

Board of Zoning Appeals

Public Hearing & Special Meeting Agenda

Cape Charles Civic Center – 500 Tazewell Avenue
April 21, 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 of 3' from the rear yard setback of 25' requirements in Section 4.2 (G) (1) (c) for the construction of a single-family dwelling located at Lots 81 and 84 Strawberry Street (tax map #83A1-1-81A and tax map #83A1-1-84A).
 - i. Zoning Administrator Report
 - ii. Applicant Statement
 - iii. Open Public Hearing
 - b. An application for a variance to allow a two-story addition of 1,320 sq. ft. and a 220 sq. ft. porch to an existing legal, non-conforming structure (duplex) requirements in the following Sections: 2.5.1 (A) (1); 3.2 (G) (2) (b); 3.2 (I) (3); and 4.2 (F) at 426 and 428 Randolph Avenue (tax map #83A3-1-589).
 - i. Zoning Administrator Report
 - ii. Applicant Statement
 - iii. Public Hearing Comments
3. Close Public Hearing
4. Invocation and Pledge of Allegiance
5. Consent Agenda
 - a. Approval of agenda format
 - b. Approval of minutes
6. New Business
 - a. An application for a variance of 3' from the rear yard setback of 25' requirements in Section 4.2 (G) (1) (c) for the construction of a single-family dwelling located at Lots 81 and 84 Strawberry Street (tax map #83A1-1-81A and tax map #83A1-1-84A).
 - b. An application for a variance to allow a two-story addition of 1,320 sq. ft. and a 220 sq. ft. porch to an existing legal, non-conforming structure (duplex) requirements in the following Sections: 2.5.1 (A) (1); 3.2 (G) (2) (b); 3.2 (I) (3); and 4.2 (F) at 426 and 428 Randolph Avenue (tax map #83A3-1-589).
7. Adjourn

Notice of Public Hearing

The Cape Charles Board of Zoning Appeals will hold a public hearing on Wednesday, April 21, 2021 at 10:00 am in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive public comment on the following:

- A. An application from Spencer Custis for a variance of 3 feet from the rear yard setback of 25 ft. pursuant to Cape Charles Zoning Code Section 4.2(G) (1) (c) for the construction of a single-family dwelling located at Lots 81 and 84 Strawberry Street. The property is located at Tax Map #83A1-1-81A & 84A in the R-1 District.
- B. An application from Mary Sessoms Huff at 426-428 Randolph Avenue in the Residential-1 (R-1) District to add a 1,320 square foot 2-story addition and 220 square foot porch to an existing legal, non-conforming structure (a duplex) requiring the following variances pursuant to Cape Charles Zoning Code:
 - 1. Section 2.5.1 (A) (1) to allow for the addition of 1,320 sq. ft to a legal, non-conforming structure & 220 sq. ft for a rear porch;
 - 2. Section 3.2 (G) (2) (b) to allow a variance of 5 ft to provide a 0 ft side yard setback;
 - 3. Section 3.2 (I) (3) to allow the roof pitch of the new addition to match the roof pitch of the existing structure which does not meet an 8:12 pitch; and
 - 4. Section 4.2 (F) to allow the primary roof eave extensions for the new addition to extend 3 feet from the east & west boundary lines of said lot

The property is located at Tax Map #83A3-1-589 in the R-1 District.

The Board of Zoning Appeals will hold a meeting immediately following the public hearing to consider the request. The applications are available for public review on our website at www.capecharles.org. Please contact Interim Town Planner/Zoning Administrator Katie Nunez 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: April 20, 2021

Item #: 2a – Variance from Rear Yard Setback

Prepared by: Katie H. Nunez, Interim Planning/Zoning Administrator

Date: April 15, 2021

APPLICANT: Spencer Custis

SITE ADDRESS: Lots 81 & 84 Strawberry St.

TAX MAP: 83A1-1-81A & 84A

LOT SIZE: 3,490.40 sq. ft.

TYPE OF APPLICATION: Variance

SPECIFIC REQUEST: Rear Setback – relief of 3 feet

ZONING: Section 4.2 (G) (1) (c)

CURRENT ZONING: Residential (R-1)

DATE RECEIVED: February 10, 2021

DATE DEEMED COMPLETE: March 2, 2021

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): May 1, 2021

NARRATIVE OF PROPOSAL

The applicant is seeking to construct a home on Lots 81A & 84A Strawberry St; however, due to a prior subdivision of Lot 84 (possibly in 2009 or earlier) which has created an encroachment over the property line of the existing house located on Lot 84, the applicant has designed a house to accommodate the available land to construct a 2-story, 1,960 square foot home. The proposed placement would encroach into the rear setback by 3 feet. In the Residential-1 (R-1) Zoning District, the rear setback requirement is that each main structure shall have a minimum rear yard setback of 25 feet and the proposed site plan shows a rear yard setback of 23.74 feet, therefore, they are seeking a variance of 3 feet from the rear yard setback requirement.

AERIAL MAP: Property outlined in blue



In my research regarding the history of Lots 81 and 84, the property was surveyed in 2009 showed that at some point in time a subdivision of both lots occurred; however, the creation of the new lots did not ensure that any structures remained wholly on one legal lot but allowed the lot line between Lot 84 and the remainder of Lot 84 to have the structure reside on both lots. The current owner of the house that falls on Lot 84 and Lot 84A is Odessa Sullivan who inherited this property through a will and the Northern areas of Lots 81 and 84, which we now identify as Lots 81A and 84A, were sold and now in turn are being sold again to the applicant.

THIS IS TO CERTIFY THAT ON APRIL 30, 2009, 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. MSA, 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.

THIS PROPERTY APPEARS TO FALL IN FLOOD ZONES: AE (BFE 8) COMMUNITY NO. 15131C PANEL: 2002 DATED: AUGUST 26, 2008

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.

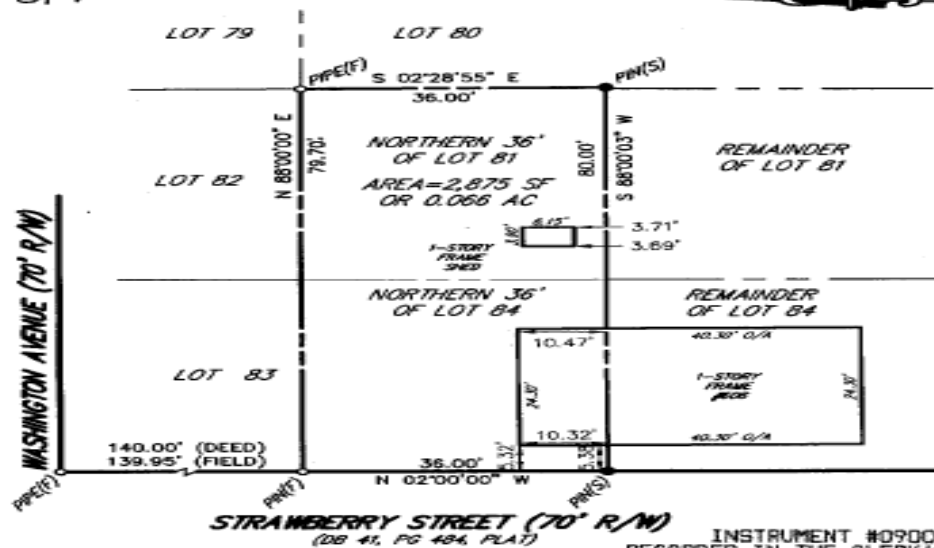
3. THE OWNERS OF RECORD FOR NORTHAMPTON COUNTY TAX ASSESSOR ARE NELLIE & DEANA CROPP. TITLE SOURCE INSTR. #0800012.

MSA, P.C.



083A101 BLK 00081A

(PLAT IN DB 41, PG 484)



STRAWBERRY STREET (70' R/W)
(DB 41, PG 484, PLAT)

INSTRUMENT #090001207
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
JUNE 5, 2009 AT 10:23AM

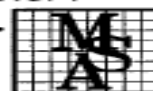
PHYSICAL SURVEY
OF
NORTHERN 36' OF
LOTS 81 & 84
"MAP OF THE TOWN OF CAPE CHARLES"
(DB 41, PG 484, PLAT)
NORTHAMPTON COUNTY, VIRGINIA
FOR

TRACI L. JOHNSON, CLERK
RECORDED BY: SBS

WILSON W. CROPP, II & DEANA CROPP



MSA, P.C.
Landscape Architecture - Planning
Surveying - Engineering
Environmental Sciences



5033 ROUSE DRIVE, VIRGINIA BEACH, VA 23462-3708

ORDINANCE REQUIREMENTS TO BE CONSIDERED:

- (a) **Does the evidence show that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance?**

The lot size is generally sufficient that we would work with the applicant to amend the house design and layout on the site to meet the setback requirements; however, due to the inherited condition of this property from a poor subdivision of Lot 84/84A, there is an encroachment of the existing house located on Lot 84 into Lot 84A, thus limiting the full use of Lot 84A by any owner. The request for a 3 ft. variance from the rear yard setback requirement is a reasonable solution to the problem facing this property due to the encroachment of the house from Lot 84.

The applicant is fully aware of the situation and is willing to enter into an easement agreement with the current owner of Lot 84 (Odessa Sullivan) to continue to allow the existing house on Lot 84 to encroach onto his property but with terms that would end the encroachment based in the future.

- (b) **Was the property interest for which the variance is being requested acquired in good faith and any hardship was not created by the applicant for the variance?** The applicant did not create the property conditions that have resulted in trying to design and place a house on the lots in this manner, thus creating a need to seek a variance since they are unable to fully utilize their lot due to an encroachment from an existing structure due to a poor subdivision of the lot many years prior.

- (c) **Will the granting of the variance not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area?**

The variance would not be of detriment to adjacent property and nearby properties.

- (d) **Is the condition or situation of the property concerned not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance?**

This appears to be a fairly rare case and does not support the consideration of the formulation of a general regulation to the ordinance.

- (e) **Does the granting of the variance result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property?**

The Residential-1 (R-1) Zoning District allows single family dwellings by right.

- (f) **Is the relief or remedy sought by the variance application not available through a special exception process that is authorized in the ordinance or the process for modification of a zoning ordinance at the time of the filing of the variance application?**

No. The variance is necessary.

DISCUSSION POINTS:

1. Does the Board feel that allowing the variance from the rear setback requirements is reasonable?

BZA REVIEW:

Some items that the BZA may wish to consider in its review:

1. *Is the application complete and does it contain sufficient information and detail for the BZA to make a defensible ruling?*
2. *Is on its face, is the proposal, a sound and well thought out one that has taken into account potential downsides as well as upsides?*
3. *Are there compelling reasons to approve or deny the request, beyond the fact that no one has spoken in opposition to it or that some are opposed to it?*

STAFF RECOMMENDATION:

Staff recommends that the BZA consider the items that have been raised in this report and consider the request at hand. The staff would recommend that the application be approved based upon the points raised in this staff report, specifically in the section called “ORDINANCE REQUIREMENTS TO BE CONSIDERED”.

PROPOSED MOTION FOR CONSIDERATION:

Staff offers the following motion for the Board’s consideration and is prepared to assist to amend or alter the motion based upon the public hearing and discussion of the Board:

After careful consideration of the application and the staff report, the Board of Zoning Appeals votes to approve the Variance Application from Spencer Custis for Lots 81A & 84A Strawberry Street (Tax Map #83A1-1-81A & 84A) for a variance of 3 feet from the rear yard setback requirements in the Residential-1 district pursuant to Cape Charles Zoning Ordinance Section 4.2 (G) (1) (c), based upon the reasons outlined in the Staff Report “Ordinance Requirements to be Considered”.

Attachments:

Attachment 1 – Application and Documents

received
via email / 2-10-21
permitted@ccc.org

Spencer Custis
4005 Kensington Avenue
Richmond, VA 23221

Town of Cape Charles
Board of Zoning Appeals
C/O Allyson Finchum

Allyson,

I am writing to request a variance to allow a residential home to be constructed on Strawberry Street, Northern lots 81 and 84. There is an existing structure currently residing on the remainder of lot 84 that encroaches by over 10' onto our lot. We are asking to be allowed to build our home and we will grant a permanent easement to the adjacent homeowner to allow their home on our lot. We are not asking for a boundary line adjustment because, once the existing structure is gone, we do not want someone to be able to build so close to our home, and, since these lots are non-conforming and smaller, we want to keep the existing property line. Once the current owner of the existing home sales their property, it will most likely be razed and keeping the existing property line is the best solution, not only for today, but in the future.

Since the current lot has buildable area challenges because of the encroachment, we are also asking for a variance with the rear setback to allow us to build 22' from the rear property line. Because of the encroachment, building a suitable structure has been hindered and we would need to utilize part of the rear setback.

Thank you for your consideration of our request and we look forward to building our home.

Sincerely,



Spencer Custis



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: Strawberry St./Custis
Property Address: _____
Brief Description of Project: Residential New Construction
Zoning District: _____ Current Use: _____ Proposed Use: _____

OWNER INFORMATION

Name and Company: Spencer Custis
Mailing Address: 4005 Kensington Ave, Richmond, VA 23221
Phone Number: 757-710-0728 Email: spenmc9@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: Spencer Custis Date: 1/25/2021



PRE-APPLICATION INFORMATION FORM

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

APPLICANT INFORMATION

Name: Spencer Custis
Mailing Address: 4005 Kensington Ave, Richmond, VA 23221
Phone Number: 757-710-0728 Email: Spencer9

PROJECT SUMMARY

Address of Project: Lot 81A + 84A
Application Type (rezoning, variance, etc.): Variance + New Construction
Total Acreage of Project: 2,880 sq. ft.

Detailed Description (Include proposed use(s) and square footage of floor area for each use):

New construction dwelling with 980 square feet
on both floors for a total of 1960 square feet
Also asking for a rear yard variance due to challenge
of building envelope with encroaching home. We will add
a permanent easement around the encroaching home so
that the lot line stays the same when the encroaching home
is no longer there.

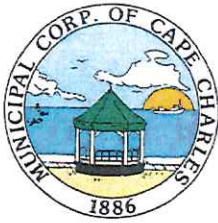
Signature of Applicant: Spencer Custis Date: 1/21/21

For Internal Use Only:

Pre-Application Meeting Date: _____

Staff Printed Name: _____ Signed: _____

HDRB Rep Printed Name: _____ Signed: _____



CERTIFICATE OF APPROPRIATENESS 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 | ☐ Proposed materials/spec sheets, samples |
| ☐ Proposed site plan or survey (if applicable) | ☐ Payment of fees (new construction >2,000 square feet \$500; new construction up to 2,000 square feet \$300; all other \$150; modification \$250) |

PROPERTY INFORMATION

Name of Project: Strawberry St. / Custis
Property Address: _____
Brief Description of Project: New Construction Residential
Zoning District: _____ Current Use: _____ Proposed Use: _____

OWNER INFORMATION

Name and Company: Spencer + Lauren Custis
Mailing Address: 4005 Kensington Ave
Phone Number: 757-710-0728 Email: spenmc9@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: Spencer Custis Date: 1/21/2021

Note: There is a required 30-day wait period between approval of a Certificate of Appropriateness and issuance of the permit for construction.

assessed: \$110,000

Deed prepared by Tucker Griffin Barnes, 307 West Rio Road, Charlottesville, VA 22901

Tax Map and Parcel: 00085-15-00-0008; 083A1-01-00-081A and 083A1-01-00-180A

Consideration: 60,000.00

Name of Title Insurance Underwriter for Instrument: Old Republic National Title Insurance Company

THIS DEED, made this 26th day of April, 2010, by and between
WILSON W. CROPP, II, hereinafter referred to as the Grantor, and
R. WAYNE CHRISTIAN and MARY JO CHRISTIAN, husband and wife,
hereinafter referred to as the Grantees, whose address is
7621 Three Notch Road, Louisa VA 23093.

W I T N E S S E T H

That for and in consideration of the sum of TEN and 00/100
DOLLARS (\$10.00) and other good and valuable consideration, cash
paid in hand, the Grantors do hereby GRANT, BARGAIN, SELL AND
CONVEY with GENERAL WARRANTY and ENGLISH COVENANTS OF TITLE unto
the said Grantees, as tenants by the entirety with full rights to
survivorship as at common law and not as tenants in common, the
following described property:

SEE ATTACHED SCHEDULE A

This conveyance is made subject to the easements,
restrictions, conditions and reservations contained in duly
recorded deeds, plats and other instruments constituting
constructive notice in the chain of title to the property hereby
conveyed which have not yet expired by limitation of time
contained therein or have not otherwise become ineffective.

WITNESS the following signatures and seals.

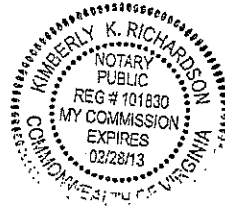
Wilson W. Cropp, II (SEAL)

STATE OF VIRGINIA
COUNTY OF ALBEMARLE, to-wit:

The foregoing instrument was acknowledged before me this 26th day of April, 2010, by Wilson W. Cropp, II.

Notary Public

My commission expires: 22813



SCHEDULE A

PARCEL ONE: All that certain lot or parcel of land, together with the buildings and improvements thereon, situate near Cheriton Station, Eastville District, Northampton County, Virginia, containing 12.488 acres, more or less, as shown on a certain plat of survey entitled "Survey of Carol Elizabeth Walters" by Eastern Shore Surveyors dated May 2, 2002, which plat is attached to and made a part of a certain deed dated April 17, 2003, and recorded in the Clerk's Office in Plat Book 31, at Page 38. Reference is which is made for a more particular description of the property herein conveyed. Bounded on the North by the land now or formerly owned by Samuel Kindred; on the East by Lot 1 of Bloomington Estates and by the land now or formerly owned by Euseblus Milton Kellam, Jr., on the South by Virginia State Route 639 (Sunnyside Road); and on the West by the land now or formerly owned by Kevin M. Francis and Mozella F. Francis and by the land now or formerly owned by Stephen M. Robins; BEING the same property in all respects conveyed to Wilson W. Cropp, II from Carol Elizabeth Walters, by a Deed dated April 17, 2003, and recorded in the Clerk's Office of the Circuit Court of Northampton County as Instrument 030001205.

PARCEL TWO: All that portion of certain lots or parcels of land, with the buildings and improvements thereon, situate on the East side of Strawberry Street, between Jefferson and Washington Avenues, in the Town of Cape Charles, Northampton County, Virginia, and being a part of lots numbered with the numbers 81 and 84 on a plat of said Town recorded with a deed from William L. Scott, et ux, to William Bauman, et als, in Deed Book 41, at pages 483, 484 and 485 in the Clerk's Office of Northampton County, Virginia. TOGETHER WITH all and singular the buildings and improvements thereon, rights and privileges, tenement, hereditaments, easements and appurtenances unto the said land belonging or in anywise appertaining. SUBJECT HOWEVER to all restrictions, easements and rights-of-way and other conditions of record. THIS BEING all and the same real estate conveyed to Wilson W. Cropp, II from James W. Elliott, Special Commissioner by a Deed dated July 11, 2008, and recorded in the Clerk's Office of the Circuit Court of Northampton County as Instrument #080001612.

PARCEL THREE: All that certain lot, with the buildings and improvements thereon, situate on Jefferson Avenue in Cape Charles, Virginia, and being the northern portion of the lot numbered 180 on the plat of the Town of Cape Charles, Northampton County, Virginia. TOGETHER WITH all and singular the buildings and improvements thereon, rights and privileges, tenement, hereditaments, easements and appurtenances unto the said land belonging or in anywise appertaining. SUBJECT HOWEVER to all restrictions, easements and rights-of-way and other conditions of record. THIS BEING all and the same real estate conveyed to Wilson W. Cropp, II from James W. Elliott, Special Commissioner by a Deed dated July 11, 2008, and recorded in the Clerk's Office of the Circuit Court of Northampton County as Instrument #080001611.

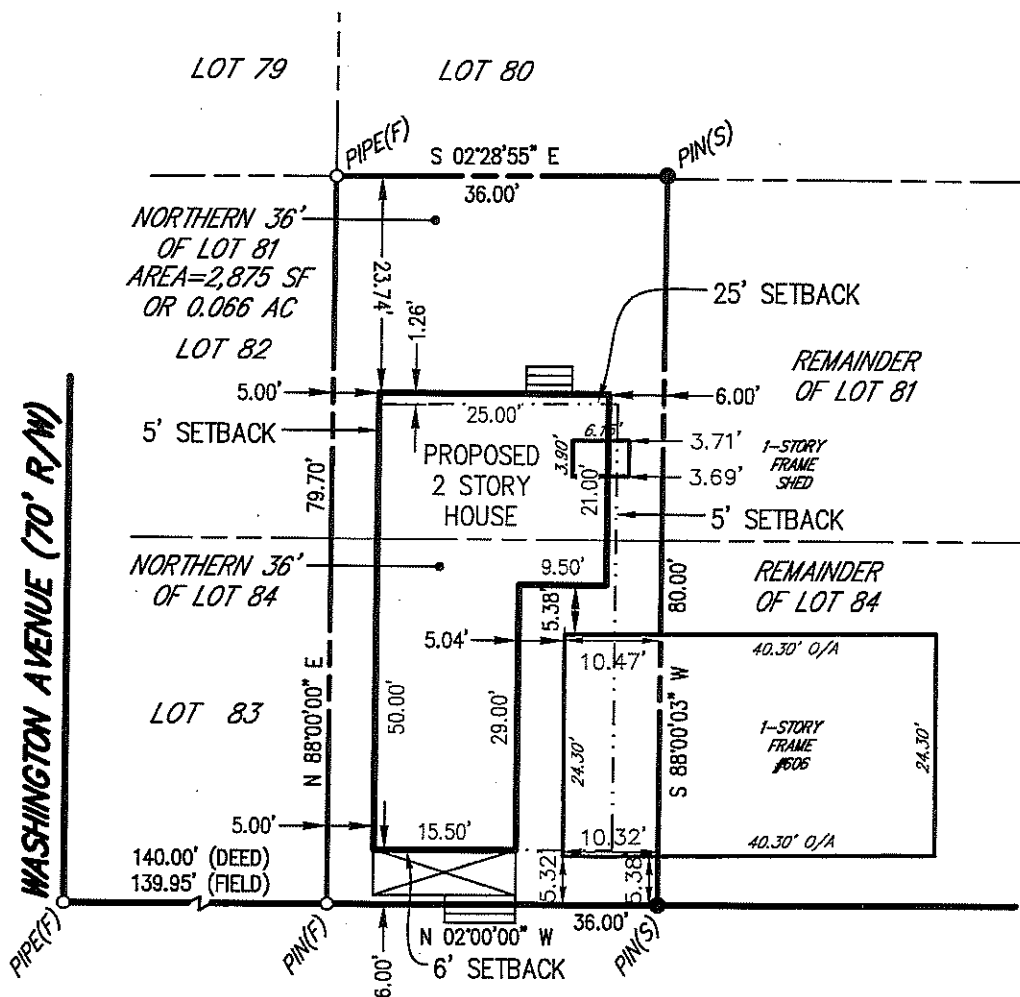
INSTRUMENT #100000726
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MAY 3, 2010 AT 10:41AM
\$110.00 GRANTOR TAX WAS PAID AS
REQUIRED BY SEC 58.1-802 OF THE VA. CODE
STATE: \$55.00 LOCAL: \$55.00

TRACI L. JOHNSON, CLERK
RECORDED BY: SBS

NOTES

1. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND THEREFORE MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT THE PROPERTY AS SHOWN. PROPERTY IS SUBJECT TO RIGHTS-OF-WAY, EASEMENTS, COVENANTS AND ALL MATTERS OF PUBLIC RECORDS.
2. THE PROPERTY DOES NOT FALL IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON THE FEMA NFIP FIRM FOR CAPE CHARLES, VIRGINIA, COMMUNITY-PANEL NUMBER 51131C0295F, DATED: 03/02/2015. THE PROPERTY FALLS IN FLOOD ZONE "X". THE PROPERTY DOES NOT FALL IN "FLOODPLAINS SUBJECT TO SPECIAL RESTRICTIONS".
3. THE INTENT OF THIS EXHIBIT IS TO SHOW A PROPOSED TWO STORY HOUSE ON THE NORTHERN 36FT OF LOTS 81 AND 84.

(PLAT IN DB 41, PG 484)



STRAWBERRY STREET (70' R/W)
(DB 41, PG 484, PLAT)

BUILDING EXHIBIT
FOR
NORTHERN 36' OF
LOTS 81 & 84



BOARD OF ZONING APPEALS STAFF REPORT

Meeting Date: April 20, 2021

Item #: 2b – Variance

Prepared by: Katie H. Nunez, Interim Planning/Zoning Administrator

Date: April 15, 2021

APPLICANT: Mary Sessoms Huff, owner **TYPE OF APPLICATION:** Variance
Ed Eichman, applicant

SITE ADDRESS: 426-428 Randolph

SPECIFIC REQUEST: 1) Addition of 1,320 sq. ft to a legal non-conforming structure & 220 sq. ft for rear porch;
2) 5 ft of relief from side yard setback; 3) Roof pitch; and
4) Roof Eave extension beyond lot line

TAX MAP: 83A3-1-589

ZONING: Sections 2.5.1 (A) (1); 3.2(G)(2); 3.2 (I) (3); and
4.2 (F)

LOT SIZE: 5,600 sq. ft.

CURRENT ZONING: Residential (R-1)

DATE RECEIVED: February 17, 2021

DATE DEEMED COMPLETE: March 2, 2021

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): **May 1, 2021**

NARRATIVE OF PROPOSAL

The applicant is seeking to add an addition of 1,320 square feet to a legal, non-conforming structure (a duplex house of 2,340 sq. ft built approximately in 1919) and 220 square feet for a rear porch. This addition would require relief from the side yard setback of 5 ft to allow for a 0-ft. setback to the side property line. This proposed addition would retain the same roof line on the existing structure which does not meet the ordinance requirement of an 8:12 pitch and the primary roof eaves would extend 3 feet to the east & west boundary lines of the lot.

AERIAL MAP: *Property outlined in blue*



The first matter of consideration is the request for the addition of 1,320 square feet. The existing structure is a legal, non-conforming structure in existence prior to the adoption of Town Zoning. Under the ordinance, it states in Section 2.5.1 (A) (1) that “No such non-conforming use, building, or structure shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of the adoption of this ordinance, unless said enlargement does not result in an increase in nonconformity or result in a change to a use permitted in the district.”

The lot itself is a legal lot at 5,600 square feet and entitled for a single-family dwelling by right and is allowed a maximum dwelling size of 4,500 square feet. The proposed addition with the existing square footage brings the building square footage total to 3,560 sq. ft which is below the maximum allowed dwelling. The use of the structure is what designates this as a legal, non-conforming structure – a duplex which is not a use allowed by right or through special or conditional use permit in the R-1 District. The consideration of the increase of square footage through an addition would not increase the nonconformity of the structure as a duplex but would only enhance the structure and contribute to a renovation effort on this structure that would be harmonious with the Historic District Overlay.

If the Board finds it reasonable to approve the variance for the additions to the duplex, then additional variances are being sought to keep the addition harmonious to the existing structure architecture and placement on the lot. Specifically, the house currently does not have a side yard setback which would normally be five feet pursuant to Section 3.2 (G) (2) (b) and the applicant is requesting for a variance from the side yard setback for the addition as well.

Then, the roof pitch would remain consistent with current roof pitch on the house which does not adhere to Section 3.2 (I) (3) which calls for an 8:12 roof pitch so this would require a variance to the roof pitch requirement. Lastly, the primary roof eave extensions for the new addition would extend 3 feet from the east & west boundary lines of said lot which would require a variance from Section 4.2 (F) – Projections Allowed in Required Setbacks.

The applicant has included the existing site survey, the proposed site plan and pictures of the proposed additions and current photographs of the structure for the Board’s review, which are attached.

ORDINANCE REQUIREMENTS TO BE CONSIDERED:

- (a) Does the evidence show that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance?**

While the lot is a legally sized lot at 5,600, the structure as a duplex is the element that designates this as a legal, non-conforming use. The addition would be allowed by a matter of right if this was a single-family home but the duplex use of the structure requires analysis through the non-conforming section of the ordinance. The addition of square footage to the

structure would not expand the non-conforming use and would improve the housing stock at this location through the proposed renovation of the property.

- (b) **Was the property interest for which the variance is being requested acquired in good faith and any hardship was not created by the applicant for the variance?** The use of the structure as a duplex has been in existence since prior to the ordinance adoption in 1992.
- (c) **Will the granting of the variance not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area?**
The variances would not be of detriment to adjacent property and nearby properties.
- (d) **Is the condition or situation of the property concerned not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance?**
This appears to be a fairly rare case and does not support the consideration of the formulation of a general regulation to the ordinance.
- (e) **Does the granting of the variance result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property?**
The use is a legal, non-conforming use and would be allowed to continue.
- (f) **Is the relief or remedy sought by the variance application not available through a special exception process that is authorized in the ordinance or the process for modification of a zoning ordinance at the time of the filing of the variance application?**
No. The variance is necessary.

DISCUSSION POINTS:

1. Does the Board feel that allowing the variances requested is reasonable?

BZA REVIEW:

Some items that the BZA may wish to consider in its review:

1. *Is the application complete and does it contain sufficient information and detail for the BZA to make a defensible ruling?*
2. *Is on its face, is the proposal, a sound and well thought out one that has taken into account potential downsides as well as upsides?*
3. *Are there compelling reasons to approve or deny the request, beyond the fact that no one has spoken in opposition to it or that some are opposed to it?*

STAFF RECOMMENDATION:

Staff recommends that the BZA consider the items that have been raised in this report and consider the request at hand. The staff would recommend that the application be approved based upon the points raised in this staff report, specifically in the section called “ORDINANCE REQUIREMENTS TO BE CONSIDERED”.

PROPOSED MOTION FOR CONSIDERATION:

Staff offers the following motion for the Board’s consideration and is prepared to assist to amend or alter the motion based upon the public hearing and discussion of the Board:

After careful consideration of the application and the staff report, the Board of Zoning Appeals votes to approve the Variances Application from Mary Sessoms Huff for 426-428 Randolph Avenue (Tax Map #83A1-1-589) for the following variances:

- 1) Section 2.5.1 (A) (1) to allow for the addition of 1,320 square feet to a legal, non-conforming structure & 220 sq. ft for a rear porch;*
- 2) Section 3.2 (G) (2) (b) to allow a variance of 5 ft to provide a 0 ft. side yard setback;*
- 3) Section 3.2.1 (I) (3) to allow the roof pitch of the new addition to match the roof pitch of the existing structure which does not meet an 8:12 pitch; and*
- 4) Section 4.2 (F) to allow the primary roof eave extensions for the new addition to extend 3 feet from the east & west boundary lines of said lot.,*

based upon the reasons outlined in the Staff Report “Ordinance Requirements to be Considered”.

Attachments:

Attachment 1 – Application and Documents

Attachment 2 – Cape Charles Zoning Ordinance Section 2.5.1 (A) (1), Section 3.2 (G) (2) (b), Section 3.2 (I) (3) and Section 4.2 (F)



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) |

MAILED

PROJECT INFORMATION

Name of Project: HUFF DUPLEX DWELLING
Property Address: 426-428 RANDOLPH AVENUE, CAPE CHARLES, VIRGINIA
Brief Description of Project: ADDITION WITH PORCH TO EXISTING BUILDING
Zoning District: R-1 Current Use: VACANT Proposed Use: SECOND HOME/RENTAL

OWNER INFORMATION

Name and Company: MARY SESSOMS HUFF
Mailing Address: 8 ARLINGTON ST., NEWARK, DE. 19711
Phone Number: 302-548-5785 Email: MARYSESSOMSHUFF@VERIZON.NET

APPLICANT INFORMATION

☐ check here if applicant is owner

Name: EDWARD L. EICHMAN JR.
Mailing Address: 110 CHURCHILL DOWNS, CAPE CHARLES, VA. 23310-2348
Phone Number: 757-695-3823 Email: E.EICHMAN@LINDSAYSTUDIO.NET

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: Edward L. Eichman Jr. Date: 02/17/2021

The Lindsay Studio
110 Churchill Downs
Cape Charles, Virginia 23310-2348

TO: Board of Zoning Appeals

DATE: 02/17/2021

SUBJECT: Variance Request for an Addition at 426-428 Randolph Avenue, Cape Charles, Virginia

INTRODUCTION:

A) The Address is a **"CONTRIBUTING PROPERTY"** in the Historic District Overlay Inventory (**Ordinance Article VIII, Section 8.36, Page 12**).

B) A 776 square foot two-story portion of the existing Building was previously removed (**PHYSICAL SURVEY, dated 26 March 1987**). No information is available regarding that removal.

C) A 1,320 square foot two-story Addition with Porch is proposed to replace the removed portion (**SITE PLAN SP-1 and EXTERIOR ELEVATIONS EE-1 and EE-2**).

D) The Zoning Ordinance classifies the Lot with two Parcels, the existing Duplex Dwelling with Porch, and the existing Accessory Building as **"NON-CONFORMING"**, so they are: **"lawful prior to adoption, revision, or amendment of the zoning ordinance but that fail by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance"** (**Article II, Section 2.9, Page 27**).

APPLICATION:

I assume a Variance is not required for the **Lot**, the existing **Dwelling with Porch**, and the existing **Accessory Building** because they were **"lawful prior to adoption of the zoning ordinance....."**. Therefore, this Variance Request is for the proposed Addition with Porch that includes the following conditions:

1) A **"DUPLEX DWELLING"** (**Article II, Section 2.9, Page 21**), which is neither a Permitted Use or a Conditional Use in the Single Family Residential District R-1 (**Article III, Section 3.2, Pages 2 and 3, Items B and C**), but is to match the existing Building.

2) Zero (0) Feet Side Yard Setbacks on the East and West sides of the Boundary Line between Parcels (**Article III, Section 3.2, Pages 4 and 5, Item G**) to match the existing Building and Porch.

3) Primary Roof Pitches that are less than 8 over 12 (**Article III, Section 3.2, Page 6, Item 3**) to match the existing Building.

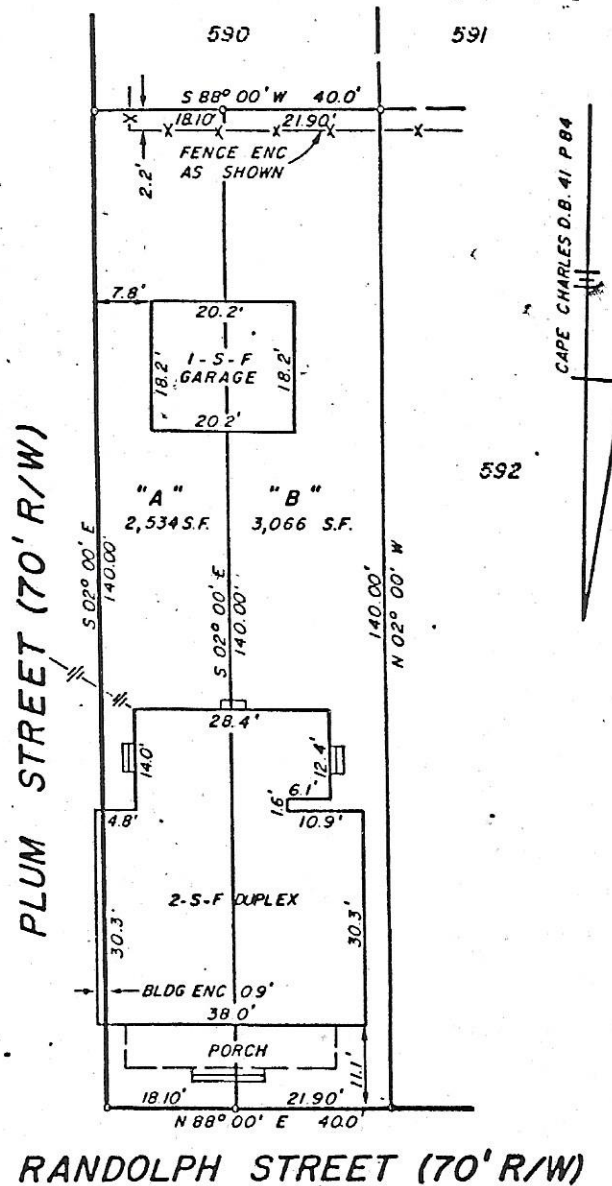
4) Primary Roof Eaves extensions (with Trim and Fascia Board) to match the existing Building. They will extend to three (3) feet from the East and West Boundary Lines of Lot 589 (**Article IV, Section 4.2, Page 19, Item F**).

Respectfully submitted for consideration by the Board of Zoning Appeals;


Edward L. Eichman Jr. Architect, Virginia License No. 003613

THIS IS TO CERTIFY THAT I, ON 26 MARCH 1987 SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS ARE AS SHOWN ON THIS PLAT. THE BUILDINGS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY, EXCEPT AS SHOWN.

SIGNED Bruce B. Gallup C.L.S.



PHYSICAL SURVEY
OF
LOT 589
BEING PARCELS "A" & "B"
PLAT OF
CAPE CHARLES
D.B. 41 P. 84
CAPE CHARLES, VA.
CAPEVILLE DISTRICT
NORTHAMPTON COUNTY, VA.
SCALE: 1" = 20' 26 MARCH 1987
MADE FOR
C. B. BELOTE



BRUCE B. GALLUP C.L.S.
Broad Street
EXMORE, VIRGINIA 23350
(804) 442-4418

The
Lindsay Studio L.L.C.
110 Churchill Downs
Cape Charles, Va.
23310-2348
(757) 695 3823
e.eichman@lindsaystudio.net

426/428 RANDOLPH AVENUE
CAPE CHARLES, VIRGINIA



NOTE:
Existing House Dimensions and
location on Lot are based on the
"Physical Survey of Lot 589",
dated 26 March 1987.

SITE PLAN LEGEND

- 01 Randolph Avenue
- 02 Plum Street
- 03 Existing Driveway
- 04 Existing Sidewalk
- 05 Exterior Lot Line
- 06 Existing Interior Lot Line
- 07 Relocated Interior Lot Line
- 08 Side Yard Setback Line
- 09 Rear Yard Setback Line
- 10 Existing Two-Story Residence
- 11 New Two-Story Addition
- 12 Existing One-Story Porch and Steps
- 13 New One-Story Porch and Steps
- 14 New Sidewalk or Pad
- 15 New Fence Enclosure for Equipment
- 16 Existing Accessory Building
- 17 Front Yard Setback Line
- 18 Existing Roof Eaves Extension
- 19 New Primary Roof Eaves Extension

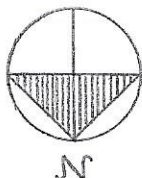
NOTE:

Each Two-Digit Number that randomly appears on the Plan
relates to the same Numbered Item in the Legend.

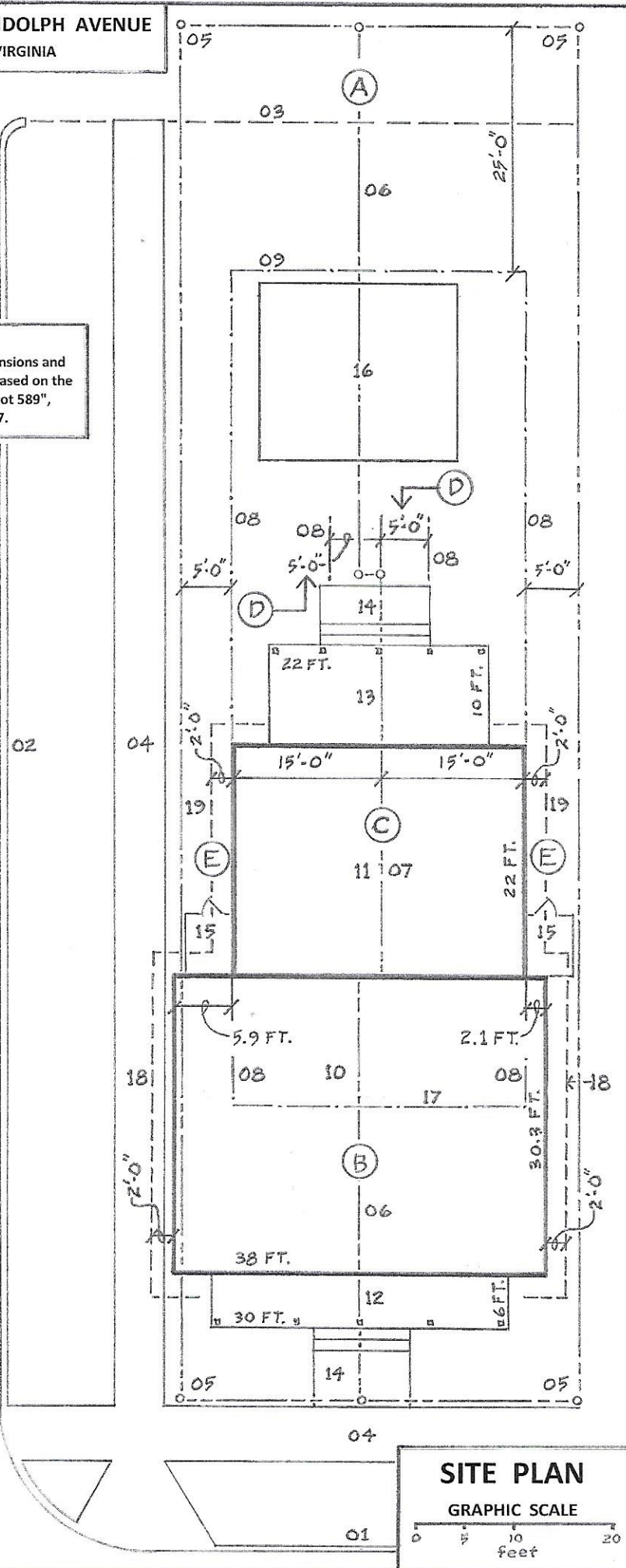
ZONING ORDINANCE LEGEND

- (A) NON-CONFORMING LOT WITH TWO PARCELS
- (B) EXISTING NON-CONFORMING DUPLEX DWELLING
- (C) NEW DUPLEX ADDITION WITH PORCH VARIANCE
- (D) NEW 0 FEET SIDE YARD SETBACK VARIANCE
- (E) NEW 2 FOOT ROOF EAVES EXTENSION VARIANCE

02/17/2021

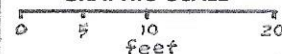


SP - 1



SITE PLAN

GRAPHIC SCALE



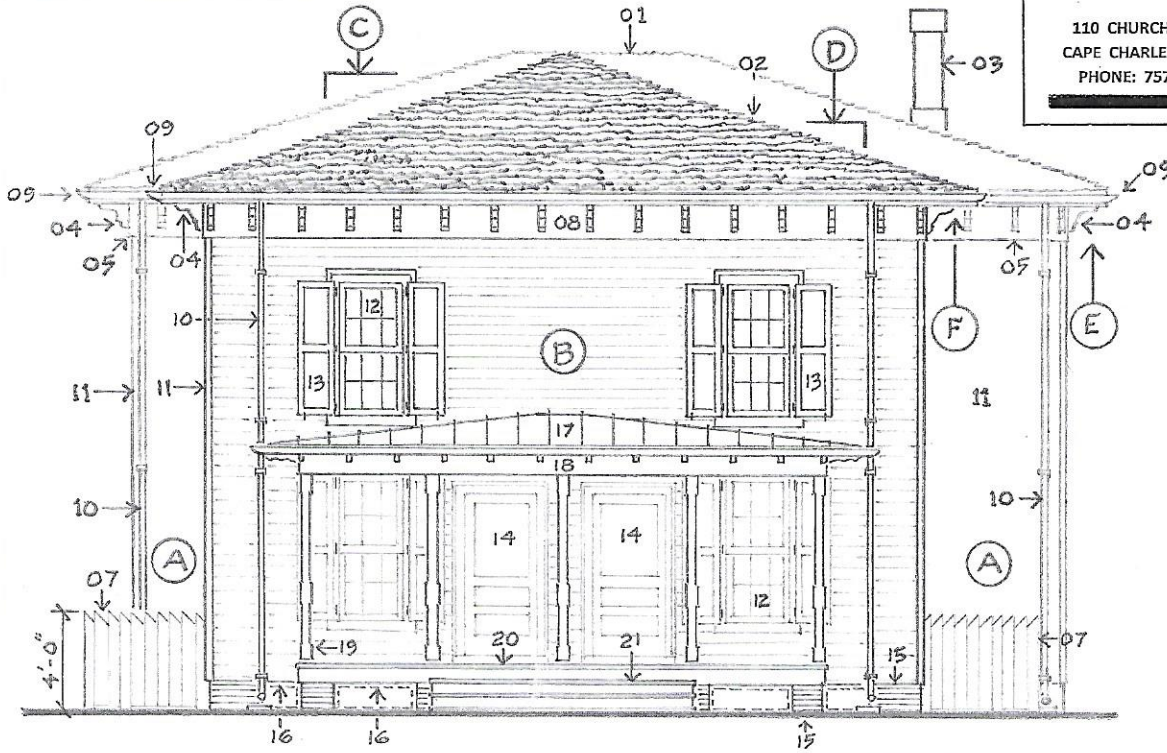
426/428 RANDOLPH AVENUE
CAPE CHARLES, VIRGINIA

NOTE:

Each Two-Digit Number that randomly appears on the Elevation relates to the same Numbered Item in the Legend.

The Lindsay Studio, L.L.C.

110 CHURCHILL DOWNS
CAPE CHARLES, VA. 23310
PHONE: 757 695 3823



02/17/2021

BACK (SOUTH) FROM REAR YARD

EXTERIOR ELEVATIONS

GRAPHIC SCALE



ZONING ORDINANCE LEGEND

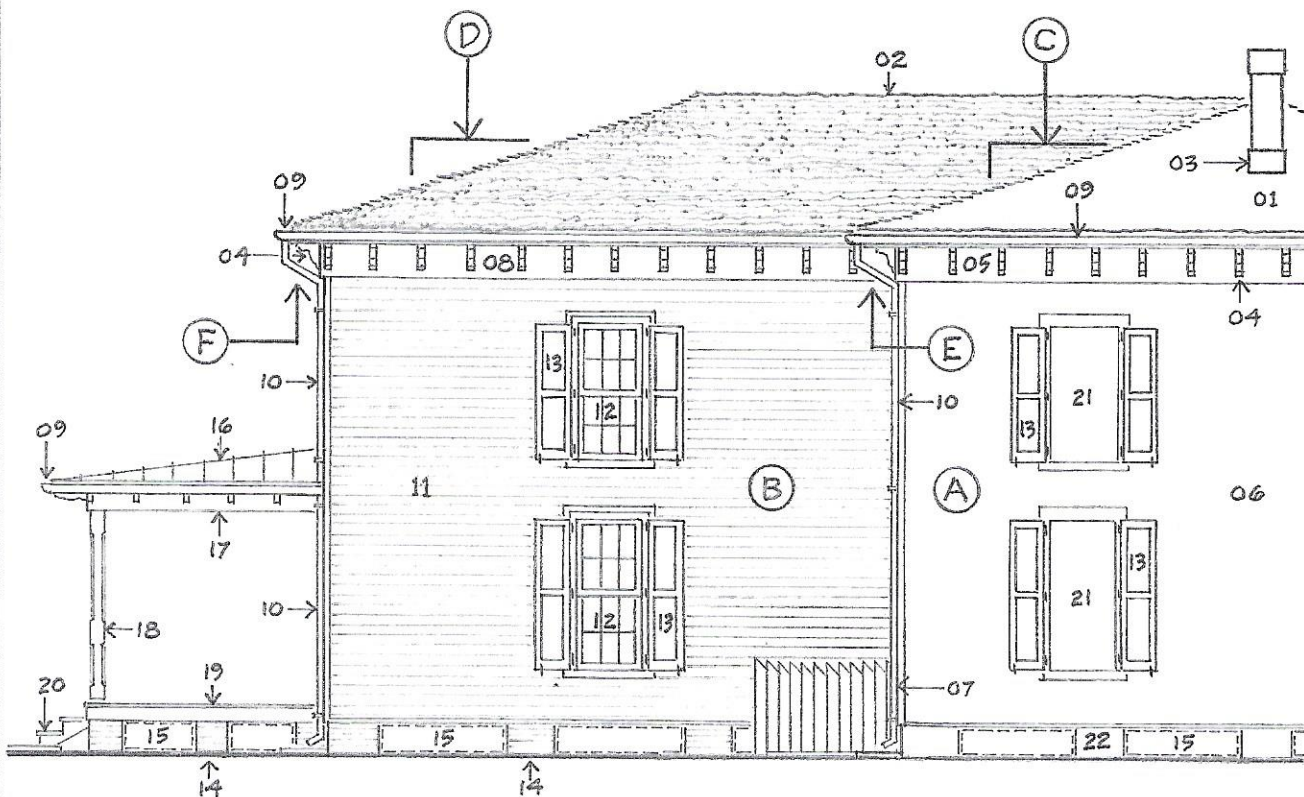
- (A) EXISTING NON-CONFORMING DUPLEX DWELLING
- (B) NEW DUPLEX ADDITION WITH PORCH VARIANCE
- (C) EXISTING ROOF PITCHES LESS THAN 8 OVER 12
- (D) NEW ROOF PITCHES LESS THAN 8/12 VARIANCE
- (E) EXISTING 2 FOOT EAVES EXTENSION (WITH GUTTER)
- (F) NEW 2 FOOT EAVES EXTENSION (WITH GUTTER)

EXTERIOR ELEVATION LEGEND

- 01 Existing Shingle Roof
- 02 New Shingle Roof to Match Existing
- 03 Existing Chimney
- 04 New Replicated Eaves Bracket
- 05 Existing Cornice
- 06 Existing Siding and Trim
- 07 New Fence Enclosure for Equipment
- 08 New Cornice to Match Existing
- 09 New Half-round Gutter and Hardware
- 10 New Round Downspout and Hardware
- 11 New Siding and Trim to Match Existing
- 12 New Window and Trim to Match Existing
- 13 New Shutters and Hardware
- 14 New Replicated Exterior Half-lite Door
- 15 New Brick Pier to Match Existing
- 16 Recessed Panel Option
- 17 New Metal Porch Roof
- 18 New Replicated Porch Cornice and Brackets
- 19 New Replicated Porch Post
- 20 New Porch Floor and Fascia
- 21 New Porch Steps
- 22 Existing Window and Trim
- 23 Existing Brick Pier

EE - 1

ONE-HALF FRONT (NORTH) FROM RANDOLPH AVENUE



NOTE:

Each Two-Digit Number that randomly appears on the Elevation relates to the same Numbered Item in the Legend.

LEFT SIDE (EAST) FROM PLUM STREET
RIGHT SIDE (WEST) SIMILAR (EXCEPT NO EXISTING CHIMNEY)

EXTERIOR ELEVATION LEGEND

- 01 Existing Shingle Roof
- 02 New Shingle Roof to Match Existing
- 03 Existing Chimney
- 04 New Replicated Eaves Bracket
- 05 Existing Cornice
- 06 Existing Siding and Trim
- 07 New Fence Enclosure for Equipment
- 08 New Cornice to Match Existing
- 09 New Half-round Gutter and Hardware
- 10 New Round Downspout and Hardware
- 11 New Siding and Trim to Match Existing
- 12 New Window and Trim to Match Existing
- 13 New Shutters and Hardware
- 14 New Brick Pier to Match Existing
- 15 Recessed Panel Option
- 16 New Metal Porch Roof
- 17 New Replicated Porch Cornice and Brackets
- 18 New Replicated Porch Post
- 19 New Porch Floor and Fascia
- 20 New Porch Steps
- 21 Existing Window and Trim
- 22 Existing Brick Pier

ZONING ORDINANCE LEGEND

- (A) EXISTING NON-CONFORMING DUPLEX DWELLING
- (B) NEW DUPLEX ADDITION WITH PORCH VARIANCE
- (C) EXISTING ROOF PITCHES LESS THAN 8 OVER 12
- (D) NEW ROOF PITCHES LESS THAN 8/12 VARIANCE
- (E) EXISTING 2 FOOT EAVES EXTENSION (WITH GUTTER)
- (F) NEW 2 FOOT EAVES EXTENSION (WITH GUTTER)

02/17/2021

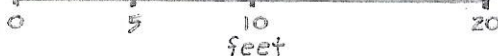
426/428 RANDOLPH AVENUE
 CAPE CHARLES, VIRGINIA

The Lindsay Studio, LLC.

110 CHURCHILL DOWNS
 CAPE CHARLES, VA. 23310
 PHONE: 757 695 3823

EXTERIOR ELEVATION

GRAPHIC SCALE



EE - 2

The Lindsay Studio, L.L.C.

110 CHURCHILL DOWNS
CAPE CHARLES, VA. 23310
PHONE: 757 695 3823



**EXISTING FRONT (NORTH) FROM RANDOLPH AVENUE
(INCLUDING EXISTING PORCH AND STEPS)**

02/17/2021

**426/428 RANDOLPH AVENUE
CAPE CHARLES, VIRGINIA**



EXISTING LEFT SIDE (EAST) FROM PLUM STREET

P - 1



The Lindsay Studio, L.L.C.

110 CHURCHILL DOWNS
CAPE CHARLES, VA. 23310
PHONE: 757 695 3823



**EXISTING BACK (SOUTH)
FROM REAR YARD**

02/17/2021

**426/428 RANDOLPH AVENUE
CAPE CHARLES, VIRGINIA**

**EXISTING RIGHT SIDE (WEST)
FROM 424 RANDOLPH AVENUE**

P - 2

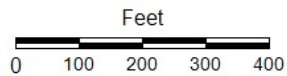
Northampton County, Virginia

Legend

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



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



Title: 426-428 Randolph Avenue

Date: 1/11/2021

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.

Cape Charles Zoning Ordinance

General Provisions

Section 2.5.1 Continuation of Existing Non-Conforming Uses and Permits

- A. Any legal use, building, or structure existing at the time of adoption of this ordinance or any amendment thereto may be continued even though such use, building, or structure may not conform with the provisions of this ordinance for the district in which it is located. Such use, building, or structure shall be deemed a "Non-Conforming Use." A non-conforming use, building, or structure may be continued provided by the following.
 - 1. No such non-conforming use, building, or structure shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of the adoption of this ordinance, unless said enlargement does not result in an increase in nonconformity or result in a change to a use permitted in the district.

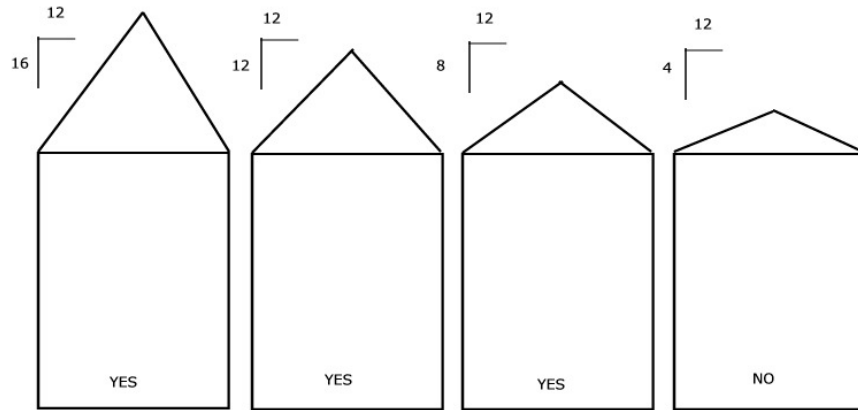
District Regulations

Section 3.2 Single Family Residential District R-1

- G. Setback Regulations
 - 2. Non-Conforming Lots
 - b. Side Yard. Each main structure shall have a minimum side yard setback of 5 feet.
- I. Development Standards

Statement of Intent. The development standards below are intended to help preserve the architectural cohesiveness of the Town of Cape Charles by stipulating that new construction and additions be compatible, sympathetic, and complementary to existing buildings. Development concepts are illustrated below to clarify the intent of the development standards.

 - 3. Roofs. Primary roof ridges of new construction must be parallel to the primary roof ridges of existing neighborhood buildings. New construction should reflect the prevailing roof pitch of neighborhood buildings within 20 percent. Where there is no prevailing standard, roof pitch should be no less than 8:12.



Roof Pitch Examples
(Drawing Not To Scale)

General Regulations Applicable to All Districts

Section 4.2 Exceptions to the Regulations

- F. Projections Allowed in Required Setbacks. No building or structure, or addition thereto, shall extend into a required setback area or yard area, except chimneys, heating and cooling equipment, structures less than sixteen (16) inches in height as measured from finished ground elevations, and steps may extend into such setback or yard area other than front yard setback. The following unenclosed uses may extend no more than four feet, but not nearer than five feet to any property line: balconies, eaves, trims, fascia boards, and similar architectural features, platforms, and terraces. In Commercial District C-1, no building or structure, or addition thereto, shall extend into the required front setback area or yard area except for the following: above street floor level balconies, porches, and terraces may extend therein. Support members for these structures may extend to the ground as required by the building and maintenance code. No part of any foundation for these support members shall extend above the ground or grade level. The following unenclosed structures located above the first floor level may extend to the front lot line: porches, balconies, terraces.



DRAFT
Board of Zoning Appeals
Public Hearing & Meeting
Cape Charles Civic Center
November 24, 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, Delores Blackburn, and Tom Weaver. Jim Holloway was not in attendance. Also present were Town Planner Allyson Finchum and Planning Technician Tracy Outten. The applicants participated via telephone. There was one member of the public in attendance.

Bill Murphy welcomed and introduced the newest board member, Delores Blackburn; and read the public hearing advertisement.

PUBLIC HEARING

A. *Hear public comment for a variance to allow a 5.5' encroachment into the 25' rear yard setback requirements in Section 3.2.G.2 at 324 Jefferson Avenue – tax map #83A1-20-A.*

i. *Zoning Administrator Report*

Allyson Finchum gave a brief history of the lot and read the variance request, the staff report, and the staff analysis. She continued by stating that after speaking with the adjacent property owner her recommendation had changed from granting the variance to denying it. The property owner thought if the variance were granted it would be a detriment to other property owners.

Tom Weaver did not think public comments should change an opinion nor did he agree with the zoning administrator making a recommendation as she was supposed to uphold the zoning ordinance. Bill Murphy complimented Allyson Finchum on the depth of her report and appreciated the zoning administrator making a recommendation.

ii. *Applicant Statement*

Tracy Meadows, owner, informed the board that other location where the porch could be built was a driveway.

Discussion and questions were as follows: (i) Pete Baumann asked if there had been previous difficulty with the opposing neighbor. Tracy Meadows answered they have been trying to work out an agreement with the neighbor; including buying the property but the owner did not want to sell it; (ii) Bill Murphy said this was a very unfortunate circumstance and wanted to know if a reason was given for not wanting to sell. Tracy Meadows said that they wanted to keep it in the family and added that the title company was at fault. She has not spoken with the neighbor because the title company had been handling this since it was their error. Bill Murphy said the biggest change if the variance were granted was that if the opposing property owner built on the lot the house would have to front Peach Street not Jefferson Avenue; and (iii) Tom Weaver has trouble understanding that the applicant did not know where the lot lines were located before buying the property. The property was purchased on an online auction.

iii. *Open Public Hearing*

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

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

iv. Close Public Hearing

Motion made by Tom Weaver, 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 to be heard nor any written comments submitted prior to the meeting.

CONSENT AGENDA

Motion made by Pete Baumann, seconded by Tom Weaver, to accept the consent agenda as amended. The motion was approved by majority vote with Delores Blackburn abstaining.

Bill Murphy pointed out that under the public hearing comment at the August 13, 2020 Public Hearing and Meeting minutes Laura Klingel should be spelled Laurie Klingel.

NEW BUSINESS

- A. *Zoning variance application – to allow a 5.5' encroachment into the 25' rear yard setback requirements in Section 3.2.G.2 at 324 Jefferson Avenue – tax map #83A1-20-A.*

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 the only future detriment was that if the adjacent lot was built on the house would have to front Peach Street not Jefferson Avenue. He did not see a problem granted the variance; (ii) Delores Blackburn thought the encroachment would be minimal and understood Robert Mack's past agreement; (iii) Allyson Finchum said Robert Mack felt bullied and was not informed of all the details; (iv) Pete Baumann thought granting the variance would help improve the neighborhood; and (v) Tom Weaver agreed with all board member comments. He added that all information was not given to the applicants or the adjacent property owner. Tom Weaver thought Robert Mack wanted to get even for something previously agreed to.

Motion made by Pete Baumann, seconded by Tom Weaver to approve the zoning variance request to allow a 5.5' encroachment into the 25' rear yard setback requirements in the Town of Cape Charles Zoning Ordinance Section 3.2.G.2 at 324 Jefferson Avenue. The motion was approved by unanimous consent.

OTHER BUSINESS

There was no other business to discuss.

Chairman Bill Murphy adjourned the November 24, 2020 Board of Zoning Appeals Public Hearing and Regular Meeting at 10:42 a.m.

Chairman Bill Murphy

Planning Technician

**Public Comment submitted in writing
November 24, 2020**

Robert Mack

Subject: Board of Zoning Public Hearing (November 24, 2020)

Dear Ms. Finchum: My name is Robert Mack. I reside in Savannah, Georgia. I received a letter from the Board of Zoning Appeals on 11/07/20 in reference to a Public Hearing pertaining to an application for a rear setback variance for a rear porch on a nonconforming lot submitted by Jay and Tracy Meadows at 324 Jefferson Avenue. This application is for a variance to allow a 5.5' encroachment into the 25' rear yard setback requirements in Section 3.2.G2 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 just completed a case with the Meadows pertaining to realignment of the property lines for Lots 184 and 185. All paperwork to do so was approved by the Town of Cape Charles Officials and recorded. Exactly what is the problem now in layman terms? Is Lot 184 involved? If so, what are the options as far as the Board is concern in this matter? Why is a Public Hearing required? Do I need to file an appeal with the Board of Zoning? If so, is there a specific format I must submit?

I am sorry for all the questions, but I want to insure that I follow all the protocols to protect my property. I got married in Cape Charles in 1969 and I want to continue to retain my property free without issues. I have been paying taxes on this property for 29 years. Never late or missed a payment. I am 74 and a retired United States Vietnam Army Veteran of 22 years of active duty. If necessary, you've my permission to utilize any part of these comments as an appeal in voting "NO" to the application approval if it involved encroachment on my property.