Board of Zoning Appeals Public Hearing and Special Meeting at 10:50 a.m. The motion was approved by unanimous consent.

Chairman Bill Murphy

Deputy Clerk