Board of Zoning Appeals

Regular Meeting

Cape Charles Civic Center – 500 Tazewell Avenue

May 9, 2023 @ 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 and Approval of Minutes:
   A. April 11, 2023

5. Old Business/Matters Deferred from Previous Meetings: None

6. New Business – Public Hearing:
   A. An application from Donald & Claire Neubert for a variance from Cape Charles Zoning Ordinance (CCZO), Section 4.5, (B)(3)(a)(5)-Accessory Dwelling requirement of 1 parking space per bedroom, for an accessory dwelling unit at 413 Jefferson Avenue (Tax Map #83A1-1-063) located in zoning district Residential-1.

7. Other Matters

8. Next Meeting – Tuesday, June 13, 2023 @ 10:00 am

9. Adjourn

Board of Zoning Appeals
Public Hearing & Meeting
Cape Charles Civic Center
April 10, 2023
10:00 a.m.

At approximately 10:07 a.m. in the Cape Charles Civic Center, Chairman Bill Murphy called to order the Board of Zoning Appeals Public Hearing and Meeting. In attendance were Board members Pete Baumann, Jim Holloway, and Laura Weigand. Dolores Blackburn was not in attendance. Also, present were, Town Manager John Hozey, Town Clerk Libby Hume, Planning & Zoning Administrator Katie Nunez, Chief of Police Jim Pruitt, Planning Technician Tracy Outten, and Zoning Compliance Officer Robert James.

Board Chairman Bill Murphy led the recitation of the Pledge of Allegiance.

CONSENT AGENDA

Motion made by Member Holloway was seconded by Member Weigand to accept the agenda as presented. The motion was approved by unanimous vote.

MINUTES

Motion made by Member Weigand to approve the minutes from the January 10, 2023 with the amendment to correct the name Laura Dolores Blackburn to Dolores Blackburn seconded by Member Holloway. 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 Harvey Elam appealing the decision from the Zoning Administrator dated January 24, 2023 which affirmed that an alley exists from Pine Street to Strawberry Street for the lots located between Washington Avenue and Jefferson Avenue which led to the denial of the zoning clearance application at 214 Washington Avenue to locate a fence in the rear yard one inch from the rear property line as being in violation of Cape Charles Zoning Ordinance Section 4.2 (G) which states that a fence or wall must be 2 feet from any sidewalk, alley or public right of way. Said appeal application is authorized pursuant to Cape Charles Zoning Ordinance Section 2.6.2 (C) & 2.6.4. The property is located in the Residential-1 (R-1) Zoning District.

Zoning Administrator Katie Nunez was given fifteen minutes to recap the application, explain the reasons for the denial, and present the supporting exhibits for the action. In summary, the records document a plotted east to west alley from Pine St. to Strawberry St. to the rear of the properties on Washington St. and Jefferson St. that must be recognized when determining the placement of fences or structures. The town cannot issue a permit to build in the alley that disregards property owners rights.

Patricie Drake Esq., attorney for the Elams, was given fifteen minutes to present the reasons the Zoning Administrator's decision to deny was in error. In summary, property record documents dispute the existence of an alley based on the issue of consent by all owners and /or the expiration of the time limit to declare the consent to open the alley. More specifically, she stated that the alley has never been created since the alley opening from Strawberry St. was never opened and she has now provided an affidavit from the current owner, Daniel Coffey, of the 2 lots on the corner of Washington Ave. and Strawberry St. stating that they do not consent to opening the alley onto Strawberry St. Other documents were presented to show that the existence of an alley was disregarded in prior zoning approvals. Ms. Drake submitted information to the Zoning Administrator prior to the meeting. Please see attached.

DRAFT

Carl Eason Esq., attorney for the adjacent property owners, the Howards of Lot 96, was given two unused minutes of Ms. Drake's time and three minutes of Howard's Public Comment time to speak. In summary, Mr. Eason reiterated Ms. Drake's statements. He stated that his clients received approval from the Town 2 years ago for a fence and shed which is in this supposed alley. He referenced the Cape Charles Zoning Ordinance definition of Alley and Town Code Section 67.3 re: acceptance of public alley, which has never occurred. He also indicated that there is in the Code of Virginia Secection 55.1-124. Uniform Statutory Rule Against Perpetuties which was included in the e-mail with attachments provided by Ms. Drake dated 3/10/2023.

Planning Technician Tracy Outten read the Public Comment letters and emails received by the Town as listed below:

Anthony Storey and Anne Stratton	223 Jefferson Ave. Cape Charles, VA 23310
Jeremy & Sarah Drumheller	209 Jefferson Ave. Cape Charles, VA 23310
Justin Kavounas	206 Washington Ave. Cape Charles, VA 23310
Patricia Cobb	217 Jefferson Ave. Cape Charles, VA 23310
Kevin & Judy Rech	218 Washington Ave. Cape Charles, VA 23310
Joe & Lori Wagner	211 Jefferson Ave. Cape Charles, VA 23310
Jeffrey & Beth Howard	216 Washington Ave. Cape Charles, VA 23310

(Said documents are attached).

Eight citizens spoke at the hearing and were allotted three minutes of time to state their concerns.

Lynne Polizos of 219 Jefferson Av. commented that the alley in question was listed on her plat and there is a curb cut to allow access. The garage she rebuilt was placed based on the existence of the alley. The alley is the only way to access her shed. She recognized the need for agreement on the alley's use.

Jacquie Heller of 220 Washington Av. commented there is no alley seen when looking out her backyard. She suggested referring to the alley as an alleged alley until further clarification can be provided.

Chairman Bill Murphy called for a ten minute break from 11:10 a.m. to 11:20 a.m.

Debbie Schlicht of 610 Pine St. asked if the Town has adopted the alley and what previous Town decisions have been made about the alley. What is the Town policy on alleys in general?

Daniel C. Coffey of 615 Strawberry St. commented that he does not want the alley and does not consent to open the alley on his property. Opening the alley will result in needing to move his shed.

William Bagot of 608 Pine St. commented the existence of the alley has led to multiple boats and trailers being kept in backyard along the alley. He had made improvements to the alley at his own expence.

Jeff Howard of 216 Washington Av. commented he had been permitted to build a shed and fence without having to consider the alley.

Steven Lang of 600 Pine St. read his statement. Please see attached.

Chairman Bill Murphy then asked Mr. Harvey Elam if he wished to comment. Mr. Elam stated that in lieu of the other permitted activity in his area that he was being unfairly treated. He cited the eight months the process has taken. He stated that the Town has granted approval to put things in the alley and those approvals took a month or less; said approvals were granted at 204, 218, and 220 Washington Ave. and 615 Strawberry St.

The Zoning Administrator was then given three to five minutes for further comments at which time she mentioned the Town was without a zoning ordinance until its adoption in July 1994.

Attorney Drake was given three to five minutes to make further comments. Ms. Drake restated the opinion that the alley never came into existence. She pointed to the inconsistency of enforcement of the alley in past decisions.

Chairman Murphy thanked all, expressing his hope that all were fairly treated.

At 11:44am, the Public meeting was closed.

Chairman Murphy opened the matter for Board discussion. Member Weigand commented that despite Northampton County, Virginia having the oldest public records in the Nation, discrepancies exist. A request to define an alley and does an alley have to have 2 points of egress was made to Ms. Drake.

Member Baumann sought more information on the legal definition of an alley, and suggested the consideration of a Special Master to make a determination.

Member Holloway commented that he believes the property in question is in the Sea Cottage section of Cape Charles and wonders if the Historic District guidelines carry any weight on these proceedings. Time to consider these questions are needed.

Chairman Murphy defined the scope of the question at hand was to rule on the appropriateness of the Zoning Administrator's decision to deny the application, and asked members to defer other legal issues proposed by counsel for the court. Members responded with a request for more time to consider the questions raised.

Motion was made by Member Weigand to table this matter to allow for answers from the Town Attorney and was seconded by Jim Holloway. The motion passed unanimously.

The Board recessed at 12:07 p.m. and reconviened at 12:14 p.m.

REORGANIZATION OF THE BOARD

Motion made by Member Holloway to nominate Bill Murphey as the Board Chairman for the term of one year was seconded by Member Weigand. The motion passed unanimously.

Motion made by Member Holloway to nominate Dolores Blackburn as the Board Vice Chairman for the term of one year on the condition she accepts was seconded by Member Baumann. The motion passed unanimously.

Motion made by Member Weigand to nominate Robert James as the Board's Secretary for the term of one year was seconded by Chairman Murphy. The motion passed unanimously.

NEXT MEETING

May 9, 2023 at 10:00 a.m.

Chairman Murphy notified the Board that he will be unable to attend the May 9, 2023 meeting. Member Bauman agreed to be the meeting's Chairman.

Motion made by Member Holloway, seconded by Member Baumann, to adjourn the Board of Zoning Appeals Public Hearing and Meeting at 12:22 p.m. The motion was approved by unanimous vote.

DRAFT

TOWN OF CAPE CHARLES
Notice of Public Hearing – Variance Request

The Cape Charles Board of Zoning Appeals will hold a public hearing on Tuesday, May 9, 2023 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 Donald & Claire Neubert for a variance from Cape Charles Zoning Ordinance (CCZO), Section 4.5, (B)(3)(a)(5)-Accessory Dwelling requirement of 1 parking space per bedroom, for an accessory dwelling unit at 413 Jefferson Avenue (Tax Map #83A1-1-063) located in zoning district Residential-1.

The application is available for public review on our website at www.capecharles.org Please contact Town Planner/Zoning Administrator Katie Nunez at 1-757-331-2036, or by email at planner@capecharles.org if you have any questions or require additional information. Anyone interested in attending and needing special assistance, contact the Town at least 48 hours before the hearing.

BOARD OF ZONING APPEALS
STAFF REPORT

Meeting Date: May 9, 2023
Item #: 6A– Public Hearing for a Variance
Prepared by: Katie H. Nunez, Planning/Zoning Administrator

APPLICANT: Donald & Claire Neubert
SITE ADDRESS: 413 Jefferson Avenue

TAX MAP: 83A1-1-63
LOT SIZE: 5,600 sq. ft.

TYPE OF APPLICATION: Variance
SPECIFIC REQUEST: Relief from the 1 parking space per bedroom for an accessory dwelling unit
ZONING: CCZO Section 4.5 (B)(3)(a)(5)
CURRENT ZONING: Residential-1 (R-1)

DATE RECEIVED: March 23, 2023
DATE DEEMED COMPLETE: March 30, 2023
LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): June 30, 2023

NARRATIVE OF PROPOSAL

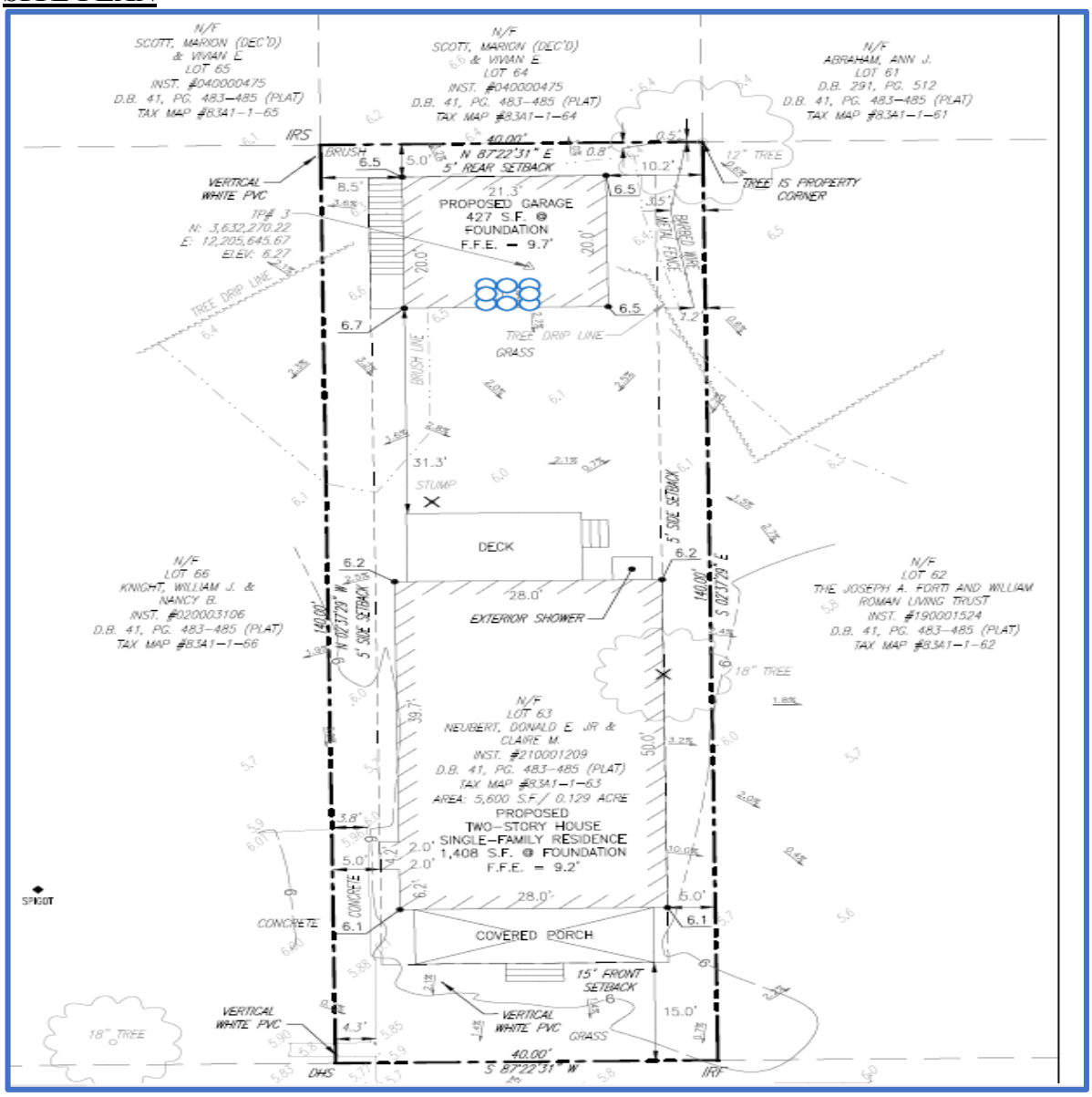
The applicant appeared before the Historic District Review Board in February 2023 to construct a new single-family residence on the lot. In addition, they are seeking to construct a 400 sq. ft accessory structure with a second-floor accessory dwelling unit.

When I conducted the zoning review of the HDRB application, I made an error since I felt that the parking requirement for the accessory dwelling unit could be accommodated within the structure itself without actually taking into account the size of the lot and the house and the fact that an automobile could not fit alongside the proposed placement of the house, no driveway was envisioned for the property and there is no alley behind the house between Peach Street and Plum Street off of Jefferson Avenue.

After the HDRB approved their review of the application for this lot, I realized my zoning review error and informed the applicant that they would need to seek a variance from the parking requirement relative to the Accessory Dwelling Unit.

AERIAL MAP

SITE PLAN



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 Cape Charles Zoning Ordinance. Staff made the error when conducting the initial review and compliance with the zoning ordinance regarding access back to the proposed accessory structure with a motor vehicle. The applicant is desiring of having an accessory dwelling unit in full compliance with the requirements of the ADU, specifically the 30 day or longer rental provision. The Town is desirous of increasing the

number of longer-term rentals as stated in the Comprehensive Plan page 41 (Housing) and and on page 47, Item 5(c) (Goals and Strategies for the Housing Section.

(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 was purchased by the applicant May 2021 and they are seeking to construct a house as well as an accessory dwelling unit in compliance with the Town Zoning Ordinance but the lot size along with its placement on the block is not accommodating both for the house size sought by the applicant, adding a driveway that would run alongside the house to reach the back of the lot where the accessory dwelling structure would be located and there is no alley servicing the back of the lots within this block of the town.

(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 may be a recurring situation on other lots of this size and the Planning Commission may need to be informed of this particular occurrence to examine the full requirements to allow for parking on the lot which would require driveway access to the rear of the lot to allow for parking on the lot to service an accessory dwelling structure, especially if there is no alley to provide access into the rear of the lot.

This block of town on the north side of Jefferson Avenue is not fully developed at this time and would not be impacted by allowing the parking to occur on the street until there is full use and construction of all of the vacant lots on this block.

(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?
Accessory dwelling units are allowed by right pursuant to compliance with the requirements of Cape Charles Zoning Ordinance Section 4.2 (J). The ordinance indicates that parking shall be in compliance with Section 4.5 using both on and off-street parking areas.

(f) Is the relief or remedy sought by the variance application not available through a special exception process that is authorized in the ordinance or the process for modification of a zoning ordinance at the time of the filing of the variance application?
No. The variance is necessary.

DISCUSSION POINTS:

1. Does the Board feel that allowing the variance 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 defendable 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". In weighing benefits of an accessory dwelling unit for 30-day or longer rental unit vs the impact of allowing the parking for said unit be accommodated by parking on the street, I am supportive of increasing the # of long-term rental units available within our community and recommending that a variance from the parking requirements be granted.

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 Donald and Claire Neubert of 413 Jefferson Avenue(Tax Map #83A1-1-63) for a variance to the parking requirements for an Accessory Dwelling Unit, pursuant to Cape Charles Zoning Ordinance Section 4.5 (B)(3)(a)(5) based upon the reasons outlined in the Staff Report "Ordinance Requirements to be Considered".***

Attachments:

Attachment 1 – Application and Documents
Attachment 2 – Cape Charles Zoning Ordinance Section 4.4 (B)(3)(a)(5)

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

Zoning Variance Application

Planning & Zoning Department
2 Plum Street; Cape Charles, VA 23310
757-331-3259 x24
planningtech@capecharles.org

Revised 12/2022	
Taxes	
Violations	
Fee	$500
BZA Date	
Decision	

PART 1: APPLICATION NOTES

A variance from the existing zoning ordinance may be granted when all of the following conditions exist:

a) The strict application of the ordinance would unreasonably restrict the use of the property
b) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant
c) Such hardship not shared by other properties in the same zoning district and same vicinity
d) The authorization of a variance will not be a substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.
e) The granting of the variance does not result in a use that is not permitted on such property or a change in the zoning classification of the property
f) The remedy sought is not available through a special exception process that is authorized in the ordinance

In addition to the information required in this application, all items from this checklist must be submitted before it can be evaluated

☑ Completed application ☑ Existing site plan/survey ☐ Photos of existing conditions
☐ Photos/elevation drawings of proposed project ☑ Proposed site plan/survey

Owner signature: Donald Neubert Claire Neubert Date: 3/23/2023

PART 2: PROPERTY INFORMATION

Property Address: 413 Jefferson Avenue, Cape Charles, VA 23310

Tax Map #:7397083A1-01-00-0000063, Lot #63

Zoning District: R1

PART 3: PROPERTY OWNER INFORMATION

Name and/or Company: Donald and Claire Neubert

Mailing Address: 405 Elizabeth Lake Drive, Hampton, VA 23669

Phone Number: (757) 617-1811

Email: donald.neubert@gmail.com; dcneubert@hotmail.com

PART 4: APPLICANT INFORMATION

☑ Check here if applicant is owner. (If applicant is not the property owner, an Owner's Permission Affidavit must be attached.)

Name and/or Company:

Mailing Address:

Phone Number:

Email:

PART 5: STATEMENT OF INTENT

Describe the planned use and explain why a variance from the district ordinance is needed. State the sections of the Town Zoning Ordinance or the Accawmacke Plantation PUD for which you are requesting a variance. Include the standards listed in the Zoning Ordinance/PUD and the amount of a variance you are requesting.

We are building a two story single family home (2000 sq ft) and an Accessory dwelling unit (two story garage at 400 sq ft) on Lot #63 located at 413 Jefferson Avenue. We received a Certificate of Appropriateness for the site.

The lot is a standard single lot that is 40 feet by 140 feet. The house will be 28 feet wide leaving 5 feet on one side and 7 feet on the other side to allow for a path from the front of the house to the backyard and to the Accessory dwelling unit located in the rear of the property. The Accessory dwelling unit is a two story building (20 feet by 20 feet) with a garage on the first floor and a single bedroom, kitchen and living space on the second floor. The garage has two doors and is meant for golf cart or outdoor equipment/bike stowage.

The lot does not have an alley behind it as there is no alley easement in the 400 block of Jefferson Avenue. Our rear property line is shared with the rear property line of the lot located directly behind us (lot on the 400 block of Washington Avenue).

Ordinance Article IV, Section 4.5 Off-Street Parking and Loading Standards Section B. Minimum number of Parking spaces required states in the Minimum Parking Space Requirements Table that the Accessory dwelling unit requires "1 space per bedroom" of off-street parking spaces required by use. The same table states that "none" off-street parking spaces are required for the single-family residence since we are located in zone R-1.

Request a variance from the "1 space per bedroom" of off-street parking for the Accessory dwelling unit to allow for on-street parking.

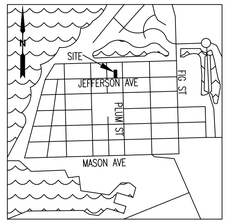
The following are the reasons a variance from the district ordinance is needed:

1. The lot does not have an alley that can be used to access the Accessory dwelling unit with a vehicle.
2. The site plan does not accommodate a 10 foot driveway to allow vehicle access and parking from the front of the lot.
3. We intend to use the Accessory dwelling unit for long term leasing (30 days or longer) and we hope that the variance for parking on the street would be approved to allow us to build and make the unit readily available.
4. The 400 block of Jefferson is only partially developed and there is ample room for on-street parking.

Thank you for your consideration of this variance.

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. Before any work begins, a zoning clearance request must be approved. I understand that for any changes made in the historic district, a Certificate of Appropriateness must be received.

Applicant's signature: Donald Nevitt Date: 3/23/2023



LOCATION MAP

GENERAL SURVEY NOTES:

1. THIS SURVEY WAS PRODUCED BY MID-ATLANTIC SURVEYING AND LAND DESIGN, INC FOR CLAIRE & DONALD NEUBERT.
2. THIS SURVEY WAS PRODUCED WITHOUT BENEFIT OF A TITLE REPORT. ALL EASEMENTS, SERVITUDES AND RESTRICTIONS MAY NOT BE SHOWN.
3. THE BOUNDARY LINES SHOWN ARE BASED ON A CURRENT FIELD BOUNDARY SURVEY.
4. THIS SITE IS NOT LOCATED IN THE RPA OR RMA OF THE CHESAPEAKE BAY PRESERVATION AREA.

EROSION AND SEDIMENTATION NOTE

THE BUILDER IS RESPONSIBLE FOR INSTALLING AND KEEPING IN GOOD ORDER ALL EROSION AND SEDIMENTATION CONTROL DEVICES, AS REQUIRED BY THE TOWN OF CAPE CHARLES.

PROPOSED ELEVATIONS

PROPOSED FINISHED FLOOR ELEVATION 9.2' (NAVD88)

HORIZONTAL DATUM
VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE NAD 83/93 HARN US SURVEY FOOT

VERTICAL DATUM
OPUS SOLUTION TIED TO THE VIRGINIA STATE PLANE COORDINATE SYSTEM NAVD88

FEMA FLOOD ZONE

FLOOD INFORMATION INDICATED HEREON SHOULD NOT BE CONSTRUED AS A DETERMINATION OF THE NEED OR LACK OF NEED FOR FLOOD INSURANCE. PROPERTY OWNERS SHOULD CONTACT A LOCAL FLOOD OFFICIAL FOR MORE INFORMATION.
V = 1% CHANCE OF ANNUAL FLOOD WITH STORM INDUCED WAVES
AE = 1% CHANCE OF ANNUAL FLOOD
X-SHADED = 0.2% CHANCE OF ANNUAL FLOOD
X = MINIMAL FLOOD HAZARD AREA

THIS SITE APPEARS TO LIE IN FLOOD ZONE(S)	X
AS SHOWN ON F.I.R.M. MAP/PANEL #	51131C0295F
PANEL DATE:	03/02/2015
NFIP COMMUNITY NAME	TOWN OF CAPE CHARLES
NFIP COMMUNITY NUMBER	510106
FIRM INDEX DATE	03/02/2015

PROPERTY OWNER(S)

TAX ID	83A1-1-63
OWNER(S)	DONALD & CLAIRE NEUBERT
DEED INSTRUMENT	210001209
DATED	APRIL 21, 2021
RECORDED	MAY 3, 2021
LOCATION	NORTHAMPTON COUNTY, VA
MAILING ADDRESS	405 ELIZABETH LAKE DR HAMPTON, VA 23669

ZONING

MAS-LD DOES NOT CERTIFY AS TO THE ZONING DESIGNATION OF THIS SITE. FOR DETAILED ZONING INFORMATION, PLEASE CONTACT THE ZONING DEPARTMENT AT THE NUMBER LISTED BELOW

SOURCE	TOWN OF CAPE CHARLES ZONING MAP		
ZONING DEPT. PHONE #	757. 331.2036	ZONE	R-1
FRONT SETBACK	15'	REAR SETBACK	5'
SIDE SETBACK (INTERIOR)	5'	SIDE SETBACK (CORNER)	5'

TOPOGRAPHIC SURVEY CERTIFICATION

THIS SURVEY

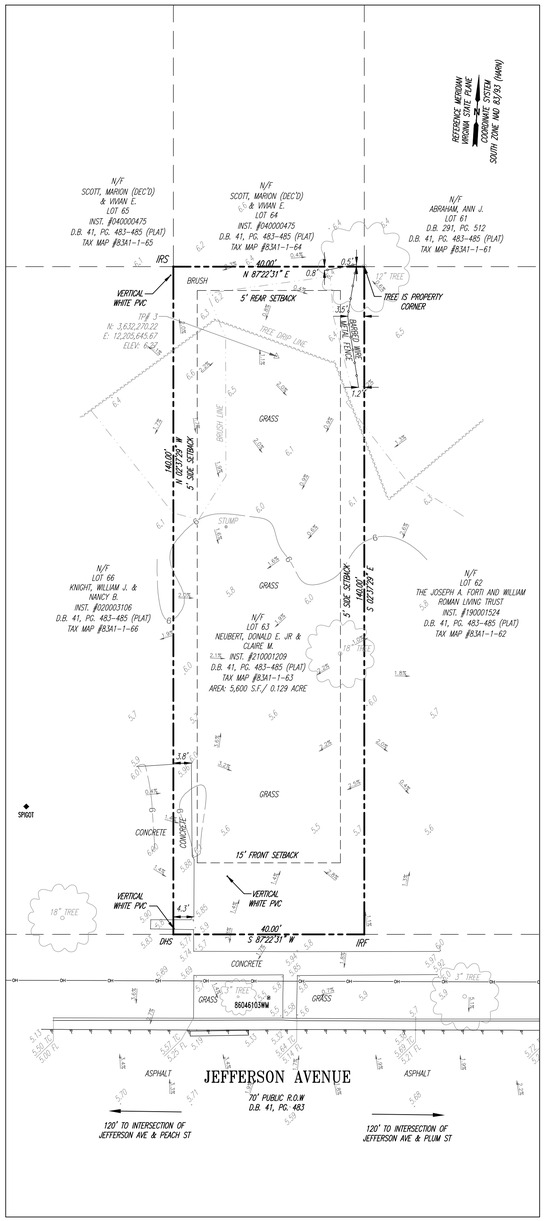
"SITE PLAN
OF
LOT 63
D.B. 41, PG. 483-485 (PLAT)
FOR CLAIRE & DONALD NEUBERT
JANUARY 31, 2023"

WAS COMPLETED UNDER THE DIRECT AND RESPONSIBLE CHARGE OF BETH ANNE G. CAMPBELL FROM AN ACTUAL GROUND ~~OR AIRBORNE~~ SURVEY MADE UNDER MY SUPERVISION; THAT THE IMAGERY AND/OR ORIGINAL DATA WAS OBTAINED ON 10/20/2021; AND THAT THIS PLAT, MAP, OR DIGITAL GEOSPATIAL DATA INCLUDING METADATA MEETS MINIMUM ACCURACY STANDARDS UNLESS OTHERWISE NOTED.

DATE: 01/31/2023

Beth Anne G. Campbell
BETH ANNE G. CAMPBELL, VA L.S. #003316

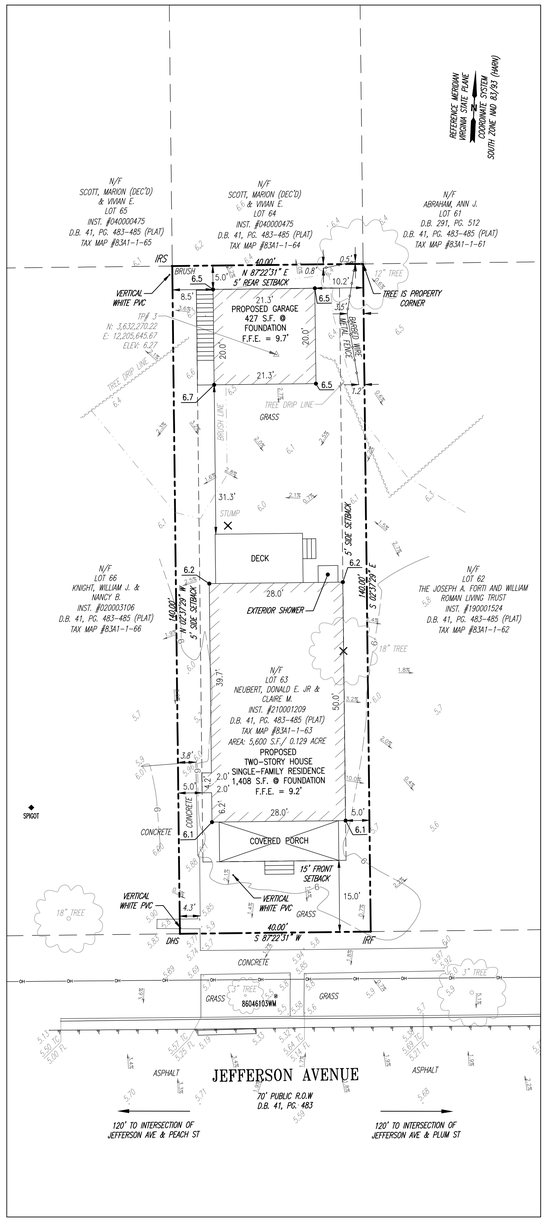
EXISTING CONDITIONS



0' 15' 30' 45'

SCALE: 1" = 15'

DEVELOPMENT PLAN



0' 15' 30' 45'

SCALE: 1" = 15'

CHESAPEAKE BAY PRESERVATION AREA

CBPA: RPA
CBPA: RMA

GRADE LEGEND

- CL — CENTERLINE
- FC — FACE OF CURB
- FL — FLOWLINE
- TB — TOP OF BANK
- TC — TOP OF CURB
- TS — TOE OF SLOPE

ABBREVIATIONS

APPROX	APPROXIMATELY
BLDG	BUILDING
CONC	CONCRETE
D.B.	DEED BOOK
GPIN	GEOREFERENCED PARCEL IDENTIFICATION NUMBER
HARN	HIGH ACCURACY REFERENCE NETWORK
INST.	INSTRUMENT
INV	INVERT
M.B.	MAP BOOK
NF	NAIL FOUND
N/F	NOW OR FORMERLY
PG.	PAGE
PIN	PARCEL IDENTIFICATION NUMBER
S.F.	SQUARE FEET

COMMUNICATIONS

- CMHH — COMMUNICATIONS: HAND HOLE
- CPED — COMMUNICATIONS: PEDESTAL
- CMMH — COMMUNICATIONS: MANHOLE
- COM — COMMUNICATIONS: UNDERGROUND

CONTROL

- TP# — CONTROL: TRAVERSE POINT
- TBM — CONTROL: TEMPORARY BENCHMARK

FENCES

- SF — FENCE: SILT FENCE
- FENCE: VINYL
- FENCE: WOODEN
- FENCE: METAL

GAS

- GM — GAS: METER
- GV — GAS: VALVE
- GAS: UNDERGROUND PIPES

POWER

- POWER: LIGHT POLE
- POWER: CONDUIT
- LP — POWER: LIGHT POLE: SINGLE ARM
- LP — POWER: LIGHT POLE: SINGLE BOX
- E — POWER: TRANSFORMER
- EP — POWER: ELECTRIC PEDESTAL
- POWER: GUY WIRE
- UP — POWER: UTILITY POLE
- UPLT — POWER: UTILITY POLE WITH LIGHT
- EHH — POWER: ELECTRIC HANDHOLE
- OH — POWER: OVERHEAD LINES
- E — POWER: UNDERGROUND

PROPERTY

- DHF — PROPERTY: DRILL HOLE FOUND
- DHS — PROPERTY: DRILL HOLE SET
- IRF — PROPERTY: IRON ROD FOUND
- IRS — PROPERTY: IRON ROD SET
- NF — PROPERTY: NAIL FOUND
- IPF — PROPERTY: IRON PIPE FOUND
- PPF — PROPERTY: PINCHED PIPE FOUND
- VDH — PROPERTY: VDOT MONUMENT
- PROPERTY: BOUNDARY
- PROPERTY: ADJACENT BOUNDARY
- PROPERTY: EASEMENT

SANITARY

- SSMH — SANITARY: MANHOLE
- CO — SANITARY: CLEANOUT
- SS — SANITARY: PIPES
- SFM — SANITARY: FORCE MAIN

SITE

- SIGN
- BOLLARD
- TO BE REMOVED

STORM

- SDMH — STORM: MANHOLE
- CDI — STORM: CURB DROP INLET
- CB — STORM: CATCH BASIN
- RD — STORM: ROOF DRAIN
- STORM: PIPES

TRAFFIC

- TRHH — TRAFFIC: BOX
- TRPED — TRAFFIC: PEDESTAL
- TRMH — TRAFFIC: MANHOLE

WATER

- WV — WATER: VALVE
- WM — WATER: METER
- IRR — WATER: IRRIGATION
- FH — WATER: FIRE HYDRANT
- SPIGOT — WATER: SPIGOT
- FDC — WATER: FIRE DEPARTMENT CONNECTION
- PIV — WATER: POST INDICATOR VALVE
- WATER: UNDERGROUND PIPES

LINES

- BUILDING: OVERHANG
- BUILDING: WALLS
- CONTOUR (1 FOOT INTERVALS)
- DITCH: CENTERLINE
- DITCH: TOP OF BANK
- DITCH: TOE OF SLOPE
- FLOOD ZONE LINE
- LANDSCAPING: EDGE
- PAVEMENT: ASPHALT EDGE
- PAVEMENT: GRAVEL
- VEGETATION: DRIPLINE

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COMMONWEALTH OF VIRGINIA
Beth Anne G. Campbell
BETH ANNE G. CAMPBELL
Lic. No. 003316
01/31/2023
LAND SURVEYOR

SITE PLAN
OF
LOT 63
D.B. 41, PG. 483-485 (PLAT)
FOR
CLAIRE & DONALD NEUBERT
JANUARY 31, 2023

PROJECT #	21264.0
FIELD BY:	JJK/MKS
FIELD DATES:	10/20/2021 - 10/26/2021
DRAWN BY:	MKL/ETR
CHECKED BY:	BAC

NO.	DATE	REVISIONS COMMENTS	BY

SCALE: 1" = 15'

SHEET
1 OF 1