

Board of Zoning Appeals

REGULAR MEETING

Cape Charles Civic Center – 500 Tazewell Avenue

August 10, 2021 10:00 A.M.

1. Call to Order
 - a. Roll call and establish a quorum
2. Invocation and Pledge of Allegiance
3. Adoption of Agenda
4. Review & Approval of Minutes: None
5. Old Business
 - A. An application from James Peters for a variance of 8 feet from the rear yard setback of 20 ft. pursuant to the Accawmacke Plantation Planned Unit Development (PUD), which is an appendix to the Cape Charles Zoning Ordinance, Article 4.2(E) (2) for the addition of a 13' x 18' screened-in porch on the rear of an existing house located at 6 American Court (Tax Map # 90-5-19) in the PUD R-2 District.
6. New Business – Public Hearing
 - A. An application from Tom and Katie Austin, proposed contract purchases, for a variance of 6 automobile parking spaces from Section 4.5 (B) (3) (g) (3) of the parking requirements which requires 20 parking spaces and to substitute 12 golf cart parking spaces for a proposed mini-golf business at Tax Map #83A4-1-B-26, 27, 28, & 29 on Randolph Avenue, directly across from Heritage Acres Court, in the C-3 District. Said application is being filed with consent from the property owners (John F. & Loraine A. Huchler and Daniel C. Dabinett).
 - i. Zoning Administrator Report
 - ii. Open Public Hearing
 - iii. Applicant Statement
 - iv. Public Comments
 - v. Close Public Hearing
 - vi. Discussion and Vote by the Board
 - B. Other: Presentation and Discussion of Draft Rules of Procedures for the Board of Zoning Appeals
 - C. Adjourn

From: [Rozenna Peters](#)
To: [Tracy Outten](#)
Cc: capworks@msn.com
Subject: 6 American Court - Screen Porch
Date: Saturday, July 24, 2021 2:34:07 PM
Attachments: [Cape Charles - 6 American Court Screen Porch.pdf](#)

Good afternoon Ms. Outten,

On July 14, 2021, I met with James Shelton, the Architect that did my drawings for a screen porch at 6 American Court. Mr. Shelton was the Assistant Program Manager for Building and Land Regulators in the District of Columbia before his retirement and entering into private practice.

Mr. Shelton explained to me why municipalities put in setback lines and building restriction lines. He assured me that after reviewing my site and freehand drawing I provided, he felt confident that my appeal would be approved.

The reasons as explained for building restriction lines / setbacks:

1. Retain curb appeal and continuity on property building lines usually in the front or sides of a building. (Keeping buildings from being too close to each other).
2. Allow access to utilities lines and service provider access at times with vehicles or other large equipment.
3. Protect areas of the property that needs protection such as septic tank locations or waterways (environmental protection).
4. Set-backs for public safety and right of ways.
5. Building restriction for neighboring properties line-of-sight (will construction block the typical view of adjacent homes)
6. Enhance and maintain the beauty and visibility of a natural setting.

The architect assures me that my screen porch did not impact any of the above. While I discussed a smaller porch of 6 ft., 10 inch and 12 ft., 8 inch with the Board members, I must ask for an approval of the originally submitted request.

If at all possible, I would ask that the Board members visit the site before a decision is made to get an in-person, first-hand view of the area.

Regards,

James and Rozenna Peters



BOARD OF ZONING APPEALS STAFF REPORT

Meeting Date: July 13, 2021

Item #: 2b – Variance

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

APPLICANT: James Peters
SITE ADDRESS: 6 American Court

TAX MAP: 90-5-19

LOT SIZE: 11,840 sq. ft.

TYPE OF APPLICATION: Variance
SPECIFIC REQUEST: 8 ft. variance from rear yard setback of 20 ft. for a screened-in porch
ZONING: Accawmacke Plantation Planned Unit Development (PUD) Article 4.2 (E) (2)
CURRENT ZONING: PUD R-2

DATE RECEIVED: May 12, 2021

DATE DEEMED COMPLETE: May 30, 2021

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): August 30, 2021

NARRATIVE OF PROPOSAL

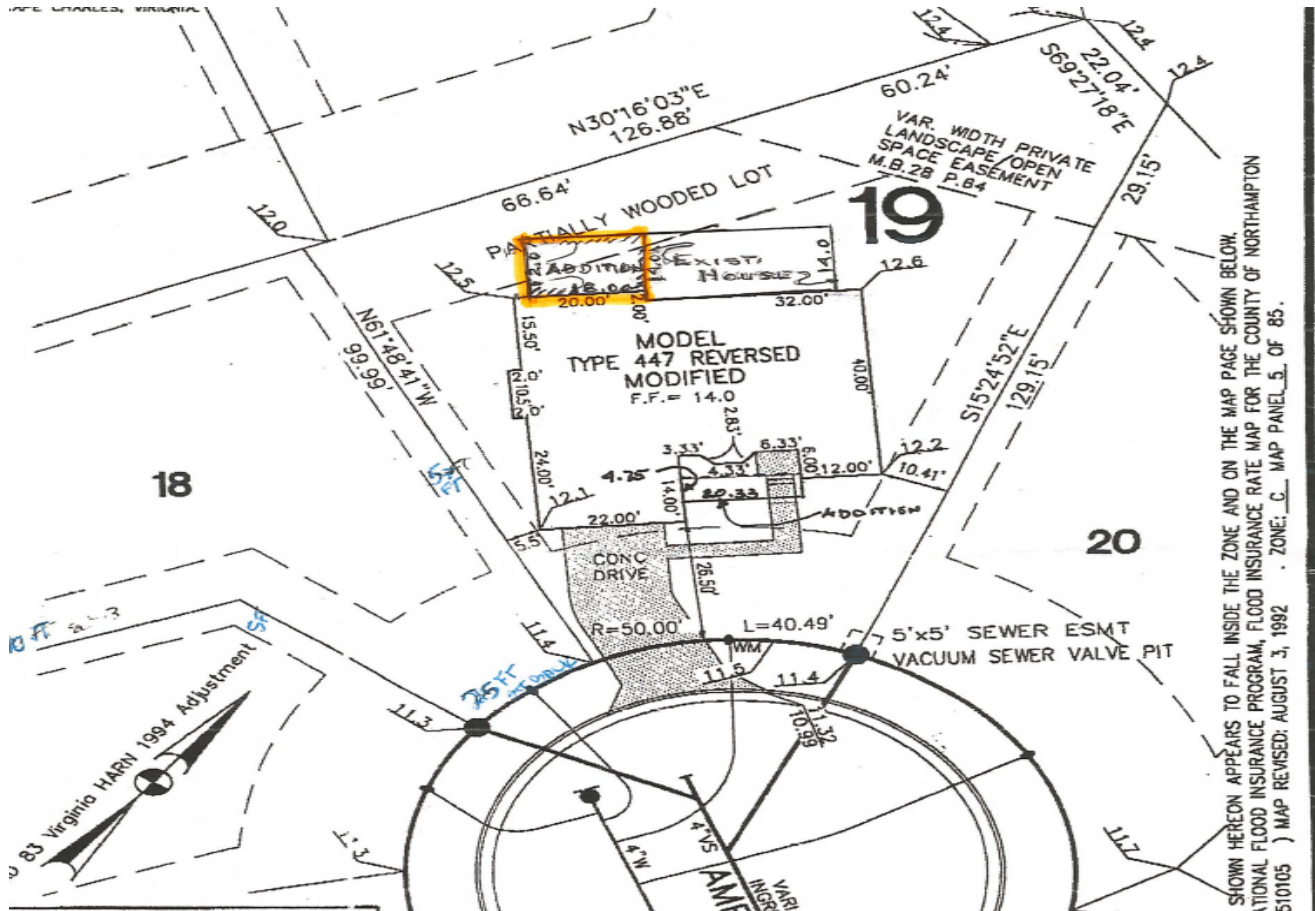
The applicant is seeking to add a screened-in, 13' x 18' porch to the rear of the house which would encroach into the rear setback by 8 feet. This lot is located in The Hollies subdivision within Bay Creek and falls under the Accawmacke Plantation Planned Unit Development (PUD) which is an appendix to the Cape Charles Zoning Ordinance.

This rear porch would require relief of 8 ft from the rear yard setback of 20 ft to allow for a 12-ft. setback to the rear property line, pursuant to PUD Article 4.2 (E) (2).

AERIAL MAP



Based upon the survey provided by the applicant, it is clear that the porch would encroach into the rear setback (see below).



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 is legally sized per the PUD and there is a house which was constructed in 2001. The applicant is seeking to add a 234 sq. ft porch to the rear of the house of which approximately 80 sq. ft would be in the rear setback. The lot has not been restricted from being developed with a single-family dwelling. The addition of exterior, seasonal living space is being sought approximately 20 years after the house was constructed which was not part of the original house plan. The addition of a seasonal porch area is not an unreasonable request for an older home; the only limitation is the space on the lot available for the placement of this seasonal porch.

- (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 property has been owned by the applicant since 2003.
- (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 addition of a screened-in porch is appropriate and legal per the ordinance.
- (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:

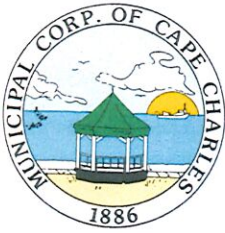
Staff offers the following motion for the Board's consideration and is prepared to assist to amend or alter the motion based upon the public hearing and discussion of the Board:

After careful consideration of the application and the staff report, the Board of Zoning Appeals votes to approve the Variance Application from James Peters at 6 American Court (Tax Map #90-5-19) for an 8 ft. variance to the rear yard setback requirement of 20 ft. pursuant to Accawmacke Plantation PUD Article 4.2 (E) (2) for a screened-in porch 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 Appendix - Accawmacke Plantation PUD Article 4.2 (E) (2)



VARIANCE APPLICATION

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

RECEIVED

05/13/2021

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 \$450, all others \$750, each additional variance request on same application \$50) |
| ☐ Proposed site plan or survey (if applicable) | |

PROJECT INFORMATION

Name of Project: #6 AMERICAN CT. BAY CREEK
Property Address: #6 AMERICAN CT. BAY CREEK CAPE CHARLES VA
Brief Description of Project: REMOVE A SCREEN PORCH IN REAR OF PROPERTY
Zoning District: _____ Current Use: HOME/RATIO Proposed Use: SAME WITH SCREENED PORCH

OWNER INFORMATION

Name and Company: JAMES PETERS
Mailing Address: 6955 GREEN JAC ST. NW WASH DC 20015
Phone Number: 202 486 6955 Email: R. BARNES PETERS AT VERIZON.NET

APPLICANT INFORMATION

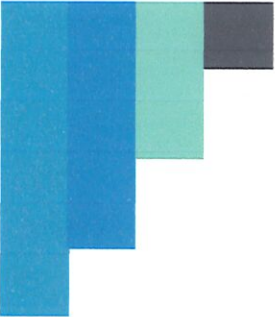
☒ check here if applicant is owner

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: James Peters Date: 5-12-21



May 13, 2021

Ms. Tracey Outten, CMC
Planning Technician
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310

Dear Ms. Outten,

I am requesting a variance to add a screen porch to the rear of my house located at 6 American Court. The porch shall be 13 ft by 18 ft or less if required. The porch will be attached to the existing house on the north and east side. The roof will match in size and slope of the existing roof. I own lot #18 and 19, lot #20 another owner is not impacted by the porch. The addition will be over the existing patio area. The original drawing and plot is with your building department.

Sincerely,

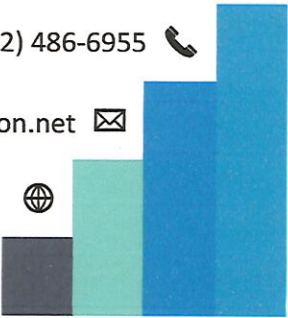


James P. Peters, III
6 American Court
Cape Charles, VA 23310

(202) 486-6955 

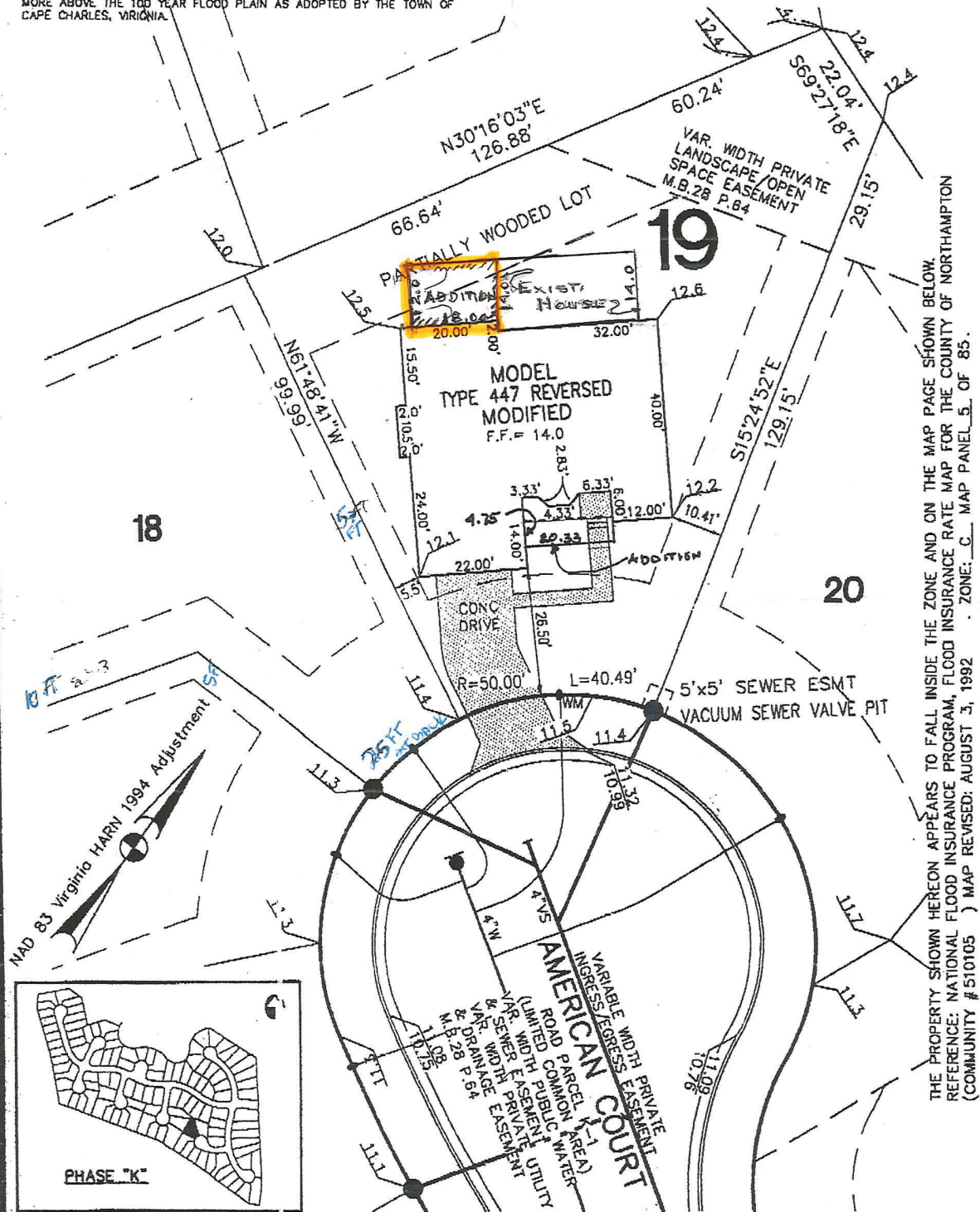
rbarnespeters@verizon.net 

(202) 363-0310 



GENERAL NOTES:

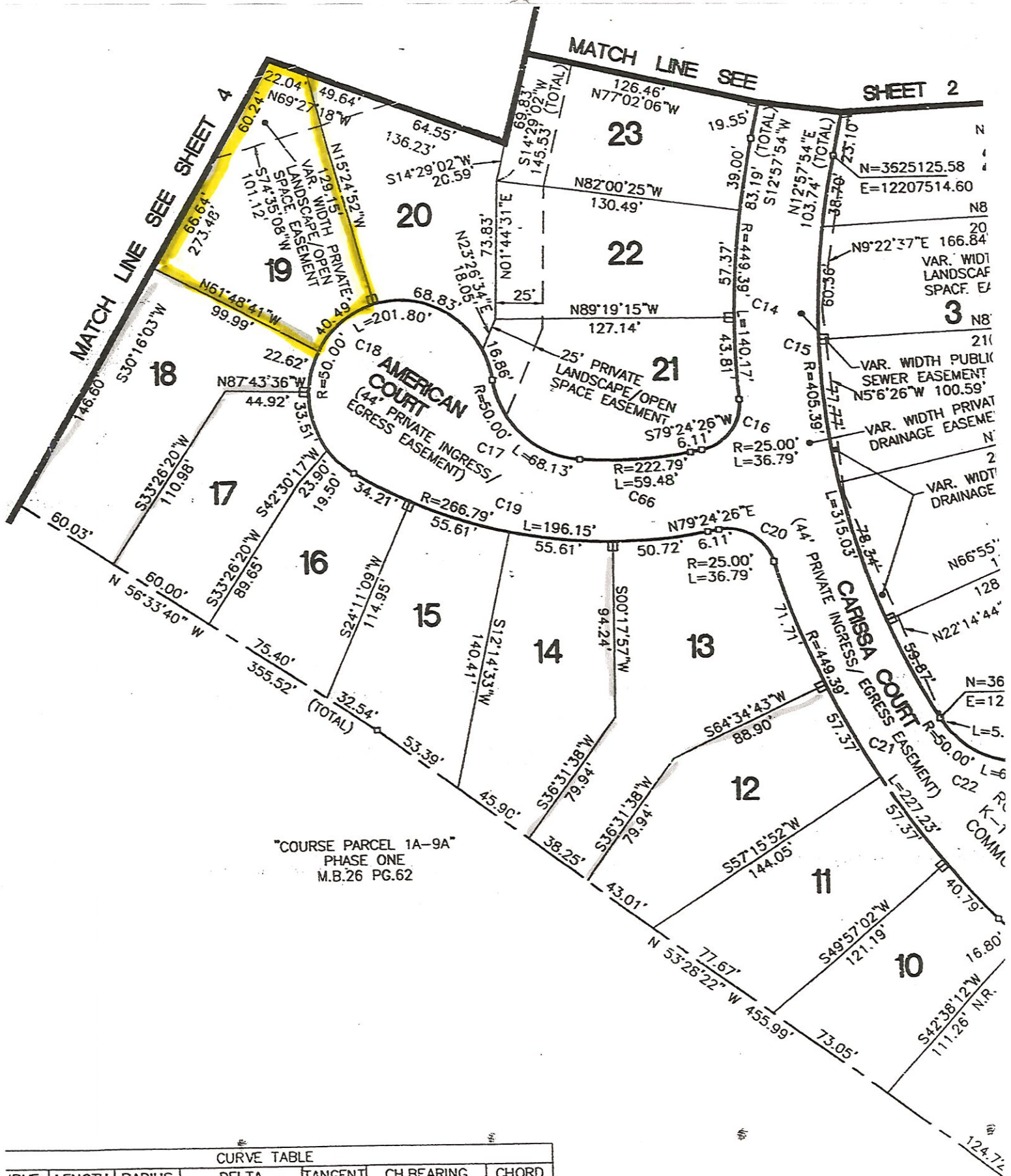
1. THE ELEVATIONS SHOWN HEREON ARE BASED ON NAVD83 DATUM.
2. AFTER BUILDING PERMIT IS ISSUED, THE TAF GROUP ASSUMES THAT THE BUILDER APPROVES THE LOCATION OF THE HOUSE SHOWN.
3. ALL DIMENSIONS SHOWN ON THE BUILDING ARE TO BE VERIFIED BY THE BUILDER PRIOR TO CONSTRUCTION.
4. LOT IS SERVED BY SEWER AND WATER.
5. ANY EASEMENTS, DEED RESTRICTIONS OR COVENANTS WHICH MAY AFFECT THE POSITIONING OF IMPROVEMENTS SHALL BE PROVIDED BY THE BUILDER PRIOR TO SITE PLAN PREPARATION.
6. THE LOWEST FINISHED FLOOR ELEVATION SHOWN IS ONE FOOT (1') OR MORE ABOVE THE 100 YEAR FLOOD PLAIN AS ADOPTED BY THE TOWN OF CAPE CHARLES, VIRGINIA.
7. THE LOT GRADING ON THIS PLAN IS IN ACCORDANCE WITH THE LATEST SUBDIVISION CONSTRUCTION PLAN SUBMITTED TO AND APPROVED BY THE TOWN OF CAPE CHARLES.
DATE OF APPROVAL: 3/22/00
8. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT.
9. THIS SITE PLAN WAS PREPARED FROM THE APPROVED CONSTRUCTION PLANS. NO FIELD SURVEY WAS PERFORMED.
10. IMPERVIOUS AREA = 2,802 Sq.Ft.



SITE PLAN OF
LOT 19, AMERICAN COURT
SUBDIVISION OF
BAY CREEK
AT CAPE CHARLES
PHASE K
M.B.28 P.64
FOR
JAY HOMES



ARCHITECTURE • ENGINEERING • CONSTRUCTION • SURVEYING
100 LANDMARK SQUARE • VIRGINIA BEACH, VA 23452
PHONE: (757) 340-5055 • FAX: (757) 422-3790



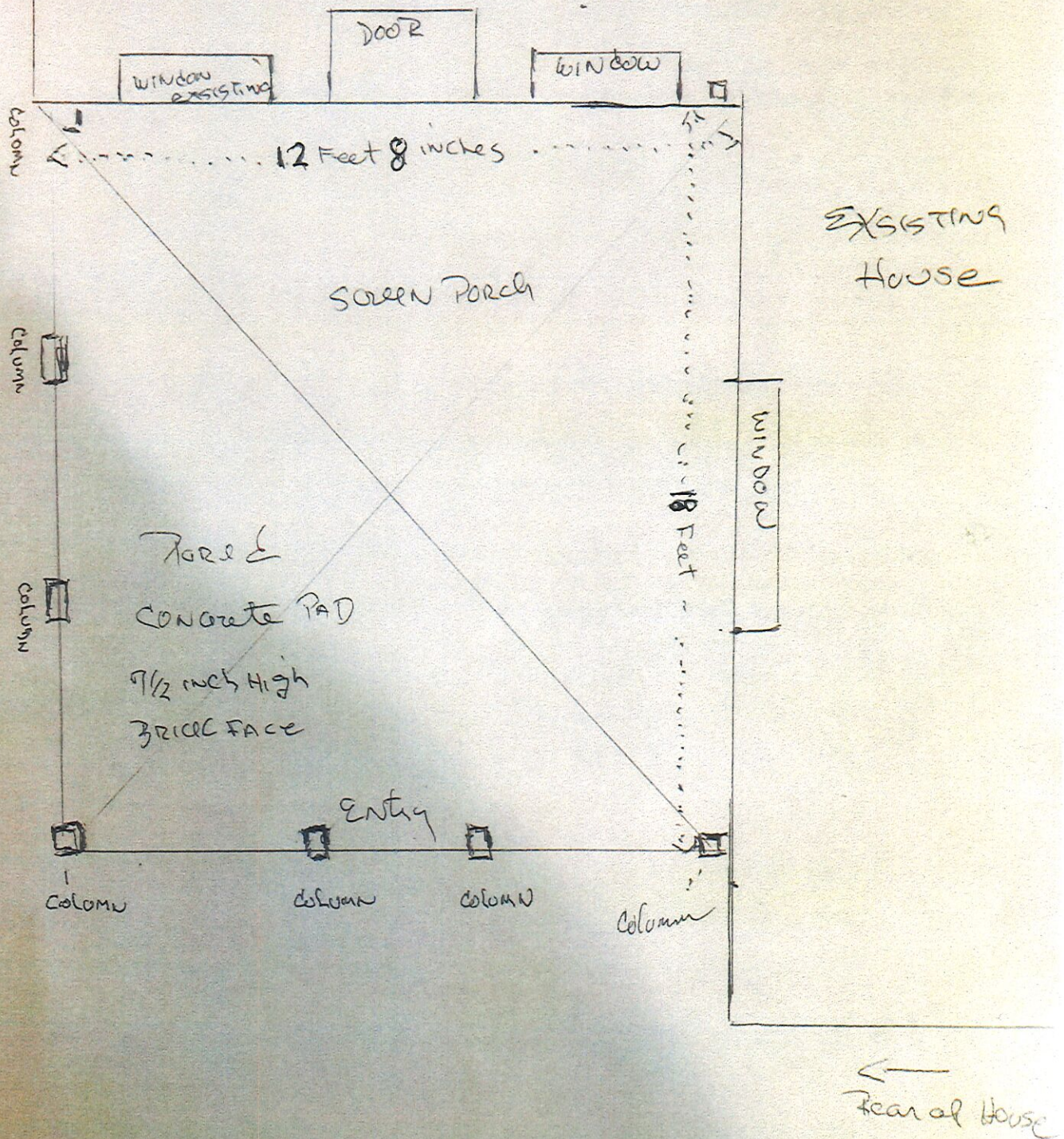
CURVE TABLE

CRVE	LENGTH	RADIUS	DELTA	TANGENT	CH. BEARING	CHORD
C14	140.17'	449.39'	17°52'19"	79.66'	S04°01'44"W	139.61'
C15	315.03'	405.39'	44°31'31"	165.95'	S09°17'52"E	307.16'
C16	36.79'	25.00'	84°18'51"	22.63'	N37°15'00"E	33.56'
C17	68.13'	50.00'	78°04'24"	40.54'	S46°15'30"E	62.98'
C18	201.80'	50.00'	231°14'44"	104.25'	S57°09'20"W	90.17'
C19	196.15'	266.79'	42°07'32"	102.75'	S79°31'48"E	191.77'
C20	36.79'	25.00'	84°18'51"	22.63'	N58°26'09"W	33.56'

LEGEND

- PIN (SET)
- PIN (FOUND)
- MONUMENT (SET)
- MONUMENT (FOUND)
- PIPE (SET)
- PIPE (FOUND)

2/SISTING HOUSE



#6 American CT









8 FT

15 feet to sidewalk. SIDEWALK IS 4 FT

4 FT

5/6/18



21351 South Bayside Rd, P.O. Box 1090, Cheriton, VA 23316, (757) 708-6404

Contractor's License #2705 142263A (Class A)

Expiration Date: 08/31/2021

Job Location: 6 American Ct, Cape Charles, VA 23310

Owner's Name, Address, and Phone: James and Rozenna Peters, 6 American Ct, Cape Charles, VA 23310

Job Description:

Build new screen in porch at rear of home approximately 12x16'.

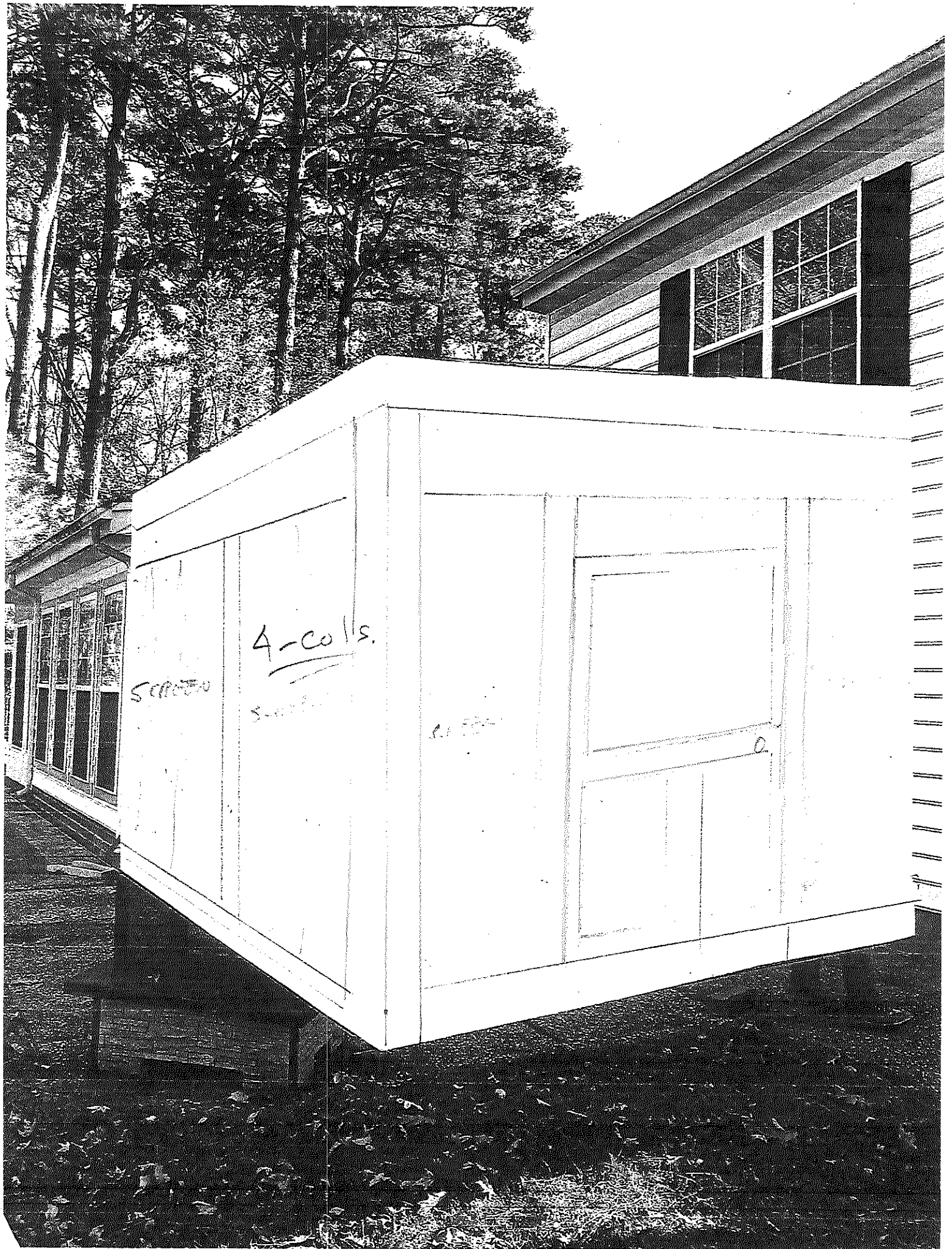
Change master bedroom window to be shorter and allow for roofline. Repair wall and paint in bedroom

Remove areas of existing concrete for new footing, brick edging and concrete pad.

Build new roof similar to existing, Azek covered columns, azek beaded ceiling, vinyl screen door and screeneeze screen system and fiberglass screen.

Paint all white.

Wire for and install up to 6 outlets, 4 recess lights and 2 ceiling fans.



TOWN OF CAPE CHARLES
Notice of Public Hearing – Variance Request

The Cape Charles Board of Zoning Appeals will hold a public hearing on Tuesday, August 10, 2021, at 10:00 a.m. in the Cape Charles Civic Center, 500 Tazewell Avenue, to receive public comment on the following:

- A. An application from Tom and Katie Austin, proposed contract purchases, for a variance of 6 automobile parking spaces from Section 4.5 (B) (3) (g) (3) of the parking requirements which requires 20 parking spaces and to substitute 12 golf cart parking spaces for a proposed mini-golf business at Tax Map #83A4-1-B-26, 27, 28, & 29 on Randolph Avenue, directly across from Heritage Acres Court, in the C-3 District. Said application is being filed with consent from the property owners (John F. & Loraine A. Huchler and Daniel C. Dabinett).

The application is 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.

AD PLACED: Eastern Shore Post – Monday, July 19, 2021
AD TO RUN: Friday, July 23 & July 30, 2021



BOARD OF ZONING APPEALS STAFF REPORT

Meeting Date: August 10, 2021

Item #: 6a – Variance

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

APPLICANT: Tom & Katie Austin (contract purchasers) dba Cape Charles Mini Golf, Inc. **TYPE OF APPLICATION:** Variance

PROPERTY OWNER: John F. & Loraine A. Huchler & Daniel C. Dabinett

SPECIFIC REQUEST: Relief from parking requirement of 8 spaces and substitute the spaces for 12 golf cart parking spaces

SITE ADDRESS: Randolph Avenue, directly across from Heritage Acres Court

ZONING DISTRICT: C-3

TAX MAP: 83A4-1-B-26, 83A4-1-B-27, 83A4-1-B-28
83A4-1-B-29

ZONING SECTION: Section 4.5 (B) (3) (g)

LOT SIZE: .56 acres (approximately 25,000 sq. ft)

DATE RECEIVED: June 21, 2021

DATE DEEMED COMPLETE: July 5, 2021

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): October 4, 2021

NARRATIVE OF PROPOSAL

The applicant is under contract to purchase the 4 lots at Tax Map #83A4-1-B-26, 27, 28, & 29 (4 properties on Randolph Avenue) to construct a Mini-Golf course. In the preparation of their site plan and application to the Town for this use, the applicant discussed the parking requirements which stated that 20 parking spaces must be provided pursuant to Section 4.5 (B) (3) (g) for the use type of a “Golf Driving range and/or Miniature Golf” and wanted to petition to see if any of the parking spaces can be substituted for a golf cart allocated parking space. Specifically, they would like to reduce the # of required parking spaces for vehicles from 20 to 14 spaces for vehicles and then to have 12 golf cart parking spaces (with the premise that the conversion of one vehicle parking space will accommodate parking space for 2 golf carts).

The applicant indicated that their business model for the mini-golf course is to attract local residents and visitors who use golf carts to travel throughout town and to serve as a recreational destination within the town and encourage those on golf carts to visit this business. Therefore, they want to allocate sufficient space on the lot dedicated for golf cart parking and reduce the # of parking spaces for automobiles since they believe they will have less visitors arriving by motor vehicle.

In discussing the proposed site plan (enclosed), I indicated that the ordinance does not contain any provisions in the parking regulations relative to providing golf cart parking spaces vs. motor vehicle parking spaces and a variance request would need to be submitted for this consideration.

BACKGROUND

These lots are zoned Commercial-3, and the proposed use of a Mini-Golf is a permitted use under Section 3-8 (B) (2) which states “*any other commercial or professional use which is compatible in nature with the allowed uses and which the Zoning Administrator determines to be compatible with the intent of the district and is concurred with by the Planning Commission.*” This proposed use was brought to the Planning Commission at their meeting on 2/2/2021 and the Planning Commission stated that this use would be compatible with other uses allowed in the C-1 and C-2 and C-3 zoning districts but indicated that only through a Conditional Use Permit application so that parking, lighting, landscaping, setbacks and visual aesthetics of the proposed project can be adequately reviewed and addressed in relation to the other development occurring on this stretch of Randolph/Stone Road.

AERIAL MAP (lots outlined in blue)



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 4 lots are currently vacant, and the proposed purchaser has indicated that the site can accommodate the proposed use with the applicable setbacks and parking requirements.

However, the Town zoning ordinance does not reflect any consideration of the Town's move to adopt and encourage golf cart usage on the Town roads which is contained elsewhere in the Town Code and no provisions have been included in the zoning ordinance in recognition of golf cart usage in lieu of motor vehicle usage. The favorable consideration of this variance request would actually improve the utilization of the property by allocating appropriately sized and designed parking spaces for both motor vehicles and golf carts but in a quantity that can be accommodated on the property. Providing additional space on the property for specific golf cart parking in addition to meeting the requirement of 20 regular parking spaces is generally not feasible on the 4 lots which total just over ½ acre.

The general standards for a regular parking space for a motor vehicle is nine feet wide by 18 ft long. A golf cart itself is typically 4 ft wide by 8 ft long with the largest seating capacity for a golf cart at 6 ft wide by 12 ft long.

- (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 property is under a purchase agreement contingent upon the purchaser able to obtain town permits for the use proposed.
- (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 application has highlighted the need to recommend the Town's parking regulations should be reviewed to accommodate a mixed-use transportation model of both motor vehicles and golf carts for the use types authorized in the zoning 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 proposed use of a mini-golf business has been deemed by the Planning Commission as a permissible use compatible with the other stated commercial uses in the C-1, C-2 and C-3 zoning districts through a Conditional Use Permit. The applicant is aware of this determination and will be filing the Conditional Use Permit Application in the fall of 2021 once the site plan has been finalized, including the parking layout.
- (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 needed in order to consider any relief from the parking requirements relative to motor vehicle spaces which would be substituted for specifically allocated golf cart parking spaces.

DISCUSSION POINTS:

1. Does the Board feel that allowing the variance requested is reasonable?
2. Should the Zoning Ordinance Parking Regulations include consideration of both motor vehicle parking and golf cart parking for residential and business uses?

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”. Please note that said recommendation is being offered absent consideration of any public comments that may be received through the advertised public hearing on this matter and staff may amend said recommendation based upon public comments received at the hearing.

In addition, staff would recommend that the BZA consider a letter be submitted to the Planning Commission to ask them to review and consider revising the parking regulations to accommodate for golf cart parking as well as motor vehicles parking.

PROPOSED MOTION FOR CONSIDERATION:

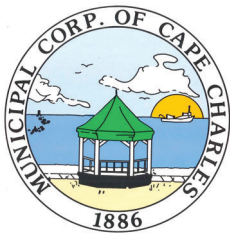
Staff offers the following motion for the Board’s consideration and is prepared to assist to amend or alter the motion based upon the public hearing and discussion of the Board:

After careful consideration of the application and the staff report, the Board of Zoning Appeals votes to approve the Variance Application from Tom & Katie Austin (contract purchasers) dba Cape Charles Mini Golf, Inc. for a variance of 6 parking spaces from the required 20 parking spaces pursuant to Section 4.5 (B) (3) (g) for the use type of a “Golf Driving range and/or Miniature Golf” and to include the substitution of 12 parking spaces specifically designated for golf carts 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 Appendix – Section 4.5 (B) (3) (g)



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 | NA ☐ Photos/elevations of existing structure |
| ☒ Letter of intent clearly explaining project | NA ☐ 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: Cape Charles Mini Golf
Property Address: Randolph Ave Lots -83A4-1-B-26 83A4-1-B-27 83A4-1-B-28 83A4-1-B-29
Brief Description of Project: 18 hole Mini Golf course
Zoning District: C-3 Current Use: Unimproved Land Proposed Use: Mini Golf (Recreation)

OWNER INFORMATION

Name and Company: Cape Charles Mini Golf, LLC
Mailing Address: 39 Sunset Dr. Severna Park, MD 21146
Phone Number: (410)652-4746 (Thomas) Email: taustin777@yahoo.com / ktrettin311@gmail.com

APPLICANT INFORMATION

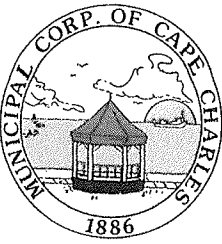
☒ check here if applicant is owner

Name: Katherine Austin / Thomas Austin
Mailing Address: 39 Sunset Dr., Severna Park, MD 21146
Phone Number: (410)353-8292 (Katherine) Email: taustin777@yahoo.com / ktrettin311@gmail.com

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: Katherine Austin Date: 6/21/2021



OWNER PERMISSION AFFIDAVIT

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

PROPERTY INFORMATION

Subject Property Street Address: Lot 26 + 27 Randolph Ave Extended Cape Charles VA 23310
Subject Property Tax ID Number: 8344-1-B-26 8344-1-B-27

OWNER INFORMATION

Name (Person, Firm, Corporation, or Agency): John + Lorraine Hutchler
Mailing Address: 35 Vilmann Court Lawrenceville, NJ 08648
Phone Number: 609-891-4457 Email: Hutchler@Verizon.net

APPLICANT INFORMATION (If applicable)

Name: Cape Charles Mini Golf, LLC
Mailing Address: 818 Randolph Avenue, Cape Charles, VA
Phone Number: 40-652-4746 Email: TCMSTN77@yahoo.com 3318

I am applying for, or I hereby give authority to the applicant to file an application for:

mini putt putt golf course

X
Signature of Owner: John F. Hutchler Date: 7/21/21
Lorraine A. Hutchler 7/21/21

Commonwealth of Virginia

County of Northampton

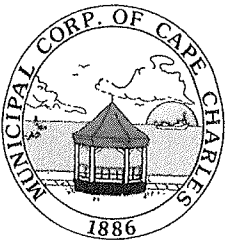
The foregoing instrument was acknowledged before me this 21 day of July, 2021, by Paul Grantham Watson (name of person acknowledged).

Signature of Notarial Officer: Paul Grantham Watson

Notary Registration Number: 70-96-521

My Commission Expires: 3-31-23

(Seal)



OWNER PERMISSION AFFIDAVIT

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

PROPERTY INFORMATION

Subject Property Street Address: Lot 28 & Lot 29 Randolph Extended
Subject Property Tax ID Number: 83A4-1-B-29 83A4-1-B-28 Cape Charles
VA 23310

OWNER INFORMATION

Name (Person, Firm, Corporation, or Agency): Daniel Dakinoff
Mailing Address: 35 P O Box 407 Cape Charles VA 23310
Phone Number: _____ Email: _____

APPLICANT INFORMATION (If applicable)

Name: Cape Charles Mini Golf LLC
Mailing Address: 818 Randolph Avenue Cape Charles, VA 23310
Phone Number: 410-652-4146 Email: forestin777@yahoo.com

I am applying for, or I hereby give authority to the applicant to file an application for:

mini Putt Putt Golf Course

✓ Signature of Owner: DCD Date: 7/21/21

Commonwealth of Virginia

County of Northampton

The foregoing instrument was acknowledged before me this 21 day of July,
20 21, by Paul G. Aronson, WA 23310 (name of person acknowledged).

Signature of Notarial Officer: [Signature]

Notary Registration Number: 7096-521

My Commission Expires: 3-31-23

(Seal)

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

Cape Charles Mini Golf

Zoning Ordinance

Tom and Katie Austin, owners of Cape Charles Mini Golf, are requesting one variance to meet the minimum requirement of 20 parking spaces (Article IV section 4.5 B).

We propose that for each car parking space eliminated, we will replace with 2 golf cart parking spaces.

Our site plan includes 14 car parking spaces and 12 golf cart parking spaces, for a total of 26 parking spaces.

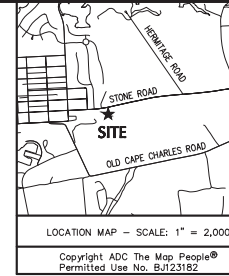
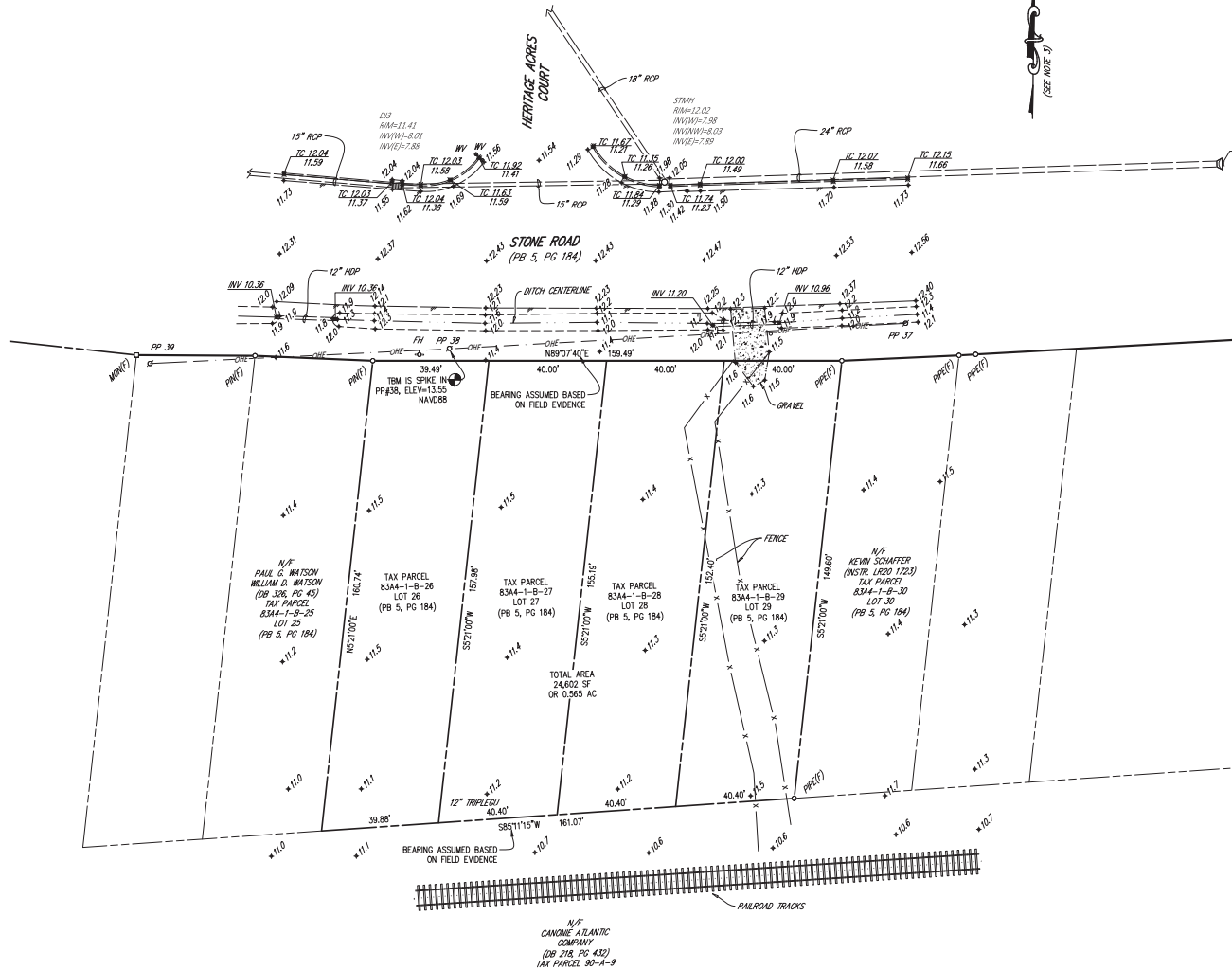
We think that having 26 parking spaces will be sufficient and that our business will be able to accommodate even more people than the ordinance for a minimum of 20 parking spaces dictates. Given that Cape Charles is a golf cart-friendly town, we estimate that about half of customers will arrive to our mini golf course by golf cart and that the other half will arrive by car. We think that our combined 26 parking spaces is more than enough to ensure that everyone will comfortably find a parking space.

We hope that you find our request to be reasonable.

Sincerely,

Tom and Katie Austin

LEGEND	
○ TEXT	MANHOLE
□ SC0	SANITARY CLEANOUT
● TEXT	VALVE
○ INV	WATER METER
● FH	FIRE HYDRANT
● WELL	WELL
● MWELL	MONITOR WELL
● DI	DROP INLET
● CB	CATCH BASIN
● RD INV 10.00	ROOF DRAIN
● GM	GAS METER
● PP	POWER POLE
● LP	LIGHT POLE
□	LIGHT POLE / CONCRETE BASE
△ LIGHT	GROUND LIGHT
□	TRANSFORMER
□	GUY WIRE
□	PEDESTAL
□	CURB AND GUTTER
□	FENCE
□	PROPERTY LINE
□	RIGHT-OF-WAY LINE
□	BUILDINGS
□	STORM SEWER
□ (ST) 12" RCP (1)	PIPE LABEL (SIZE, TYPE, ID)
□	WATER
□	SANITARY SEWER
□ 8" PVC (2)	PIPE LABEL (SIZE, TYPE, ID)
□	ELECTRIC & TELEPHONE LINE
□	UNKNOWN & STEAM LINE
□	TRAFFIC BOX
□	MAIL BOX
□	TREE
□	BUSH/HEDGE
□	PAVEMENT
□	CONCRETE
□	TEMPORARY BENCHMARK (TBM)
□	ELEVATIONS
□	TOP OF CURB ELEVATIONS
□	TOP OF WALL ELEVATIONS
□	UTILITY STRUCTURE ID



- NOTES:
- 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.
 - THIS PROPERTY APPEARS TO FALL IN FLOOD ZONE "X" AS SHOWN ON PANEL 0305F OF THE FLOOD INSURANCE RATE MAPS FOR CAPE CHARLES, VIRGINIA, COMMUNITY NO. 5131C, DATED 3/2/2015. FLOOD ZONE INFORMATION SHOWN HEREON IS NOT GUARANTEED AND WAS APPROXIMATELY SCALED FROM THE FLOOD INSURANCE RATE MAPS FOR THE CITY/COUNTY INDICATED. MSA, P.C. IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN. FOR FURTHER INFORMATION AND TO CONFIRM THE FLOOD ZONE FOR THIS PROPERTY, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL. 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.
 - NORTH MERIDIAN SHOWN HEREON IS BASED ON PB 5, PG 184 (SOURCE PLAT). BEARINGS ARE ASSUMED AS THERE ARE NO BEARINGS SHOWN ON THE SOURCE PLAT FOR BLOCK "B".
 - ELEVATIONS SHOWN HEREON BASED ON NAVD83, NGS STATION (PID) FND025.
 - THIS SURVEY DOES NOT ADDRESS THE EXISTENCE OR NONEXISTENCE OF METLANDS, ENVIRONMENTAL HAZARDS, CEMETERIES OR ANY UNDERGROUND STRUCTURE NOT OBSERVED DURING THE COURSE OF THE SURVEY.
 - LOCATION OF UNDERGROUND NON-GRAVITY UTILITIES SHOWN ON THIS SURVEY ARE BASED ON SURFACE INDICATIONS OF SUBTERRANEAN USE. THIS SURVEY DOES NOT GUARANTEE THE EXISTENCE OR NONEXISTENCE OF UNDERGROUND UTILITIES.
 - THIS TOPOGRAPHIC SURVEY WAS COMPLETED UNDER THE DIRECT AND RESPONSIBLE CHARGE OF JEFFREY J. WERRETH, L.S. (LIC. NO. 2306) FROM AN ACTUAL GROUND/ARBORNE SURVEY MADE UNDER MY SUPERVISION; THAT THE WAGERY AND/OR ORIGINAL DATA WAS OBTAINED ON APRIL 21, 2023; AND THAT THIS PLAT, MAP OR DIGITAL GEOSPATIAL DATA INCLUDING METADATA MEETS MINIMUM ACCURACY STANDARDS UNLESS OTHERWISE NOTED.

MSA, P.C.
Environmental Sciences - Surveying
Civil & Environmental Engineering
9012 Fause Drive, Suite 100
York, VA 23691
757-499-9264 | www.msasurveys.com



COMMONWEALTH OF VIRGINIA
JEFFREY J. WERRETH
L.S. No. 2306
5/24/2021
LAND SURVEYOR

DESIGNED	CIS
DRAWN	JW
CHECKED	JW
APPROVED	JW
DATE	5/24/2021

TOPOGRAPHIC SURVEY
of
TAX PARCELS 83A4-1-B-26, 83A4-1-B-27, 83A4-1-B-28 AND 83A4-B-29 (PB 5, PG 184)
CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA

SHEET
1
1 of 1 Sheets
SCALE: 1" = 20'
PROJ. NO.: 21080

CONCEPTUAL SITE LAYOUT PLAN OF CAPE CHARLES MINI-GOLF ISLE OF WIGHT, VIRGINIA

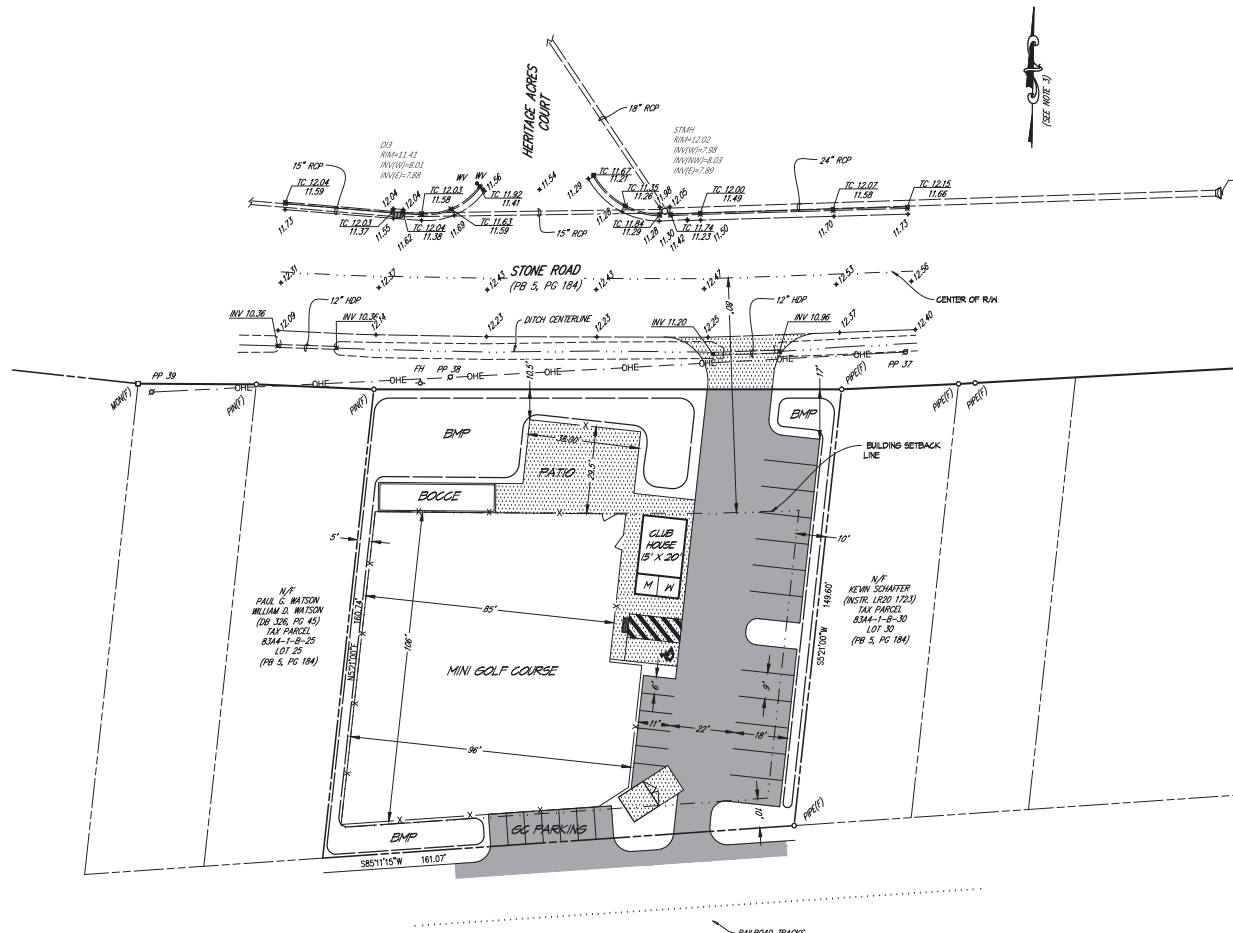
Site Data

Site Area: ± 0.56 AC
 Tax Parcels: 83A4-1-B-26
 83A4-1-B-27
 83A4-1-B-28
 83A4-1-B-29
 Existing Zoning: C-3
 Existing Use: Undeveloped
 Proposed Use: Mini Golf
 Parking Required: 20 Spaces
 13 Spaces
 1 ADA Space
 12 Golf Cart Spaces (6'x 11')
 26 Total Spaces
 Parking Provided:
 BMP Provided: ± 3,600 SF (± 15% of Site Area)

BUILDING SETBACKS

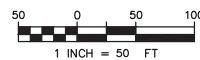
FRONT: 80' FROM CENTER OF R/W
 SIDE: 5' & 10'
 REAR: 10'

PATIO SETBACK 10.5' FROM R/W



DATE: 07/02/2021

THIS DRAWING IS CONCEPTUAL AND HAS BEEN PREPARED WITH A SITE SURVEY PREPARED BY OTHERS. THEREFORE, PROPERTY LINES, WETLAND BOUNDARIES, AND OTHER SITE SPECIFIC DATA ARE APPROXIMATE. CONCEPT DRAWINGS ARE GENERAL IN NATURE AND ARE INTENDED ONLY TO ILLUSTRATE THE DEVELOPMENT POTENTIAL FOR A PROPERTY. THEY SHOULD NOT BE RELIED UPON AS THE SOLE BASIS FOR ANY FINANCIAL OR LEGALLY BINDING TRANSACTION.



ORBIS
 LANDSCAPE
 ARCHITECTURE
 ORBIS-LLC.COM

Northampton County, Virginia

Legend

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



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

Feet
0 50 100 150 200
1:2,257 / 1"=188 Feet

Title: 83A4-1-B-(26) (27) (28) (29)

Date: 7/16/2021

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.

2. Screening shall be provided along the common side and rear lot lines of every commercial and industrial district that abuts a residential use or zone. Such screening shall include either fencing or shrubs and trees that provide a six feet in height barrier to visual observation. Screening shall be shown on the landscape plan submitted.
 3. Parking lots. There shall be a landscaped open space within the perimeter of the parking areas in the minimum amount of two square feet per parking space. At least one tree shall be planted for each forty square feet of landscaped area.
- D. Multi-Family Developments and Mobile Home Parks
1. Screening may be required for multi-family developments and mobile home parks that abut single-family districts or uses.
 2. Parking areas may require landscaping and screening in multi-family and mobile home parks. Where required, other provisions of this ordinance shall apply.
- E. Exterior Lighting
1. All exterior lighting shall be arranged and installed so that the direct or reflected illumination does not exceed (0.5) foot candles above the background measured at the lot line of any adjoining parcel.
 2. Lighting standards shall be of a directional type capable of shielding the light source from direct view from any adjoining parcel.
 4. All lighting shall comply with Dark Sky standards.

Section 4.5 Off-Street Parking and Loading Standards. [updated 2/6/2020]

A. General requirements.

1. It is the intent of this zoning ordinance that all buildings, structures, and uses of land shall provide off-street vehicular and bicycle parking in an amount sufficient to meet the needs caused by the building or use of land and that such parking and loading spaces be so oriented that they are readily useable for such purposes.
2. Each use of land and each building or structure hereafter constructed or established shall provide off-street parking and loading according to the standards set forth herein. When a change is proposed to a building that is nonconforming as to parking or loading requirements, a conforming amount of parking or loading shall be supplied based upon the size of the addition.
3. No addition, renovation, or change of use to an existing building shall be constructed or established which reduces the number of spaces, area, or usability of existing parking or loading space unless such building and its addition conform with the regulations for parking and loading contained herein.
4. The parking lot shall not be modified, enlarged, relocated, or expanded in a manner that violates any portion of this zoning ordinance.
5. No non-single-family detached residential parking area may be used for the sale, repair, dismantling, servicing, or long-term storage of any vehicles or equipment,

unless such use is permitted by the zoning district in which the area is located. Any repairs deemed an emergency by the Zoning Administrator is exempt from this requirement.

6. Inoperable vehicles may not be parked in required parking spaces or in any side or front yard and shall be completely screened from view of all surrounding public streets.

B. Minimum number of parking spaces required.

1. The following are the parking space requirements by permitted use:
 - a. For any use not listed, the Zoning Administrator shall determine the proper requirements by classifying the proposed use among the uses specified herein as to assure equal treatment. In making any such determination, the Zoning Administrator shall follow the principles set forth in the statement of purpose for the zoning ordinance in Article I.
 - b. New infill structures or change of use projects on the first floor of structures in Commercial District C-1 and shall be exempt from complying with the requirements of this Section. New uses or changes of use units above the first floor shall be required to conform to the parking requirements set forth herein.
2. Maximum number of parking spaces.
 - a. The total number of permitted parking spaces shall not exceed 110 percent of the minimum number of off-street parking spaces required by type of permitted use, except when the excess spaces are contained in a parking structure.
 - b. Any parking not included within a parking structure that is between 100 and 110 percent of the minimum number of off-street parking spaces required by type of permitted use shall be "grasscrete" or "grasspave" or other pervious paving systems as approved by the Zoning Administrator.
3. The following table states the minimum number of off-street parking spaces required by use. Any uses not listed would be required to provide the minimum number of parking spaces required by the parent category. When a determination of the number of parking spaces required by this table results in a requirement of a fraction of a space, any fraction shall be counted as one parking space.

Minimum Parking Space Requirements Table

Land Use	Minimum Parking Space Requirements
a. Residential	
1. Single-family residences	2 spaces per dwelling unit in all districts other than R-1, otherwise none
2. Multifamily residences	1 space per one-bedroom dwelling unit, otherwise

	two spaces per dwelling unit
3. Mixed-use developments	1.5 spaces per dwelling unit; 1 space per dwelling unit for age-restricted; plus 1 additional space per 200 square feet of commercial gross floor area
4. Home occupations	No additional spaces required
5. Accessory dwelling units	1 space per bedroom
6. Child and personal care uses	1 space per 2 employees
7. Institutional residence or care or confinement facilities	1 space per 2 beds
8. Rooming houses, boarding houses	1 space per bedroom
9. Tourist homes, bed and breakfasts, other temporary residences renting by the day or week	1 space per rentable bedroom plus 2 spaces if owner/landlord lives on premises
10. Temporary mobile homes approved in the event of an emergency, construction, or repair	2 spaces per temporary mobile home
b. Sales and Rental of Living Space and Goods	
1. Sales and rental of goods, merchandise or equipment, non-motor vehicle related	1 space per 300 square feet of gross floor area
2. Wholesale sales, with or without outdoor display or storage of goods	1 space per 300 square feet of gross floor area devoted to sales or display, plus one space per 2,000 square feet of gross storage area
3. Hotels, motels and similar businesses or institutions providing overnight accommodations	1 space per unit plus 1 space per 5 units for visitors
4. Extended-stay motels/hotels	1 space per unit plus 1 space per 5 units for visitors
c. Restaurants	
1. Restaurants	1 space per 100 square feet of gross floor area
2. Event center	1 space per 3 seats
d. Motor vehicle-related sales and service operations and modifications	
1. Motor vehicle-related sales and service operations and modifications	Not including outdoor car display areas for dealerships, 1 space per 200 square feet of gross floor area
e. Office, Clerical, Repair, Research and Personal	
1. Services – Office, clerical, repair, research, and personal, not primarily related to the sale of goods and merchandise	1 space per 300 square feet of gross floor area
f. Offices	
1. Services – office, clerical, repair, research, and personal, not primarily	1 space per 300 square feet of gross floor area

related to the sale of goods and merchandise	
g. Recreation, amusement, and entertainment	
1. Baseball batting range	20 spaces
2. Bowling alleys	5 spaces per alley
3. Golf driving range and/or miniature golf	20 spaces
4. Health clubs and other physical fitness establishments	1 space per 300 square feet
5. Park, playground, community center, swimming pool and other recreational facilities as a principal use	1 space per 2000 square feet of surface area of parks, playgrounds, and/or swimming pools; plus 2 spaces per tennis court; plus 1 space per 500 square feet of recreational facility
6. Theaters (indoors)	1 space per 3 seats
7. Performing arts center	1 space per 3 seats
8. Subdivision recreation area	1 space per 200 square feet of surface area of swimming pools, plus 2 spaces per tennis court, plus 1 space per 500 square feet of clubhouse, offices, meeting rooms, or other similar enclosed buildings
h. Manufacturing, processing, creating, repairing, renovating, painting, cleaning, assembling of goods, merchandise, or equipment	
1. Manufacturing, processing, creating, repairing, renovating, painting, cleaning, assembling of goods, merchandise, or equipment	1 space per 2,000 square feet of gross office, plant, and/or storage
2. Innovator space	1 parking space per 500 square feet
i. Storage and parking	
1. Storage and parking	1 space per 2,000 square feet of gross storage area
j. Services and enterprises related to animals	
Services and enterprises related to animals	1 space per 250 square feet of gross floor area
k. Funeral related services (human and animal related)	
1. Funeral related services (human and animal related)	1 space per 3 seats
l. Educational, cultural, religious, philanthropic, social, or fraternal uses	
1. Public and private schools offering general education courses (including associated grounds and athletic and other facilities)	2 spaces per classroom for K - 8th grade, plus 1 space per teacher or staff member for grades above 8th
2. Trade or vocational schools	10 spaces per classroom
3. College, universities, community colleges (including associated facilities)	10 spaces per classroom

such as dormitories, office buildings, athletic fields, etc.)	
4. Assembly halls, including union halls, conference halls, civic halls and activities of similar nature	1 space for every 3 people allowed to occupy the building, as set by the maximum occupancy limit
5. Libraries, museums, art galleries, art centers, and similar uses (including associated educational and instructional activities)	1 space per 300 square feet of gross floor area
6. Place of worship and places of assembly	1 space for every 3 people allowed to occupy the building, as set by the maximum occupancy limit
7. Social, fraternal clubs or lodges, union halls, and similar uses	4 spaces per 1,000 square feet of gross floor area
8. Clubs and lodges catering exclusively to members and their guests	4 spaces per 1,000 square feet of gross floor area
m. Miscellaneous public and semi-public facilities	
1. Miscellaneous public and semi-public facilities	None
n. Agricultural, forestry, mining, and quarrying operations	
1. Agricultural, forestry, mining, and quarrying operations	1 space per employee
o. Temporary structures and special events used in connection with the construction of a permanent building or for some non-recurring purpose	
1. Temporary structures and special events used in connection with the construction of a permanent building or for some non-recurring purpose	Regulated on a case-by-case basis

C. Shared parking.

1. Reduction of parking requirements through a shared parking arrangement may be granted by the Zoning Administrator through written request from an applicant and provision of one of the options provided in subsection C.2.
2. Options for a reduction of parking through a shared parking arrangement:
 - a. Option one: For properties sharing parking spaces under this provision, cross-easements shall be filed establishing access to the shared parking spaces in perpetuity and documentation of filing provided to the Town.
 - b. Option two: The minimum number of parking spaces where shared parking strategies are proposed shall be determined by a study prepared by the applicant following the procedures of the Urban Land Institute Shared Parking Report, Institute of Transportation Engineers Shared Parking Guidelines, or other approved procedures with approval by the Zoning Administrator.
 1. The actual number of parking spaces required shall be based on well-recognized sources of parking data such as the Urban Land

Institute or Institute of Transportation Engineers reports. If shared parking rates are not available or limited, the applicant may collect data at similar sites to establish local parking demand rates.

2. If the shared parking plan assumes use of an existing parking facility, then field surveys shall be conducted to determine actual parking accumulation. If possible, these surveys should consider the seasonal peak period for the combination of land uses involved.
3. Said study must receive Zoning Administrator review and approval. The study shall document that the arrangement shall avoid conflicting parking demands and provide for safe pedestrian circulation and access.
3. Shared parking agreements shall be fully executed and submitted to the Zoning Administrator for review prior to receiving a Certificate of Occupancy.
4. In no case shall the Zoning Administrator approve a reduction of parking through a shared parking arrangement of greater than 25 percent for any use.
5. Any subsequent change in land uses within the participating developments shall require proof that adequate parking will be available. Prior to any change in use, the owner must apply to the Zoning Administrator for an evaluation and confirmation of the change. If the Zoning Administrator finds that the parking reduction is no longer justified, the Zoning Administrator shall notify the owner to construct the number of parking spaces necessary to meet the difference in the required parking between the proposed and previous uses.
6. A formal parking study may be waived by the Zoning Administrator for small developments where there is established experience with the land use mix and its impact is expected to be minimal.

D. Bicycle parking.

1. Development of new primary buildings in all R-3, CR, C-1, C-2, C-3, H, GBI, M-1, M-2, and OSD districts, other than single-family residential, shall provide bicycle parking spaces at a ratio of at least one bicycle parking space for every 20 automobile parking spaces.
2. No primary building, other than single-family residential, shall have fewer than three bicycle parking spaces nor be required to exceed a maximum of 20 spaces. If three or more bicycle parking spaces are located within 100' of the primary entrance of the proposed development on the same street frontage, they are exempt from this requirement.
3. Bicycle parking spaces shall be located within 20 feet of the front entrance of the primary structure, or as approved by the Zoning Administrator. Bicycle parking spaces shall not interfere with pedestrian access along sidewalks or walkways.
4. Bicycle parking shall provide an inverted U steel frame or decorative rack approved by the Zoning Administrator. The rack shall be anchored to a concrete pad.

E. Golf cart parking.

1. Golf cart parking spaces are permitted in all off-street surface parking lots and parking structures.
2. Each golf cart parking space shall be six feet wide and at least 11 feet deep.

3. Golf cart parking spaces shall be identified by paving markings and by appropriate signage. Signage shall not count against the maximum aggregate sign area permitted on a lot.
4. Permeable pavers shall be used for golf cart parking spaces as approved by the Zoning Administrator.
5. Wheel bumpers shall be placed at the head of all golf cart parking spaces that do not abut a curb. Wheel bumpers shall be made of concrete, a minimum of four feet long, five inches high, and six inches wide and securely fastened to the pavement by steel re-bars or steel anchors.

F. Electric vehicle charging stations.

1. Electric vehicle charging stations are permitted in all off-street surface parking lots and parking structures.
2. Spaces for electric charging shall be identified by paving markings and by appropriate signage. Signage shall not count against the maximum aggregate sign area permitted on a lot.
3. Spaces reserved for electric vehicle charging stations may be counted as part of the minimum required parking spaces but shall not be counted toward the maximum.
4. Any new building with over 20,000 square feet of gross floor area space shall equip at least one required parking space on its property with an electric vehicle charging station prior to receiving a Certificate of Occupancy.
5. The owner of the property shall be responsible for the installation, maintenance, and operation of electric vehicle charging stations. The owner of the property may determine if a fee is associated with the electric vehicle charging station.
6. Electric vehicle charging stations shall be installed per U.S. Green Building Council (USGBC) standards.

G. Parking in non-single-family zoning districts.

1. *Parking spaces.*
 - a. Off-street surface parking lots shall not be located between the principal building and the street except where otherwise permitted below.
 1. Lots within CR, C-1, C-2, C-3, H, GBI, M-1, and M-2 districts with a lot area of less than 13,000 square feet shall be permitted to have automobile parking located within the front yard only when the following regulations are met:
 - a. Front yard parking shall be limited in area to a maximum of 50 percent of the area of the front yard.
 - b. When permitted, automobile parking is only permitted in front yards when located on the permitted access driveway on a paved surface.
 - c. *Required dimensions for each parking space.* Each automobile parking space shall be not less than nine feet wide and 18 feet deep. Adequate interior driveways shall connect each parking space with a public right-of-

way, and each space shall have an overhead clearance of at least 6.5 feet.

- d. Shall have access to a public street.
- e. Shall be graded and paved, including access drive(s), and be curbed when needed for effective drainage control, and meet the following requirements:
 - 1. A minimum depth of six inches of number 21A aggregate base and a minimum of 1.5 inches of asphalt; or
 - 2. Six inches of concrete on appropriate base; or
 - 3. Four inches of brick or porous paving block on four inches of number 21A aggregate base.
 - 4. Permeable pavers may be used for any parking area, alley, or other low traffic driveway as approved by the Zoning Administrator.
- f. Shall have spaces marked with painted lines, curbstones, or other similar devices, and areas shall be properly maintained in all respects. Landscaping shall be kept healthy and well maintained, surfaces shall be free of potholes, and lines marking spaces shall be distinct and clear.
- g. Shall be drained so as to prevent damage to abutting properties or public streets and where possible shall be drained towards infiltration swales located in the five-foot, head-to-head landscape strips required between vehicles in Section 4.5.J.1.d.
- h. Shall have adequate lighting if the facilities are to be used at night, provided such lighting shall be arranged and installed so as not to reflect or cause glare on abutting properties. Light poles used in parking lots with 100 parking spaces or less may not exceed 20 feet in height. Light poles used in parking lots with more than 100 parking spaces may not exceed 35 feet in height. All lighting is to be compliant with Dark Sky lighting standards.
- i. Shall be designed to conform to the geometric design standards of the Institute of Traffic Engineers (ITE) when not expressly required in this section.
- j. Wheel bumpers shall be placed at the head of all parking spaces that do not abut a curb and any spaces that abut a sidewalk. Wheel bumpers shall be made of concrete, a minimum of six feet long, five inches high, and six inches wide and securely fastened to the pavement by steel re-bars or steel anchors. Individual wheel bumpers shall be placed a minimum of 24 inches from the end of each required parking space.
- k. Shall be required to provide handicapped spaces in accordance with the provisions of the Americans with Disabilities Act. All handicapped spaces shall be identified by appropriate restrictive signing and markings.
- l. *Pedestrian circulation.*
 - 1. Parking areas shall be designed to facilitate safe and convenient use by pedestrians.
 - 2. Parking areas with more than 50 cars shall provide safe pathways from aisles of parking to the nearest building entrance and to adjacent streets. Such pathways shall be at least five feet wide

and consist of raised pathways constructed of pavers or other contrasting material.

H. Compact parking spaces.

1. Developments where 30 or more parking spaces are provided shall be required to provide compact parking spaces, as follows:
 - a. A minimum of five spaces, or ten percent of the total number of parking spaces, whichever is greater, shall be set aside for compact cars.
 - b. A maximum of 25 percent of the total required parking spaces may be set aside for compact cars, up to a maximum of 50 spaces, whichever is less.
 - c. Compact parking spaces shall be identified by pavement markings and/or by appropriate signage.
 - d. Parking spaces for compact cars shall not be less than eight feet wide and 16 feet deep.

I. Stacking spaces for drive-through service windows and drive-through facilities.

1. Stacking spaces shall be provided for any use having a drive-through service window or areas having drop-off and pick-up areas in accordance with the following:
 - a. Inbound stacking spaces shall be provided before the first service window as stipulated below and at least one outbound stacking space shall be provided after each service window of a drive-through facility.
 - b. Each stacking space shall be a minimum of 22 feet long.
 - c. Designated stacking spaces shall not interfere with circulation of the lot or free movement or access to parking spaces.
2. Banks with drive-through facilities shall provide a minimum of six spaces before each service position and one outbound space after the service window.
3. Restaurants with drive-through service windows shall provide a minimum of ten stacking spaces for inbound drive-through customers and one additional outbound space after each service window.
4. Other facilities with drive-through service windows shall provide three stacking spaces for each window or drive-through service facility.
5. Drive-through service window lanes shall be separated by striping or curbing from off-street parking areas. Individual lanes shall be striped, marked, or otherwise distinctly delineated.
6. Stacking lanes shall be a minimum of 8.5 feet adjacent to the service window.
7. All drive-through service windows shall be provided with a bypass lane with a maximum width of 8.5 feet.
8. All stacking lanes shall be at least 75 feet from an intersection with the nearest street or internal driveway. The distance is measured from the back of the stacking space nearest the entrance to the curb line of the nearest intersection.

9. Pedestrian pathways crossing drive-through lanes shall be clearly signed and identified using alternative materials or raised crosswalks. Painted crosswalks alone are not permitted.

J. Landscaping in parking lots.

1. Interior landscaping for off-street parking areas shall be required for all surface parking lots designed for 20 or more spaces. The following requirements shall apply.
 - a. Landscape islands shall be located no farther apart than every ten parking spaces and at the terminus of all rows of parking. Each landscaped island shall be at least 200 square feet in area with a minimum width of ten feet.
 - b. There shall be at least one overstory tree, ten low shrubs and a minimum of 60 percent living ground cover, sod, and/or annual or perennial color in each landscaped island. Shrubs, sod and/or living ground cover shall not to exceed three feet in height.
 - c. Vehicles shall be separated from sidewalks, driveways, and streets in public rights-of-way by wheel bumpers and by a strip of land at least ten feet wide, reserved as open space, and planted in grass containing at least one understory or overstory tree, as appropriate, and ten shrubs per 50 linear feet, and a minimum of 80 percent living ground cover, sod, and/or annual or perennial color in the landscape strip surface area. Wheel bumpers shall be placed a minimum of 48 inches from the nearest tree trunk.
 - d. Head-to-head parking shall provide a five-foot grass strip with curb. The grass strip may be counted as part of the landscaped areas and shall have one tree every 50 feet containing at least one overstory tree, and ten shrubs, per 50 linear feet, and a minimum of 70 percent living ground cover, sod, and/or annual or perennial color in the landscape strip surface area.
 - e. *Perimeter landscape strips.* The perimeter of a surface parking lot shall provide a five-foot wide landscape strip where such parking lot abuts side or rear property lines. The perimeter landscape strip shall be planted with a single row of overstory trees of a species appropriate for buffers and spaced every 40 linear feet of landscape strip, and evergreen shrubs spaced every 5 linear feet of landscape strip. The perimeter landscape strip shall be continuous except for near perpendicular crossings of driveways and sidewalks.
 - f. Landscaped areas in parking lots shall provide drainage and irrigation that ensures full drainage to the storm drainage system.
 - g. See the Cape Charles Master Tree Plan for trees that shall and shall not be permitted within parking lot landscape areas.
2. The minimum number of spaces required may be reduced where the Zoning Administrator has determined that the reductions are necessary to preserve a

healthy tree or trees with a three-inch or greater diameter from being damaged or removed and where the site plan provides for the retention for said tree or trees.

3. *Screening.* Plantings which meet the standards for screening as approved by the Zoning Administrator will be required to screen vehicle accommodation areas other than those serving single-family and duplex dwellings from an adjacent residential district or use. Fencing may be substituted for plantings with the approval of the Zoning Administrator.

K. Access management.

1. Driveways.

- a. *Interior driveway.* Where 90-degree parking is utilized, all interior driveways shall be a minimum of 22 feet in width. If 45- or 60-degree angle parking is used, then the interior driveway shall be at least 12 feet in width. Where parallel parking is utilized or there is no parking, interior driveways shall be a minimum of 10 feet in width for one-way traffic and 20 feet in width for two-way traffic.
- b. Driveways and drive aisles are not permitted between the sidewalk and a building and shall be perpendicular to any adjacent street.
- c. All developments other than single-family detached dwellings shall have pedestrian walkways a minimum width of five feet connecting ground level parking to the public sidewalks and to all building entrances.

L. Provisions for off-street loading.

1. This subsection shall apply to all activities related to loading and unloading.
 - a. Loading activities within 150 feet of residential uses shall only be permitted to undertake said activities Monday through Friday from 7:00am to 10:00pm and on Saturdays from 9:00am to 9:00pm.
 - b. In no case shall loading activities hinder or obstruct free movement of vehicles, and pedestrians over a street, sidewalk, alley, or interrupt parking lot circulation.
 - c. All off-street loading activities and access shall be provided with an asphalt or concrete surface, or shall be "grasscrete" or "grasspave" or other pervious paving systems as approved by the Zoning Administrator.
 - d. Loading structures and bays.
 1. Buildings or structures shall be designed so that the loading areas are not visible from any adjoining residential district or any public right-of-way.
 2. When required, one or more off-street loading spaces shall be provided on the same or adjoining premises with the facility it serves, either inside or outside a building or structure.
 3. A loading space shall have a minimum dimension of 12 feet wide and 35 feet deep.

4. All loading spaces shall maintain overhead clearance of at least 14 feet.
 5. All off-street loading spaces shall have access from an alley, or if there is no alley, from a street.
- e. Minimum loading space requirements for non-residential uses:

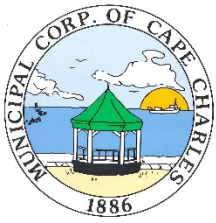
Gross floor area	Required loading spaces
0 – 49,000 square feet	1
49,000 – 100,000 square feet	2
100,000 – 160,000 square feet	3
160,000 – 240,000 square feet	4
240,000 – 320,000 square feet	5
320,000 – 400,000 square feet	6
Each 90,000 above 400,000 square feet	1

M. Dumpsters.

1. A solid fence on three sides shall enclose all dumpsters.
 - a. The height of the fence shall be equal to or higher than the height of the dumpster, in accordance with Section 4.2.G.
 - b. The visible material of the fence shall be made up of brick, stucco, or stone.
2. The operable side of the dumpster shall be concealed with a gate equal to or higher than the height of the dumpster. The gate shall be opaque and constructed of durable materials.
3. Dumpsters shall be placed in the rear yard and shall be located a minimum of five feet from property lines.
4. In no case shall loading activities hinder or obstruct the free movement of vehicles, and pedestrians over a street, sidewalk, alley, or to interrupt parking lot circulation.
5. Service activities within 150 feet of residential uses shall only be permitted Monday through Friday between 7:00am to 10:00pm and on Saturdays from 9:00am to 9:00pm.
6. Access to dumpsters shall be provided via a paved, dust-free surface.
7. Temporary construction trash and recycling dumpsters, which are not enclosed, shall be permitted up until such time as a Certificate of Occupancy is issued.

Section 4.6 Stormwater Management

- A. Purpose and Intent. The purpose and intent of the requirements contained in this section are to prevent a new increase in nonpoint source pollution from new development and achieve a 10 percent reduction in nonpoint source pollution from



Municipal Corp. of Cape Charles

TO: Board of Zoning Appeals
FROM: Katie H. Nunez, Interim Planning/Zoning Administrator
DATE: August 5, 2021
RE: BZA Rules of Procedure – Revised Draft

Enclosed is a revised draft of the Board of Zoning Appeals Rules of Procedure for discussion by the Board.

A draft document was provided in the July agenda packet but was not discussed at that meeting due to time constraints. This matter is being brought forward to the August meeting for discussion and I have made a few edits (which are shown in red font) to correct errors in the document as well as to incorporate two policies that have been adopted and/or revised by Town Council at their meeting on 7/21/2021 which are applicable to all boards and commission regarding public meetings, public comments received at public meetings and general code of ethics.

I am seeking the Board's input, comments and proposed changes to the draft document for eventual adoption by the Board.

**TOWN OF CAPE CHARLES
BOARD OF ZONING APPEALS
RULES OF PROCEDURE**

**Reviewed: July 2021
August 2021**

Adopted: _____

ARTICLE 1 – OBJECTIVES

- 1-1. The Cape Charles Board of Zoning Appeals, hereinafter called “Board” or “BZA”, established pursuant to Cape Charles Zoning Ordinance Section 2.6.1 and Code of Virginia §15.2-2308, as amended, has adopted these rules of procedure in order to properly exercise its powers and fulfill its duties in accordance with the Cape Charles Zoning Ordinance and the Code of Virginia §15.2-2309, as amended.

ARTICLE II – MEETINGS

- 2-1. *Annual meeting.* The meeting in January of each year shall be known as the annual meeting. At the annual meeting, the BZA shall establish the day, time, and place for regular meetings of the BZA for that year, and shall elect the Chair, Vice-Chair, and Secretary.
- 2-2. *Regular meetings.* A regular meeting of the Board of Zoning Appeals for the hearing of cases shall be held on the 2nd Tuesday of each month, starting at 10:00 a.m., at the Cape Charles Civic Center located at 500 Tazewell Avenue, unless no cases or other matters are pending – in which instance, no meeting shall be held. If the Chair, or Vice-Chair in his or her absence, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting, the meeting shall be continued until the 3rd Tuesday of that month. All matters properly advertised to be heard at such meeting shall be conducted at the next available meeting after fulfilling the advertising requirements for each public hearing. Notice of all meetings must be in accordance with Code of Virginia §2.2-3707 (C), posted at least three (3) working days prior to the meeting and be posted in the Cape Charles Town Offices and the town website.
- 2-3. *Special Meetings.* Special meetings may be called by the Chairman, provided that at least three days’ notice under the circumstances of such meeting is given to each member and notice is contemporaneously provided to the public when the members of the public body are notified. Notice of all meetings must be in accordance with Code of Virginia §2.2-3707 (C) and be posted in the Cape Charles Town Offices and the town website.
- 2-4. *Quorum.* The Board of Zoning Appeals has five members who are appointed by the Northampton County Circuit Court judge each for a term of five years, pursuant to Cape Charles Zoning Ordinance Section 2.6.1. A quorum shall consist of a majority of the

members of the Board, which is deemed to be three members. If less than a majority of the members are present, no action can be taken and the meeting shall be adjourned.

- 2-5. *Conduct.* The conduct of business at all regular meetings of the Board shall follow these Rules of Procedure and hereby embrace Robert's Rules of Order for Small Organizations to specify rules of order as the procedural determinant in cases where both the Code of Virginia, as amended, and these Rules of Procedure are silent. Robert's Rules of Order for Small Organizations are less formal.
- 2-6. *Adjournment.* The Board may adjourn a regular meeting once all applications or appeals are duly disposed of and the Chair has called for a motion to adjourn.
- 2-7. *Postpone/Continuance.* If all applications or appeals cannot be properly disposed of on the date set, the meeting shall be postponed/continued to a date set and announced by the BZA. No further public notice shall be necessary for a postponement/continuation of such meeting.

ARTICLE III – OFFICERS

- 3-1. *Chair.* At its annual meeting, the BZA shall elect a Chair who, if present, shall preside at all meetings and hearings of the Board; he or she shall decide all points of order or procedure and shall appoint any committees that are found to be necessary. On any application or appeal, the Chair may administer oaths and compel the attendance of witnesses.
- 3-2. *Vice-Chair.* At its annual meeting, the BZA shall elect a Vice-Chair who, if present shall assume the duties of the Chair in his or her absence or disability.
- 3-3. *Secretary.* At its annual meeting, the BZA shall elect a Secretary. The Secretary, who need not be a member of the Board pursuant to Code of Virginia §15.2-2308 (C), shall handle all official correspondence necessary for the execution of the duties and functions of the BZA. The Secretary shall keep the minutes of the Board's proceedings, shall keep a file on each case which comes before the Board, and perform other such duties as these rules may provide and the BZA may, from time to time, assign.

The Secretary of the Board shall notify the court at least thirty (30) days in advance of the expiration of any term of office and shall also notify the court promptly if any vacancy occurs, pursuant to Code of Virginia §15.2-2308 (A) and Cape Charles Zoning Ordinance Section 2.6.1 (A).

- 3-4. *Term of Office.* The Chair and Vice-Chair shall be elected for one-year terms and shall serve until their respective successors take office. Either or both officers may be elected to one or more successive terms.
- 3-5. *Vacancies in Office.* Vacancies in office shall be filled as soon as practicable using the election procedures as set forth in this Article.

3-6. *Absence of Chair and Vice-Chair.* In the event that the Chair and Vice-Chair are both absent from any meeting, a member present shall be chosen to act as Chair.

3-7. Technical assistance may be provided by Town staff as needed.

ARTICLE IV – ORDER OF BUSINESS

4-1. *Agenda.* The agenda for each regular meeting will be established by the Secretary; the Secretary shall consult with the Chair when determining the order of cases to be heard.

4-2. *Organization of the Agenda.* The agenda for each regular meeting shall substantially follow the order listed below, unless a change is requested by the Chair and approved by consent of the Board.

A) Call to order

1. Members Present and Absent
2. Determination of a Quorum

B) Invocation and Pledge of Allegiance

C) Adoption of Agenda

D) Minutes - review and approve minutes of previous meeting(s)

E) Old Business/Matters Deferred from Previous Meetings

F) New Business – Scheduled Hearings

1. Special Exceptions aka Special Use Permits
2. Variances
3. Appeals of Zoning Determinations
4. Interpretations of the District Zoning Map

G) Other Matters

H) Adjournment

ARTICLE V – QUORUM

5-1. A majority of the five (5) members of the BZA shall constitute a quorum for any regular meeting of the Board, which shall be three (3) members. A majority of the members present at the time and place established for any regular or special meeting shall constitute a quorum for the purpose of adjourning the meeting.

If, during the course of a meeting, less than a majority of the membership of the BZA remains present, no action may be taken except to adjourn the meeting. If, prior to adjournment, a quorum is again established, the meeting shall continue.

ARTICLE VI – APPLICATIONS TO THE BZA

6-1. The BZA shall establish, and make publicly available, a deadline for receipt of completed applications.

6-2. *Appeals.* Appeals to the BZA may be taken by any person aggrieved or by any office, department, board or bureau of the Town or municipality affected, by any decision of the Zoning Administrator pursuant to Cape Charles Zoning Ordinance Section 2.6.2 (A) and the VA Code §15.2-2311. Such appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator and with the board, a notice of appeal specifying the grounds thereof.

An application for appeal, filed according to this procedure utilizing any forms promulgated by the Town for applications for appeals, shall be given a case number within five (5) working days. Applications for appeals will be assigned for hearing in the order in which they are received. The appeal shall be heard based upon the established calendar for receipt of completed applications and the proposed BZA meeting hearing date and in compliance with all advertising and public notifications as prescribed in VA Code §15.2-2204.

The hearing will be conducted in accordance with the prescribed Procedure for Hearing Cases in Article VII below.

The BZA's decision on any appeal shall be based on the Board's judgment of whether the administrative officer was correct (VA Code §15.2-2309). Said decision will be issued within sixty (60) days of the hearing. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify any order, requirement, decision, or determination appealed from.

6-3. *Special Exceptions/Special Use Permits.* Applications for special exceptions/special use permits may be made by any person, property owner, tenant, governmental official, department, board, or bureau. Such applications shall be made to the zoning administrator in accordance with department policy and on forms prescribed by the department. Completed Applications for Special Exceptions/Special Use Permits will be assigned for hearing in the order in which they are received.

The special exceptions/special use permits application shall be heard based upon the established calendar for receipt of completed applications and the proposed BZA meeting hearing date and in compliance with all advertising and public notifications as prescribed in VA Code §15.2-2204.

The BZA shall issue a decision within a reasonable timeframe of the closing of the hearing, pursuant to Cape Charles Zoning Ordinance Section 2.6.3

- 6-4. *Variances.* Applications for variances may be made by any person, property owner, tenant, governmental official, department, board, or bureau. Such applications shall be made to the zoning administrator in accordance with department policy and on forms prescribed by the department. Completed Applications for Variances will be assigned for hearing in the order in which they are received.

The variance application shall be heard based upon the established calendar for receipt of completed applications and the proposed BZA meeting hearing date and in compliance with all advertising and public notifications as prescribed in VA Code §15.2-2204.

The BZA shall issue a decision within a reasonable timeframe of the closing of the hearing, pursuant to Cape Charles Zoning Ordinance Section 2.6.3 and VA Code §15.2-2309 (2), as amended.

ARTICLE VII – PROCEDURE FOR HEARING CASES

- 7-1. Cases shall be heard in the order in which they appear on the agenda, except a case may be advanced for hearing by order of the Board upon good cause shown.
- 7-2. At the hearing, the order shall be as follows:
- a. Presentation of case and explanation and/or report by Zoning Administrator or his/her designee.
 - b. Open public hearing, announce that each person speaking during the public hearing will need to state their name & address and will be sworn in by the Chairman to provide testimony during the public hearing.
 - i. Statement of Applicant or his representative; the applicant may make a presentation which is limited to ten (10) minutes, unless additional time is granted by the Chair. If the applicant wishes to present a PowerPoint presentation, it must be provided to staff at least twenty-four (24) hours in advance for review for appropriateness.
 - ii. Statements of other persons in favor. All comments are limited to ~~four~~ **three** (3) minutes. The Secretary will state if any correspondence has been received in support of the application and will enter it into the record.
 - iii. Statements by persons in opposition of the application. All comments are limited to ~~four~~ **three** (3) minutes. The Secretary will state if any correspondence has been received in opposition of the application and will enter it into the record.
 - iv. Applicant's rebuttal, limited to five (5) minutes, unless additional time is granted by the Chair.
 - v. The Chair opens the floor to the members of the BZA to ask any questions of the applicant and/or their representative and to Town staff to clarify items raised during the hearing.
 - vi. The Chair will close the public hearing.

- vii. The Chair will call for the Board to consider the case and to call for motions. If the Board decides that it is not sufficiently informed, it may continue the case and may request further information.
- viii. The final disposition of any appeal shall be in the form of a motion sustaining, reversing, varying or modifying the order, requirement or determination appealed from.

The final disposition of an application for a variance or special exception/special use permit shall be in the form of a motion approving, approving with conditions, modifying or denying the application. Said motion shall refer specifically to the applicable provision in the Town Zoning Ordinance and shall set forth facts and finding in the case on which the decision is based, which shall be consistent with the requirements of the law.

If a motion fails to receive a second, the motion has died and the application or appeal will be carried over for another motion until a final disposition is reached. The vote of each member present on each motion shall be recorded with the motion.

- c. *General Conduct by all participants at the public hearing.* All persons addressing the Board of Zoning Appeals will stand behind the lectern, state their name and address and affirm by oath that they are providing truthful testimony for the matter at hand. No person shall use inappropriate language or verbally attack any BZA member or any member of the public or the Town staff. Signs and placards are not allowed inside the meeting room. Any person whose behavior is disruptive shall be asked by the Chair to leave the meeting room. Persons may not question individual BZA members or staff members without the consent of the Chair. Comments must be limited to the public hearing matter at hand. **Public Comments will adhere to the “Guidelines for Citizen Participation” adopted by Town Council on 7/19/2021 and attached as Appendix A.**
- d. **No member present shall abstain from voting unless such member has a conflict of interest in the matter being voted upon. A “conflict of interest” shall exist when there is an actual conflict: 1) pursuant to the Virginia State and Local Government Conflict of Interests Act (§ 2.2-3100 et. seq. of the Code of Virginia, or 2) pursuant to Town of Cape Charles Code of Ethics & Meeting Rules of Order, adopted by Town Council on July 22, 2021, and which is affixed as Appendix B to these Rules of Procedure or 3) as stated by the Board member unless objected to by a majority vote of the members of the Board with such member asserting such conflict of interest not permitted to vote on such matter.**

ARTICLE VIII – REHEARING/RECONSIDERATION OF A VOTE

- 8-1. No rehearing/reconsideration of any decision by the Board shall be had except on motion by a member of the Board who previously voted on the prevailing side of the decision, which shall be made not later than the first regular meeting succeeding the meeting at

which the motion was acted on; such motion shall be to reconsider the vote, and shall be carried by not less than three affirmative votes.

- 8-2. No motion for a rehearing/reconsideration shall be entertained unless new evidence is submitted, which could not reasonably have been presented at the original hearing. In all cases, the request for rehearing shall be in writing, reciting the reasons for the request, and shall be accompanied by the necessary information, including a recitation of all evidence, which could not reasonably have been presented at the original hearing.
- 8-3. If a rehearing/reconsideration is granted, the case shall be put on the agenda for a rehearing/reconsideration after complying with all notice requirements.

ARTICLE IX – VOTING PROCEDURES

- 9-1. Each decision by the BZA shall be made by approval of a majority of the members present and voting on a motion properly made by a member and properly seconded by any other member. Any motion not properly seconded shall not be further considered.

ARTICLE X – ANNUAL REPORT

- 10-1. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing body or bodies at least once each year, pursuant to the Code of Virginia §15.2-2308 (C).

ARTICLE XI – SUSPENSION OF RULES

- 11-1. These rules may be suspended in whole or in part, only upon the unanimous vote of the entire Board.

ARTICLE XII – AMENDMENTS

- 12-1. These rules may be amended or modified by the affirmative vote of four members of the Board.

ATTACHMENT A

STANDARDS/CRITERIA FOR REVIEW OF EACH TYPE OF APPLICATION

VARIANCES

Pursuant to the Code of Virginia §15.2-2309 (2), variance applications shall be evaluated and reviewed based upon the following criteria:

- (a) Does the evidence shows 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?;
- (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?;
- (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?;
- (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;
- (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?;
- (f) Is the relief or remedy sought by the variance application not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application?

SPECIAL USE PERMITS/SPECIAL EXCEPTIONS Town Zoning Ordinance § 2.6.2 (F)

- (a) Hear and decide applications for special exceptions as may be authorized in the ordinance & may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee to ensure that the conditions imposed are being will continue to be complied with.

APPEAL OF ADMINISTRATIVE OFFICER DETERMINATION

Pursuant to the Code of Virginia §15.2-2309 (1), appeals of administrative officer determinations shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.

Town of Cape Charles Guidelines for Citizen Participation

Town Council meetings are open to the public, except when the Council invokes the provisions of the Virginia Freedom of Information Act to discuss an authorized topic under a closed (Executive) session. A period of Public Comment shall be provided as part of the Agenda for the Council's regular monthly meetings. The Public Comment period is an obligation of the Council to provide members of the public an opportunity to address the Council on legitimate matters of town business. This period shall be governed by the following provisions:

Eligibility

Only those citizens with standing in the Town of Cape Charles will be provided the opportunity to provide input during the Public Comment period. Citizens with standing include full-time residents, property owners, and business owners within the corporate boundaries of the Town of Cape Charles. State, federal, and county officials representing/serving the Town of Cape Charles are also eligible. When eligibility is called into question, input may be provided upon affirmative vote of the Council.

Registering

Persons having an interest in making in-person comments to the Town Council during the Public Comment period must register on a sign-up sheet, including their name and basis for standing, indicating the item or topic on which they wish to speak. The sign-in sheet is available at the main entrance to the Council meeting and must be completed prior to the start of the meeting. The Mayor will recognize speakers at the appropriate time.

Persons having an interest in providing written comments to the Town Council during the Public Comment period must provide such comments to the Town Clerk no later than 60 minutes prior to the start of the meeting. Written comments must include a full name, basis for standing, and the agenda item or topic on which they wish to comment. The Clerk will read authorized comments into the record following all in-person speakers during the Public Comment period.

Members of Council are not permitted to sign-up and make comment during the Public Comment period unless an agenda item being considered has a direct impact upon the Council member or his/her interests, they have declared a potential conflict of interest, and the remaining Council members have voted to excuse that Council member from official action on the related item.

Regulations:

Cell Phone and Recordings

- Ringers on cell phones or pagers shall be turned off during the time that persons are at a Town Council meeting.
- The taking of photographs and video or audio recordings of a speaker or the activities during a meeting of Town Council shall be no closer than the front row of seating or other location designated by the Mayor or presiding officer to avoid disruption to the meeting and to promote public safety. The photographer or recorder shall take steps to avoid obstructing the aisles or other areas for any length of time in such a manner as to prevent other citizens from taking photographs, or to block the view of other citizens attending the meeting. No flashes or lighting devices may be used by photographers or operators of video recording equipment.

Speaking

When a speaker is called by the Mayor or presiding officer, the following is required:

- Speakers shall speak into the microphone to ensure that their name and remarks are heard and recorded as a part of the record of the meeting.
- Speakers shall state their full name and basis for standing and topic to which they are speaking.
- If a speaker represents a group or organization, the speaker shall indicate the name of the organization and the speaker's relationship to the group or organization. Speakers may ask others from their group or organization to stand at their seats to be recognized while the group's or organization's name is announced, but non-speakers or individual members are not permitted to stand with the speaker at the podium and for safety reasons, no members of the group or organization are permitted to stand in the aisles or doorways at Town Council meetings. Those members of a group or organization who do stand when the name of the group or organization is announced shall then be seated.
- Speakers shall address remarks to the Mayor and members of Council and not to the audience.
- Speakers shall state their position, give the facts to substantiate their position, and relate the concerns they believe the Town Council should consider.
- Speaker's comments will be made part of the record and a written copy should be delivered to the Town Clerk for inclusion. If other supportive material is available, it should also be delivered to the Town Clerk for the record.
- Speakers shall refrain from campaigning for public office, personal attacks upon members of the Town Council, Town employees or officials, or any other person.
- Speakers shall refrain from words or statements which, from their usual construction and common acceptance, are construed as insults or which have a tendency to cause an act of violence or a breach of the peace.
- Speakers shall refrain from abusive language, obscenity, vulgarity, and profanely cursing or swearing.
- Speakers shall refrain from actions that would interrupt the public meeting.
- All comments must come directly from the speaker.

Time limitations for remarks

- In-person speakers shall confine their remarks to no more than three (3) minutes. Speakers will be advised when their three (3) minutes have concluded.
- Persons providing written input must limit their comments to no more than can be read by the Town Clerk within three (3) minutes. Written comments provided beyond what can be read during the allotted time will not be entered into the record.
- Speakers cannot "yield," "transfer" or "designate" their time to another speaker in an effort to provide another speaker more than the allotted three (3) minutes.
- The Mayor or other presiding officer shall have the right to limit redundant remarks, as well as the overall time provided for remarks based on consideration of the time available and the need to complete the meeting efficiently.
- After a speaker has concluded his or her remarks, the speaker shall be seated.

Decorum and order

- For safety reasons, petitioning, picketing, displaying signs or posters, solicitation, demonstrating, pamphlet distribution, conducting polls, and blocking of the entryway shall not be permitted at a Town Council meeting or within one hundred (100) feet of any doorway to the meeting location.
- These guidelines do not preclude speakers, when addressing the Town Council, from delivering to the Council members by way of the Town Clerk written materials including reports, statements, exhibits, letters, or signed petitions. Nor do these guidelines preclude those addressing the Town Council from using a chart or graph during their remarks.
- Speakers and members of the audience shall be respectful of others, even if they do not agree with others' comments.
- The Mayor or other presiding officer shall preserve decorum and shall decide all questions of public order.
- At the request of the Mayor or Town Manager, one or more persons, including Town police officers shall act as sergeant-at-arms or sergeants-at-arms at all Town Council meetings. The sergeant-at-arms or sergeants-at-arms shall, under the direction of the Mayor or other presiding officer, have charge of the Council meeting location, and shall prevent disorder or interruption of the business of Town Council.
- Applause shall be permitted only during awards and presentations. Flash photography will be permitted at this time.
- Violation of these rules by speakers or members of the audience shall enable the Mayor or other presiding officer to rule the speaker or member of the audience out of order and by directive to have the speaker or member of the audience removed from the meeting, if necessary, and to take such other steps the Mayor or other presiding officer deems appropriate. The Mayor's or other presiding officer's decision to remove or rule a speaker or member of the audience out of order shall be final. One (1) warning will be given and if not heeded, the speaker or member(s) of the audience shall be escorted from the meeting.
- Any citizen is welcome to address their concerns informally with the Mayor, Town Council or Town Manager at any time outside of a Town Council meeting.

Town Council Response

Council members or Town employees shall not respond to questions posed nor address or rebut speaker's statements made during the Public Comment period. The Council, at its discretion, may direct matters raised during the Public Comment period be placed on the Agenda of a future meeting.

The Town Council hopes these Guidelines will encourage the greatest possible participation by citizens in the Town Government.

Applicability

While these guidelines reference the Town Council specifically, they shall also apply to all Town boards, commissions, and committees as appropriate.

Thank you for your interest and participation in your Town Council meeting. The Mayor and Town Council invite and encourage you to attend whenever possible because good, responsive government depends on the interest and involvement of all citizens.



Town of Cape Charles Code of Ethics & Meeting Rules of Order

Adopted July 22, 2021

Preamble

The citizens and businesses of the Town of Cape Charles, Virginia, are entitled to have fair, ethical and accountable local government, which has earned the public's full confidence for integrity. The effective functioning of representative government requires that public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government; that public officials be independent, impartial, and fair in their judgment and actions; that public office be used for the public good, not for personal gain; and that public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Town of Cape Charles Town Council has adopted this Code of Ethics and Rules of Order for members of the Town Council and of the Town's boards, commissions, and committees to assure public confidence in the integrity of local government and its effective and fair operations.

Code of Ethics

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of the Town of Cape Charles and not for any private or personal interest, and they will assure fair and equitable treatment of all persons, claims, and transactions coming before the Town of Cape Charles Town Council, boards, commissions, and committees.

2. Comply with the Law

Members shall comply with the laws of the nation, the Commonwealth of Virginia, and the Town of Cape Charles in the performance of their public duties. These laws include but are not limited to the United States and Virginia Constitutions; the Charter of the Town of Cape Charles; laws pertaining to conflicts of interest, election campaigns, employer responsibilities, open processes of government; and Town ordinances and policies.

3. Conduct of Members

The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct or language, personal charges or verbal attacks upon the character or motives of other members of the Town Council, boards, commissions, committees, the staff, or the public.

4. Respect for Process

Members shall perform their duties in accordance with the processes and Rules of Order established by the Town Council; they shall respect the deliberation of public policy issues of other bodies, the meaningful involvement of the public, and the Town staff's implementation of policy decisions of the Town Council.

5. Conduct of Public Meetings

Members shall prepare themselves for public business; listen courteously and attentively to all public discussions before the body; and focus on the issues at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

6. Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

7. Communication

Members shall publicly share substantive information that is relevant to a matter under consideration by the Town Council or boards, committees, and commissions, which they may have received from sources outside of the public decision-making process.

8. Gifts and Favors

A member should never accept for himself or herself or for family members, gifts, favors, or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

9. Confidential Information

Members shall respect the confidentiality of information concerning the property, personnel, or affairs of the Town. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial, or other private interests.

10. Use of Public Resources

Members shall not use public resources that are not available to the public in general, such as Town staff time, equipment, supplies, or facilities, for private gain or personal purposes.

11. Advocacy

Members shall represent the official policies or positions of the Town Council, boards, commissions, or committees to the best of their ability when designated as delegates for this purpose. When representing their individual opinions and positions in any venue, members shall explicitly state they do not represent their body of Town of Cape Charles, nor will they allow the inference that they do.

12. Policy Role of Members

The Town Council determines the policies of the Town with the advice, information, and analysis provided by the public boards, commissions, committees, and Town staff. The Town Council delegates authority for the administration of the Town to the Town Manager.

Members, therefore, shall not interfere with the administrative functions of the Town or the professional duties of Town staff, nor shall they impair the ability of staff to implement Town Council policy decisions. Inquiries to staff shall be made through the Town Manager or the appropriate department manager or director as authorized by the Town Manager.

13. Independence of Town Council and Commissions

Because of the value of the independent advice of boards, committees, and commissions to the public decision-making process, members of the Town Council shall refrain from using their positions to unduly influence the deliberations or outcomes of board, committee, or commission proceedings.

14. Positive Workplace Environment

Members shall support the maintenance of a positive and constructive workplace environment for Town employees, citizens, and businesses dealing with the Town. Members shall recognize their special role in dealings with Town employees and in no way create the perception of inappropriate direction to staff. All requests for staff resources must be approved by the Town Manager.

15. Implementation

Ethical standards shall be included in the regular orientations for candidates for the Town Council, applicants to boards, committees, commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming they have read and understood the Town of Cape Charles Code of Ethics and Rules of Order. In addition, the Town Council, boards, committees, and commissions, shall annually review the Code of Ethics and Rules of Order, and the Town Council shall consider recommendations from boards, committees, and commissions to update it as necessary.

16. Compliance and Enforcement

The Town of Cape Charles Code of Ethics expresses standards of ethical conduct expected of Members of the Town of Cape Charles Town Council, boards, committees, and commissions. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.

The chairs of boards, committees, and commissions and the Mayor of the Town of Cape Charles have the additional responsibility to intervene when actions of Members that appear to be in violation of the Code of Ethics are brought to their attention.

A violation of this Code of Ethics shall not be considered a basis for challenging the validity of a Town Council, board, committee, or commission decision. However, it may be considered when the Town Council is determining the suitability of any person to serve in any appointed position.

Conflict of Interest

In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest and shall disclose any substantial organizational responsibility or personal business relationship to the parties in any matter coming before them. In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts are determined to exist. This paragraph is not intended to unduly restrict members who have minor business or professional dealings with clients whose matter comes before them.

1. Abstention

As elected or appointed officials, members have a duty/obligation to represent their constituents in all public matters coming before their body. It is not appropriate for individual members to decide in which matters they should abstain. If a member believes they have a conflict of interest on any matter before their body, they are REQUIRED to disclose it before deliberations on that business begins. However, it shall be up to the remaining members of that body to determine if an actual conflict exists and if the member disclosing the potential conflict can be excused from participating in the business. If the body votes to allow the member to recuse him/herself, that member will not participate in any of the discussions or vote related to that business. Failing a vote to allow recusal, the member shall participate as normal.

2. Representation of Third-Party Interests

In keeping with their role as stewards of the public interest, members of the Town Council shall not appear on behalf of the private interests of third parties before the Town Council or any board, committee, commission, or proceeding of the Town; nor shall members of boards, committees, or commissions appear before their own bodies or before the Town Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies. This provision should not unduly restrict a member's participation who is associated with, but not representing, community or non-profit organizations serving the Town, whose matter comes before them.

Meeting Rules of Order

The following rules of order are to serve as a non-binding guide to the conduct of business. It is the duty of the Mayor or other presiding officer to conduct meetings in accordance with the Code of Virginia, the Town Charter, applicable Bylaws, and in a manner intended to promote open, civil, and fair discussion of all issues.

1. Meeting Types

All meetings of the Town of Cape Charles fall under the provisions of the Virginia Freedom of Information Act (FOIA). All members will receive training on VA FOIA requirements upon initial appointment, as well as periodic refreshers. The Town Clerk will ensure FOIA training is completed, and that all records of the training are maintained. This document is not to be considered a substitute for FOIA training and offered only as a summary overview.

The public must be provided notice and access to all Town meetings.

- **Regular Meeting:** Meetings required by Charter or Bylaws to occur on a regular interval to conduct the primary business of the body. These meetings are conducted more formally, with established procedure. The Mayor or presiding officer will enforce these procedures to ensure proper decorum and efficient flow of business. Agendas will include a public comment period on any topic in accordance with public comment procedures established by the Town Council.
- **Special Meeting:** Meetings to conduct official business of the body that are deemed necessary in addition to Regular Meetings. Special Meetings are also conducted formally but may not include all Regular Meeting agenda items. Public comments will be permitted but limited to only business items on the agenda. Special meetings may be called by the Mayor, Chairperson, Town Manager, or any three members of a body.
- **Work Session:** Informal meetings of the body that allow for relaxed procedure enabling freer flowing discussion. No official action may be taken during a work session, however determining consensus on items to be brought forward to a Regular or Special meeting is appropriate. Work Sessions are generally used for (but not limited to) brainstorming, information gathering, planning efforts, budget review, or when more time is needed on a particular item than is typically afforded during formal meetings. The public must be permitted the opportunity to observe work sessions but are not typically permitted an opportunity to provide comments. The Mayor or presiding officer may on special circumstance, allow public comment. Work sessions may be called by the Mayor, Chairperson, Town Manager, or any three members of a body.
- **Closed Session:** Closed Sessions (Executive Sessions) are authorized by FOIA to discuss certain confidential matters limited to specific purposes, while using very specific procedures. Though a portion of this meeting is closed to the public, other portions are open. The public must be permitted to observe the motion to go into Closed Session as well as the certification upon leaving the Closed Session.
- **Public Hearing:** Public Hearings are intended to solicit public feedback on specific topics. These topics will be advertised in advance. Input may be made in person or in writing. All comments will adhere to the Town Council approved guidelines. Comments will be directed to the body and not to any individual. Members shall not respond to questions posed nor address or rebut speaker's statements made during the Public Hearing.
- **Town Hall Meeting:** An informal meeting where no official action is taken. A Town Hall Meeting is essentially a Work Session that involves the public. These meetings are typically focused on one or two topics and encourages dialog between members and the public. A primary goal of a Town Hall meeting is to provide decision makers with in-depth public perspectives prior to taking an official action.

- Social or Community Events: These are gatherings where no official business is conducted, but where Town issues may be informally discussed. If more than two members will be present in their capacity as a Town official, the gathering should be posted. There are no agendas or minutes associated with these functions.

2. Motions

- Unanimous Consent: Routine business is typically conducted by unanimous consent. This is an informal process that allows business to be conducted expeditiously. The procedure is for the presiding officer to ask whether anyone objects to a particular action and then to state, "Hearing no objection the action will be taken by unanimous consent." Note that even when a member is not in favor of a particular action the member may choose not to object in the interest of moving the agenda forward. In other words, unanimous consent does not mean that everyone was actually in favor of the action. If anyone objects, then the action must be addressed with a formal motion and vote.
- Main Motion: This is the motion that brings business before the council or other body. Such motions should be stated in a concise form and should generally be in writing to avoid misunderstandings. It must be seconded and when voted upon will ordinarily require a simple majority vote. There are circumstances where a super majority may be required, such as in the disposition of real estate. Before voting on the motion the presiding officer should call for discussion. The presiding officer should allow for discussion until it terminates by *unanimous consent* or is formally terminated by a subsidiary motion (discussed below).

When the motion is ripe for a vote the presiding officer should call for "all in favor" and then "all opposed." The presiding officer should then clearly state either the "motion passes" or the "motion fails." Generally, in the event of a tie the presiding officer may cast the deciding vote. The Town Charter expressly allows the Mayor to vote in the event of a tie. Any member may request a roll call vote.

- Subsidiary Motions:
 - Motion to Postpone Indefinitely (sometimes incorrectly called a motion to table): Normally used to put aside business that is not ripe for consideration, such as when further study is required. It requires a second, is debatable and is not amendable.
 - Motion to Amend: This is a motion to amend the wording and sometimes the meaning of the main motion. It requires a second and is debatable. It is also amendable *one time*. Note that a vote to adopt the amendment is not a vote on the main motion. Once the motion to amend is adopted the amended main motion must then be voted on as well. Often, simple motions to amend are adopted by unanimous consent. Also, note that whether the member that offered the original motion is willing to accept the proposed amendment or not is irrelevant. It must still be seconded and voted upon or adopted by unanimous consent.

- Motion to Refer: This is a motion to refer a matter to a committee or other body for action. In effect, when the motion is to refer the matter to a "workshop, it is a motion to refer the matter to a committee comprised of the entire council or other body (a committee of the whole). It requires a second and is debatable.
- Postpone to a Certain Time: Used when a matter is best considered at a different time to allow for the orderly conduct of business. It requires a second and is debatable.
- Motion to Limit Debate: Used to put a limit on the time permitted for debate of a motion. It requires a second, is not debatable and traditionally requires a two-thirds vote. Since the Town Charter allows for business to be conducted based on a majority vote, if a motion to limit debate does not pass by a two-thirds vote, then after further debate for a reasonable time the motion shall require only a majority vote.
- Motion of the Previous Question (often referred to as "a motion to call the question" or "motion to bring the matter to a vote"): Used to end debate and bring the pending motion to a vote. It requires a second, is not debatable, and traditionally requires a two-thirds vote. Since the Town Charter allows for business to be conducted based on a majority vote, if a motion of the previous question does not pass by a two-thirds vote, then after further debate for a reasonable time the motion shall require only a majority vote.
- Motion to Lay on the Table (often confused with a motion to postpone indefinitely): Used to temporarily interrupt pending business so that another matter can be considered first. It requires a second and is not debatable. This is often done by unanimous consent to move business forward.
- Motion to Recess: This is a motion to take a short break in the proceeding. It requires a second and is not debatable.
- Motion to Adjourn: This motion closes the meeting. It requires a second and is not debatable.

3. Agenda

The presiding officer should make a reasonable effort to conduct business in accordance with a consent agenda. The agenda should be organized to promote the orderly conduct of business. If the members cannot agree on the agenda, it should be presented by motion and subject to a vote. Keep in mind that even after an agenda is approved it can be amended. Often that is done by unanimous consent at the suggestion of the presiding officer to expedite the meeting. The procedure is for the presiding officer to state, "Is there any objection to amending the agenda [explain]. Hearing no objection, the agenda is so amended by unanimous consent."

4. Other Issues

- Mayor's Veto: The Town Charter provides the Mayor with "the power of veto over the ordinances and resolutions of the council, but such ordinances and resolutions may be passed over such veto by a two-thirds vote of the members of the town council present and meeting." With a six-member council the override requires a vote of four members if all are present and voting.
- Quorum: The Town Charter provides that "four members of the town council shall constitute a quorum for the transaction of business at any meeting." The bylaws of other bodies establish the number of members required for a quorum. The Code of Virginia provides that if a member is disqualified due to a conflict of interest "the remaining member or members shall constitute a quorum for the conduct of business and have authority to act for the agency by majority vote, unless a unanimous vote of all members is required by law, in which case authority to act shall require a unanimous vote of remaining members." 2.2-3112.C.

Acknowledgement

I _____ (printed name), a sitting member of
_____ (body), hereby certify that I have
been given a copy, read, understand, and will abide by the above Town of Cape Charles Code of
Ethics & Meeting Rules of Order, adopted on July 22, 2021.

_____ (signature)

_____ (date)