

# **Board of Zoning Appeals**

## **Public Hearing & Special Meeting Agenda**

**Cape Charles Civic Center – 500 Tazewell Avenue**  
**February 16, 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 3' encroachment into the 5' rear yard setback requirements in Section 4.2.E for a proposed detached accessory structure (garage and office) to be 2' from the alley line at 10 Randolph Avenue (tax map # 83A3-2-2-78).
    - 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 3' encroachment into the 5' rear yard setback requirements in Section 4.2.E for a proposed detached accessory structure (garage and office) to be 2' from the alley line at 10 Randolph Avenue (tax map # 83A3-2-2-78).
6. Adjourn

### **Notice of Public Hearing**

The Cape Charles Board of Zoning Appeals will hold a public hearing on Tuesday, February 16, 2021 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 3' encroachment into the 5' rear yard setback requirements of Section 4.2(E) for a proposed detached accessory structure (garage and office) to be 2' from the rear property line and 2' from the alley line located at 10 Randolph 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](http://www.capecharles.org). Please contact Town Planner/Zoning Administrator Allyson Finchum at 757-331-2036, or by email at [planner@capecharles.org](mailto: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: February 16, 2021

Item #: 2ai

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|                              |                                                                               |
|------------------------------|-------------------------------------------------------------------------------|
| <b>Prepared By:</b>          | Allyson Finchum, Zoning Administrator                                         |
| <b>Site Address:</b>         | 10 Randolph Avenue, Tax parcel 83A3-2-2-78                                    |
| <b>Applicant:</b>            | Lysa and Clayton Newman                                                       |
| <b>Owner:</b>                | Lysa and Clayton Newman                                                       |
| <b>Proposed Development:</b> | An application for a rear setback variance for a detached accessory structure |
| <b>Current Zoning:</b>       | Single-Family Residential (R-1); Historic District Overlay                    |

### Site Description:

The house is on a corner lot that is approximately 134 feet long by 63 feet wide in the front and 42 feet wide in the rear. It is 7,022 square feet which exceeds the minimum lot size of 5,600 square feet in the R-1 Zoning District. The house faces Randolph Avenue with the side on Harbor Avenue. A public alley exists along the rear of the property, adjacent to the rear property line. An accessory structure once existed on the property (see plat). It was non-conforming due to encroachment into the rear setback, being 2.13 feet from the rear property line.

### Description of Proposed Project:

The applicant's intent is to build a two-story detached accessory structure with a ground floor finished garage and finished space above. The applicant states it is for personal use and an extension of space for their existing home. Unless a conditional use permit is approved by Town Council, the accessory structure cannot be used as an accessory dwelling.

The plat originally submitted for zoning review during the Historic District Review Board application showed the proposed accessory structure as conforming to setbacks, 5 feet from the rear lot line, which in this case is also the alley line. A Certificate of Appropriateness was approved by the Historic District Review Board on October 20, 2020 for the exterior architecture and materials.

Following the approval of the Certificate of Appropriateness the applicant requested a change from the location of the garage for a 3' encroachment into the setback to be 2' from the alley line/rear lot line. Section 4.2(E)(2) and 4.2(E)(5) requires two-story accessory structures to be 5 feet from the alley line and 5 feet from the rear lot line (same line in this case).

The square footage of the garage is 20 x 22 feet (440 square feet), the height is 23 feet, 4 ½". Per zoning code it must be no taller than 2/3 the height of the principal structure (house) or 24 feet, whichever is less. Code also requires the accessory structure to be 15 feet from the principal structure.

The applicant stated in their request that the variance is to allow the garage "to be placed the distance of the original garage as marked on the plat. This 2-foot setback is equivalent to approximately 13 feet from the center of the alley."

Additional justification provided by the applicant was that "the proposed concrete driveway pad could be in the same location as the existing dirt/gravel drive and existing poured apron off the entry from Harbor Ave. The variance would be necessary to move our structure over to align with this driveway apron, and to prevent from having to remove an established crepe myrtle that would have to be removed if we are held to stated zoning setbacks. (The crepe myrtle sits where a driveway and apron would land if held to building 5 feet off the property line in the rear alley). We would also be able to maintain another bank of crepe myrtles to the left of the driveway even with the variance, and locate the drive between the two to provide a pretty framed setting for the garage and drive."

### **Analysis:**

These properties are located in the Single-Family Residential District R-1. At 7,022 square feet, the lot is slightly larger than the required district standard of 5,600 square feet. A frame shed existed at the rear of the property but due to the removal, non-conforming structure rights no longer apply and the applicant must build to setbacks as required in the current zoning district which are 5 feet from the rear and alley line for a 2-story detached accessory structure unless a variance is approved.

#### *Section 2.5.2 Restoration of Non-Conforming Use*

*No building or structure which has been damaged by any cause including neglect to the extent of more than fifty percent of the fair market value of the building immediately prior to damage shall be restored except in conforming with the regulations of this ordinance, and all rights as a non-conforming use are terminated.*

Per state law which is reflected in §2.6.2 of the Cape Charles 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, the applicant requests a variance because the existing concrete apron will not line-up with the accessory structure unless placed 2 feet from the property/alley line. The applicant also states the existing crepe myrtle trees will be in the construction footprint of the driveway if the accessory structure is built as required, 5 feet from the property/alley line.

The applicant has described two issues that pertain to the physical characteristics of the property rather than a self-imposed circumstance. Although construction is one of the few reasons homeowners may remove healthy, mature trees, the Town prefers them to remain for environmental value. The second issue concerns alignment of the existing apron to the proposed structure. Many driveways expand from a narrow concrete apron (width regulated by VDOT) to a greater width adjacent to the structure. However, if the Board finds either removal of the existing trees or a curved driveway to be unsatisfactory, then the applicant has met the burden of proof for their request.

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

If the Board of Zoning Appeals believes the existing concrete apron and existing Crepe Myrtle trees are hindrances to development then it appears it is a hardship that is unique to the applicant's property and not shared generally by other properties.

**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.**

There are many accessory structures within the R-1 district, some that appear to be non-conforming and closer to the rear property line/alley line than 5 feet. However, one of the reasons for the 5-foot setback to alleys is to allow for adequate access for emergency and other utility vehicles. The Town of Cape Charles Fire Official states concern that construction of the two-story shed within the required setback will hinder access and diminish capacity of emergency apparatus should they access the alley. Therefore, staff finds that authorization of such a variance will be of substantial detriment to adjacent properties.

**Staff Recommendation:**

Staff recommends **DENIAL** for a variance to the rear setback for 10 Randolph Avenue for 3 feet due to concerns with public health, safety and welfare issues and being potentially detrimental to adjacent property (public alley).

**Attachments:**

1. Applicant's cover letter
2. Variance Application
3. Northampton County GIS property location

To: Cape Charles Planning Dept.

Fr: Lysa and Clayton Newman

This letter shall serve as the letter of intent to build a garage structure on our property at 10 Randolph Ave, Cape Charles VA 23310. It also asks for a variance to zoning set-back requirements as outlined here.

Our intent, per the attached application, is to build a 2-story garage with a ground floor finished garage and finished space above. This for personal use and an extension of space for our existing home. We would like a variance to build the structure 2' from the property line, which was the distance of the original garage as marked on the plat. This 2' setback is equivalent to approximately 13' from the center of the alley. As a means of comparison, our neighbors garage is located 7' from the center of the alley.

We are requesting this variance so that we can include a concrete driveway pad in the same location as an existing dirt/gravel drive and existing poured apron off the entry from Harbor Ave. The variance would be necessary to move our structure over to align with this driveway apron, and to prevent from having to remove an established crepe myrtle that would have to be removed if we are held to stated zoning setbacks. (The crepe myrtle sits where a driveway and apron would land if held to building 5 feet off the property line in the rear alley). We would also be able to maintain another bank of crepe myrtles to the left of the driveway even with the variance, and locate the drive between the two to provide a pretty framed setting for the garage and drive.

The garage plans were done by the same architect (Brooks Ballard of Home Patterns Inc.) that designed the main house which was built in 2005. Home Patterns specializes in Craftsman inspired homes and plans designed to fit seamlessly in historic districts and existing communities. All materials and design elements for the garage will match and complement those on the main house.

We would like to seek approval asap in order to get contractor commitments and hopefully begin construction in Q4 2020 or Q1 2021.

Our adjacent neighbors are:

Roberta Newman/Chuck Little - 8 Randolph Ave, Cape Charles VA 23310 757-331-3151

Please reach out to either of us with any questions – thank you.

Clayton Newman

Lysa Newman

571-233-5301

603-686-0884



## VARIANCE APPLICATION

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

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

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

### PROJECT INFORMATION

Name of Project: Newman Garage  
Property Address: 10 Randolph Avenue  
Brief Description of Project: Garage with finished space above for personal use  
Zoning District: \_\_\_\_\_ Current Use: \_\_\_\_\_ Proposed Use: garage/office

### OWNER INFORMATION

Name and Company: Lysa and Clayton Newman  
Mailing Address: 10 Randolph Avenue, Cape Charles VA 23310  
Phone Number: [REDACTED] Email: [REDACTED]

### APPLICANT INFORMATION

☒ check here if applicant is owner

Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

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### 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.

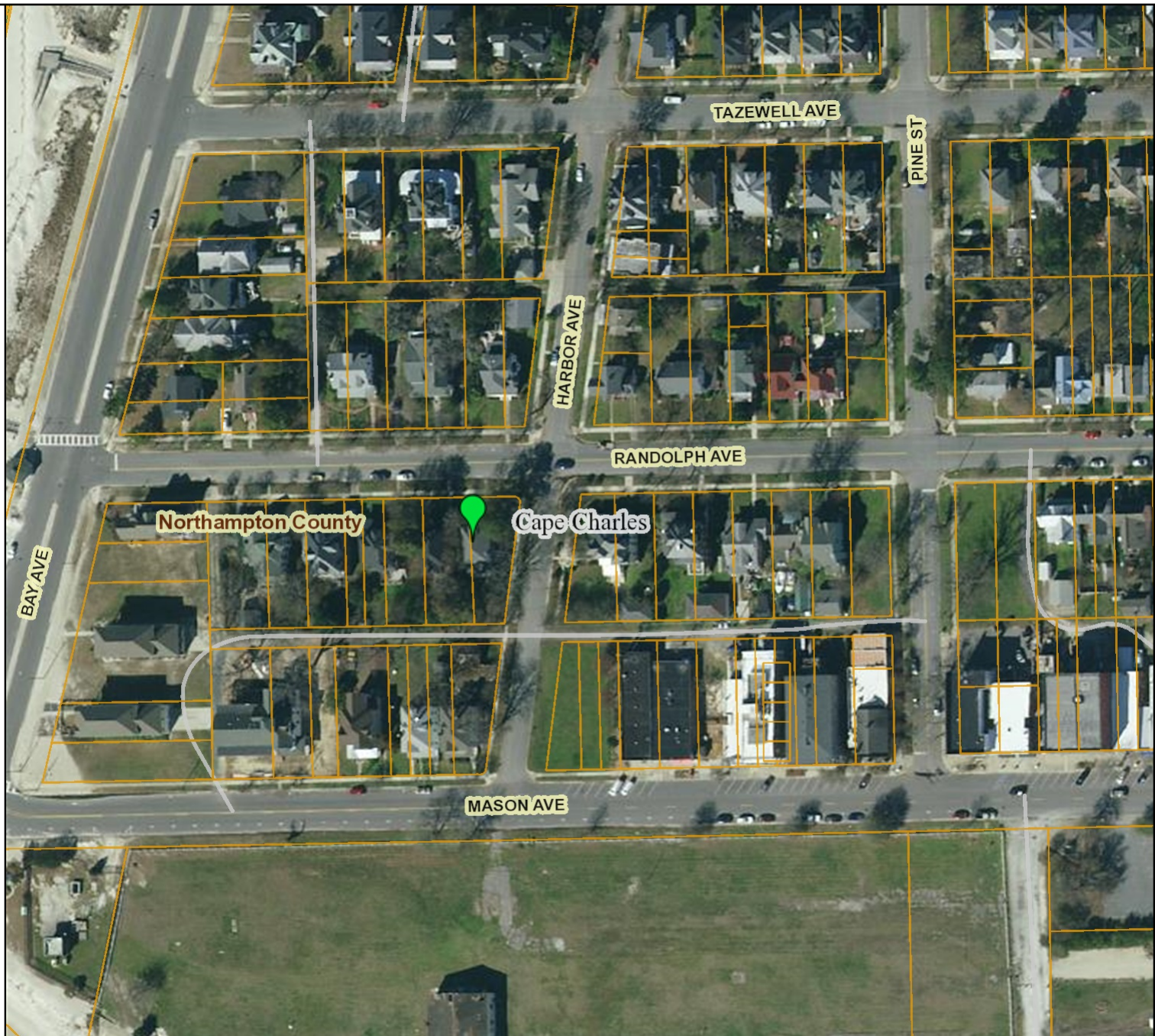
Signature of Applicant: Lysa Newman Date: 11/19/2020



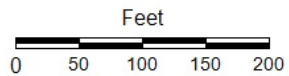
# Northampton County, Virginia

## Legend

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



Map Printed from Northampton  
<https://parcelviewer.geodecisions.com/Northampton/>



**Title: 10 Randolph Avenue**

**Date: 2/11/2021**

*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 due 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.**

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Chairman Bill Murphy

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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.**

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Chairman Bill Murphy

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Planning Technician





## VARIANCE APPLICATION

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

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

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

### PROJECT INFORMATION

Name of Project: Newman Garage  
Property Address: 10 Randolph Avenue  
Brief Description of Project: Garage with finished space above for personal use  
Zoning District: \_\_\_\_\_ Current Use: \_\_\_\_\_ Proposed Use: garage/office

### OWNER INFORMATION

Name and Company: Lysa and Clayton Newman  
Mailing Address: 10 Randolph Avenue, Cape Charles VA 23310  
Phone Number: [REDACTED] Email: [REDACTED]

### 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: Lysa Newman Date: 11/19/2020

To: Cape Charles Planning Dept.

Fr: Lysa and Clayton Newman

This letter shall serve as the letter of intent to build a garage structure on our property at 10 Randolph Ave, Cape Charles VA 23310. It also asks for a variance to zoning set-back requirements as outlined here.

Our intent, per the attached application, is to build a 2-story garage with a ground floor finished garage and finished space above. This for personal use and an extension of space for our existing home. We would like a variance to build the structure 2' from the property line, which was the distance of the original garage as marked on the plat. This 2' setback is equivalent to approximately 13' from the center of the alley. As a means of comparison, our neighbors garage is located 7' from the center of the alley.

We are requesting this variance so that we can include a concrete driveway pad in the same location as an existing dirt/gravel drive and existing poured apron off the entry from Harbor Ave. The variance would be necessary to move our structure over to align with this driveway apron, and to prevent from having to remove an established crepe myrtle that would have to be removed if we are held to stated zoning setbacks. (The crepe myrtle sits where a driveway and apron would land if held to building 5 feet off the property line in the rear alley). We would also be able to maintain another bank of crepe myrtles to the left of the driveway even with the variance, and locate the drive between the two to provide a pretty framed setting for the garage and drive.

The garage plans were done by the same architect (Brooks Ballard of Home Patterns Inc.) that designed the main house which was built in 2005. Home Patterns specializes in Craftsman inspired homes and plans designed to fit seamlessly in historic districts and existing communities. All materials and design elements for the garage will match and complement those on the main house.

We would like to seek approval asap in order to get contractor commitments and hopefully begin construction in Q4 2020 or Q1 2021.

Our adjacent neighbors are:

Roberta Newman/Chuck Little - 8 Randolph Ave, Cape Charles VA 23310 757-331-3151

Please reach out to either of us with any questions – thank you.

Clayton Newman

Lysa Newman

571-233-5301

603-686-0884

THIS IS TO CERTIFY THAT ON AUGUST 30, 2005, WE SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND PHYSICAL IMPROVEMENTS ARE SHOWN ON THIS PLAT. THE IMPROVEMENTS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OR VISIBLE EASEMENTS EXCEPT AS SHOWN.

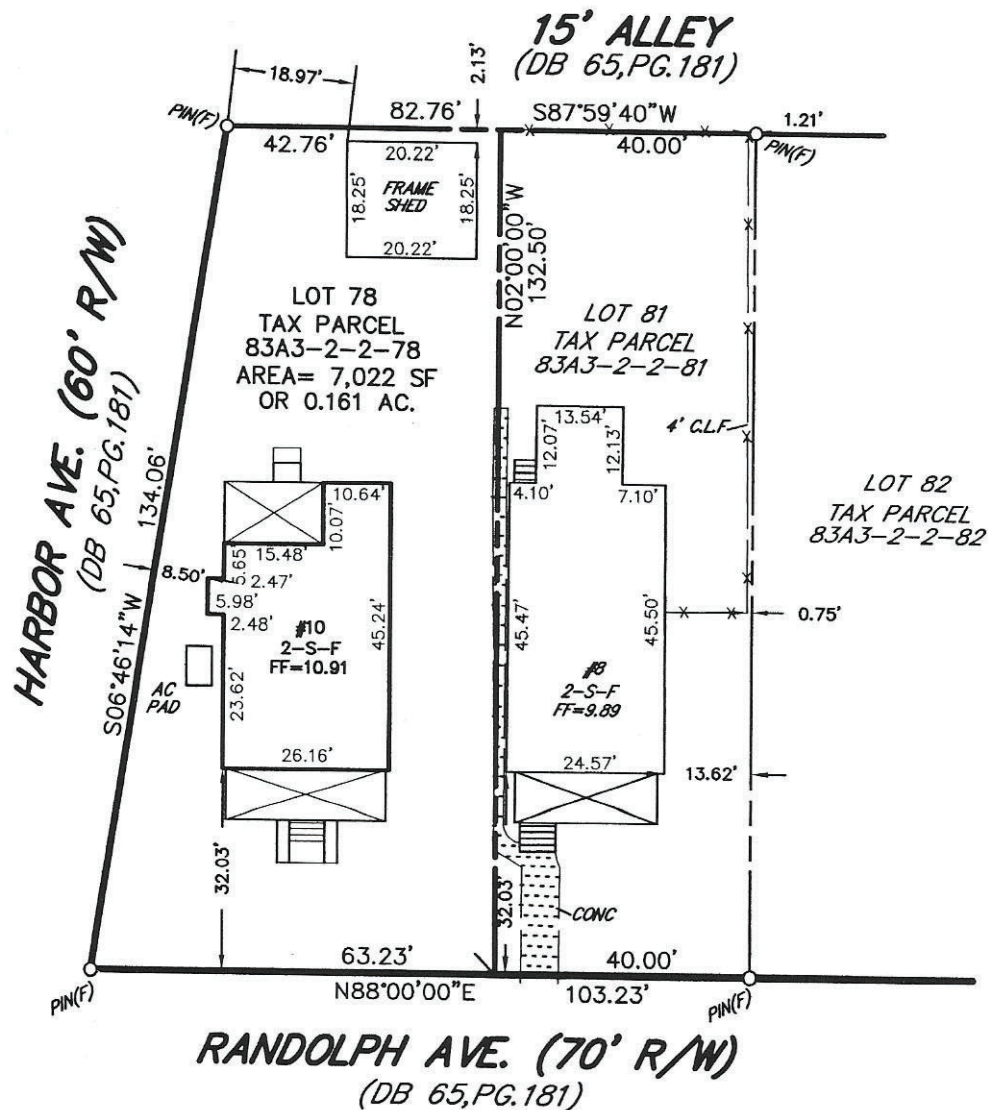
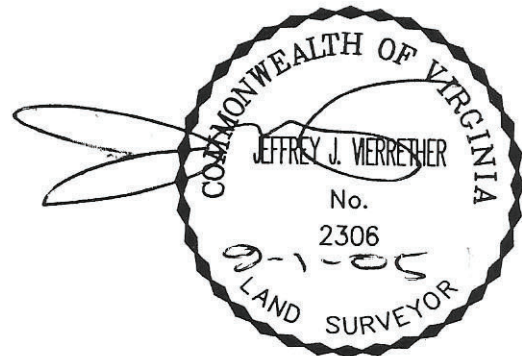
**NOTES:**

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN.
2. FLOOD ZONE INFORMATION SHOWN HEREON IS NOT GUARANTEED AND WAS APPROXIMATELY SCALED FROM F.E.M.A. FLOOD MAPS. MILLER-STEPHENSON & ASSOCIATES, P.C. IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN HEREON FOR FURTHER INFORMATION AND TO CONFIRM THE FLOOD ZONE FOR THIS PROPERTY, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL.
3. ELEVATIONS SHOWN HEREON REFER TO N.G.V.D. 1929.

THIS PROPERTY APPEARS TO FALL IN  
FLOOD ZONE(S) A5 (EL9)  
COMMUNITY NO. 510106

PANEL 1B DATED: FEB 2, 1983

FLOOD ZONE DETERMINATION IS BASED ON THE FLOOD INSURANCE RATE MAPS AND DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE FREE FROM FLOODING OR DAMAGE.



PHYSICAL SURVEY  
FOR  
**LOT 78**  
**#10 RANDOLPH AVENUE**  
BLOCK 2  
THE SEA COTTAGE ADDITION  
TO THE TOWN OF CAPE CHARLES  
(DB 65, PG.181)

THIS IS TO CERTIFY THAT ON AUGUST 30, 2005, WE SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND PHYSICAL IMPROVEMENTS ARE SHOWN ON THIS PLAT. THE IMPROVEMENTS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OR VISIBLE EASEMENTS EXCEPT AS SHOWN.

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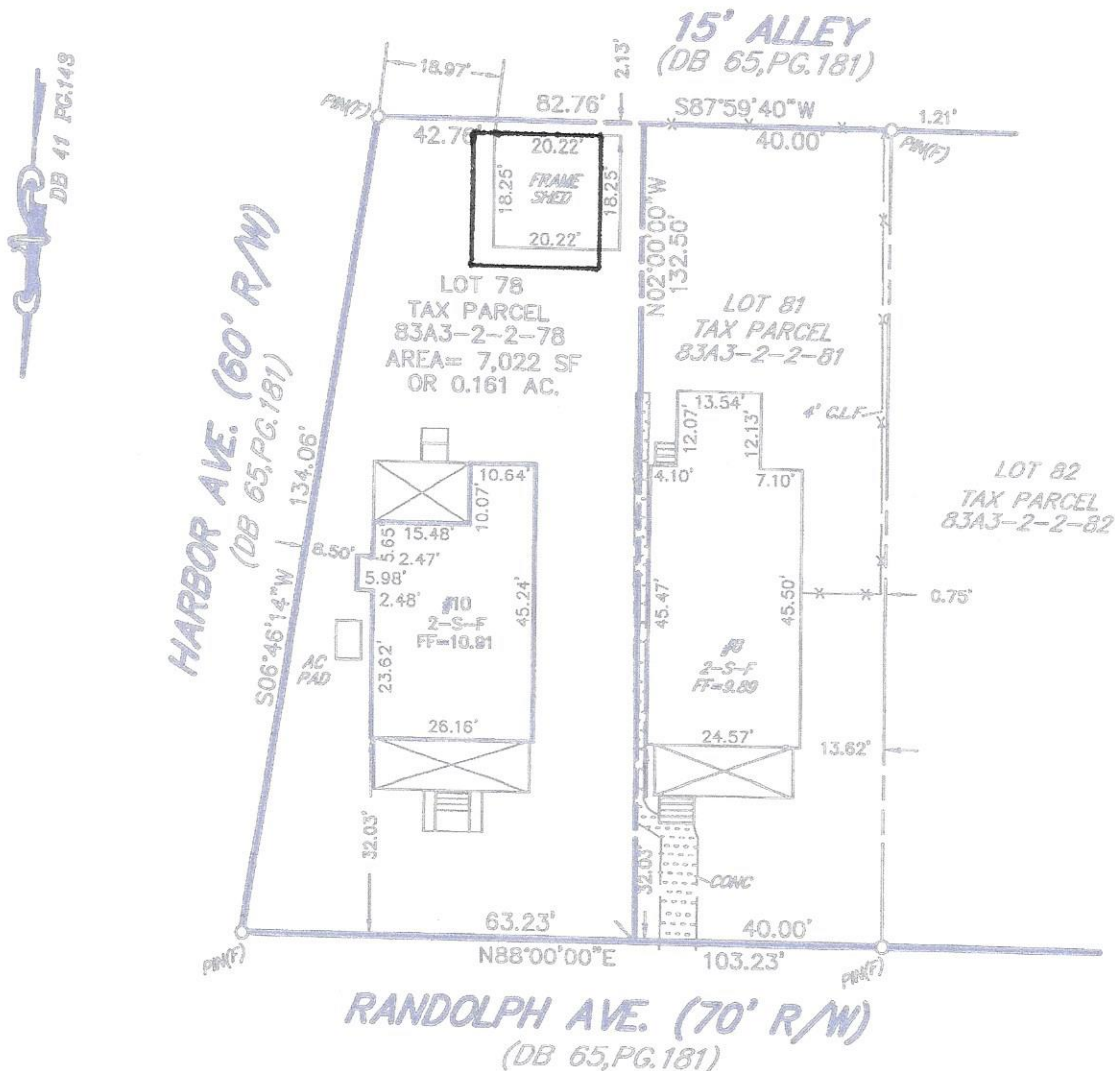
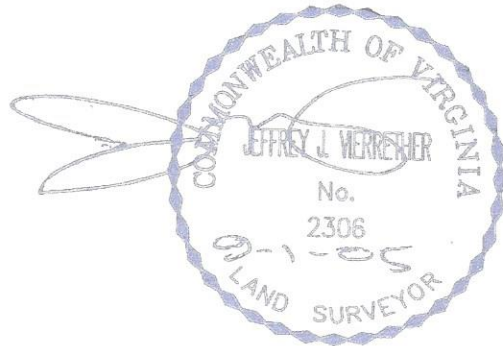
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3. ELEVATIONS SHOWN HEREON REFER TO N.G.V.D. 1929.

THIS PROPERTY APPEARS TO FALL IN FLOOD ZONE(S) A5 (EL9)

COMMUNITY NO. 510108

PANEL 1B DATED: FEB 2, 1983

FLOOD ZONE DETERMINATION IS BASED ON THE FLOOD INSURANCE RATE MAPS AND DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE FREE FROM FLOODING OR DAMAGE.



PHYSICAL SURVEY  
FOR

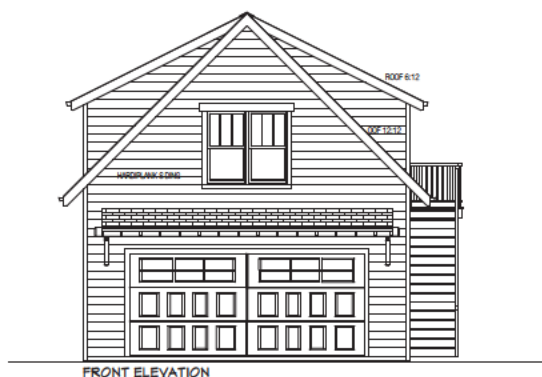
**LOT 78**

**#10 RANDOLPH AVENUE**

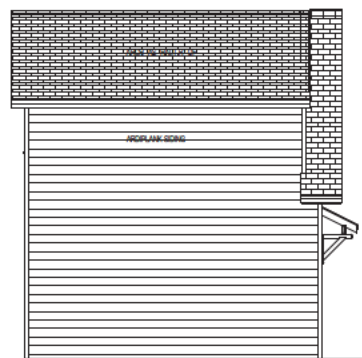
BLOCK 2

THE SEA COTTAGE ADDITION  
TO THE TOWN OF CAPE CHARLES  
(DB 65, PG. 181)





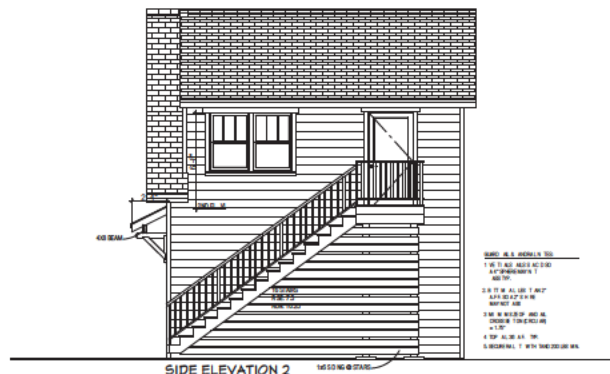
FRONT ELEVATION



SIDE ELEVATION 1

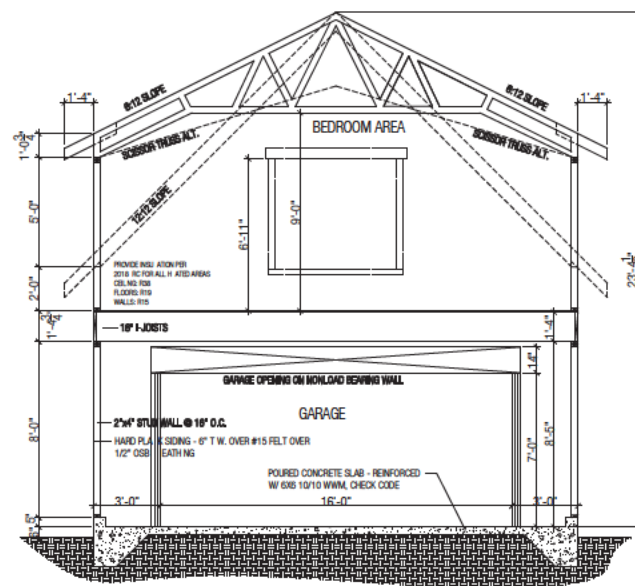


BACK ELEVATION



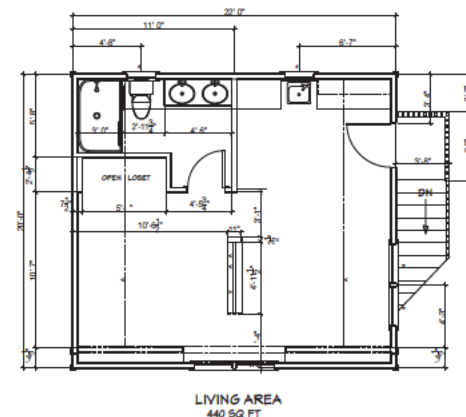
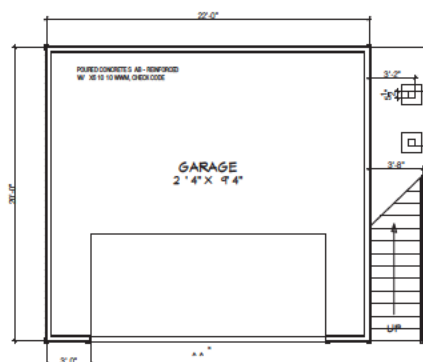
SIDE ELEVATION 2

NOTES:  
1. ALL DIMENSIONS ARE IN FEET AND INCHES.  
2. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.  
3. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.  
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5. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.



GARAGE SECTION

3/16"=1'-0"



LIVING AREA  
440 SQ FT

GARAGE PLAN - FIRST AND SECOND FLOORS

1/4"=1'-0"

GARAGE ELEVATIONS

1/4"=1'-0"

**HOME PATTERNS** crafted simplicity  
30 Elm Place, Hastings on Hudson, NY 10706  
(864) 278 0068 INFO@HOMEPATTERNS.COM

Revisions/Additions By Others

Date of Issue: 1/21/2020

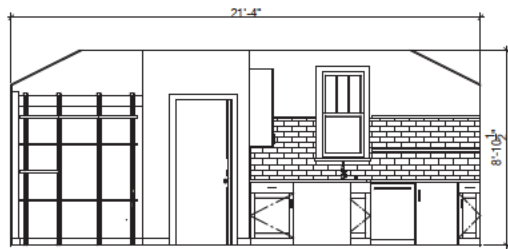
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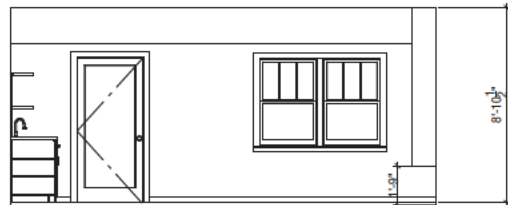
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SECTION



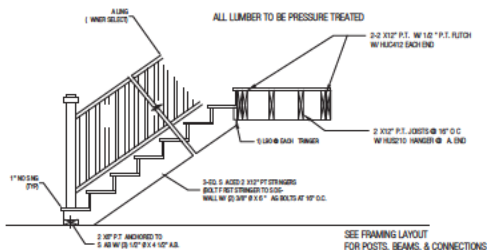
SIDE WALL TO BEDROOM



SIDE ENTRY WALL

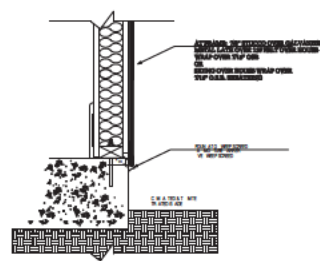
# INTERIOR ELEVATIONS

3/8" = 1'-0"



# TYPICAL STAIR DETAIL

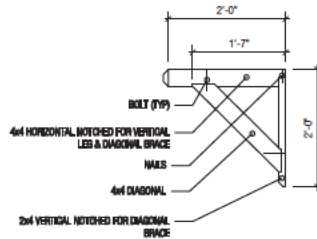
N.T.S.



WEEP SCREEN DETAIL AT SILL PLATE

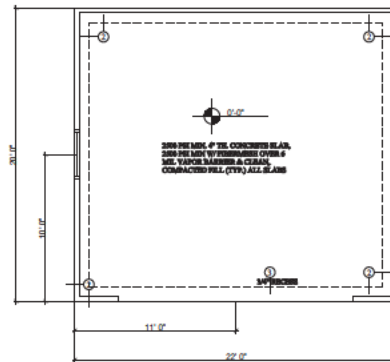
# WEEP SCREEN

N.T.S.



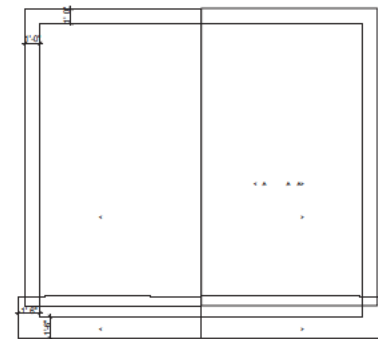
# GARAGE BRACKET DETAIL

1" = 1'-0"



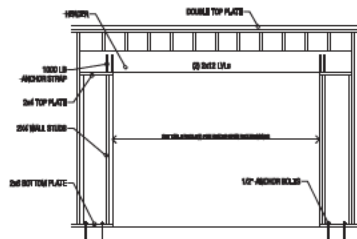
# GARAGE - FOUNDATION PLAN

1/4" = 1'-0"



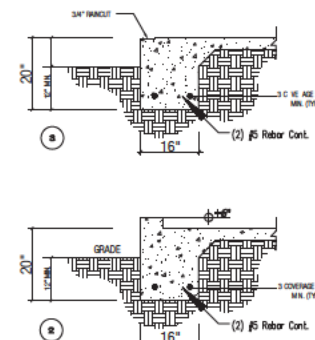
# ROOF PLAN

1/4" = 1'-0"



# GARAGE DOOR OPENING

3/8" = 1'-0"



# GARAGE FOUNDATION DETAIL

3/4" = 1'-0"

**HOME PATTERNS** crafted simplicity  
30 Elm Place, Hastings on Hudson, NY 10706  
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Revisions/Additions by Others  
Date of Issue: 1/21/2020

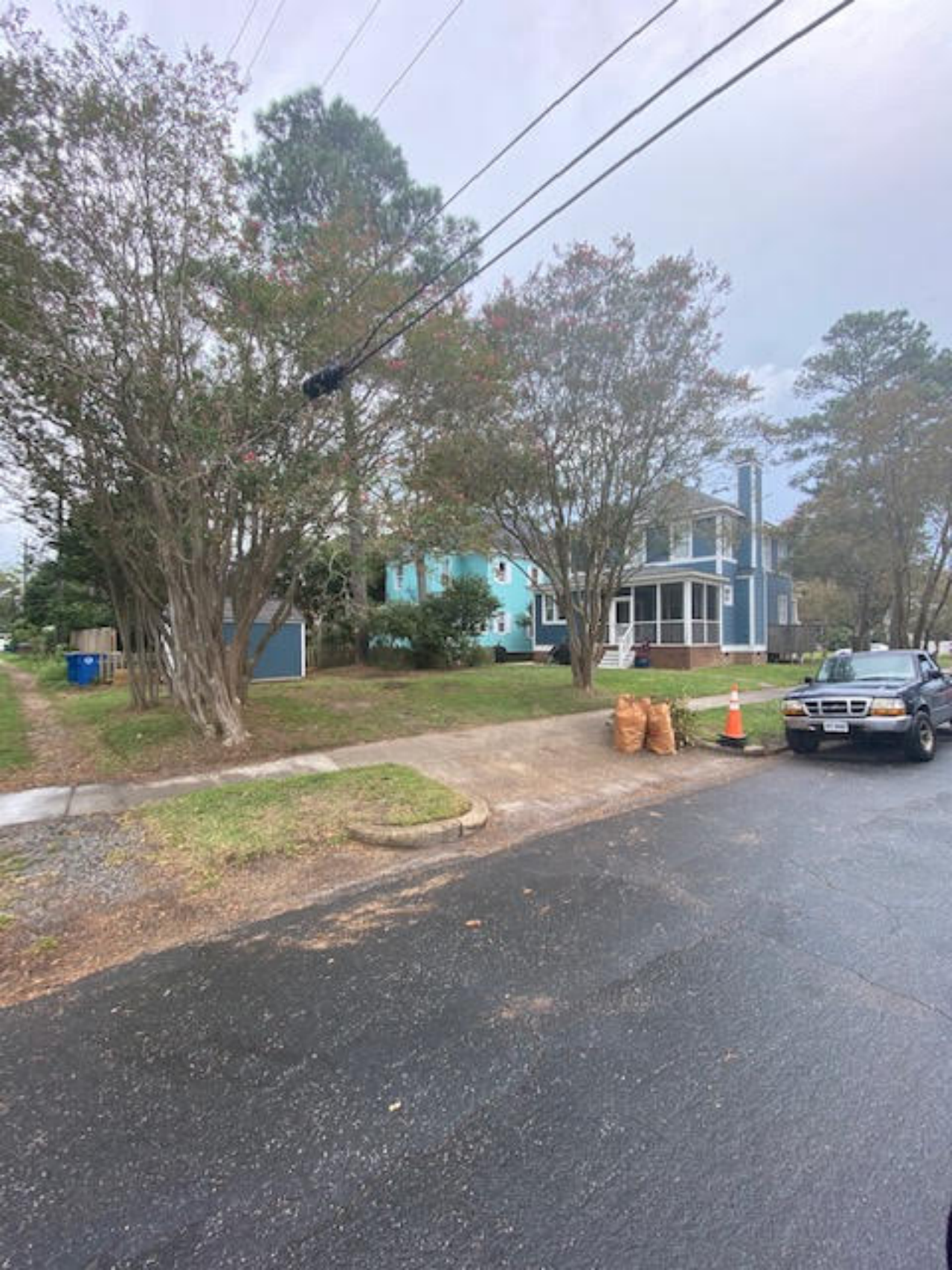
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G2









# Northampton County, Virginia

## Legend

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



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

Feet  
0 100 200 300 400

**Title: 10 Randolph Avenue**

**Date: 9/29/2020**

*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.*