



Board of Zoning Appeals

Public Hearing & Meeting

Cape Charles Civic Center

August 9, 2022
10:00 a.m.

At approximately 10:00 a.m. in the Cape Charles Civic Center, Vice-Chairman Pete Baumann called to order the Board of Zoning Appeals Public Hearing and Meeting. In attendance were Board members, Dolores Blackburn, Jim Holloway, and Laura Weigand. Chairman Bill Murphy participated via telephone. Also, present were, Town Planner/Zoning Administrator Katie Nunez and Planning Technician Tracy Outten. The applicant and their representative. There were seventeen members of the public in attendance.

Pete Baumann led the Board in the recitation of the Pledge of Allegiance.

CONSENT AGENDA

Motion made by Dolores Blackburn, seconded by Jim Holloway, to accept the agenda as presented. The motion was approved by unanimous vote.

Motion made by Laura Weigand, seconded by Jim Holloway, to approve the minutes from the March 8, 2022 Board of Zoning Appeals Public Hearing and Meeting and the July 12, 2022 Board of Zoning Appeals Public Hearing and Meeting as presented. The motion was approved by unanimous vote.

OLD BUSINESS/MATTERS DEFERRED FROM PREVIOUS MEETINGS

There was no old business to discuss.

NEW BUSINESS - PUBLIC HEARING

- A. An application from Dave & Pam Hainsworth for the property at the corner of Bay Avenue and Washington Avenue adjacent to the Chesapeake Bay and further described as the majority portion of Tax Map #83A1-3-A and 50% of Tax Map #83A1-3-C totaling approximately .85 acres or 37,037 sq. ft. and further identified on the proposed Site Plan as Lot A located in the Residential-1 (R-1) Zoning District and in the Chesapeake Bay Preservation Act (CBPA) Overlay Zoning District; said application is seeking an exception to the CBPA of the Cape Charles Zoning Ordinance (CCZO) Section 7.7 (A3) to allow for a residential dwelling unit pursuant to CCZO Section 7.5 which provides by-right single family dwelling in the R-1 Zoning District.*
- B. An application from Dave & Pam Hainsworth for the property at the corner of Bay Avenue and Washington Avenue adjacent to the Chesapeake Bay and further described as the remaining portion of Tax Map #83A1-3-A not identified in the application above, 50% of Tax Map #83A1-3-C and all of Tax Map #83A1-3-B1 totaling approximately .84 acres or 36,933 sq. ft. and further identified on the proposed Site Plan as Lot B located in the Residential-1 (R-1) Zoning District and in the Chesapeake Bay Preservation Act (CBPA) Overlay Zoning District; said application is seeking an exception to the CBPA of the Cape Charles Zoning Ordinance (CCZO) Section 7.7 (A3) to allow for a residential dwelling unit pursuant to CCZO Section 7.5 which provides by-right single family dwelling in the R-1 Zoning District.*

Pete Baumann read the public notice and informed all in attendance that the applicants would be amending their applications but, the board would still hold the public hearing to receive comments.

Katie Nunez stated that Mr. and Mrs. David Hainsworth, the applicants, would be amending their applications as advised by their attorney, Carl Eason. She added that any votes and discussion would be tabled until the Board of Zoning Appeals September meeting. Ms. Nunez then presented her PowerPoint and staff report explaining the applications and why exceptions were needed.

Katie Nunez did point out that the exceptions were supposed to be granted for only the minimum necessary for a house not a garage or outside attributes such as pavers or patios.

PUBLIC COMMENTS

Susan Mastyl, Harborton, Virginia

Ms. Mastyl opposed any development of the parcels under discussion. (Please see attached.)

Nancy Proto, 607 Pine Street

Ms. Proto thanked Katie Nunez for the thorough explanation and research for these applications. She requested that the board follow all processes and ordinances as written. Ms. Proto added that the Hainsworth would be welcomed to the neighborhood if the outcome was favorable.

William Knight, 509 Arnie's Loop

Mr. Knight spoke on behalf of the Concerned Citizens of Cape Charles to stress that the community needed more activities for the vulnerable citizens. He had concerns about the potential buildings and asked if anyone thought about the tenants at Seabreeze Apartments. Mr. Knight ended his comments by stating that the town is only as strong as its weakest link.

There were no additional public comments to be heard from the member of the public in attendance.

Planning Technician Tracy Outten read comments submitted in writing from Peter and Elizabeth Alpern, Bruce Gittinger, and Chuck Little. (Please see attached.)

Carl Eason, attorney for Mr. and Mrs. Hainsworth, said these lots preceded the Chesapeake Bay Preservation Act so homes could be built at this location but, he was not in support of this application as it was submitted. Mr. Eason thanked Katie Nunez for having this meeting.

Motion made by Dolores Blackburn, seconded by Jim Holloway, to table the Application from Dave and Pam Hainsworth for the property at the corner of Bay Avenue and Washington Avenue adjacent to the Chesapeake Bay and further described as the majority portion of Tax Map #83A1-3-A and 50% of Tax Map #83A1-3-C totaling approximately .85 acres or 37,037 sq. ft. and further identified on the proposed Site Plan as Lot A located in the Residential-1 (R-1) Zoning District and in the Chesapeake Bay Preservation Act (CBPA) Overlay Zoning District; said application is seeking an exception to the CBPA of the Cape Charles Zoning Ordinance (CCZO) Section 7.7 (A3) to allow for a residential dwelling unit pursuant to CCZO Section 7.5 which provides by-right single family dwelling in the R-1 Zoning District. The motion was approved by unanimous vote.

Motion made by Dolores Blackburn, seconded by Jim Holloway, to table the Application from Dave and Pam Hainsworth for the property at the corner of Bay Avenue and Washington Avenue adjacent to the Chesapeake Bay and further described as the remaining portion of Tax Map #83A1-3-A not identified in the application above, 50% of Tax Map #83A1-3-C and all of Tax Map #83A1-3-B1 totaling approximately .84 acres or 36,933 sq. ft. and further identified on the proposed Site Plan as Lot B located in the Residential-1 (R-1) Zoning District and in the Chesapeake Bay Preservation Act (CBPA) Overlay Zoning District; said application is seeking an exception to the CBPA of the Cape Charles Zoning Ordinance (CCZO) Section 7.7 (A3) to allow for a residential dwelling unit pursuant to CCZO Section 7.5 which provides by-right single family dwelling in the R-1 Zoning District. The motion was approved by unanimous vote.

OTHER BUSINESS

There was no other business to discuss.

NEXT MEETING

Tuesday, September 13, 2022 at 10:00 a.m. – Bill Murphy informed the board he would not be back from out of town and needed to participate by phone.

Hearing no objection, Vice-Chairman Pete Baumann adjourned the Board of Zoning Appeals Public Hearing and Meeting at 10:54 a.m. The motion was approved by unanimous vote.

Vice-Chairman Pete Baumann

August 9, 2022 Board of Zoning Appeals Public Hearing Comments

Susan Mastyl, 14329 Mears Circle, Harborton, Virginia

Cape Charles Board of Zoning Appeals

August 9, 2022

Mr. Chairman, members of the Board, I'm speaking today to oppose any development of the parcels under discussion. The Chesapeake Bay Preservation Act is an important protective measure, to prevent any further degradation of the Bay and its tributaries, and to promote the preservation of tidal and nontidal wetlands and tidal shores. These wetlands and tidal shores act as important nurseries for the fish, shellfish, and wildlife of the Bay, and serve as a critical protective buffer for storm surges and high-tide flooding.

Although my husband and I live in Accomack County, we visit Cape Charles frequently. We happened to be here a couple of days after Superstorm Sandy in 2012. Just adjacent to the property under discussion, to the northeast, are three apartment buildings – after Sandy, the end of the building closest to the water had been completely undermined by wave action, and was hanging out over the water. That's only the most graphic example of the power of the storms that come through this area – and with sea-level rise, the flooding will be worse and the storms will be more frequent and more intense.

Building on this property is just wrong. Every square inch of nonpermeable surface will increase runoff into the Bay, and will decrease the buffer effect for properties to landward. As the town's ordinance says, tidal shorelines and those prone to flooding, erosion, and soil limitations "need to be protected from destruction and damage in order to protect the quality of life in Cape Charles and the Commonwealth of Virginia."

It doesn't do any good to have regulations on the books if we can't enforce them when it matters most. The Act gives the Town the authority to prohibit development in these most critical areas, to protect the Bay and to protect the Town. I'm asking you to use that authority and deny this application.

Thank you.

Sue Mastyl
14329 Mears Circle
Harborton, VA 23389
(757) 442-6644
smastyl@msn.com

Peter and Elizabeth Alpern, 3 Bay Vistas Way, Cape Charles

July 30, 2022

Dear Ms. Nunez:

My wife Elizabeth and I have owned the property at 3 Bay Vistas Way in Cape Charles since August 2020. While it is currently our second home, it is our intention to pass this house on to our children and so we are heavily interested in the beautification and enhancement of our property and the area surrounding it. I would also like to mention that my mother Linda Connor Kohl and my sister Elaine Alpern Cafferillo also own homes in Cape Charles, both on Randolph Avenue. While Elizabeth and I only speak only for ourselves, I identify my family members so that you understand how imbedded my family has become in the local community. We love this town and have demonstrated that we believe in investing in Cape Charles.

Elizabeth and I would like to let you know that we are in favor of the variance applications made by Dave and Pam Hainsworth to develop the Old Ferry Dock Lots A and B in the NW corner of Cape Charles. We have reviewed both applications extensively and believe that Cape Charles will benefit from the Hainsworth's investment in Lots A and B because:

- The plans include significant investment in erosion prevention methods including a silt fence and a breakwater. The NW corner of Cape Charles is particularly exposed and

vulnerable due to its lack of development and the prevailing NW winds (or so they seem to me, having spent a good bit of time on this very spot). The Hainsworth's investment will significantly reduce the threat of erosion to surrounding property owners, benefitting all residents of Cape Charles.

- The Hainsworth's plans also illustrate significant landscaping upgrades to the lots. These landscaping upgrades will not only further contribute to erosion prevention, they will significantly beautify the entire NW corner of Cape Charles. This particular area of town has in recent decades become notably unsightly due to the lack of investment in these vacant lots and the neglect of the Seabreeze Apartments by Greenbrier Management. Again, the Hainsworth's investment in landscaping will benefit all residents of Cape Charles by beautifying an entire quadrant of town.
- By allowing the Hainsworth's residential development of Lots A and B, it is our opinion that the Zoning Board is protecting all residents of Historic Cape Charles by intelligently planning this ½ mile by ½ mile town. It seems to us that commercial development in Cape Charles is kept to the South and East parts of town. The Hainsworth's investment will preserve the residential nature of the North and West ends of town benefiting all residential property owners in Historic Cape Charles.
- Owning a waterfront home ourselves, we can tell you that the building requirements of such structures are and should be different because of our exposure to the Chesapeake Bay and "all She has to offer". Modern construction methods allow for the significant structural upgrades required without altering the external character of the structures. The Hainsworth's investment in Lots A and B include plans for two homes that will not only be built to the standards required for waterfront living, their appearances will be in the character of Historic Cape Charles. All residents of Cape Charles will benefit from the Hainsworth's investment because it will be more desirable to live near the Hainsworth's homes than it is to live next to the overgrown vacant lots, as they currently exist.

Respectfully, in writing this letter, we feel as if we are telling you your business and we clearly yield to your expertise. However, **we believe that the answers at the hearing on August 9th should be obvious to all; that the Hainsworth's development of the Ferry Dock Lots A and B in the northwest corner of Cape Charles will benefit every taxpayer and stake holder in this town for years to come and should be approved.**

Sincerely yours,
Peter Alpern Elizabeth Alpern
pwalpern@yahoo.com elizabeth.alpern@yahoo.com
+1 (908) 868-8350 +1 (908) 868-8349

Primary address:
32 Heather Court
Berkeley Heights, NJ 07922

Chuck Little, 8 Randolph Avenue, Cape Charles
From: chucklittle@earthlink.net <chucklittle@earthlink.net>
Sent: Sunday, July 31, 2022 3:41 PM
To: 'Katie Nunez' <planner@capecharles.org>
Subject: Rezoning At The North End of Bay Avenue

Hi,

I am writing in support of the application to allow two houses to be built on the waterfront property just north of the intersection of Bay Avenue and Washington. It would be a significant improvement to the beachfront aesthetic to have the beach at that location cleaned up along with the pilings. As it stands now the property is of little use to the town or residents and it is a great opportunity to have someone willing to lay it on the line to enhance that location, especially since the town can be in control of the architecture so it will be in keeping with the rest of the waterfront homes.

Chuck Little
8 Randolph Avenue
Cape Charles, VA 23310
757-636-0819

Bruce Gittinger, 4 Tazewell Avenue, Cape Charles



To whom it may concern:

I am Bruce Gittinger of 4 Tazewell Ave and I am writing this note to express my support of David and Pam Hainesworth's proposal to purchase the lot(s) at the corner of Washington and Bay Avenues in order to build a home. We are Dave's neighbors at his current home at 2 Tazewell Ave and attest to his meticulous care of that property. We know it would be the same for his new property/home. As we understand it, the lots are already zoned R-1. His proposed home would greatly improve the current status of the property. No doubt his new home would be an asset to the town of Cape Charles

Sincerely,

A handwritten signature in black ink that reads "Bruce L. Gittinger". The signature is written in a cursive, flowing style.

Bruce L. Gittinger

8/1/2022