

Board of Zoning Appeals

Public Hearing & Meeting Agenda

Cape Charles Civic Center – 500 Tazewell Avenue

November 24, 2020 10:00 A.M.

1. Call to Order
 - a. Roll call and establish a quorum
2. Public Hearing
 - a. An application for a variance to allow a 5.5' encroachment into the 25' rear yard setback requirements in Section 3.2.G.2 for a proposed attached structure (porch) to be 19.5' from the rear property line at 324 Jefferson Avenue (tax map # 83A1-20-A).
 - i. Zoning Administrator Report
 - ii. Applicant Statement
 - iii. Open Public Hearing
 - iv. Close Public Hearing
3. Invocation and Pledge of Allegiance
4. Consent Agenda
 - a. Approval of agenda format
 - b. Approval of minutes
5. New Business
 - a. An application for a variance to allow a 5.5' encroachment into the 25' rear yard setback requirements in Section 3.2.G.2 for a proposed attached structure (porch) to be 19.5' from the rear property line at 324 Jefferson Avenue (tax map # 83A1-20-A).
6. Adjourn

Notice of Public Hearing

The Cape Charles Board of Zoning Appeals will hold a public hearing on Tuesday, November 24, 2020 at 10:00 am in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive public comment on a request for a variance for a 5.5' encroachment into the 25' rear yard setback requirements of Section 3.2(G)(2) for a proposed attached structure (porch) to be 19.5' from the rear property line located at 324 Jefferson Avenue. The Board of Zoning Appeals will hold a meeting immediately following the public hearing to consider the request. The application is available for public review on our website at www.capecharles.org. Please contact Town Planner/Zoning Administrator Allyson Finchum at 757-331-2036, or by email at planner@capecharles.org if you have any questions or require additional information. Anyone interested in attending and needing special assistance please contact the Town at least 48 hours before the hearing.



BOARD OF ZONING APPEALS

STAFF REPORT

Meeting Date: November 24, 2020

Item #: 2Ai

Prepared By:	Staff
Site Address:	324 Jefferson Avenue
Applicant:	Jay and Tracy Meadows
Owner:	Jay and Tracy Meadows
Proposed Development:	An application for a rear setback variance for rear porch on a non-conforming lot
Current Zoning:	Single-Family Residential (R-1); Historic District Overlay

Site Description:

The house was originally straddling two 40' x 140' plots (~ 5,600 sq feet each), tax parcels 83A1-1-184 and 185, with the house facing Jefferson Avenue. The current owners of the house purchased with the understanding that both parcels came with the sale. That was not the case and it was determined that parcel 83A1-1-184 was owned by another individual. A lot line adjustment was achieved whereby the combined properties were divided equally into 80' x 70' and 70' x 80' (~ 5,600 sq feet) lots with one lot containing the house owned by the Meadows that continues to face Jefferson Avenue and the other parcel fronting Peach Street. This boundary line adjustment was approved by the Town's Zoning Administrator in 2018. Although each parcel meets the R-1 district's 5,600 sq ft requirements, they are now not the general 40' x 140' conforming lots.

The applicants had approached the Historic District Review Board on July 21, 2020 to request approval for certain renovations to the house. One of those changes was to add a covered porch to the back of the house. The Zoning Administrator informed the applicants on August 6, 2020 that upon the review of the zoning ordinance, it was determined the Historic District Review Board could not take final action on the rear porch addition until the issue on setbacks was taken to the Board of Zoning Appeals for a decision on encroachment into the rear setback. The applicants responded on August 7, 2020 that they were removing the rear porch from consideration at this time from the Historic District Review Board application, as other options were being considered.

Description of Proposed Project:

The applicants want to proceed with the addition of a rear covered porch and have requested a variance to the rear setback requirement of 25 feet. The covered porch, with a depth of 8 feet from the existing house, would extend into the 25 foot rear setback by 5.5 feet (leaving 19.5 feet to rear of Meadows property and side boundary of adjacent property).

Staff Analysis:

These properties are located in the Single-Family Residential District R-1. Per ordinance §3.2, this district was *“created in recognition of the existence of developed areas where single-family and duplex dwelling currently exist on lots of 5,600 square feet and where the characteristics of the neighborhood include both permanent as well as seasonal residents.”* Area Regulations specify ***“The minimum lot size shall be 5,600 square feet. Dwelling units existing on lots at the time of adoption of this ordinance which are generally on lots 40 feet by 140 feet are considered to be conforming lots. However, new construction taking place within this district shall meet all standards and requirements of this district.”*** *“The minimum lot width at the setback line shall be 40 feet.”* While the recent lot line adjustments retained the 5,600 sq ft minimum lot size requirement and address the minimum lot width requirement, the 40 feet by 140 feet conforming lot sizes were changed to 70 feet by 80 feet and 80 feet by 70 feet for the two properties involved. This was approved by the Town staff as evidenced by approval on instrument # 180001894 recorded December 7, 2018 with the Clerk’s Office of Northampton County Circuit Court.

Rear setback regulations for the R-1 district are the same for conforming lots 140 feet deep and non-conforming lots over 40 feet deep; *“Each main structure shall have a minimum rear yard setback of 25 feet”* (reference §3.2 G. Setback Requirements). In §3.2.1.5, *“Porches on the side and rear of the house are also permitted. All porches must meet setback regulations.”*

Per §2.6.2 of the Zoning Ordinance, no variance shall be authorized by the board unless it finds all of the following conditions exist:

1. That the strict application of the ordinance would procure undue hardship.
2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

That such strict application of the ordinance would procure undue hardship.

A variance’s purpose is to solve hardship problems inherent in the piece of land and not created by the current owners. Per the Town’s ordinance **HARDSHIP** means *“a restriction on property so unreasonable that it results in an arbitrary and capricious interference with basic property rights, and that which relates to the physical characteristics of the property, not the personal, financial, or self-imposed circumstances of the owner or user.”* In this particular case, hardship may be considered to

have been created as a result of the property line adjustments agreed to in order to settle the selling of a house that straddles two properties owned by different people. As a result of such previous action in 2018, the length and width of these two properties are no longer the generally conforming 40 foot by 140 foot lots. This necessary action arguably created a hardship when attempting to meet the 25 foot rear setback established by ordinance for generally conforming lot dimensions, not for an 80 foot by 70 foot lot. Additionally, the boundary line adjustment created differing setbacks for the new common lot line. It is now considered a side lot line with a setback of five feet for the adjacent property whereas the subject property must meet a 25 foot rear setback for the same common property line. The parcel characteristics created by the necessary change in property lines, based upon the location of an existing dwelling, results in a rear yard setback that limits a porch to 2.5 feet in width, in order to meet the rear setback requirement. In essence, the owners cannot build a rear porch on this revised lot.

Alternatives to the rear wrap-around porch are to;

- Position it on the side of the house. There is a distance of 23 feet on one side and 32 feet on the other to property lines.
- Drop the wrap around covered porch concept and plan an uncovered deck below 16" off grade elevation as allowed by ordinance (reference §4.2.F).

That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.

This hardship is not shared generally by other properties in the R-1 district because the vast majority of the historic district properties are 40' x 140' conforming lots. Even some of these have been combined to provide even greater width lots, thereby exceeding the minimum 5,600 sq ft and 40' width requirements. Even though the ordinance recognizes non-conforming lot sizes and establishes setback requirements for these, this setback hardship has been experienced only by a small minority of other property owners with non-conforming lots in the R-1 district. Recent examples of BZA variance applications on non-conforming lots regarding setbacks are as follows:

1. March 3, 2020 BZA meeting: Lots 169D/172D on Plum Street were non-conforming lots of 35' x 40' each, combined by a common owner into a 35' x 80' lot. With a new house being built, the variance request was for an encroachment of one foot into one of the side setbacks. This was unanimously approved by the BZA. [Note that, given the 80 foot depth of the property, the rear of the house rests on the rear setback line leaving 25 feet to the property line that will not allow, without a variance approval, for any future rear porch, if so desired.]
2. June 16, 2020 BZA meeting: 227 Madison Avenue (corner of Madison and Strawberry) is a non-conforming lot essentially 40' x 87'. The owners were building a new house and requested a variance of approximately 7 feet encroachment on the rear setback due to the

back screened porch planned. This was unanimously approved by the BZA.

That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

The rear porch will still be 19.5' from their rear property line and the adjacent owner's side property line. There are many rear porches within the R-1 district. Therefore, authorization of such as variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

Staff Recommendation:

Staff recommends **APPROVAL** for a variance to the rear setback for 324 Jefferson Avenue for 5.5 feet for an unenclosed porch.

Attachments:

1. Applicant's cover letter dated October 26, 2020
2. Variance Application dated October 6, 2020
3. Northampton County GIS property location

Jay & Tracy Meadows
1225 Princess Anne Road
Virginia Beach, VA 23457
757.409.6202

October 26, 2020

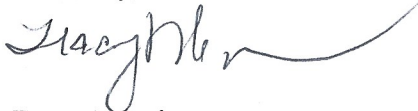
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310

RE: ZONING VARIANCE APPLICATION FOR: 324 Jefferson Avenue

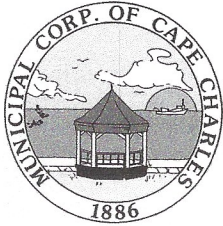
Dear Ms. Finchum:

This letter is requesting a variance needed to add a back porch addition onto our house, due to the unusual lot dimensions. The addition of the proposed back porch exceeds the 25' variance by 2.5'. We had a survey completed in 2017 that revealed the house straddled Lot 184 and Lot 185. In order to make the house whole on the property, we did a lot line adjustment moving the lot line parallel to Jefferson Avenue with the house on the front half of both lots and Mr. Mack owning the back of the two lots. This makes the lot much narrower than the typical lot sizes in the town.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tracy Meadows', with a long, sweeping horizontal line extending to the right.

Tracy Meadows



VARIANCE APPLICATION

Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
757-331-2036 Fax: 757-331-4820
planner@capecharles.org

PERMIT CHECKLIST - all documents can be emailed to the above email

- | | |
|--|---|
| ☒ Completed application | ☒ Photos/elevations of existing structure |
| ☒ Letter of intent clearly explaining project | ☒ Photos/elevations of proposed project |
| ☒ Existing site plan or survey | ☒ Payment of fees (single-family detached |
| ☒ Proposed site plan or survey (if applicable) | \$450, all others \$750, each additional variance |
| | request on same application \$50) |

PROJECT INFORMATION

Name of Project: Jay & Tracy Meadows - back porch

Property Address: 324 Jefferson Avenue

Brief Description of Project: addition of back porch on house with unusual lot - lot line relocated

Zoning District: _____ Current Use: second home Proposed Use: second home

OWNER INFORMATION

Name and Company: Jay & Tracy Meadows

Mailing Address: 1225 Princess Anne Rd. Virginia Beach, VA 23457

Phone Number: 757-409-6202 Email: tmeadows91@hotmail.com

APPLICANT INFORMATION

☒ check here if applicant is owner

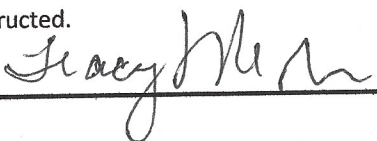
Name: _____

Mailing Address: _____

Phone Number: _____ Email: _____

CERTIFICATION OF APPLICANT

I hereby certify that I have the authority to make the foregoing application, that the information given is true and correct, and that the construction or improvements will conform to the regulations in the Virginia Statewide Building Code, all pertinent Town Ordinances, including fire, sewer and water ordinances, and private building restrictions, if any, which may be imposed on the property by deed. Furthermore, I certify that the changes to the improvement before or during construction will be provided to the Zoning Administrator and Building Official before such changes are constructed.

Signature of Applicant:  Date: 10/6/20

Town of Cape Charles Planning & Zoning Department
2 Plum St. • Cape Charles, VA 23310 • 757-331-2036 • capecharles.org

Jefferson Avenue - State Route T-1103

(70' Right-of-Way)

(Deed Book 41, Page 463)

CONCRETE CURB & GUTTER

OVERHEAD UTILITIES

WATER METER

OVERHEAD UTILITIES

PIN(F) 0.09' NORTH OF CORNER

120.13'

N 88° 00' 00" E

200.10'

PIN(F)

39.99'

7.15'

PIN(F)

7.23'

39.98'

SEWER CLEANOUT

23.26'

23.2'

7.3'

7.3'

32.62'

PARCEL A
Area = 5,598sf
or 0.128ac

0.5'

0.5'

28.0'

28.0'

24.1'

32.70'

24" CEDAR

A/C DECK
(NO A/C)

PROPERTY LINE HEREBY
ESTABLISHED

N 88° 00' 00" E

79.96'

PIN(S)

140.00'

PIN(S)

PROPANE TANK

140.00'

N 01° 59' 18" W

70.00'

TRACY & JAY MEADOWS

LOT 185

TAX PARCEL #83A1-1-185

(INSTRUMENT #160001360)

AREA = 5,602sf or 0.129ac

70.00'

BUILDING SETBACK LINE

FLOOD ZONE "X"

FLOOD ZONE "SHADED X"

S 02° 00' 32" E

140.00'

ROBERT MACK, IV

LOT 184

TAX PARCEL #83A1-1-184

(WB 68, PG 210)

AREA = 5,593sf or 0.128ac

70.00'

BUILDING SETBACK LINE

5'

70.00'

S 01° 58' 43" E

140.00'

PARCEL B
Area = 5,597sf
or 0.128ac

PIN(F)

40.04'

S 88° 00' 07" W

79.95'

PIN(F) 0.04' SOUTH OF CORNER

PIN(F)

TRUSTEES OF THE GENERAL ASSEMBLY OF THE CHURCH
OF THE LORD JESUS CHRIST OF THE APOSTOLIC FAITH

LOT 188

TAX PARCEL #83A1-1-188

(DB 240, PG 47)

RENCE HICKMAN, JR.

1 H. McSPEDDEN

LOT 187

CEL #83A1-1-187

MENT #120000011)

SABO, II AND

FAMILY TRUST

LOT 186

CEL #83A1-1-186

MENT #150000618)

SABO, II AND

FAMILY TRUST

LOT 183

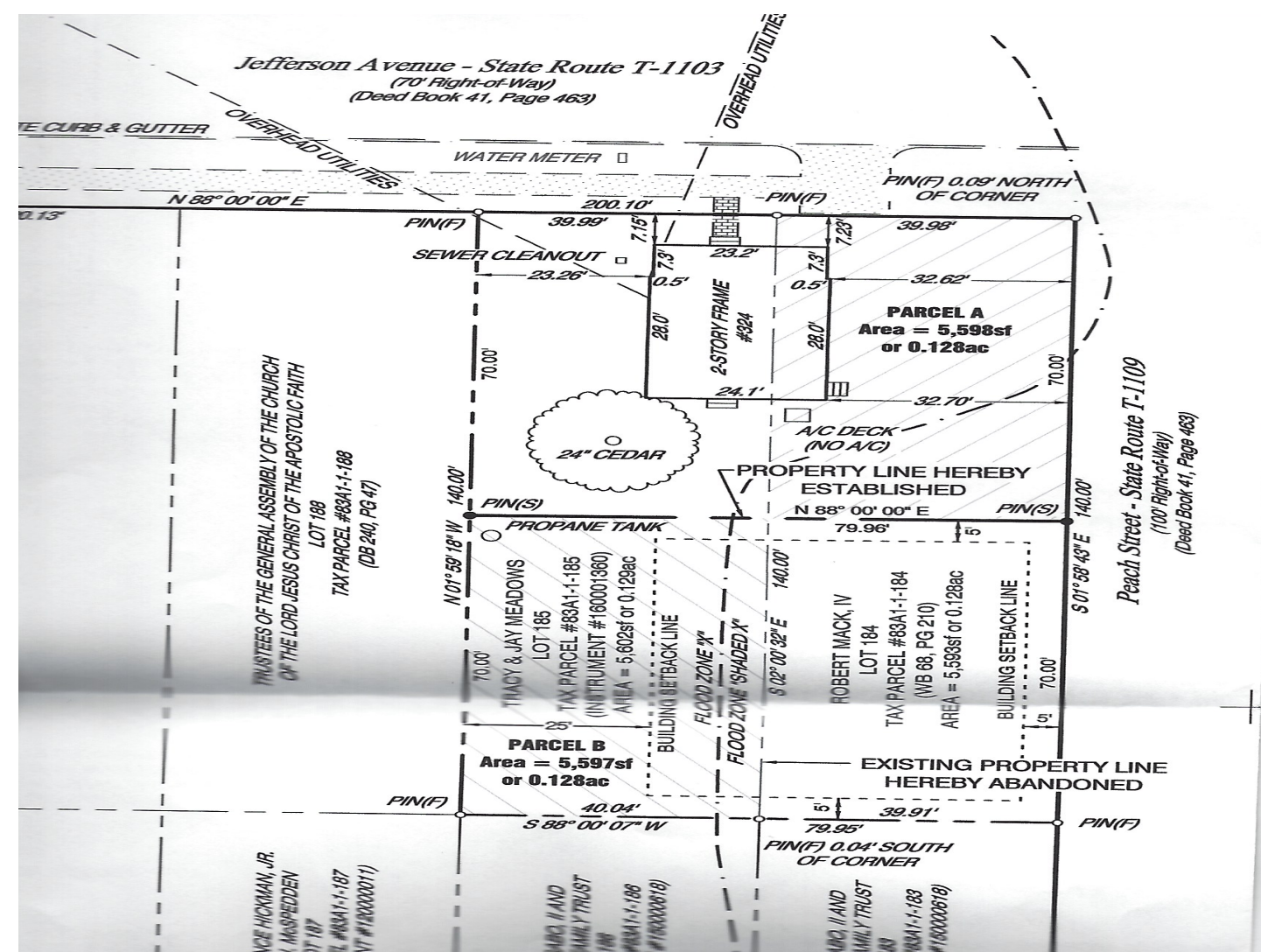
CEL #83A1-1-183

MENT #150000618)

Peach Street - State Route T-1109

(100' Right-of-Way)

(Deed Book 41, Page 463)



Jay & Tracy Meadows

Additions & Restoration to 2-Story Frame House

Lot #185

324 Jefferson Avenue

Cape Charles, VA 23310

General Notes:

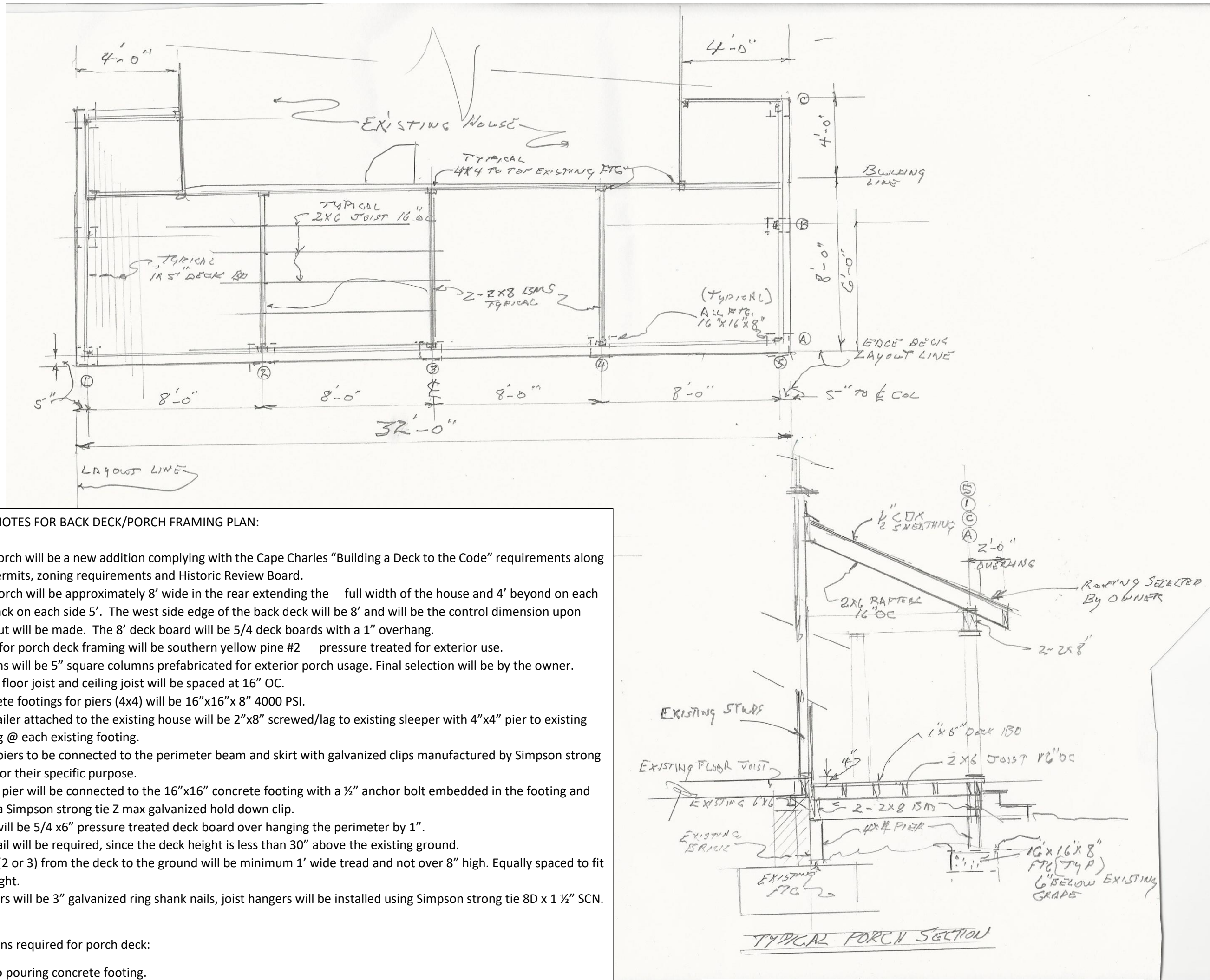
1. This set of plans and specifications are submitted for building permit approval, as well as for Historic District Review Board review and comments.
2. This is a submittal package for the approval of the overall appearance of the modifications related to the dormers and the modifications of the window's size and location. Also, the approval of the addition and modifications related to the front and back porches.
3. This work will not modify or infringe on lot lines, setbacks or distinguish it between it and other structures that require zoning approval.
4. The present structure that will be restored is located on lot #185, instrument # LR16 1360.
5. Because of the present poor condition of the structure and to insure no further damages caused by bad weather, rain, etc., requires the first step in the restoration process to be the repair and installation of a new weather tight roof. With this submittal, we are requesting approval of the dormers and their related work, i.e. windows, doors, etc., as well as, the installation of new windows, siding, and exterior trim to have a weather tight exterior.
6. The modifications to the front porch consist of striping it down to the original open porch and installing new wood deck with columns and beams as required with minor modifications to each end of the roof to form a hip roof appearance to be compatible with the house itself.

DRAWING INDEX

- 1 OF 8 COVER SHEET (SURVEY, GENERAL NOTES, DRAWING INDEX)
- 2 OF 8 BACK DECK FRAMING PLAN/DETAILS
- 3 OF 8 FIRST FLOOR PLAN
- 4 OF 8 SECOND FLOOR PLAN
- 5 OF 8 THRID FLOOR PLAN
- 6 OF 8 FRONT ELEVATION VIEW
- 7 OF 8 BACK ELEVATION VIEW
- 8 OF 8 SIDE LEFT ELEVATION (RIGHT SIDE SIMILAR)

Jay & Tracy Meadows
324 Jefferson Avenue
Cape Charles, VA 23310

Date: April 28, 2020
Page: 1 of 8
Cover Page



GENERAL NOTES FOR BACK DECK/PORCH FRAMING PLAN:

1. The back porch will be a new addition complying with the Cape Charles "Building a Deck to the Code" requirements along with the permits, zoning requirements and Historic Review Board.
2. The back porch will be approximately 8' wide in the rear extending the full width of the house and 4' beyond on each side and back on each side 5'. The west side edge of the back deck will be 8' and will be the control dimension upon which layout will be made. The 8' deck board will be 5/4 deck boards with a 1" overhang.
3. All lumber for porch deck framing will be southern yellow pine #2 pressure treated for exterior use.
4. The columns will be 5" square columns prefabricated for exterior porch usage. Final selection will be by the owner.
5. This porch floor joist and ceiling joist will be spaced at 16" OC.
6. The concrete footings for piers (4x4) will be 16"x16"x 8" 4000 PSI.
7. The skirt nailer attached to the existing house will be 2"x8" screwed/lag to existing sleeper with 4"x4" pier to existing pier footing @ each existing footing.
8. The 4"x4" piers to be connected to the perimeter beam and skirt with galvanized clips manufactured by Simpson strong tie Z max, for their specific purpose.
9. Each 4"x4" pier will be connected to the 16"x16" concrete footing with a 1/2" anchor bolt embedded in the footing and clipped to a Simpson strong tie Z max galvanized hold down clip.
10. The deck will be 5/4 x6" pressure treated deck board over hanging the perimeter by 1".
11. No hand rail will be required, since the deck height is less than 30" above the existing ground.
12. The steps (2 or 3) from the deck to the ground will be minimum 1' wide tread and not over 8" high. Equally spaced to fit ground height.
13. All fasteners will be 3" galvanized ring shank nails, joist hangers will be installed using Simpson strong tie 8D x 1 1/2" SCN.

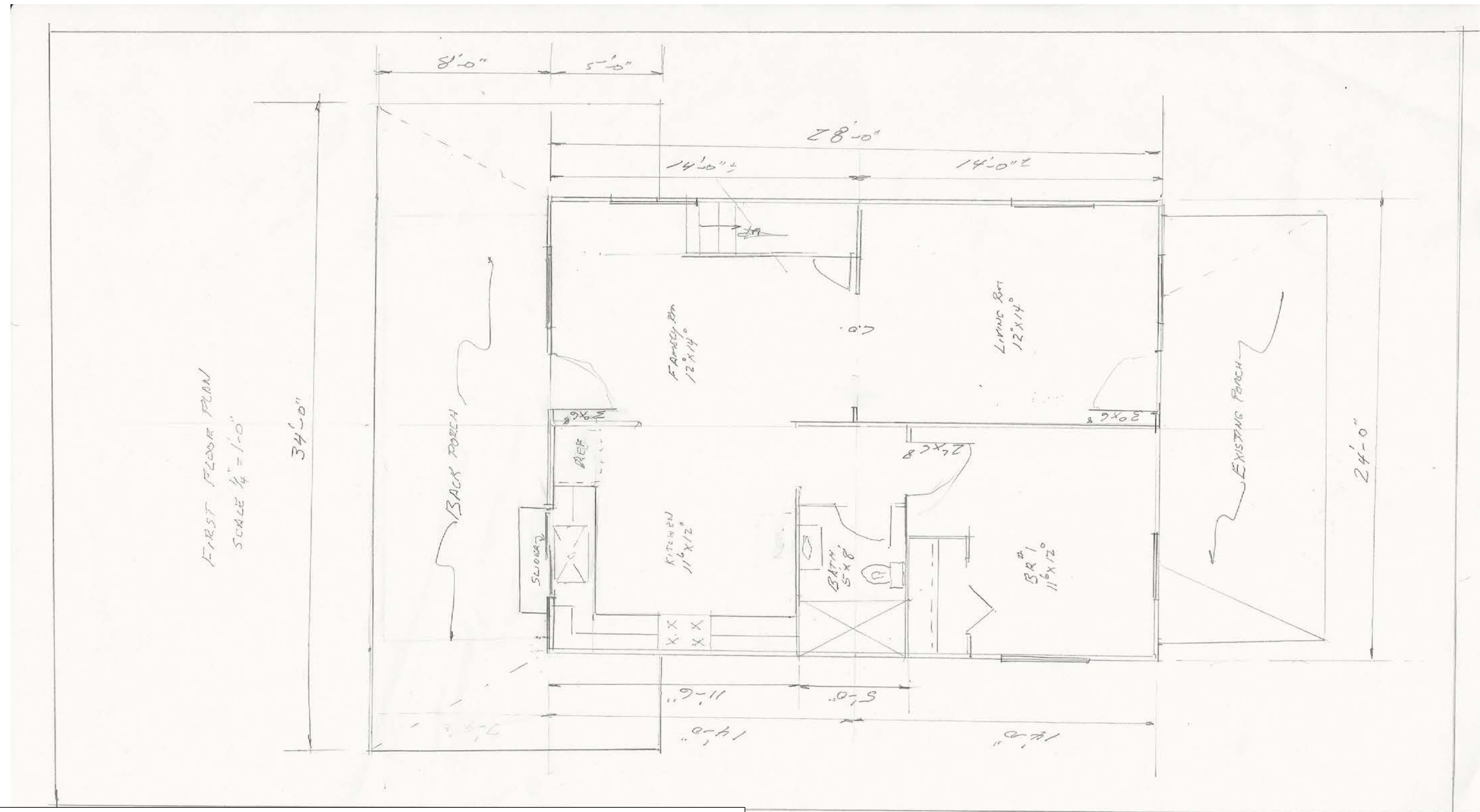
Town inspections required for porch deck:

1. Prior to pouring concrete footing.
2. Upon completion of floor framing and prior to deck boards.
3. Upon final completion.

Back Deck Framing Plan Details

Jay & Tracy Meadows
 324 Jefferson Avenue
 Cape Charles, VA 23310

Date: April 28, 2020
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 Back Deck Framing Plan Details



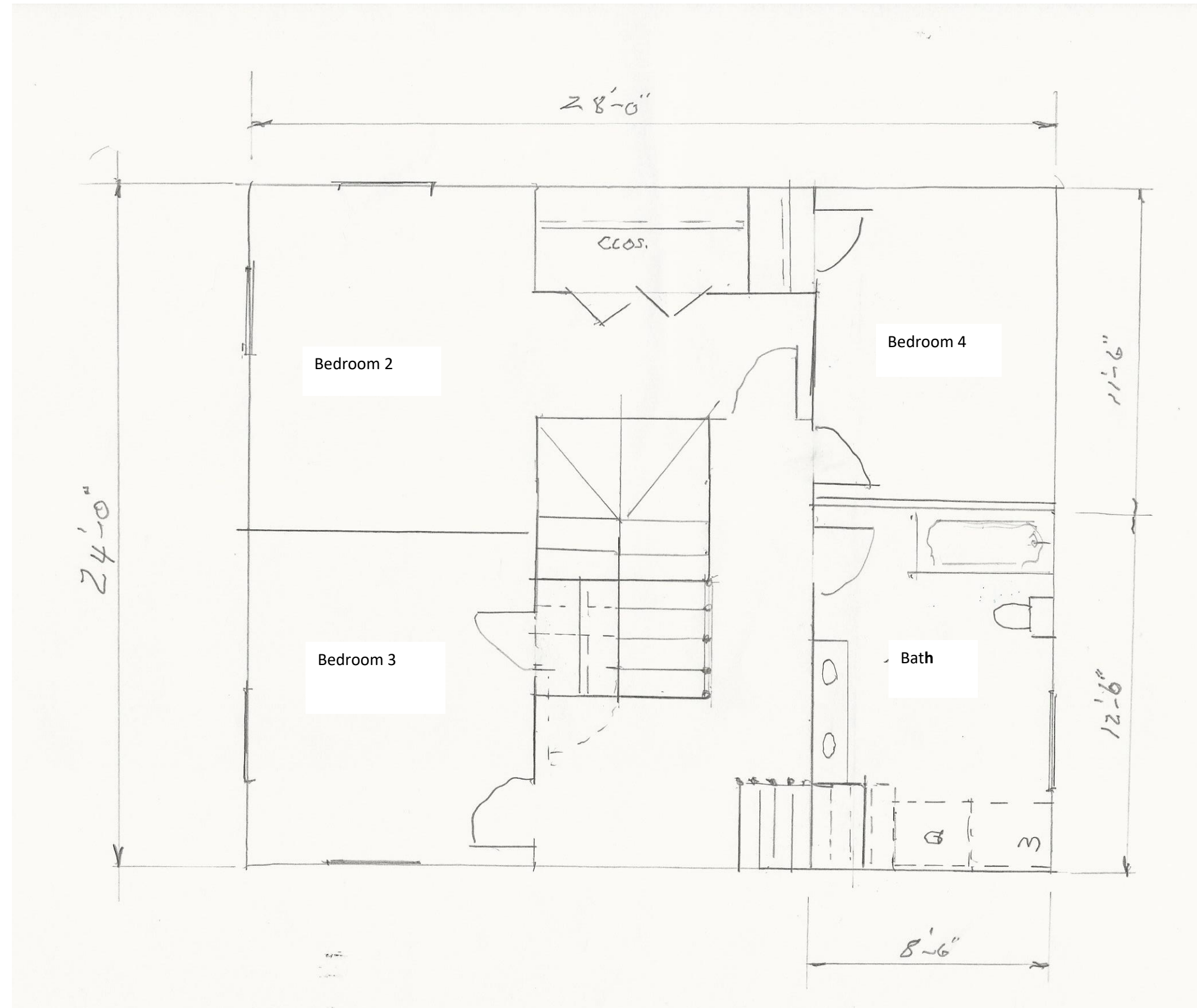
GENERAL NOTES INTERIOR:

1. The interior walls will be stripped down to the stud framing. All water and termite damage will be removed and replaced. The entire structure frame will be mitigated by spraying all framing membranes with antimicrobial spray to kill all mold and mildew that may exist.
2. The entire electric service will be updated or replaced to comply with the current code and ordinances. All electrical outlets, switches, wiring, boxes and any other devices, which are damaged or do not comply, will be replaced as required.
3. Upon completion of all electrical modifications and prior to insulation, an inspection will be required.
4. Upon approval of all in wall electric and other items, spray insulation will be installed to encapsulate all items in the stud cavity.
5. Following insulation, all walls and ceilings will receive 1/2" gypsum wall board and finishes will be selected by the owner.
6. All in wall and floor plumbing will be replaced with new to comply with code. All fixtures will be furnished, selected, and delivered to the job site by the owner.
7. Upon, completion of the in wall and floor plumbing modifications, an inspection will be requested.
8. All new floor finishes, both hardwood and tile, will be selected and provided by the owner.

First Floor Plan

Jay & Tracy Meadows
324 Jefferson Avenue
Cape Charles, VA 23310

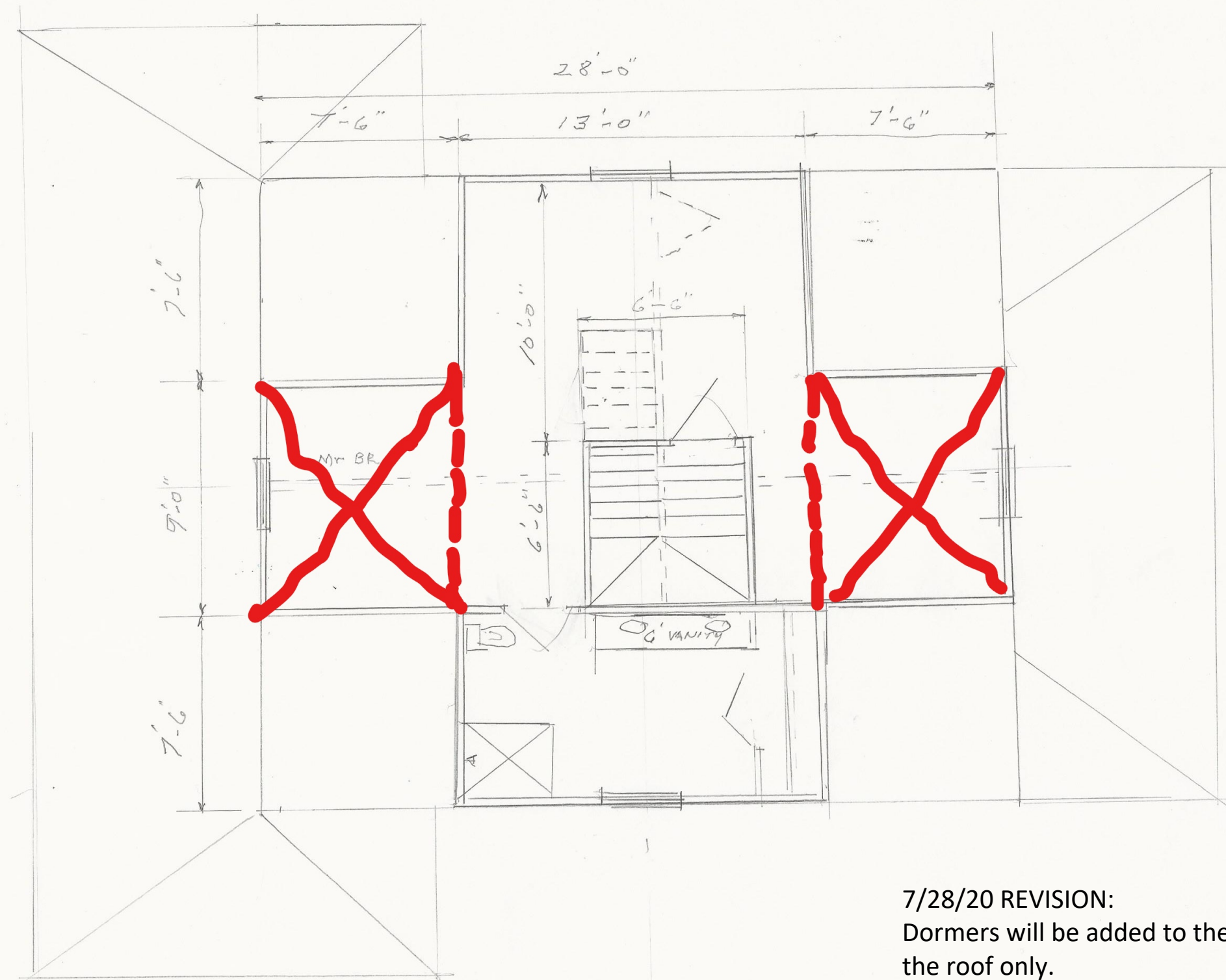
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First Floor Plan



Second Floor Plan

Jay & Tracy Meadows
 324 Jefferson Avenue
 Cape Charles, VA 23310

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 Second Floor Plan



7/28/20 REVISION:

Dormers will be added to the east and west sides of the roof only.

The resulting square footage of the 3rd floor will be 312 SF.

Third Floor Plan

Jay & Tracy Meadows
324 Jefferson Avenue
Cape Charles, VA 23310

Date: April 28, 2020

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Third Floor Plan

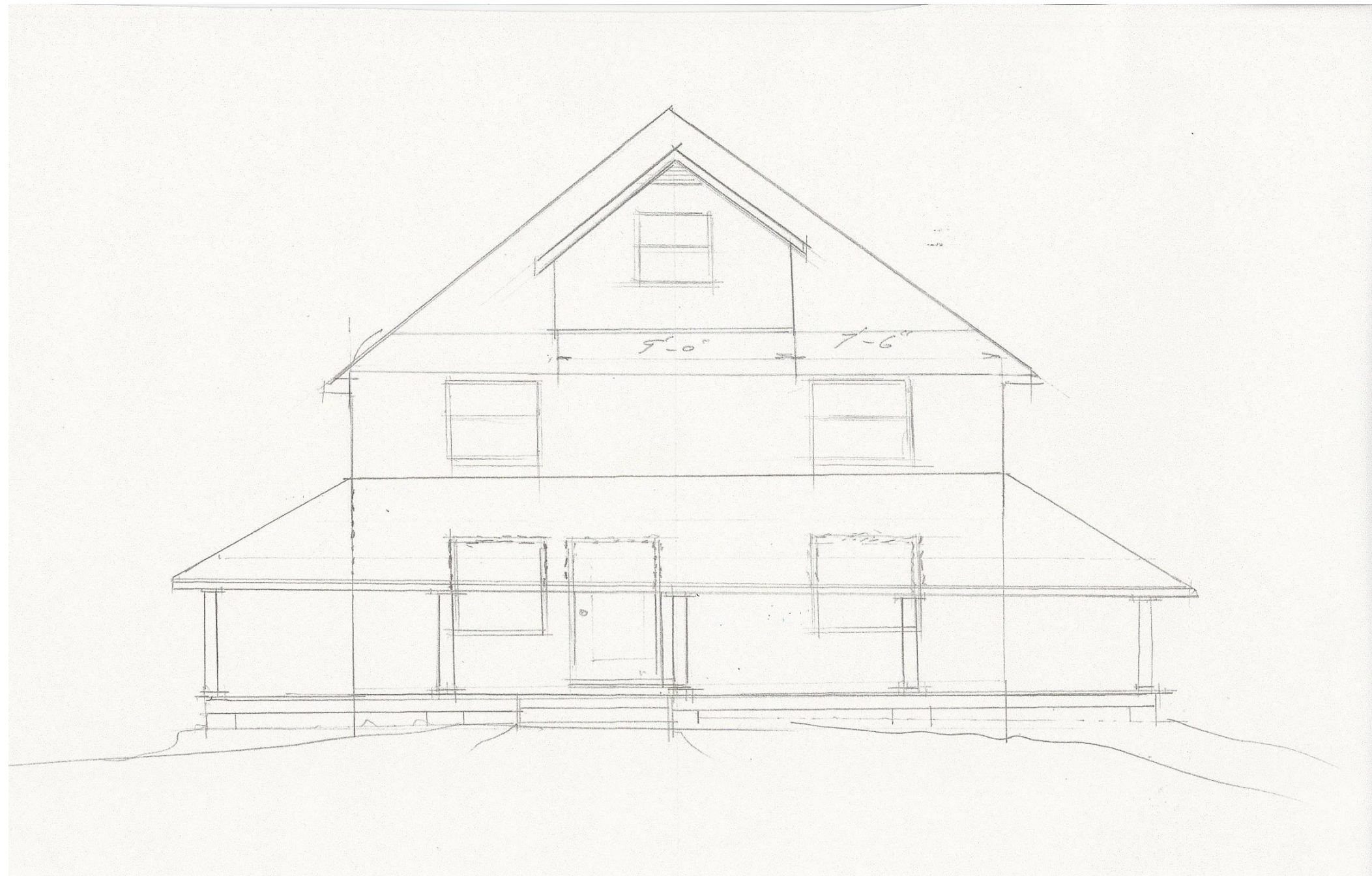


7/28/2020 REVISION:
Dormers will be added to the
east and west sides of the
roof only.

Front Elevation View

Jay & Tracy Meadows
324 Jefferson Avenue
Cape Charles, VA 23310

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Front Elevation View

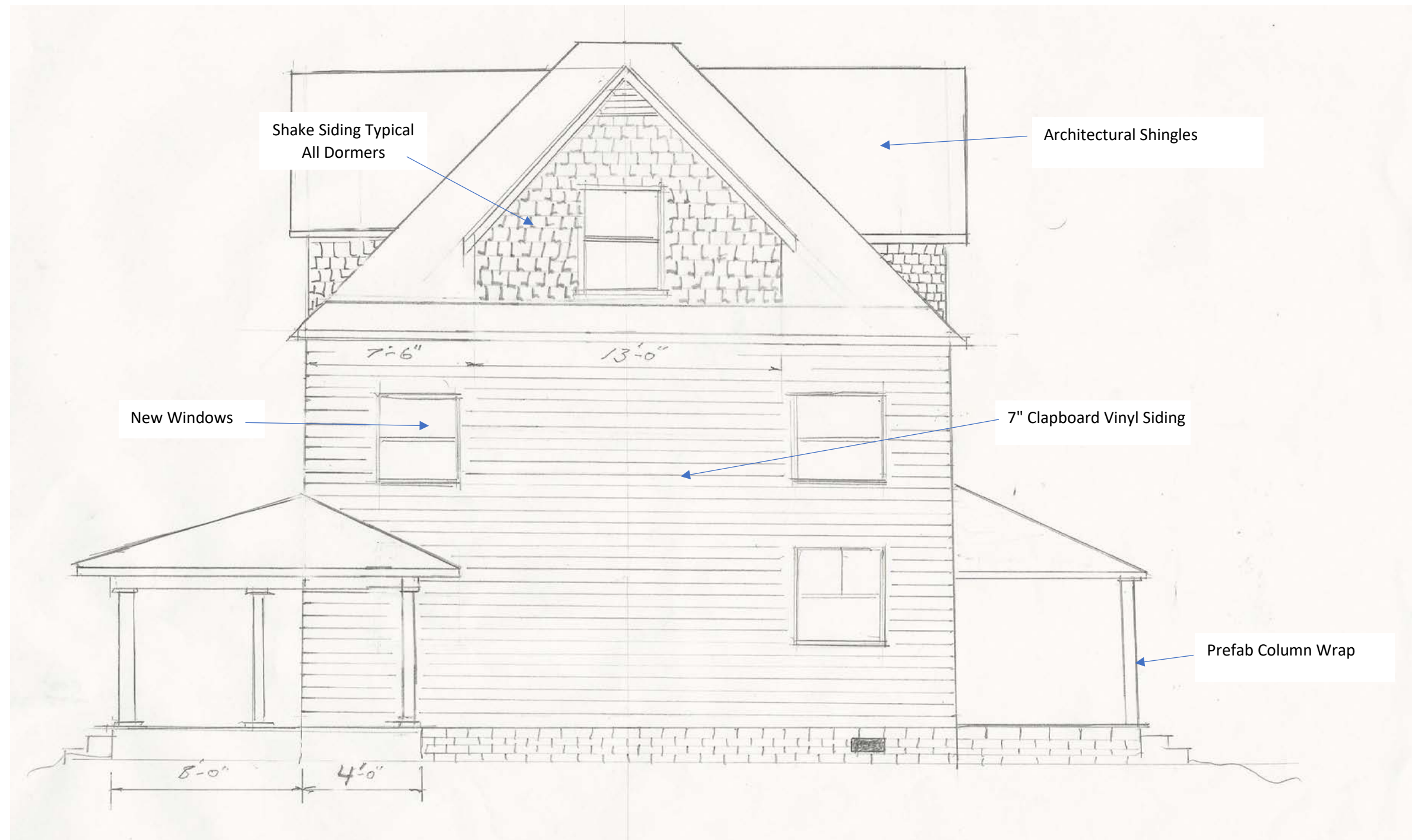


7/28/2020 REVISION:
Dormers will be added to the
east and west sides of the roof
only.

Back Elevation View

Jay & Tracy Meadows
324 Jefferson Avenue
Cape Charles, VA 23310

Date: April 28, 2020
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Back Elevation View



7/28/2020 REVISION:
Dormers will be added to the
east and west sides of the roof
only.

East Elevation View (West Side Similar)

Jay & Tracy Meadows
324 Jefferson Avenue
Cape Charles, VA 23310

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East Elevation View



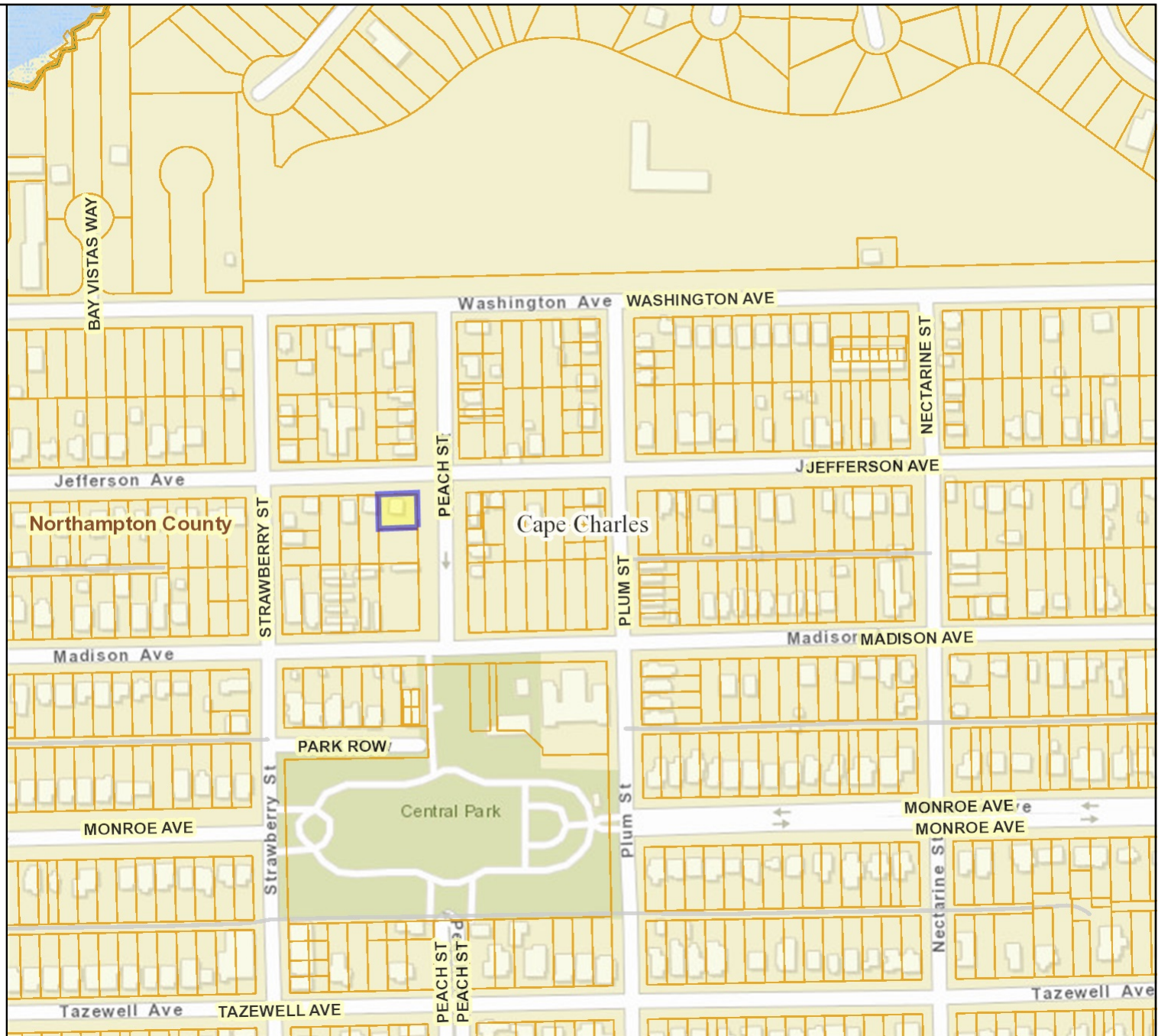




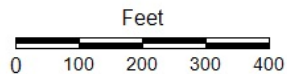
Northampton County, Virginia

Legend

-  County Boundaries
-  Town Names
-  Route Numbers
-  Road Labels
-  Parcels
-  Driveways



Map Printed from Northampton
<http://northampton.mapsdirect.net/>



Title: 324 Jefferson Avenue

Date: 11/5/2020

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Northampton County is not responsible for its accuracy or how current it may be.



DRAFT
Board of Zoning Appeals
Public Hearing & Meeting
Cape Charles Civic Center
August 13, 2020
10:00 a.m.

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. In attendance were Board members Pete Baumann, Jim Holloway, and Tom Weaver. Also present were Town Planner Allyson Finchum, Planning Technician Tracy Outten, and the applicants. There were seven members of the public in attendance.

Bill Murphy read the public hearing advertisement and introduced Allyson Finchum as the new Town Planner.

PUBLIC HEARING

A. *Hear public comment for a variance to allow a boundary line adjustment resulting in reduction in size of a parcel to 4,560 square feet from the minimum lot size requirements in Section 3.2.F.1 on lot 337 on Tazewell Avenue – tax map #83A3-1-337.*

i. *Zoning Administrator Report*

Allyson Finchum read the variance request, the staff report, and the staff analysis.

Questions were as follows: (i) Tom Weaver asked if an easement was granted how long it for was and did it carry over if the property was sold. Allyson Finchum answered that the easement details were based on the how the attorney wrote them; (ii) Tom Weaver wanted to know if the driveway could be closer to the house or was there a requirement. Allyson Finchum said there were not any driveway width restrictions and it could be closer to the house; (iii) Jim Holloway asked if the alley way could be stretched to Fig Street for access. Allyson Finchum said they have a connection easement; and (iv) Bill Murphy wanted to know if the owners had entrance and exit rights; yes.

ii. *Applicant Statement*

Sarah and John Severs, owners, said this application was strict and it was very hard to produce a hardship. Sarah Severs continued by saying when the property was purchased the driveway was included. She continued by stating that they were trying to sell the home and would like to cut off 2' of the driveway; moving closer to the house would not work because passengers could not exit the car.

Discussion and questions were as follows: (i) Pete Baumann asked if there was an opening on Nectarine Street; yes; (ii) Bill Murphy asked if the present driveway location had an in and out and if ingress and egress were currently okay; yes. He also wanted to know if the variance was granted would this close off access for buyers or the garbage truck. Sarah Severs said no and the garbage trucks do not come down the alley; (iii) When asked if there were any issues with the current easement, Sarah Severs answered no that they would like to prevent any in the future. Bill Murphy suggested giving the buyers an easement as to not make a lot non-conforming; and (iv) Bill Murphy asked if the board granting or denying this variance would have an outcome on the sale of the lot; yes. He recommended granting the buyers access to the alley. Sarah Severs said that has not been discussed.

iii. *Open Public Hearing*

Ed Wells, 202 Strawberry Street

Mr. Wells agreed with the staff recommendation to deny this variance for the reasons stated.

Diane D'Amico, 602 Jefferson Avenue

Ms. D'Amico concurred with the staff recommendation to deny and said moving the driveway was an option.

She informed the board that the Planning Commission was working hard on the comprehensive plan update and affordable housing.

Tom Weaver added that granting the variance would make the lot non-conforming and prevent it from becoming affordable housing.

Tracy Outten read comments that were submitted prior to the meeting. (Please see attached.)

Sarah Severs addressed Mr. and Mrs. Monarch's questions and concerns as follows: (i) Trash pick-up was a non-issue because an easement could be granted; (ii) The adjacent property would not become a parking lot for the rental. The traffic would not increase. The buyers were retired, and this would be their home; and (iii) The alley was not being closed.

Laura Klingel, 622 Monroe Avenue, informed the board that the garbage truck backed down the alley to collect the trash cans; no one dragged them anywhere.

Paul Grossman said he understood the applicants desire to add parking and this did not prevent another owner from doing the same. A potential parking lot could be an option.

Charlene Dix, 611 Tazewell Avenue, said traffic was extremely high and they speed through. She was afraid if the variance were granted traffic would increase and that would add concerns for her family.

iv. Close Public Hearing

Motion made by Jim Holloway, seconded by Pete Baumann, 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.

PUBLIC COMMENTS

There were no comments.

CONSENT AGENDA

Motion made by Tom Weaver, seconded by Pete Baumann, to accept the agenda format as presented. The motion was approved by unanimous consent.

The Board reviewed the minutes from the March 3, 2020 Public Hearing and Meeting and from the June 16, 2020 Public Hearing and Meeting.

Bill Murphy said Jay Wiegner did not attend the June 16, 2020 Public Hearing and Meeting so therefore did not make the motion to close the public hearing.

Motion made by Pete Baumann, seconded by Jim Holloway, to approve the minutes from the March 3, 2020 Public Hearing and Meeting as presented and to approve the minutes from the June 16, 2020 Public Hearing and Meeting as amended. The motion was approved by unanimous consent.

NEW BUSINESS

- A. *Zoning variance application – to allow a boundary line adjustment resulting in reduction in size of a parcel to 4,560 sq. ft. from the minimum lot size requirements in Section 3.2.F.1 on lot 337 on Tazewell Avenue – tax map #83A3-1-337.*

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

Discussion and questions were as follows: (i) Bill Murphy thought this application did not meet the criteria and was not clear on what the applicants wanted to do; (ii) Jim Holloway was not in favor of approving a variance that would make a lot non-conforming. He added that the buildable lot inventory in the historic district was decreasing every day; (iii) Pete Baumann agreed with Jim Holloway, adding that there was no undue hardship; (iv) Tom Weaver said if the variance was granted a precedence would be set and agreed with the town planner that an easement could be done; (v) Bill Murphy said the applicants had several options to get what they want. He does try to look at the issues from both side but the board had to follow the law; and (vi) Pete Baumann thought it would be a detriment to create a non-conforming lot just for a matter of convenience.

Bill Murphy said this request has failed to meet any of the three criteria.

Motion made by Pete Baumann, seconded by Jim Holloway, to deny the zoning variance request from the minimum lot size requirements in the Cape Charles Zoning Ordinance Section 3.2.F.1 to allow a boundary line adjustment resulting in the reduction in size of a parcel to 4,560 square feet on lot 337 on Tazewell Avenue do to a failure to meet the criteria. The motion was approved by unanimous consent.

OTHER BUSINESS

There was no other business to discuss.

Motion made by Tom Weaver, seconded by Jim Holloway, to adjourn the Board of Zoning Appeals Public Hearing and Regular Meeting at 11:02 a.m. The motion was approved by unanimous consent.

Chairman Bill Murphy

Planning Technician

8/13/2020

To the Cape Charles Board of Zoning Appeals,

We are Jill and Ken Monarch. We own the properties adjacent to the Severs on Tazewell Avenue. Our lot numbers are 340, 341, 339B and 342B. In regards to the Severs request for a variance, we would like the board to know that we agree with the recommendations of the town staff to deny the variance.

We did have some questions that we believe should be answered if the town is considering granting the variance.

1. If the variance is granted how would trash pick up work for the non-conforming lot as it would not have access to the alley where trash is picked up?
2. What is the Severs intent for the alley and adjacent property? Is this area to become a parking lot for their rental property and will that increase the traffic in the alley?
3. Since the Severs are requesting the alley easement be deleted, will they be closing down the alley to control the additional traffic?

We would like to thank you for your time and consideration of our thoughts.

Jill and Ken Monarch

615 Tazewell Avenue

August 13, 2020

Dear Members of the Board of Zoning Appeals,

My name is Laurie Klingel. My husband, daughter, and I reside at 622 Monroe Avenue. We have been full-time, year-round residents of the Town of Cape Charles for over 20 years. We share a back lot-line with the applicant. As an adjacent property owner, we have one primary concern regarding the requested variance.

The rental market in Cape Charles, as you know, is rather robust. As one of the largest rentable homes, 629 Tazewell swells with visitors the entire season. These visitors have anywhere from a few vehicles to entire fleets of SUVs, trailers, and golf carts. We are concerned that an adjusted boundary line will serve to increase the parking potential along the back lot-line, as opposed to the west (lot 337) where the rental visitors have parked for the last few years and where there is plenty of space to come and go freely. If the applicant retained this lot (337), there would be no hardship, and no need for any of these variances.

The alley is currently used for garbage pick-up. It is also used for the ingress and egress of homeowners, contractors, and as a common route for neighborhood children and pets. The sheer volume of through traffic from the 629 rental as it stands, is significant. Shoe-horning large-volume parking for the sake of a commercial interest at the back lot line would potentially degrade the quiet, family-friendly, and safe atmosphere that is the backbone of our neighborhood. There is barely enough space to accommodate the existing rental visitors during the summer season as it stands. Tight parking constraints, along with the future activities of new owners of lot 337 will serve to exacerbate the current conditions.

We ask that you consider the year-round, permanent residents, children, and pets on this block carefully as you deliberate this application.

Thank you for your consideration. As always, our family aims to live harmoniously, helpfully, and respectfully with all of our neighbors, including the Severs, whom we hold in the highest regard.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'L. Klingel', written in dark ink.

Laurie Klingel



DRAFT
Board of Zoning Appeals
Public Hearing & Meeting
Cape Charles Civic Center
August 26, 2020
10:00 a.m.

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. In attendance were Board members Pete Baumann, Jim Holloway, and Tom Weaver. Also present were Town Planner Allyson Finchum, Planning Technician Tracy Outten, and the applicant. There was one member of the public in attendance.

Bill Murphy read the public hearing advertisement.

PUBLIC HEARING

A. *Hear public comment for a variance to allow for a 7' encroachment into the rear yard setback requirements in Section 3.6.E.4 for a proposed structure to be 3' from the rear property line and Section 2.5.1 Continuation of Non-Conforming Uses and Permits to allow a non-conforming building to be further extended into a setback at 730 Randolph Avenue – tax map #83A4-5-B.*

i. *Zoning Administrator Report*

Allyson Finchum read the variance request, the staff report, and the staff analysis. She continued by explaining that if the variance were not granted the applicant would have to remove asphalt for placement of the shed on another site of the parcel. The proposed placement was out of public view, not a detriment to adjacent properties, and crucial to have for the fire suppression system. Her concern was the applicant needed to prove that the system could not be placed inside the structure.

Allyson said a Conditional Use Permit was approved for residential units above commercial, but the plans and permits were not approved by the zoning administrator. There was some discussion on the original design being approved. Bill Murphy said that street level residential was not allowed per the zoning ordinance. Allyson Finchum affirmed that. This hearing was for a different matter.

Tom Weaver wanted to know why a 7' variance was needed. Allyson Finchum answered that a variance was needed from the rear setback's requirements.

ii. *Applicant Statement*

Andrew McCoy, applicant, said the structure was already in setback by 1'x3". The large tanks located in the back of his property were used by the dentist office and the variance would prevent destruction of them. The shed was needed for storage of the fire suppression system that was required per the building code for the sprinklers.

iii. *Open Public Hearing*

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

iv. *Close Public Hearing*

Motion made by Jim Holloway, seconded by Tom Weaver, 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 Pete Baumann, to accept the agenda format as presented. The motion was approved by unanimous consent.

NEW BUSINESS

- A. *Zoning variance application – to allow for a 7’ encroachment into the rear yard setback requirements in Section 3.6.E.4 for a proposed structure to be 3’ from the rear property line and Section 2.5.1 Continuation of Non-Conforming Uses and Permits to allow a non-conforming building to be further extended into a setback at 730 Randolph Avenue – tax map #83A4-5-B.*

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

Discussion and questions were as follows: (i) Bill Murphy said that the decision today was for the above matter and not the use of the building units. Fire suppression was needed and being stored inside was the best option to keep from freezing; (ii) There was some discussion on permits and deeds; and (iii) The board agreed the undue hardship was the placement of the proposed shed.

Motion made by Tom Weaver, seconded by Jim Holloway, to approve the zoning variance from the rear yard setback requirements in the Cape Charles Zoning Ordinance Section 3.6.E.4 to allow for a 7’ encroachment for a proposed structure to be 3’ from the rear property line and Section 2.5.1 Continuation of Non-Conforming Uses and Permits to allow a non-conforming building to be further extended into a setback at 730 Randolph Avenue as presented. The motion was approved by unanimous consent.

OTHER BUSINESS

There was no other business to discuss.

Bill Murphy adjourned the Board of Zoning Appeals Public Hearing and Regular Meeting at 10:45 a.m. The motion was approved by unanimous consent.

Chairman Bill Murphy

Planning Technician