Board of Zoning Appeals
Regular Meeting
Cape Charles Civic Center – 500 Tazewell Avenue
October 8, 2024 @ 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. January 9, 2024

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

6. New Business – Public Hearing:

    A. An application from Paul Chandler appealing the decision from the Zoning Administrator dated May 31, 2024, which cited that 204 Bay Avenue was in violation of Cape Charles Zoning Ordinance as follows:
    CCZO Section 2.4.2 (A) (1)
    CCZO Section 2.4.3 (1)
    CCZO Section 8.16
    CCZO Section 8.17

    B. An application from Frank Wendell Jr. appealing the decision from the Zoning Administrator dated July 8, 2024, which cited that a Lot on the 500 Block of Madison Avenue (TM #83A3-1-273) was in violation of Cape Charles Ordinances for the parking of a vehicle on a lot without a residence (underdeveloped lot), as follows:
    CCZO Section 3.2
    CCZO Section 2.9

    Said appeal application is authorized pursuant to Cape Charles Zoning Ordinance Section 2.6.2 (C) & 2.6.4. These properties are located within the Residential-1 (R-1) Zoning District.

    C. An application from Robert and Kathie Naylor for a variance from Cape Charles Zoning Ordinance Section 3.12 Planned Unit Development (PUD) setback per plat for a side yard setback of 3.1’ ft. at 113 William Scott Lane (TM# 90-32-B345).

    Said variance application is authorized pursuant to Cape Charles Zoning Ordinance Section 2.6.3 and 2.6.4. The property is located in the PUD Village in the Bay Creek Development.

7. Other Matters

8. Next Meeting - Tuesday, November 12, 2024 @ 10:00 am

9. Adjourn

Agenda Item 4 (A)

Approval of Minutes: January 9, 2024

Board of Zoning Appeals
Public Hearing & Meeting
Cape Charles Civic Center
January 9, 2024
10:00 a.m.

At approximately 10:00 a.m. in the Cape Charles Civic Center, Chairman Bill Murphy called to order the Board of Zoning Appeals Public Hearing and Meeting. In attendance were Board members Pete Baumann, Jim Holloway, Laura Weigand, and Dolores Blackburn. Also, present was Planning & Zoning Administrator Katie Nunez.

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

ELECTION OF OFFICERS
Member Blackburn nominated Member Holloway as Chairman and Member Weigand nominated Member Blackburn as Chairman. Member Blackburn got 3 votes while member Holloway got 2 votes.

Member Weigand nominated Member Holloway as Vice-Chairman and was seconded by Member Murphy. There were no other nominations for Vice-Chairman.

Ms. Nunez mentioned that Maureen Tamares-Meditz part-time Planning & Zoning Administrative Assistant will act as the Secretary until the Zoning Compliance Officer position is filled again.

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 Baumann to approve the minutes from the June 13, 2023 meeting, seconded by Member Weigand. The motion was approved by majority vote with Member Blackburn abstaining.

OLD BUSINESS/MATTER DEFERRED FROM PREVIOUS MEETINGS
There was no old business to discuss.

NEW BUSINESS
2023 Annual Report. Ms. Nunez presented the Annual Report. The following corrections were pointed out (i) Change the name of Vice-Chairman to Dolores Blackburn. (ii) Correct the meeting dates on the meeting table on page 4.

Motion made by Member Blackburn was seconded by Member Holloway to accept the 2023 Annual Report with corrections as amended. The motion was approved by unanimous vote.

Review Bylaws: BZA Rules of Procedure and Addition of Remote Meeting Participation Policy.

Motion made by Member Murphy was seconded by Member Holloway to amend BZA Rules of Procedure and Remote Meeting Participation Policy. The motion was approved by unanimous vote.

DRAFT

2024 Training Opportunity – Certified BZA Program. There were discussion about this and members expressed their interest in participating and will let the department know if they will be joining in person or virtually. Ms. Nunez mentioned that she will be happy to share some of the reading materials that she has from the previous class she attended.

NEXT MEETING
March 12, 2024 at 10:00 a.m.

Motion made by Member Holloway, seconded by member Blackburn, to adjourn the Board of Zoning Appeals Public Hearing and Meeting at 10:33 a.m. The motion was approved by unanimous vote.

_____
Chairman Bill Murphy

_____
Director of Planning/Zoning Administrator
& Subdivision Agent

DRAFT

Agenda Item 6 (A)

Application from Paul Chandler appealing the Zoning Administrator, which cited 204 Bay Avenue was in violation of the Cape Charles Zoning Ordinance

Board of Zoning Appeals Application for Appeal of Administrative Zoning Decision

Planning & Zoning Department
2 Plum Street; Cape Charles, VA 23310
757-331-3259 x24

planningtech@capecharles.org

Revised 03/2023	
Taxes	Paid 25607291
Violations	1000.00
Fee	500.00
Decision	

Budget Code: MISPL 100-3100-1070

PART 1: APPLICATION NOTES

This form is used to appeal an administrative zoning decision. Appeal fee $500. Fee must be paid at the time of application for appeal.

PART 2: PROPERTY INFORMATION

Subject Property Address: 204 Bay Avenue, Cape Charles, VA 23310

PART 3: APPLICANT INFORMATION

Applicant's Name: Paul Chandler

Applicant's Mailing Address: 11548 Swanson Mill Way, Glen Allen, VA 23059

Applicant's Phone #: 804 245 0572 Email: pauljc2000@gmail.com

PART 4: PROJECT INFORMATION

Briefly describe the decision that you are appealing. Provide a copy of the letter sent to you by the Zoning Administrator. If necessary, you may attach additional information to this form. Date of Decision: May 31, 2024

In accordance with the Code of Virginia, Section 15.2-2309 (1) and Cape Charles Zoning Ordinance Section 2.6.2 (1), I am appealing the decision of the Zoning Administrator. The appeal is based on the following information:

See attached documentation

This appeal is based on Section(s) 2.4.2A, 2.4.3, 8.16, 8.17 of the Cape Charles Zoning Ordinance.

Applicant's signature: _____ Date: 6/26/20

Zoning Administrator's signature: _____ Date: _____

Chairman: _____ Date: _____

Notice sent to applicant by certified mail of the decision by the BZA with 30 day right to appeal to Circuit Court.

Date: _____ Sent by: _____

RECEIVED 6/28/2024

Appeal of Administrative Zoning Decision

204 Bay Avenue

Additional Notes:

Violations cited by the town:

This is to inform you that you are in violation of the Cape Charles Zoning Ordinance (CCZO), as follows:

1. CCZO Section 2.4.2 (A) (1)
2. CCZO Section 2.4.3
3. CCZO Section 8.16
4. CCZO Section 8.17

for the unauthorized removal and replacement of the roof and installing flashing to a chimney at 204 Bay Avenue.

1 . **CCZO Section 2.4.2**

A. Building Permits

1. *No building or structure shall be erected, constructed, altered, moved, converted, extended, enclosed, or enlarged without the owner first having applied for and obtained a zoning clearance for a building permit from the Town's Zoning Administrator. Such zoning clearance shall be obtained prior to the application for a building permit from the Cape Charles Building Department. Nothing herein is intended to prevent normal maintenance, which does not require a building permit.*

The CCZO Section 2.4.2 (A) (1) appeal is based on the following:

The code section clearly states that "Nothing herein is intended to prevent normal maintenance, which does not require a building permit."

1. The work performed was to undertake normal maintenance to repair a section of the metal roof, and adjoining chimney flashing which had been causing water damage inside the home and needed to be urgently addressed (see pictures below).
2. Ms. Nunez states in her violation notification that Jeb Brady has determined that the size of the roof area on the rear building addition does not require a building permit.

The maintenance work is a clear exemption from the code section, and the code official has stated that a building permit was not required, therefore, there is no code violation.

2. CCZO Section 2.4.3

A. Violations

1. *It shall constitute a violation of this ordinance for any person, either owner, agent, or occupant, to commence any actions for which a permit is required by this ordinance without having first obtained an approved permit. Any such permit issued upon a false statement of any fact which is material to the issuance thereof shall be void. Whenever the fact of such false statement shall be established, the Zoning Administrator shall forthwith revoke the same permit by notice in writing to be delivered to the holder of the void permit or, if such holder cannot be found, by posting such notice of revocation in some conspicuous place upon the premises where the violation has occurred. Any such person who shall proceed thereafter with such work or use without having obtained the proper approved permit in accordance with this ordinance shall be deemed guilty of a violation of this ordinance.*

The CCZO Section 2.4.3 appeal is based on the following:

The code section clearly states that "Nothing herein is intended to prevent normal maintenance, which does not require a building permit."

1. The work performed was to undertake normal maintenance to repair a section of the metal roof, and adjoining chimney flashing which had been causing water damage inside the home and needed to be urgently addressed (see pictures below).
2. Ms. Nunez states in her violation notification that Jeb Brady has determined that the size of the roof area on the rear building addition does not require a building permit.

The maintenance work is a clear exemption from the code section, and the code official has stated that a building permit was not required, therefore, there is no code violation.

3. CCZO Section 8.16 Approval of Historic District Review Board Required

A. *Except as herein otherwise provided in this article, no building or structure, including signs, shall be erected, reconstructed, restored, or substantially altered in exterior appearance and no contributing buildings or structures shall be razed or demolished within a historic district and no permit authorizing same shall be granted unless and until the same is approved by the Historic District Review Board and a Certificate of Appropriateness has been issued by that body, with right of direct appeal to the Town Council as hereinafter provided, as being architecturally compatible with the historical, cultural, and/or architectural aspects of the structure and its surroundings.*

B. *Contributing accessory structures will be treated as contributing structures only under the following conditions:*
   1. *It is on a permanent foundation; and*
   2. *It is of sufficient square footage that a new structure of that type would require a building permit; and*
   3. *It is not being used as, or being considered for, accessory dwelling units.*

C. *"Substantial alterations" shall be defined as any and all work done on buildings, structures, or sites in a historic district other than those specifically exempted herein.*
   1. *General examples of "non-substantial" alterations:*
      a. *Work done to prevent deterioration or to replace parts of a structure with similar materials in order to correct any deterioration, decay of, or damage to any structure or on any part thereof, or*
      b. *To restore same as nearly as practical to its condition prior to such deterioration, decay, or damage.*
   2. *Examples of work not constituting "substantial alteration" include those minor actions exempted from review by §8.16 of this article.*
   3. *General examples of work constituting "substantial alterations" include:*
      a. *Construction of a new building at any location or a new permanent accessory building requiring a building permit on a landmark or contributing property or on a site within the Historic District.*
      b. *Any addition to or alteration of a building which increases the square footage of the building or otherwise alters substantially its size, height, contour, or outline.*
      c. *Any alteration of the exterior architectural style of a structure or its significant elements; some examples being removal or rebuilding of porches, openings, dormers, window sashes, chimneys, columns, stairways, terraces, decks, fences, or any other structural elements.*
      d. *Addition to or removal of one or more stories or alteration of a roof line.*
      e. *Any other major actions not specifically covered by the terms of this section, but which would have an effect on the character of the historic district*

D. *In any case in which there might be some question as to whether a project may be exempted from review, may constitute a minor action, or may constitute "substantial alteration," the Zoning Administrator shall be contacted for an interpretation prior to commencement of work*

The CCZO Section 8.16 appeal is based on the following:

1. The work performed is <u>not a substantial alteration.</u>

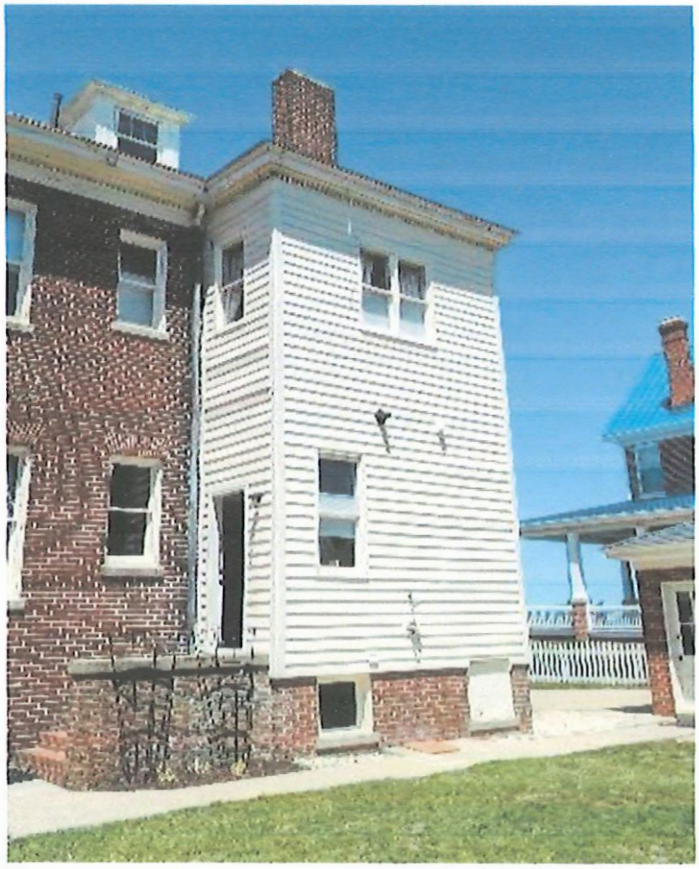
   Section 8.16 C is the <u>exact definition</u> of the "non-substantial" work performed.

   1. *General examples of "non-substantial" alterations:*
      a. *Work done to prevent deterioration or to replace parts of a structure with similar materials in order to correct any deterioration, decay of, or damage to any structure or on any part thereof, or*
      b. *To restore same as nearly as practical to its condition prior to such deterioration, decay, or damage.*

2. None of the examples in 8.16.3 apply.

3. None of the work performed on the rear addition is visible from the ground, or any location in the town. The only way to view this non-substantial alteration is to stand on the roof itself, approximately 30 feet above the ground! (see picture below). No reasonable person would classify this "alteration" as substantial, when that "alteration" will <u>never be seen.</u>

4. By contrast, the work performed by our neighbor at 204 Bay Avenue where a blue roof was installed, would classify as a substantial alteration, but, ironically, <u>no action was taken against this abomination.</u>



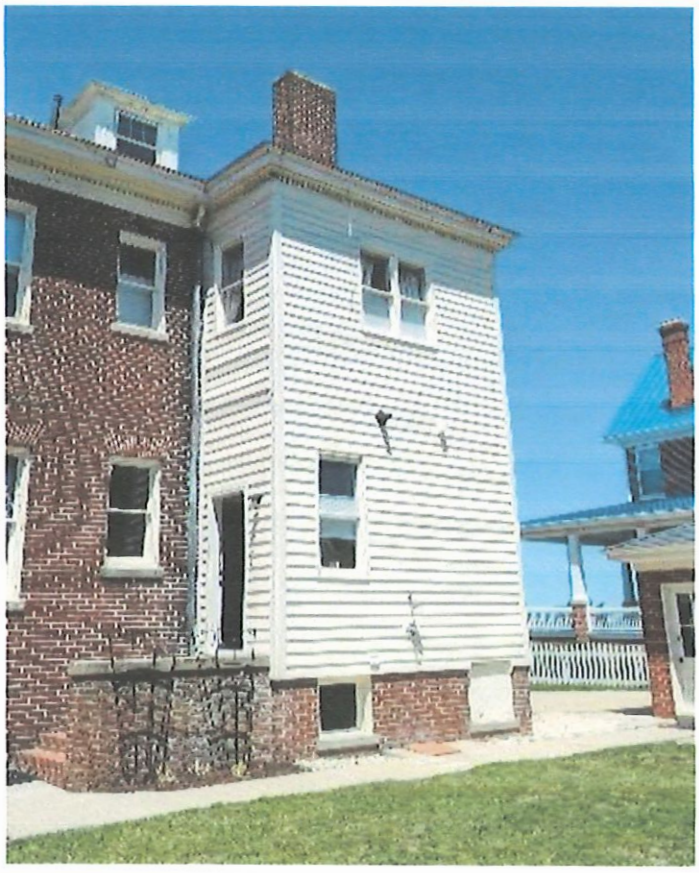
4. CCZO Section 8.17 Certain Minor Actions Exempted from Review by the HDRB

Within the Historic District certain minor actions which are deemed not to have permanent effects upon the character of the historic district are exempted from review for architectural compatibility by the Historic District Review Board.

The CCZO Section 8.16 appeal is based on the following:

Exemption 8.16.H states:

H. Additions or deletions to an existing building which are not visible from a public street or sidewalk.



Summary

CORRECTIVE ORDER AND PENALTIES

1. *No work may proceed at 204 Bay Avenue without a Certificate of Appropriateness and any permit as may be required by the Zoning Administrator and Code Official.*
2. *A Certificate of Appropriateness Application - Roof and supporting documents have been completed and submitted to the Town of Cape Charles Planning and Zoning Department for review and the office is awaiting payment for document completion.*

The work performed did not require a permit, per Jeb, and a Certificate of Appropriateness was not required as the work is covered by the "non-substantial" maintenance exemption of the HRB rules, as well as the HRB exemption covering alterations not visible from the street.

During my conversations with Ms. Nunez, her arguments have been inconsistent and factually incorrect. She repeatedly stated that the material used for the work was different from the original material, but again, the exemptions that apply mean that the material used is irrelevant.

For reference, the picture below shows the finished job, completed by the best copper and slate roofing company on the east coast who installed the copper roof on our wrap-around porch.

The picture shows the copper integrated gutter repairs and patinaed roofing and flashing to complement the original aged copper visible on the original gutters.

Municipal Corporation of Cape Charles

NOTICE OF VIOLATION & CORRECTIVE ORDER
Email & Certified Mail – Paul and Kimberly Chandler

May 31, 2024

Paul J. and Kimberly A. Chandler

RE: Notice of Zoning Ordinance Violation at 204 Bay Avenue – Tax Map # 83A3-3-1 regarding the removal and replacement of the roof and adding flashing to a chimney

To: Paul and Kimberly Chandler,

This is to inform you that you are in violation of the Cape Charles Zoning Ordinance (CCZO), as follows:

1. CCZO Section 2.4.2 (A) (1)
2. CCZO Section 2.4.3
3. CCZO Section 8.16
4. CCZO Section 8.17

for the unauthorized removal and replacement of the roof and installing flashing to a chimney at 204 Bay Avenue. You were informed of the need for permits for any work to be completed by the Zoning Administrator Katherine H. (Katie) Nunez during a conversation on approximately April 26, 2024.

ZONING VIOLATIONS

Your home at 204 Bay Avenue is in the Cape Charles Historic District. The Zoning Administrator, Katherine H. Nunez, is required to review all proposed projects to ensure that all zoning ordinances are followed and issue a zoning clearance. Also, required is a Certificate of Appropriateness, a type of zoning approval, which is issued when the Historic District Review Board or Zoning Administrator reviews and then approves an application submitted by the homeowner or their authorized representative to the Town of Cape Charles Planning and Zoning Department.

On May 13, 2024, Ms. Nunez received an email from Paul Chandler stating that work had been completed at 204 Bay Avenue with an attachment that included the secondary Application for Residential Roofing/Siding Permit to remove and replace the existing roof. After verifying that no Certificate of Appropriateness was issued to this address, Mr. Chandler, applicant/owner, was contacted and informed that the required permits were not obtained to do the roof work.

The office received several e-mail communications from Mr. Chandler that included the Application for Certificate of Appropriateness-Roof Work Only and several before and after pictures. Staff then asked for and received an Application for Zoning Clearance. The applications and pictures were reviewed, and staff asked for clarification as on the following: (i) if the whole house roof was repaired; (ii) if only a percentage; (iii) what type of material was used; and (iv) had any work been done to the chimney. Mr. Chandler did not clarify on the applications but in an email wrote that 100% of the rear addition copper roof was replaced with double locked standing seam galvanized aluminum with an aged copper finish, copper replaced slate roof valleys of the main roof, install integrated copper gutters, and no work had been done to the chimney except the flashing was replaced.

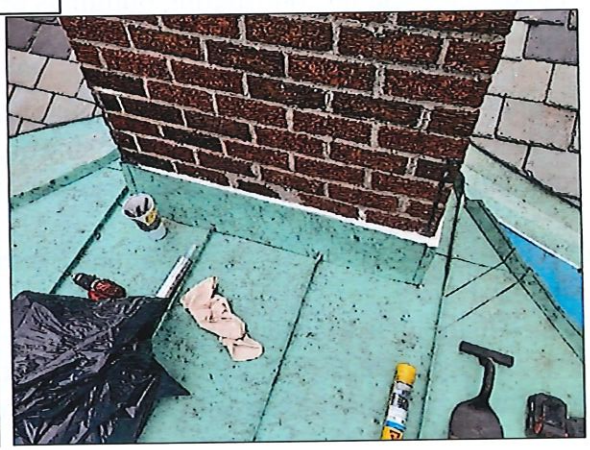
After review of the applications, pictures, and email clarifications it is determined that this Application for Certificate of Appropriateness-Roof Work Only would have needed to be reviewed by the Historic District Review as this was clearly not a same material replacement for the roofs nor the chimney.

The Code Official, Jeb Brady, has reviewed the documentation submitted by the property owner and has determined that the size of the roof area on the rear building addition does not require a building permit.

The applicant provided the following before and after pictures:

BEFORE

AFTER



CCZO Section 2.4.2 Permits A. Building Permits states:

1. No building or structure shall be erected, constructed, altered, moved, converted, extended, enclosed, or enlarged without the owner first having applied for and obtained a zoning clearance for a building permit from the Town's Zoning Administrator. Such zoning clearance shall be obtained prior to the application for a building permit from the Cape Charles Building Department. Nothing herein is intended to prevent normal maintenance, which does not require a building permit.

CCZO Section 2.4.3 Violations and Penalty A. Violations states:

2. It shall constitute a violation of this ordinance for any person, either owner, agent, or occupant, to commence any actions for which a permit is required by this ordinance without having first obtained an approved permit. Any such permit issued upon false statement of any fact which is material to the issuance thereof shall be void. Whenever the fact of such false statement shall be established, the Zoning Administrator shall forthwith revoke the same permit by notice in writing to be delivered to the holder of the void permit or, if such holder cannot be found, by posting such notice of revocation in some conspicuous place upon the premises where the violation occurred. Any such person who shall proceed thereafter with such work or use without having obtained the proper approved permit in accordance with this ordinance shall be deemed guilty of a violation of this ordinance.

An *Application for Zoning Clearance* was not submitted or approved in advance for any of the work to be done on the home at 204 Bay Avenue.

CCZO Section 8.16 - Approval of Historic District Review Board Required states:

A. Except as herein otherwise provided in this article, no building or structure, including signs, shall be erected, reconstructed, restored, or substantially altered in exterior appearance and no contributing buildings or structures shall be razed or demolished within a historic district and no permit authorizing same shall be granted unless and until the same is approved by the Historic District Review Board and a Certificate of Appropriateness has been issued by that body, with right of direct appeal to the Town Council as hereinafter provided, as being architecturally compatible with the historical, cultural, and/or architectural aspects of the structure and its surroundings.

CCZO Section 8.17 – Certain Minor Actions Exempted from Review by the Historic District Review Board states:
Within the Historic District certain minor actions which are deemed not to have permanent effects upon the character of the historic district are exempted from review for architectural compatibility by the Historic District Review Board but reviewed by the Zoning Administrator.

A *Certificate of Appropriateness Application (Roof)* was not submitted or approved in advance for any of the work at 204 Bay Avenue.

CORRECTIVE ORDER AND PENALTIES

1. No work may proceed at 204 Bay Avenue without a Certificate of Appropriateness and any permit as may be required by the Zoning Administrator and Code Official.
2. A Certificate of Appropriateness Application – Roof and supporting documents have been completed and submitted to the Town of Cape Charles Planning and Zoning Department for review and the office is awaiting payment for document completion.
3. Based upon the Zoning Ordinance violations, the Town, pursuant to Cape Charles Zoning Ordinance Section 2.4.3, will be pursuing all remedies available under the law, including filing with the District Court of Northampton County a Notice of Violation for each of the listed Zoning Ordinance violations which may result in you being found guilty of a Class IV misdemeanor and the imposition of fine of $250 per each zoning ordinance.
4. **Payment for Working without an approved and active Certificate of Appropriateness (COA) or After the Fact Permit Fee of $1,000.00.**
5. **By June 14, 2024, submit to the Planning and Zoning office a COA – Roof and payment of fee $500 along with payment for the penalty fee of $1,000; a check made payable to the Town of Cape Charles can be mailed to 2 Plum Street; Cape Charles, VA 23310.**

You have the right to appeal this Notice of Violation and Corrective Action order to the following:

- For Appeals of Zoning Code Violations, you will need to file an application with the Cape Charles Board of Zoning Appeals within 30 days of the date of this letter pursuant to Cape Charles Zoning Ordinance Section 2.6.4 and the Code of Virginia Section 15.2-2311 (A); the decision shall be final and unappealable if not appealed within 30 days. The forms are attached to this letter, and you must include the filing fee of $500 for any application of appeal.

ALL PAYMENTS are to be made out to the Town of Cape Charles.

Sincerely,

Katherine H. Nunez
Director of Planning, Zoning Administrator, & Subdivision Agent

Cc: Katherine H. Nunez, Director of Planning, Zoning Administrator, & Subdivision Agent
John Hozey, Town Manager
Historic District Review Board
Jeb Brady, Code Official

ATTACHMENT 1: Requirement for Zoning Clearance
ATTACHMENT 2: Approval of HDRB/Zoning Administrator Required
ATTACHMENT 3: Violations and Penalties
ATTACHMENT 4: Procedure for Appeals

Municipal Corporation of Cape Charles

Applicable Zoning Ordinances – Requirement for Zoning Clearance

CCZO Section 2.4.2 Permits

A. Building Permits

1. No building or structure shall be erected, constructed, altered, moved, converted, extended, enclosed, or enlarged without the owner first having applied for and obtained a zoning clearance for a building permit from the Town's Zoning Administrator. Such zoning clearance shall be obtained prior to the application for a building permit from the Cape Charles Building Department. Nothing herein is intended to prevent normal maintenance, which does not require a building permit.

2. The Zoning Administrator shall certify whether the proposed use, structure, alteration, or enlargement is or is not in conflict with the provisions of this Chapter. If such proposal is in conflict with the provisions of this ordinance, the Zoning Administrator shall refuse to issue such zoning clearance for a building permit.

3. The fee for a building permit shall be governed by ordinance.

4. Pursuant to the authority contained in §15.2-2286, 15.B. of the Code of Virginia of 1950, as amended, prior to the initiation of an application for a special exception, conditional use permit, variance, rezoning or other land disturbing permit, including building permits and erosion and sediment control permits, all delinquent real estate taxes owed to the Town against the property shall be paid in full.

Municipal Building · 2 Plum Street · Cape Charles, Virginia 23310
(757) 331-3259 Fax (757) 331-4820

CCZO Section 2.4.3 - Violation and Penalty

A. Violations

1. It shall constitute a violation of this ordinance for any person, either owner, agent, or occupant, to commence any actions for which a permit is required by this ordinance without having first obtained an approved permit. Any such permit issued upon a false statement of any fact which is material to the issuance thereof shall be void. Whenever the fact of such false statement shall be established, the Zoning Administrator shall forthwith revoke the same permit by notice in writing to be delivered to the holder of the void permit or, if such holder cannot be found, by posting such notice of revocation in some conspicuous place upon the premises where the violation has occurred. Any such person who shall proceed thereafter with such work or use without having obtained the proper approved permit in accordance with this ordinance shall be deemed guilty of a violation of this ordinance.

2. If the Zoning Administrator finds that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for the violation, indicating the nature of the violation and ordering action necessary to correct the violation. The Zoning Administrator shall take any other action authorized by law to ensure compliance with or to prevent further violation of this ordinance.

3. Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating, causing, or permitting the violation of any of the provisions of this ordinance shall be guilty of a Class IV misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than ten dollars ($10) for each violation and not more than two hundred and fifty dollars ($250). Each day such violation shall continue shall constitute a separate violation.

4. Any official or public employee authorized of this jurisdiction who is vested with the duty of authority to issue permits shall conform to the provisions of this ordinance. Any such permit, if issued in conflict with the provisions of this ordinance, shall be canceled in writing.

Municipal Corporation of Cape Charles

Ordinance Citations – Approval of HDRB Required

CCZO Section 8.16 Approval of Historic District Review Board Required

A. Except as herein otherwise provided in this article, no building or structure, including signs, shall be erected, reconstructed, restored, or substantially altered in exterior appearance and no contributing buildings or structures shall be razed or demolished within a historic district and no permit authorizing same shall be granted unless and until the same is approved by the Historic District Review Board and a Certificate of Appropriateness has been issued by that body, with right of direct appeal to the Town Council as hereinafter provided, as being architecturally compatible with the historical, cultural, and/or architectural aspects of the structure and its surroundings.

B. Contributing accessory structures will be treated as contributing structures only under the following conditions:
1. It is on a permanent foundation; and
2. It is of sufficient square footage that a new structure of that type would require a building permit; and
3. It is not being used as, or being considered for, accessory dwelling units.

C. "Substantial alterations" shall be defined as any and all work done on buildings, structures, or sites in a historic district other than those specifically exempted herein.
1. General examples of "non-substantial" alterations:
   a. Work done to prevent deterioration or to replace parts of a structure with similar materials in order to correct any deterioration, decay of, or damage to any structure or on any part thereof, or
   b. To restore same as nearly as practical to its condition prior to such deterioration, decay, or damage.
2. Examples of work not constituting "substantial alteration" include those minor actions exempted from review by §8.16 of this article.
3. General examples of work constituting "substantial alterations" include:
   a. Construction of a new building at any location or a new permanent accessory building requiring a building permit on a landmark or contributing property or on a site within the Historic District.
   b. Any addition to or alteration of a building which increases the square footage of the building or otherwise alters substantially its size, height, contour, or outline.
   c. Any alteration of the exterior architectural style of a structure or its significant elements; some examples being removal or rebuilding of porches, openings, dormers, window sashes, chimneys, columns, stairways, terraces, decks, fences, or any other structural elements.
   d. Addition to or removal of one or more stories or alteration of a roof line.
   e. Any other major actions not specifically covered by the terms of this section, but which would have an effect on the character of the historic district

D. In any case in which there might be some question as to whether a project may be exempted from review, may constitute a minor action, or may constitute "substantial alteration," the Zoning Administrator shall be contacted for an interpretation prior to commencement of work

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(757) 331-3259 Fax (757) 331-4820

Municipal Corporation of Cape Charles

Ordinance Citations – Certain Minor Actions Exempted from Review by the HDRB

CCZO Section 8.17 Certain Minor Actions Exempted from Review by the HDRB

Within the Historic District certain minor actions which are deemed not to have permanent effects upon the character of the historic district are exempted from review for architectural compatibility by the Historic District Review Board. Such actions shall include the following and any similar actions which in the opinion of the Zoning Administrator will have no more effect on the character of the district than those listed:

A. Repainting the structure. (Original painting of masonry surfaces is not exempted from review.)

B. Replacement of missing or broken windowpanes, roofing slates, tiles, porch floor, posts, rails, shingles, window frames, or shutters where no substantial change in design or material is proposed.

C. Addition or deletion of storm doors or storm windows, window gardens, or similar appurtenances and portable air conditioners located in existing windows, doors, or other existing wall openings (if no building permit is required for such addition or deletion).

D. Addition or deletion of television and radio antennas or skylights and solar collectors in locations not visible from a public street or a waterway.

E. Landscaping involving minor grading, walks, low retaining walls, temporary fencing, fencing immediately surrounding trash receptacles or outdoor ventilation units, small fountains, outdoor showers, and ponds which will not substantially affect the character of the property and its surroundings.

F. Construction of off-street loading areas and off-street parking areas.

G. Creation of outside storage in a commercial or industrial district which does not require structural changes or major grading and is not visible from a public street or waterway.

H. Additions or deletions to an existing building which are not visible from a public street or sidewalk. Alleys in this context are not to be considered public places.

I. Covered by other zoning ordinance requirements as administrated by the Zoning Administrator unless altered by the overlay ordinance.

J. Receiving historic preservation tax credits through state or federal offices.

K. Demolition of non-contributing buildings or structures.

L. Alterations or repairs made to a building or structure for the purpose of temporary emergency stabilization.

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Municipal Corporation of Cape Charles

Applicable Zoning Ordinances – Appeals and Procedure of Appeals

CCZO Section 2.6.4 – Appeals and Procedures of Appeals

An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by an officer, department, board, or bureau of the county or municipality affected by any decision of the Zoning Administrator or Administrative Officer in the administration or enforcement of this ordinance. The decision may be appealed within thirty days thereof by filing a notice of appeal specifying the grounds of the appeal. Said appeal shall be filed with Zoning Administrator and with the Board of Zoning Appeals. The Zoning Administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

The board shall fix a reasonable time for the hearing of an application for appeal, give the public notice thereof as well as due notice to the parties in interest, and decide the same within sixty days of the filing of the application for appeal. In exercising its powers, the board may reverse or affirm wholly or in part or may modify an order, requirement, decision, or determination of an administrative officer or decide in favor of the applicant on any matter which it is required to effect any variance from the ordinance. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the Zoning Administrator and shall be public record. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

In accordance with Section 15.2-2313 where a building permit has been issued and the construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected, or abated as a violation of the zoning ordinance, by suit filed within fifteen days after the start of construction by a person who had no actual notice of the issuance of the permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the administrative officer to the Board of Zoning Appeals.

Municipal Building · 2 Plum Street · Cape Charles, Virginia 23310
(757) 331-3259 Fax (757) 331-4820

Board of Zoning Appeals Application for Appeal of Administrative Zoning Decision

Planning & Zoning Department
2 Plum Street; Cape Charles, VA 23310
757-331-3259 x24

planningtech@capecharles.org

Revised 03/2023	
Taxes	
Violations	
Fee	
Decision	

Budget Code: MISPL 100-3100-1070

PART 1: APPLICATION NOTES

This form is used to appeal an administrative zoning decision. Appeal fee $500. Fee must be paid at the time of application for appeal.

PART 2: PROPERTY INFORMATION

Subject Property Address:

PART 3: APPLICANT INFORMATION

Applicant's Name:

Applicant's Mailing Address:

Applicant's Phone #: | Email:

PART 4: PROJECT INFORMATION

Briefly describe the decision that you are appealing. Provide a copy of the letter sent to you by the Zoning Administrator. If necessary, you may attach additional information to this form. Date of Decision: _____

In accordance with the Code of Virginia, Section 15.2-2309 (1) and Cape Charles Zoning Ordinance Section 2.6.2 (1), I am appealing the decision of the Zoning Administrator. The appeal is based on the following information:

_____

_____

_____

This appeal is based on Section(s)_____of the Cape Charles Zoning Ordinance.

Applicant's signature: _____ Date: _____

Zoning Administrator's signature: _____ Date: _____

Chairman: _____ Date: _____

Notice sent to applicant by certified mail of the decision by the BZA with 30 day right to appeal to Circuit Court.

Date: _____ Sent by: _____

Application for Zoning Clearance

Planning & Zoning Department
2 Plum Street; Cape Charles, VA 23310
757-331-3259 x24

planningtech@capecharles.org

Revised 02/2024	
Taxes	☑
Violations	yes
Fee	HDRB
Decision	

Fee $150 unless a residential building permit

Budget Code: MISPL 100-3100-1070
Budget Code for VIOLATIONS: PERMZ 100-3100-1370

PART 1. APPLICATION NOTES

Use this form to request zoning clearance for all new construction, alteration of existing structures, additions, or demolitions within the Town of Cape Charles * *The applicant is responsible for confirming and obtaining all necessary building permits after approvals.*

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

☑ Photos of existing area ☐ Site Plan ☐ Owner Affidavit

Owner/Applicant signature: BW Date: 5/13/24

PART 2: PROPERTY INFORMATION

Property Address: 204 Bay Avenue | Tax Map #: 83A3-3-1

Zoning District if not located in Bay Creek:

☐ R-1 ☐ R-2 ☐ R-3 ☐ CR ☐ C-1 ☐ C-2 ☐ C-3
☐ M-1 ☐ M-2 ☐ GBI ☐ GBI-H1 ☐ Harbor

Zoning District if located in Bay Creek: ☐ Located on Bay Creek property, but not in a current subdivision

Subdivision Name	Zoning Designation	Subdivision Name	Zoning Designation
☐ Bayside Village	PUD Village	☐ Muirfield Village	PUD Village
☐ Bay Vista	PUD R-3	☐ New Quarter	PUD R-2
☐ Fairways	PUD R-3	☐ Plantation Pointe	PUD R-1
☐ Heron Pointe	PUD R-2	☐ The Colony	PUD R-3
☐ Kings Bay	PUD R-2	☐ The Hollies	PUD R-2
☐ Marina Resort	PUD R-2	☐ The Signature	PUD R-2
☐ Marina Village East	PUD R-2		

PART 3: PROPERTY OWNER INFORMATION

Name and/or Company: Paul Chandler

Mailing Address: 11548 Swanson Mill Way, Glen Allen VA 23059

Phone Number: 804 245 0572

Email: pauljc2000@gmail.com

PART 4: APPLICANT INFORMATION

☐ Check here if the applicant is the 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: PROJECT INFORMATION – DESCRIBE PROPOSED WORK IN DETAIL

Remove upper rear copper roof and built-in gutter system and make repairs to sheathing.
Furnish and apply a high temperature ice and water barrier underlayment and install in built-in gutter a 16oz. built-in guttery system. New gutter to be installed using a cleated system of allow gutter to properly expand and contract. New gutter to tie into built-in gutter on the back of the house. Old and new gutter to be tied together using cloth tape and coating.
Furnish and install a double locked standing seam metal roof system using .032 baked-on enamel aluminum. Tie new roof into slate roof and properly flash chimney using materials and methods supplied by manufacturer.
Take-up necessary slate to remove metal valleys over front gable and make repairs to sheathing if necessary. Furnish and apply an ice and water barrier underlayment and install new metal valleys using 16oz. copper and reinstall slate. Replace missing and badly broken slate in roof. Resecure loose and sliding slate and reseal flashings where needed using a urethane caulking.

PART 6: ADDITIONAL INFORMATION

Category of work	■	Residential	☐	Commercial ☐ Industrial
Type of work	☐	New (landscape plan needed)	☐	Renovations ☐ Repairs
(Check all that apply)	☐	Demolition ☐ Full	☐	Partial _____ ft²
	☐	Addition	☐	Accessory structure ____ ft²
	☐	Fence	☐	Pool (requires a CUP)
	■	Roof	☐	Solar Panels
	☐	Elevator		
	☐	Other (specify)		

Are trees going to be removed? ■ No ☐ Yes If yes, please complete a Tree Permit Application.

Applicant's signature: _____ Date: 5/13/24

Zoning Administrator's signature: _____ Date: _____

Certificate of Appropriateness Application

Roof Work Only

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

Revised 07/2023	
Taxes	PD
Violations	$1,000
Fee	$50 / $500
Decision	

Budget Code: HISTF 100-3100-1100

PART 1. APPLICATION NOTES

A Certificate of Appropriateness is required for all applications for zoning clearances and permits involving any exterior alteration, modification, restoration, reconstruction, demolition, new construction or moving a property within the Cape Charles Historic District Overlay. * *The applicant is responsible for confirming and obtaining all necessary building permits after approvals.*

The following documents must be submitted to the Town before this application can be reviewed. In addition to these documents, the COA application and requested supporting information must be deemed complete by the department staff prior to being evaluated.

☑ (A) Zoning Clearance Application ☑ (B) Photos of existing roof ☐ (C) Owner Affidavit ☐ (D) Payment of Fee

Owner signature: Date: 5/13/24

PART 2: PROPERTY INFORMATION

Property Address: 204 Bay Ave

Tax Map #: 83A3-3-1

Is there an active Certificate of Appropriateness on this property? ☑ No ☐ Yes _____ Date

Zoning District: R-1

PART 3: PROPERTY OWNER INFORMATION

Name and/or Company: Paul Chandler

Mailing Address: 11548 Swanson Mill Way, Glen Allen VA 23059

Phone Number: 804 245 0572

Email: pauljc2000@gmail.com

PART 4: PROPERTY 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: PROJECT INFORMATION

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PART 6: ROOF REPAIRS

SEE SECTIONS 4.2, 5.2, & 5.3 OF THE HISTORIC DISTRICT DESIGN GUIDELINES

Type of work, check all that apply:

- ☐ New ☐ Repair (% of roof structure) _____
- ☑ Reroofing: In kind x ____ Different in style or material _____
- ☑ Add/Repair Gutters and downspouts
- ☐ Repair Chimneys

Location (Pictures of existing condition):

Existing Roof	Proposed Roof
Existing Condition: ☒ Original ☒ Not Original ☐ Not Sure	Proposed Materials (specifications): Slate, Copper and .032 baked-on enamel aluminum
Existing Material: Slate and Copper	
Existing Chimney	**Proposed Chimney**
Existing Condition: ☐ Original ☐ Not Original ☐ Not Sure	☐ Repair ☐ Remove ☐ Add a chimney cap

Indicate the reason for change and materials to be used.
.032 baked-on enamel aluminum used for durability and cost reasons. Not that the material is designed to look identical to aged copper. Also note that this material is not visible from the ground.

Other / Additional Notes:

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.

Applicant's signature: _____ Date: 5/13/2024

Zoning Administrator's signature_____ Date: _____

Zoning Ordinance Article VIII Section: _____

Certificate of Appropriateness Application

Roof Work Only

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

Revised 07/2023	
Taxes	√pd MW
Violations	$1,000
Fee	$50 / $500
Decision	

Budget Code: HISTF 100-3100-1100

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Phone Number:

Email:

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- ☐ New ☐ Repair (% of roof structure) _____
- ☑ Reroofing: In kind x Different in style or material _____
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Existing Condition: ☒ Original ☒ Not Original ☐ Not Sure	Proposed Materials (specifications): Slate, Copper and .032 baked-on enamel aluminum
Existing Material: Slate and Copper	
Existing Chimney	**Proposed Chimney**
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Indicate the reason for change and materials to be used.
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Applicant's signature: _____ Date: 5/13/2024

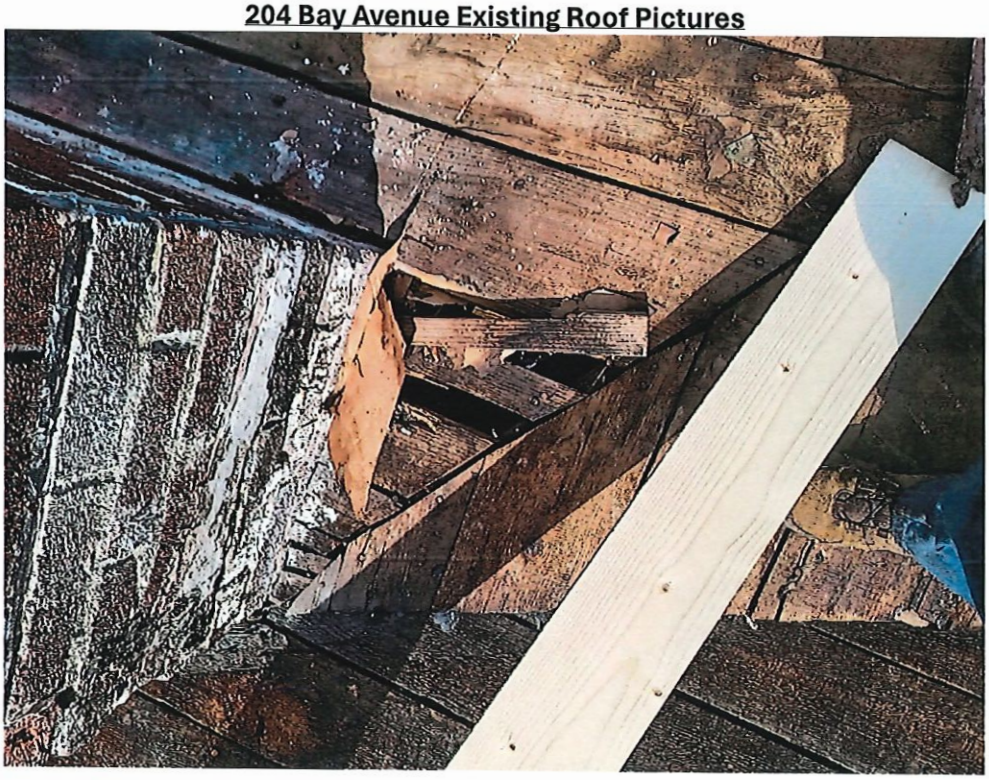
Zoning Administrator's signature _____ Date: _____

Zoning Ordinance Article VIII Section: _____

204 Bay Avenue Roof Pictures After Work Completed

204 Bay Avenue Additional Existing Roof Pictures

204 Bay Avenue Existing Roof Pictures



Tracy Outten

From: Paul Chandler <pauljc2000@gmail.com>
Sent: Monday, May 13, 2024 3:40 PM
To: Tracy Outten; Katie Nunez
Subject: RE: 204 Bay Ave - Certificate of Appropriateness Application

Tracy

All of that information is contained in the multiple forms I was asked to complete.

See my responses (again) below!

Tracy Outten wrote:

> Good afternoon, Mr. Chandler.
>
> After reviewing the Application for Certificate of Appropriateness – Roof for 204 Bay Avenue I need some clarity on the following items:
> - Was the whole roof replaced?

No.

What was replaced:

Percentage of roof replaced. 0% of the main roof. 100% on non-historic addition, approx 48 sq ft.

The valleys on the main roof.

Integrated copper gutters on the rear of the main roof.

Flat metal roof on the rear addition, which is not original to the house.

Copper was used on the valleys and integrated gutters.

Standing seam galvanzied aluminum with an aged copper finish was used on the flat roof

> - If not, please explain:

- Percentage of roof that was replaced.
- Section / Location where the roof was replaced.
- What material was used?
    - Same material as existing or different material?

- What work was done on the Chimneys? (This will need to be added on Page 2 of the Application for Certificate of Appropriateness – Roof)
    - Location of Chimney.

No work was done on the chimneys. Flashing was replaced around the chimney on the rear of the house.

Thank you,
Tracy
Tracy Outten, CMC
Planning & Zoning Assistant – Preservation & Zoning Administrator
Town of Cape Charles
2 Plum Street
Cape Charles, Virginia 23310
1-757-331-3259 x24
www.capecharles.org

From: Paul Chandler <pauljc2000@gmail.com>
Sent: Monday, May 13, 2024 11:52 AM
To: Tracy Outten <tracy.outten@capecharles.org>; Katie Nunez <knunez@capecharles.org>; Planning Tech <planningtech@capecharles.org>
Subject: RE: 204 Bay Ave - Certificate of Appropriateness Application

Tracy Outten wrote:

Mr. Chandler,

Please complete the attached Application for Zoning Clearance and return it to me.

Thank you,
Tracy
Tracy Outten, CMC
Planning & Zoning Assistant – Preservation & Zoning Administrator
Town of Cape Charles
2 Plum Street
Cape Charles, Virginia 23310
1-757-331-3259 x24
www.capecharles.org

From: Paul Chandler <pauljc2000@gmail.com>
Sent: Monday, May 13, 2024 10:50 AM
To: Katie Nunez <knunez@capecharles.org>; Planning Tech <planningtech@capecharles.org>
Subject: 204 Bay Ave - Certificate of Appropriateness Application

Katie and Tracy

Attached is the application and before and after pictures.

Katie, you mentioned that I also needed to complete a building permit, in addition to the roofing permit, however, on reviewing the building permit it appears to be completely irrelevant to this project. Please advise.

Let me know if you need anything else at this stage.

Paul.

APPLICATION FOR RESID
Town
Muni
2 P
Cape Ch
(757) 331-217
codeofficial

va811.com Dig With CARE

Stevens Roofing
818 W. 39th St.
Norfolk, VA

Sec. 18-39

Paul Chandler.
204 Bay Avenue

$600 plus cost of permit (value of contract) 2015

I, Paul Chandler

204 Bay Avenue

of rotting wood visible from the attic area (for roof
visual defects. If defective materials are found, th
Fire retardant treated plywood shall not be utilized
construction within four (4) feet on either side of th
all work shall be done in accordance with
all applicable codes and ordinances.

Answer YES or NO beside the following statements as they pertain to this job:

Yes ☐ No ☐ 1. Roof to be a nail over with only one layer or roofing existing.

Yes ☑ No ☐ 2. Existing roofing to be removed and replaced with a new roof.

TOWNHOUSES/CONDOMINIUMS/APARTMENTS

Yes ☐ No ☐ 3. Fire retardant treated plywood addressed.

Owner/Contractor Signature

ASBESTOS CERTIFICATION

I, Paul Chandler, certify that the property at 204 Bay Ave has been inspected for asbestos and complies with the Code of Virginia, Section 54.1-503, the Uniform statewide Building Code, Section 108.10, the "Clean Air Act" (NESHAP) and OSHA "Standards for Construction Workers", Environmental Protection Agency (EPA), Asbestos Hazard Emergency Response Act, or is exempt as noted in the exemptions below:

Exception 1. Single Family dwellings

2. Residential housing with four or less unit

Owner/Contractor Signature

05/17/2024

Stevens Roofing Corp
818 West 39th Street,
Norfolk, VA 23508
Phone: (757) 489-8791
Fax: (757) 489-8649

Paul Chandler
204 Bay Avenue
Cape Charles, VA 23310
(804) 245-0572

Job: 282: Paul Chandler

Upper Rear Copper Roof Replacement

Remove upper rear copper roof and built-in gutter system and make repairs to sheathing if necessary (See Note).

Furnish and apply a high temperature ice and water barrier underlayment and install in built-in gutter a 16oz. built-in guttery system. New gutter to be installed using a cleated system ot allow gutter to properly expand and contract. New gutter to tie into built-in gutter on the back of the house. Old and new gutter to be tied together using cloth tape and coating.

Furnish and install a double locked standing seam metal roof system using .032 baked-on enamel aluminum. Tie new roof into slate roof and properly flash chimney using materials and methods supplied by manufacturer.

Slate Roof Repair Section

Take-up necessary slate to remove metal valleys over front gable and make repairs to sheathing if necessary (See Note)

Furnish and apply an ice and water barrier underlayment and install new metal valleys using 16oz. copper and reinstall slate.

Replace missing and badly broken slate in roof. Resecure loose and sliding slate and reseal flashings where needed using a urethane caulking.

Remove exhaust vent from detached garage and install necessary sheathing. Slate over opening to complete.

TERMS - SEE CLAUSE NO. 9 BELOW FOR PAYMENT TERMS:

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. We are to furnish all labor and materials and to clean up and haul away all trash in connection with this work, unless otherwise specified.
2. The proposal submitted by the Contractor is valid only for a period of Thirty (30) days from the date hereof and if not accepted by the Principal within the Thirty (30) day period, this proposal shall be null and void.
3. The Contractor shall not be responsible for damages of delay due to labor stoppages or disputes, acts of God, civil disruption, fires, accidents or other cause beyond its control.
4. The Contractor assumes no responsibility for leaks though any portion of the structure, roof and/or sidewalls, or flashing, not specifically included in the areas covered by this proposal and agreement. Service calls beyond the Contractor's obligation under this agreement shall be an extra charge.
5. Should conditions render unavailable at reasonable cost within the price ranges of this contract any material or product specified herein or otherwise required in order to fulfill this contract, a substitute of suitable value and quality may be supplied by the Contractor, subject to notice to the Principal.
6. This job to be done by the Contractor on open shop basis.
7. All work to be done in a first-class workmanlike manner and in accordance with Local, State, and Federal regulations
8. Any changes or additional work not included in the contract will be submitted on a change order and signed by both parties.
9. A deposit of one-third (1/3) the contract price is necessary with a signed contract before any work can be scheduled. Final Payment is due upon job completion. For extended length jobs, progress billings for work completed will be done on a month to month basis and is due upon receipt.

A one and one-half (1 1/2%) percent interest rate shall be charged on accounts past thirty (30) days (18% annual percentage rate). In the event payment is not promptly made and it becomes necessary for the contractor to employ an attorney or a collection agency for the purposes of collecting any amount pursuant to this contract, or if it becomes necessary for the Contractor to file a Memorandum of Mechanics Lien and/or to take action to enforce said lien, then it is further covenanted and agreed by the parties hereto that the contractor shall be entitled to receive attorney's fees in the amount of twenty-five (25%) of the original contract plus all court costs, commissioner's fees, reporting fees, appraisers fees, and filing fees, in addition to the amount owed Contractor.

Note #1: Please allow 8-10 weeks from the date of the signed contract for the work to begin.

Note #2: Any necessary repairs to deteriorated or bad wood rafters, sheathing, etc. will be an extra and charged on a Time and Material Basis with rates as follows: Labor is charged at $140.00 per hour for a foreman, $120.00 for a mechanic, and $95.00 per hour for a helper. Materials are charged at cost plus 20% markup for profit and overhead.

Terms of Payment: A deposit of 1/3 of the amount is required with a signed contract before any work can be scheduled or material ordered. Final payment is due upon completion. On Large projects progress billing will occur every 3 weeks and payments are due within 5 days of delivery of invoice.

Credit Card Payments: There will be an additional 2.5% convenience fee assessed on all Visa/MasterCard/Discover and 3% convenience fee on American Express.

_____ _____

Company Authorized Signature Date

_____ _____

Customer Signature Date

Katie Nunez

From: Paul Chandler <pauljc2000@gmail.com>
Sent: Monday, May 13, 2024 3:40 PM
To: Tracy Outten; Katie Nunez
Subject: RE: 204 Bay Ave - Certificate of Appropriateness Application

Tracy

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No work was done on the chimneys. Flashing was replaced around the chimney on the rear of the house.

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Application for Zoning Clearance

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2 Plum Street; Cape Charles, VA 23310
757-331-3259 x24

planningtech@capecharles.org

Revised 02/2024	
Taxes	☐
Violations	
Fee	
Decision	

Fee $150 unless a residential building permit

Budget Code: MISPL 100-3100-1070
Budget Code for VIOLATIONS: PERMZ 100-3100-1370

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☐ Photos of existing area ☐ Site Plan ☐ Owner Affidavit

Owner/Applicant signature: [signature] Date: 5/13/24

PART 2: PROPERTY INFORMATION

Property Address: | Tax Map #:

Zoning District if not located in Bay Creek:

☒ R-1 ☐ R-2 ☐ R-3 ☐ CR ☐ C-1 ☐ C-2 ☐ C-3
☐ M-1 ☐ M-2 ☐ GBI ☐ GBI-H1 ☐ Harbor

Zoning District if located in Bay Creek: ☐ Located on Bay Creek property, but not in a current subdivision

Subdivision Name	Zoning Designation	Subdivision Name	Zoning Designation
☐ Bayside Village	PUD Village	☐ Muirfield Village	PUD Village
☐ Bay Vista	PUD R-3	☐ New Quarter	PUD R-2
☐ Fairways	PUD R-3	☐ Plantation Pointe	PUD R-1
☐ Heron Pointe	PUD R-2	☐ The Colony	PUD R-3
☐ Kings Bay	PUD R-2	☐ The Hollies	PUD R-2
☐ Marina Resort	PUD R-2	☐ The Signature	PUD R-2
☐ Marina Village East	PUD R-2		

PART 3: PROPERTY OWNER INFORMATION

Name and/or Company: Paul Chandler

Mailing Address: 11548 Swanson Mill Way, Glen Allen VA 23059

Phone Number: 804 245 0572

Email: pauljc2000@gmail.com

PART 4: APPLICANT INFORMATION

☐ Check here if the applicant is the 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: PROJECT INFORMATION – DESCRIBE PROPOSED WORK IN DETAIL

Remove upper rear copper roof and built-in gutter system and make repairs to sheathing.
Furnish and apply a high temperature ice and water barrier underlayment and install in built-in gutter a 16oz. built-in guttery system. New gutter to be installed using a cleated system of allow gutter to properly expand and contract. New gutter to tie into built-in gutter on the back of the house. Old and new gutter to be tied together using cloth tape and coating.
Furnish and install a double locked standing seam metal roof system using .032 baked-on enamel aluminum. Tie new roof into slate roof and properly flash chimney using materials and methods supplied by manufacturer.
Take-up necessary slate to remove metal valleys over front gable and make repairs to sheathing if necessary. Furnish and apply an ice and water barrier underlayment and install new metal valleys using 16oz. copper and reinstall slate. Replace missing and badly broken slate in roof. Resecure loose and sliding slate and reseal flashings where needed using a urethane caulking.

PART 6: ADDITIONAL INFORMATION

Category of work	■	Residential	☐	Commercial ☐ Industrial
Type of work	☐	New (landscape plan needed)	☐	Renovations ☐ Repairs
(Check all that apply)	☐	Demolition ☐ Full	☐	Partial _____ ft²
	☐	Addition	☐	Accessory structure ____ ft²
	☐	Fence	☐	Pool (requires a CUP)
	■	Roof	☐	Solar Panels
	☐	Elevator		
	☐	Other (specify)		

Are trees going to be removed? ■ No ☐ Yes If yes, please complete a Tree Permit Application.

Applicant's signature: _____ Date: 5/13/24

Zoning Administrator's signature: _____ Date: _____

Staff Report for 204 Bay Avenue

BOARD OF ZONING APPEALS

Meeting Date: ~~August 13, 2024~~ October 8, 2024
Item #6A: – Appeal of Zoning Administrator Determination
Prepared by: Katie H. Nunez, Planning Director & Zoning Administrator

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TYPE OF APPLICATION: Appeal of Zoning Administrator Determination/ Notice of Violation issued on 5/31/2024

APPELLANT: Paul Chandler

COUNSEL FOR APPELLANTS:

SITE ADDRESS: 204 Bay Avenue.
Tax Map #83A3-3-1

LOT SIZE: 12,565 sq. ft.

CURRENT ZONING: Residential-1
With an Overlay District of Historic District

ZONING ORDINANCE: Sections 2.4.2(A); 2.4.3; 8.16; & 8.17

DATE RECEIVED : June 28, 2024, 2023
DATE DEEMED COMPLETE : June 28, 2024, 2023
LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): August 28, 2024

Due to the fact that there was a slight error made in the e-mail notification to the appellant, this matter was not held at the August 13, 2024, meeting. In addition, there was no quorum for that meeting.

SUMMARY OF APPEAL

The Appellant is appealing the May 31, 2024, Zoning Administrator Notice of Violation letter (part of **EXHIBIT A)** which cited the appellant for the unauthorized removal and replacement of the roof and installing flashing to a chimney without obtaining permits prior to any work commencing. Said Notice of Violation letter contained the following Corrective Order and Penalties:

1) No work may proceed at 204 Bay Avenue without a Certificate of Appropriateness and any permit as may be required by the Zoning Administrator and Code Official.
2) A Certificate of Appropriateness Application for Roof and supporting documents: **This was completed and submitted by the appellant on 5/31/2024 without the required fee for the application which is $500.**
3) Based upon the Zoning Ordinance for violations, the Town, pursuant to Cape Charles Zoning Ordinance Section 2.4.3, will be pursuing all remedies available under the law, including filing with the District Court of Northampton County a Notice of Violation for each of the listed Zoning Ordinance violations which may result in you being found guilty of a Class IV misdemeanor and the imposition of fine of $250 per each zoning violation.
4) Payment for Working without an Approved and Active Certificate of Appropriateness (COA) or After the Fact Permit Fee of $1,000.

5) By June 14, 2024, submit to the Planning & Zoning office a COA – Roof and payment of $500 along with payment for the penalty fee of $1,000.

The appellant does not believe he is in violation of Section 2.4.2 (A) since the Building Official ruled that a building permit was not required for the scope of work undertaken at 204 Bay Avenue.

The appellant does not believe that he is violation of Section 2.4.3 since the work undertaken on the roof was maintenance and is exempt from this code section.

The appellant does not believe that he is in violation of Section 8.16 because the work does not qualify as substantial alteration required HDRB review.

Therefore, he does not believe that any permit or approval was needed from the Town for the scope of work for 204 Bay Avenue which was for reroofing (original roof material was slate and copper & proposed roofing material was slate, copper and .032 baked-on enamel aluminum) and adding of new gutters and downspouts.

CODE OF VIRGINIA Requirements to be considered:

A. **Section 15.2-2309. Powers and duties of boards of zoning appeals**.

Boards of zoning appeals shall have the following powers and duties

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal 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 specific.

B. **Section 15.2-2311. Appeals to board (in part).**

A. An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the locality affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to § 15.2-2286.

CAPE CHARLES ZONING ORDINANCE REQUIREMENTS TO BE CONSIDERED

A. Section 4.2.2 (A) - PERMITS

A. Building Permits

1. No building or structure shall be erected, constructed, altered, moved, converted, extended, enclosed, or enlarged without the owner first having applied for and obtained a zoning clearance for a building permit from the Town's Zoning Administrator. Such zoning clearance shall be obtained prior to the application for a building permit from the Cape Charles Building Department. Nothing herein is intended to prevent normal maintenance, which does not require a building permit.

2. The Zoning Administrator shall certify whether the proposed use, structure, alteration, or enlargement is or is not in conflict with the provisions of this Chapter. If such proposal conflicts with the provisions of this ordinance, the Zoning Administrator shall refuse to issue such zoning clearance for a building permit.

3. The fee for a building permit shall be governed by ordinance.

4. Pursuant to the authority contained in §15.2-2286, 15.B. of the Code of Virginia of 1950, as amended, prior to the initiation of an application for a special exception, conditional use permit, variance, rezoning or other land disturbing permit, including building permits and erosion and sediment control permits, all delinquent real estate taxes owed to the Town against the property shall be paid in full.

B. Section 2.4.3 Violation and Penalty

A. Violations

1. It shall constitute a violation of this ordinance for any person, either owner,agent, or occupant, to commence any actions for which a permit is required by this ordinance without having first obtained an approved permit. Any such permit issued upon a false statement of any fact which is material to the issuance thereof shall be void. Whenever the fact of such false statement shall be established, the Zoning Administrator shall forthwith revoke the same permit by notice in writing to be delivered to the holder of the void permit or, if such holder cannot be found, by posting such notice of revocation in some conspicuous place upon the premises where the violation has occurred. Any such person who shall proceed thereafter with such work or use without having obtained the proper approved permit in accordance with this ordinance shall be deemed guilty of a violation of this ordinance.

2. If the Zoning Administrator finds that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for the violation, indicating the nature of the violation and ordering action necessary to correct the violation. The Zoning Administrator shall take any other action authorized by law to ensure compliance with or to prevent further violation of this ordinance.

3. Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating, causing, or permitting the violation of any of the provisions of this ordinance shall be guilty of a Class IV misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than ten dollars ($10) for each violation and not more

than two hundred and fifty dollars ($250). Each day such violation shall continue shall constitute a separate violation.

4. Any official or public employee authorized of this jurisdiction who is vested with the duty of authority to issue permits shall conform to the provisions of this ordinance. Any such permit, if issued in conflict with the provisions of this ordinance, shall be canceled in writing.

C. <u>Section 8.16 Approval of Historic District Review Board Required</u>

A. Except as herein otherwise provided in this article, no building or structure, including signs, shall be erected, reconstructed, restored, or substantially altered in exterior appearance and no contributing buildings or structures shall be razed or demolished within a historic district and no permit authorizing same shall be granted unless and until the same is approved by the Historic District Review Board and a Certificate of Appropriateness has been issued by that body, with right of direct appeal to the Town Council as hereinafter provided, as being architecturally compatible with the historical, cultural, and/or architectural aspects of the structure and its surroundings.

B. Contributing accessory structures will be treated as contributing structures only under the following conditions:

1. It is on a permanent foundation; and
2. It is of sufficient square footage that a new structure of that type would require a building permit; and
3. It is not being used as, or being considered for, accessory dwelling units.

C. "Substantial alterations" shall be defined as any and all work done on buildings, structures, or sites in a historic district other than those specifically exempted herein:

1. General examples of "non-substantial" alterations:
a. Work done to prevent deterioration or to replace parts of a structure with similar materials in order to correct any deterioration, decay of, or damage to any structure or on any part thereof, or
b. To restore same as nearly as practical to its condition prior to such deterioration, decay, or damage.

2. Examples of work not constituting "substantial alteration" include those minor actions exempted from review by §8.16 of this article.

3. General examples of work constituting "substantial alterations" include:
a. Construction of a new building at any location or a new permanent accessory building requiring a building permit on a landmark or contributing property or on a site within the Historic District.
b. Any addition to or alteration of a building which increases the square footage of the building or otherwise alters substantially its size, height, contour, or outline.
c. Any alteration of the exterior architectural style of a structure or its significant elements; some examples being removal or rebuilding of porches, openings, dormers, window sashes, chimneys, columns, stairways, terraces, decks, fences, or any other structural elements.
d. Addition to or removal of one or more stories or alteration of a roof line.

e. Any other major actions not specifically covered by the terms of this section, but which would have an effect on the character of the historic district.

D. In any case in which there might be some question as to whether a project may be exempted from review, may constitute a minor action, or may constitute "substantial alteration," the Zoning Administrator shall be contacted for an interpretation prior to commencement of work.

D. Section 8.17 Certain Minor Actions Exempted from Review by the Historic District Review Board

Within the Historic District certain minor actions which are deemed not to have permanent effects upon the character of the historic district are exempted from review for architectural compatibility by the Historic District Review Board. Such actions shall include the following and any similar actions which in the opinion of the Zoning Administrator will have no more effect on the character of the district than those listed:

A. Repainting the structure. (Original painting of masonry surfaces is not exempted from review.)
B. Replacement of missing or broken windowpanes, roofing slates, tiles, porch floor, posts, rails, shingles, window frames, or shutters where no substantial change in design or material is proposed.
C. Addition or deletion of storm doors or storm windows, window gardens, or similar appurtenances and portable air conditioners located in existing windows, doors, or other existing wall openings (if no building permit is required for such addition or deletion).
D. Addition or deletion of television and radio antennas or skylights and solar collectors in locations not visible from a public street or a waterway.
E. Landscaping involving minor grading, walks, low retaining walls, temporary fencing, fencing immediately surrounding trash receptacles or outdoor ventilation units, small fountains, outdoor showers, and ponds which will not substantially affect the character of the property and its surroundings.
F. Construction of off-street loading areas and off-street parking areas.
G. Creation of outside storage in a commercial or industrial district which does not require structural changes or major grading and is not visible from a public street or waterway.
H. Additions or deletions to an existing building which are not visible from a public street or sidewalk. Alleys in this context are not to be considered public places.
I. Covered by other zoning ordinance requirements as administrated by the Zoning Administrator unless altered by the overlay ordinance.
J. Receiving historic preservation tax credits through state or federal offices.
K. Demolition of non-contributing buildings or structures.
L. Alterations or repairs made to a building or structure for the purpose of temporary emergency stabilization.

ZONING ADMINISTRATOR's response to the appellants' arguments and POSITION:

The Zoning Administrator is responsible for administering the entire Zoning Ordinance, including the Historic District Overlay. Zoning Clearance is required for any new uses, structures, work or

compliance with all provisions of the Zoning Ordinance; said zoning clearance is required to accompany any building permit issuance as well as the Historic District review and approval. The house at 204 Bay Avenue is a contributing structure in the Historic District.

The appellant reroofed a component of the roofing structure for 204 Bay Avenue and used some different material for that; in addition, the appellant added new elements to the house of gutters and downspouts - these required application to the department and a review by the Zoning Administrator to determine the type of work and what level of review was required pursuant to Chapter 8 – Historic District Overlay and their accompany guidelines prior to any work commencing.

Based upon the pictures provided by the appellant when he was first contacted by the office, I agreed that replacement of the roof was necessary to prevent further damage to the structure and would fall under Section 8.17 as minor work. Once the appellant provided information about the square footage of roof replacement involved then the Building Official, then the Building Official ruled that no building permit is required.

The addition of gutters and downspouts was a new element that was being added to the house and required a permit under Chapter 8 – Historic District Overlay which could be issued administratively but still required a Certificate of Appropriateness and Zoning Clearance before any work commenced.

The appellant informed the Town after the fact that the work was completed, and no approvals had been obtained from the Town, as noted in the Notice of Violation.

While the appellant immediately completed and submitted the Certificate of Appropriateness application to the Town when he was informed of the Notice of Violation, he did not provide the accompanying application fee of $500 as well as the Working without a Permit Fee or what is also called After the Fact Fee of $1,000.

An application is not deemed complete without payment of the fee and any violation fees that may be pending on a property.

Therefore, the Notice of Violation that was issued on 5/31/2024 remains in effect and no permit has been issued for the work that occurred on this property.

Discussion Points:

1) Has evidence been provided by the appellant which proves the Zoning Administrator's application of the Zoning Ordinance was incorrect?

PROPOSED MOTION FOR CONSIDERATION:

The Zoning Administrator respectfully requests that the BZA deny the appeal and uphold the May 31, 2024, Notice of Violation based upon the Zoning Administrator's decision was correct in the application and enforcement of all of the provisions of the Zoning Ordinance relative to the Scope of Work conducted at 204 Bay Avenue as stated in the May 31, 2024, Certificate of Appropriateness application.

Attachments:

Appeal Packet filed by Paul Chandler of the Zoning Administrator decision of May 31, 2024

Agenda Item 6 (B)

Application from Frank Wendell appealing the Zoning Administrator, which cited a Lot on the 500 Block of Madison Avenue (TM #83A3-1-273) was in violation of Cape Charles Zoning Ordinance

Board of Zoning Appeals Application for Appeal of Administrative Zoning Decision

Planning & Zoning Department
2 Plum Street; Cape Charles, VA 23310
757-331-3259 x24

planningtech@capecharles.org

Revised 03/2023	
Taxes	☑ paid 2.5
Violations	——
Fee	500.00
Decision	

Budget Code: MISPL 100-3100-1070

PART 1: APPLICATION NOTES

This form is used to appeal an administrative zoning decision. Appeal fee $500. Fee must be paid at the time of application for appeal.

PART 2: PROPERTY INFORMATION

Subject Property Address: 514 MADISON AVE TAX MAP# 83A3-1-273

PART 3: APPLICANT INFORMATION

Applicant's Name: FRANCIS EDWARD WENDELL JR.

Applicant's Mailing Address: P.O. BOX 740 EASTVILLE VA 23347

Applicant's Phone #: 757 678-6990 Email: FRANK.WENDELL1957@GMAIL.COM

PART 4: PROJECT INFORMATION

Briefly describe the decision that you are appealing. Provide a copy of the letter sent to you by the Zoning Administrator. If necessary, you may attach additional information to this form. Date of Decision: JULY 8, 2024

In accordance with the Code of Virginia, Section 15.2-2309 (1) and Cape Charles Zoning Ordinance Section 2.6.2 (1), I am appealing the decision of the Zoning Administrator. The appeal is based on the following information:

COMMERCIAL VEHICLE DEFINATION STATE CODE 46.2-341.4

CAPE CHARLES ZONING ORDINANCE 2.9 PARKING LOT DEFINITION

This appeal is based on Section(s) 2.9 of the Cape Charles Zoning Ordinance.

Applicant's signature: Francis Edward Wendell Jr. Date: 9/7/2024 [??]

Zoning Administrator's signature: Katie M. Ng Date: 8/9/2024

Chairman: _____ Date: _____

Notice sent to applicant by certified mail of the decision by the BZA with 30 day right to appeal to Circuit Court.

Date: _____ Sent by: _____

RECEIVED 8/9/24 SS

1) THE VEHICLE REFERENCED IN the Notice of VIOLATION IS NOT A COMMERCIAL VEHICLE (STATE CODE 46.2-341.4)

2) THE R-1 Lot I OWN AT 514 MADISON AVE TAX MAP # 83A3-1-273. DOES NOT LOGICALLY FALL within the DEFINITION IN the TOWN ZONING ORDINANCE Section 2.9 " PARKING LOT OR PARKING GARAGE SHALL MEAN AN AREA OR BUILDING designated AND DESIGNED FOR the temporary storage of VEHICLES." My Lot HAS NEVER BEEN " DESIGNATED AND DESIGNED " FOR SUCH A PURPOSE. THE TOWN'S "CONSIDERING this A PARKING LOT" IS NOT SUPPORTED BY the FACTS AND CRITERIA of the ZONING TEXT IN this MATTER. THEREFORE, I DID NOT [redacted] CREATE A PARKING LOT.

Francis Edward Wendell Jr.
9/7/2024

PARKING LOT OR PARKING GARAGE shall mean an area or building designated and designed for the temporary storage of vehicles.

Municipal Corporation of Cape Charles

July 8, 2024

RE: Notice of Zoning Ordinance Violation at the 500 block of Madison Avenue, Tax Map #83A3-1-273 regarding creation of a parking area.
Sent via standard, and registered mail.

Francis Edward Wendell JR
PO BOX 740
Eastville, VA 23347

The Town has recently received complaints regarding the parking of a commercial vehicle (bus) on your property (undeveloped lot), and through further investigation we have found the condition to be in violation of Cape Charles Zoning Ordinance. These violations are serious in nature.

Cape Charles Zoning Ordinance Section 3.2
CCZO Section 2.9 defines a parking lot or parking garage as any area or building designated and designed for the temporary storage of vehicles. Since your property has a stored commercial vehicle, we are considering this as a parking lot. CCZO Section 3.2 does not allow a parking lot as either permitted or conditional use in any Single-Family District R-1 zoning district in town.

CORRECTIVE ORDER AND PENALTIES
Pursuant to Cape Charles Zoning Ordinance Section 2.4.3 you hereby notified to remove the bus, within 10 days of the date of this notice. Failure to do so will result in the Town's agents or employees removing this vehicle and the costs and expenses thereof will be chargeable to you and may be collected by the town as taxes and levies.

You have the right to appeal this Notice of Violation and Corrective Action order by filing an application with the Cape Charles Board of Zoning and Appeals within 30 days of the date of this letter pursuance to Cape Charles Zoning Ordinance Section 2.6.4; the forms are attached to this letter, and you must include a filing fee of $500. You will also be responsible for the actual advertising costs and mailing costs for any adjacent property owner notification letters which the Town is responsible for handling and will send you a bill.

ALL PAYMENTS are to be made out the Town of Cape Charles.

Violation penalties of up to $250 per day for the Zoning Code violations will be imposed plus an administration fee of $100.

We thank you in advance for your cooperation. If you have any questions, please call (757) 331-3259 ext. 17 or visit the Municipal Building at 2 Plum Street.

Sincerely,

Katie H. Nunez
Director of Planning & Zoning Administrator

Applicable Zoning Ordinances – Appeals and Procedure of Appeals

CCZO Section 2.6.4 – Appeals and Procedures of Appeals

An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by an officer, department, board, or bureau of the county or municipality affected by any decision of the Zoning Administrator or Administrative Officer in the administration or enforcement of this ordinance. The decision may be appealed within thirty days thereof by filing a notice of appeal specifying the grounds of the appeal. Said appeal shall be filed with Zoning Administrator and with the Board of Zoning Appeals. The Zoning Administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

The board shall fix a reasonable time for the hearing of an application for appeal, give the public notice thereof as well as due notice to the parties in interest, and decide the same within sixty days of the filing of the application for appeal. In exercising its powers, the board may reverse or affirm wholly or in part or may modify an order, requirement, decision, or determination of an administrative officer or decide in favor of the applicant on any matter which it is required to affect any variance from the ordinance. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the Zoning Administrator and shall be a public record. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

In accordance with Section 15.2-2313 where a building permit has been issued and the construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected, or abated as a violation of the zoning ordinance, by suit filed within fifteen days after the start of construction by a person who had no actual notice of the issuance of the permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the administrative officer to the Board of Zoning Appeals.

Staff Report for a Lot on the 500 Block of Madison Avenue (TM#83A3-1-273)

BOARD OF ZONING APPEALS

Meeting Date: October 8, 2024
Item #6B: – Appeal of Zoning Administrator Determination
Prepared by: Katie H. Nunez, Planning Director & Zoning Administrator and Jack Steinmayer, Planning & Zoning Compliance Officer

TYPE OF APPLICATION: Appeal of Zoning Administrator Determination/ Notice of Violation issued on 7/08/2024

APPELLANT: Frank Wendell

COUNSEL FOR APPELLANTS:

SITE ADDRESS: A lot within the 500 Block of Madison Avenue, specifically TM# 83A3-1-273

LOT SIZE: 5200 sq. ft.

CURRENT ZONING: Residential-1
With an Overlay District of Historic District

ZONING ORDINANCE: Sections 2.4.3, Section 2.9, Section 3.2

DATE RECEIVED : August 9, 2024
DATE DEEMED COMPLETE : September 17, 2024
LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): December 16, 2024

Summary of Appeal

The appellant is appealing the July 8, 2024, Zoning Administrator Notice of Violation Letter (part of **EXHIBIT A**) which cited the appellant for the unauthorized parking of a commercial vehicle on an undeveloped lot in the 500 block of Madison Avenue. Said Notice of Violation letter contained the following Corrective Order and Penalties:

1) Pursuant to Cape Charles Zoning Ordinance Section 2.4.3 you are hereby notified to remove the bus within 10 days of the date of this notice. Failure to do so will result in the Town's agents or employees removing this vehicle and the costs and expenses thereof will be chargeable to you and may be collected by the town as taxes or levies.
2) Violation penalties of up to $250 per day for violations of the Zoning Code violations will be imposed plus an administrative fee of $100.

The appellant does not believe he is in violation of Section 3.2 or Section 2.9 since he does not believe that his lot was being used as temporary storage for a vehicle.

After receiving the violation letter, the appellant came into the Planning and Zoning Department to talk with the Zoning Administrator about the violation and possible actions that can be taken to remedy the situation. After meeting with the Zoning Administrator, the appellant decided the best course of action was to file an appeal with the Board of Zoning Appeals and present his case.

Therefore, he does not believe the Zoning Administrator was correct in her assessment that the Lot on the 500 block of Madison Avenue was being used as a parking lot.

CODE OF VIRGINIA Requirements to be considered:

A. **Section 15.2-2309. Powers and duties of boards of zoning appeals**.

Boards of zoning appeals shall have the following powers and duties

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal 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 specific.

B. **Section 15.2-2311. Appeals to board (in part).**

A. An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the locality affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to § 15.2-2286.

CAPE CHARLES ZONING ORDINANCE REQUIREMENTS TO BE CONSIDERED

A. Section 2.4.3 Violation and Penalty

A. Violations

1. It shall constitute a violation of this ordinance for any person, either owner, agent, or occupant, to commence any actions for which a permit is required by this ordinance without having first obtained an approved permit. Any such permit issued upon a false statement of any fact which is material to the issuance thereof shall be void. Whenever the fact of such false statement shall be established, the Zoning Administrator shall forthwith revoke the same permit by notice in writing to be delivered to the holder of the void permit or, if such holder cannot be found, by posting such notice of revocation in some conspicuous place upon the premises where the violation has occurred. Any such person who shall proceed thereafter with such work or use without having obtained the proper approved permit in accordance with this ordinance shall be deemed guilty of a violation of this ordinance.

2. If the Zoning Administrator finds that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for the violation, indicating the nature of the violation and ordering action necessary to correct the violation. The Zoning Administrator shall take any other action authorized by law to ensure compliance with or to prevent further violation of this ordinance.

3. Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating, causing, or permitting the violation of any of the provisions of this ordinance shall be guilty of a Class IV misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than ten dollars ($10)

for each violation and not more than two hundred and fifty dollars ($250). Each day such violation shall continue shall constitute a separate violation.
4. Any official or public employee authorized of this jurisdiction who is vested with the duty of authority to issue permits shall conform to the provisions of this ordinance. Any such permit, if issued in conflict with the provisions of this ordinance, shall be canceled in writing.

Section 2.9: Definitions

A: Parking Lot
Shall mean an area or building designated or designed for the temporary storage of vehicles.

Section 3.2 Single Family Residential District R-1

A. Permitted Uses: Single Family Dwellings, Churches and Places of Worship, Parks and Playgrounds, Accessory buildings, Schools and Municipal Community Center, Group Homes, Home occupations in accordance with Section 4.0, Dog pens, Accessory Dwelling units by right in compliance with the requirements of Article 4.2 (J).

B. Conditional Uses: The following uses may also be permitted, subject to securing a use permit as provided for in this ordinance:

1. *Libraries, museums, and office meeting spaces for civic organizations.*
2. *Public utilities and service provided that the exterior appearance of any building permitted in this district shall be in keeping with the character of the neighborhood in which it is located.*
3. *Bed and breakfasts and tourist homes, provided the following requirements are met:*
    i. *The owner and family must occupy the residence. The owner and his/her appointed agent are responsible for supervising guests.*
    ii. *The single-family dwelling must be maintained.*
    iii. *Parking should be considered on a case-by-case basis as part of the conditional use application, ensuring adherence to Section 4.5.1 (Table Parking Standards) using both on and off-street parking areas.*
    iv. *A sign no larger than four square feet shall be permitted.*
    v. *The number of rooms shall be subject to recommendation by the Planning Commission and approved by the Town Council.*

C. Neighborhood community center

D. Swimming pools, tennis courts, and basketball courts

E. Adaptive Reuse of existing structure is a new use different than the intended use for which the structure was originally constructed. The Reuse is generally a permitted, accessory or conditional use with an adaption such as density or size that is greater than the ordinance allows.

1. *The reuse would be a conditional use permit (CUP. The following additional requirements must also be met:*
    i. *The use must be compatible with the permitted uses in the zone.*
    ii. *The Reuse plan must meet the table of parking and landscaping standards.*
    iii. *Replacement and new utility services shall be placed underground.*
    iv. *The structure shall be a contributing structure to the Cape Charles National Historic District or at least 50 years old and the exterior of the structure must be restored in accordance with the Cape Charles Historic District Guidelines.*
2. *Residential dwelling units in square footage area below the minimum or above the maximum stated in Section 3.2.F.2*

ZONING ADMINISTRATOR's response to the appellants' arguments and POSITION:

The appellant had a parked vehicle on the undeveloped lot, identified as Tax Map #83A3-1-273- a lot without a single-family dwelling or any of the permitted uses allowed in the Resdiential-1 Zoning District, which, per the Cape Charles Zoning Ordinance Section 3.2, is not an allowable use as either permitted or conditional within the Residential-1 District (R-1). This vehicle had been parked at this location for an extended period of time, thus creating a permanent parking lot on this residentially zoned lot which is not an allowed use in the R-1 Zoning District. The parking of vehicles on a lot in the Residential-1 zoning district is an assumed accessory use to a house but it is not a standalone use without a structure.

The property owner owns the lot which contains a single-family house (lot outlined in Blue in Map Below) directly behind this vacant lot (lot outlined in Red in Map Below); the two lots are separated by an alley. Afte the property received the Notice of Violation, he met with the Zoning Administrator and indicated that he was unable to move this vehicle and park it at this residence at 515 Monroe Avenue and that he did not have anywhere else to park this vehicle except on his vacant lot. He indicated that in the future, he would like to develop the vacant lot for a single-family house. I did explore the possibility of combining the two lots that he owns but the presence of the alley does not support such an action.

The appellant's argument is that he does not believe he was using this lot as temporary storage for a vehicle. On 6/7/2024 staff went out to the lot in question, took pictures and noticed that the bus on the lot seemed to be there for a prolonged period of time. This was confirmed as after the appellant moved the bus in question, it needed mechanical repairs to make it safe for the public roads.

Discussion Points:

1) Has evidence been provided by the appellant which proves the Zoning Administrator's application of the Zoning Ordinance was incorrect?

PROPOSED MOTION FOR CONSIDERATION:

The Zoning Administrator respectfully requests that the BZA deny the appeal and uphold the July 8, 2024, Notice of Violation based upon the Zoning Administrator's decision was correct in the application and enforcement of all of the provisions of the Zoning Ordinance.

Agenda Item 6 (C)

Robert and Kathie Naylor Variance Application

Docusign Envelope ID: C877AF18-2510-4216-B5E1-A98A001B8BBF

Zoning Variance Application

Planning & Zoning Department
2 Plum Street; Cape Charles, VA 23310
757-331-3259 x31
planningtech@capecharles.org

received 9-9-2024 KHN

paid by credit card

Revised 05/2023	
Taxes	✓ paid R.S
Violations	———
Fee	$500.00
BZA Date	10/8/2024
Decision	

BUDGET CODE: MISPL 100-3100-1070

PART 1: APPLICATION NOTES

A variance from the existing zoning ordinance may be granted when all 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 is 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.
g) **FEES ** $500 & Payment of advertising costs, actual and adjacent property owner notification mailing, costs.**

All items from this checklist must be submitted prior to the application being evaluated.

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

Owner signature: Signed by: FB26F24B3475401... Signed by: Kathie Horton Naylor Date: 9.6.24 54D08E591DBF440...

PART 2: PROPERTY INFORMATION

Property Address: William Scott Lane Lot B-345 Bayside Village
Tax Map #:
Cape Charles, VA
Zoning District: Village Distric

PART 3: PROPERTY OWNER INFORMATION

Name and/or Company: Robert and Kathie Naylor
Mailing Address: 3571 Arch Spring Ter. Richmond, VA 23235
Phone Number:
Email: kathie1230@verizon.net, rwnaylor@verizon.net

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: Virginia Builders LLC
Mailing Address: 105 Old Drive Chesapeake, VA 23322
Phone Number: 757-869-1141
Email: Julie@virginiabuilders.com

Docusign Envelope ID: C877AF18-2510-4216-B5E1-A98A001B8BBF

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.

The Naylor's and Virginia Builders are requesting a side yard setback reduction on the Northwest side of the property from 10' to 6.9'. In tandem we have requested the same from the ARC at Bay Creek and have received approval. William Scott Lane has a 50' ROW with a large Open space directly across the street. In addition Lot B-352 on the Northwest side of the subject lot has a 15' front yard setback creating a 71'9" line of sight. (6'9 side yard, 50' ROW, 15' front yard).
The current property owner and builder respectfully requests this variance be considered for approval. The planning of the new Naylor resident is exactly as they envisioned on their lot in Bayside Village. We appreciate your consideration.

Zoning Ordinance
Section 3.2.G.1.d
Section 3.12.B.1.a

Part 6: ZONING CODE VARIANCE SECTION

Please provide the zoning code section that you are seeking a variance from: Section 3.12 PUD setback per plat

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: _____ Date: 9.6.24

Zoning Administrator's signature: Katie H. Nye Date: 9/6/2024

Owner Affidavit for Permission to Represent

Planning & Zoning Department
2 Plum Street; Cape Charles, VA 23310
757-331-3259 x31

planningtech@capecharles.org

Revised 03/2023	
Taxes	
Violations	
Fees	
Decision	

PART 1. APPLICATION NOTES

Use this form to give permission for a contractor, architect, or other individual to represent the owner of a property in matters within the Town of Cape Charles.

PART 2: PROPERTY INFORMATION

Property Address: 113 William Scott Lane Cape Charles, VA 23310 | Tax Map #:

PART 3: PROPERTY OWNER INFORMATION

Name and/or Company: Robert and Kathie Naylor

Mailing Address: 3571 Arch Spring Terrace Richmond, VA 23235

Phone Number: Email: kathie1230@verizon.net, rwnaylor@verizon.net

I hereby give authority to the following representative to act on my behalf on the following matter:
Zoning Variance for Site 345, Bayside Village

PART 4: REPRESENTATIVE INFORMATION

Name and/or Company: Virginia Builders, LLC

Mailing Address: 105 Old Drive Chesapeake VA 23322

Phone Number: 757-869-1141 Email: julie@virginiabuilders.com

☑ to file documents on my behalf ☑ To represent me in meetings with Town officials

Name and/or Company:

Mailing Address:

Phone Number: Email:

☐ to file documents on my behalf ☐ To represent me in meetings with Town officials

Signature of owner: _____ Date: 9/9/2024

State of VIRGINIA, County of CHESTERFIELD The foregoing instrument was acknowledged before me this 9TH day of SEPTEMBER, 2024, by ROBERT NAYLOR/KATHIE NAYLOR (name of person acknowledged)

Signature of Notarial Officer: _____

Notary Registration number: 7683933

My commission expires: 03/31/2028

JACQUELINE NEEL MOOR
NOTARY PUBLIC
Commonwealth of Virginia
Registration # 7683933
My Commission Expires March 31, 2028

NOTES:

1. THE PROPERTY SHOWN HEREON APPEARS TO BE LOCATED INSIDE ZONE "X" AS SHOWN ON THE FEMA FLOOD HAZARD MAP FOR NORTHAMPTON COUNTY, VIRGINIA, COMMUNITY PANELS 51131C 0410F & 0295F EFFECTIVE DATE: MARCH 2, 2015. (BY SCALED MAP LOCATION & GRAPHIC PLOTTING ONLY)
2. HOUSE DIMENSIONS SHOWN HEREON WERE PROVIDED BY THE BUILDER. PARRISH-LAYNE ASSUMES THE BUILDER HAS VERIFIED THE DIMENSIONS AND LOCATION OF THE STRUCTURES ONCE THE PERMIT IS OBTAINED.
3. THIS MAP WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT. ALL EASEMENTS OR RESTRICTIONS MAY NOT BE SHOWN HEREON.
4. UNDERGROUND UTILITIES/STRUCTURES HAVE NOT BEEN VERIFIED OR RESEARCHED. THERE MAY EXIST UTILITIES/ STRUCTURES NOT SHOWN HEREON.
5. THE EXISTENCE OF WETLANDS OR HAZARDOUS MATERIALS HAS NOT BEEN RESEARCHED OR VERIFIED.
6. PROPERTY SHOWN WAS BASED ON THE RECORDED PLAT.
7. PROPERTY IS CURRENTLY ZONED: CD-R1
8. ELEVATIONS SHOWN HEREON ARE BASED ON APPROVED DEVELOPMENT PLANS, NAVD 88 DATUM.
9. THIS PROPERTY IS NOT LOCATED WITHIN A CHESAPEAKE BAY PRESERVATION AREA.

COMMONWEALTH OF VIRGINIA
BRIAN J. LAYNE
Lic. No. 002490
PLOT PLAN ONLY
REV.-2
7/31/24
LAND SURVEYOR

19.0 PROPOSED PLAN ELEVATION
XX XX PROPOSED SILT FENCE
(CE) TEMPORARY CONSTRUCTION ENTRANCE
(TS) TEMPORARY SEEDING
(PS) PERMANENT SEEDING

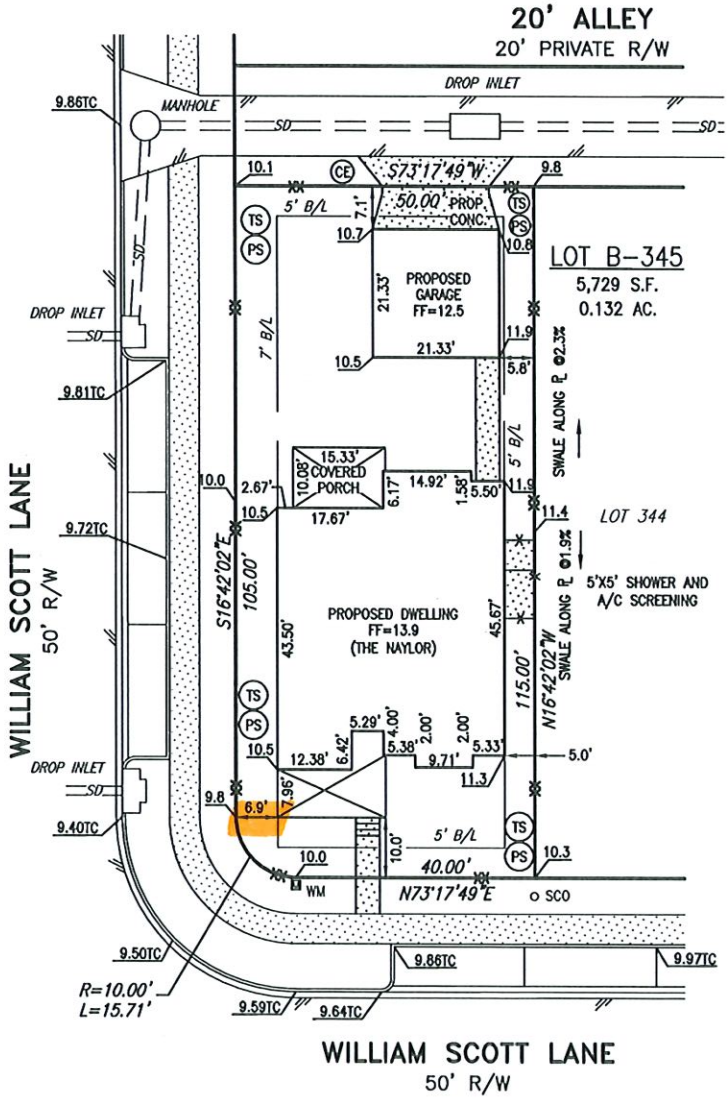
BUILDER:
VIRGINIA BUILDERS

IMPERVIOUS AREAS:

DWELLING	=	2,041 S.F./.047 AC
GARAGE	=	455 S.F./.010 AC
CONCRETE	=	325 S.F./.008 AC
TOTAL AREA	=	2,821 S.F./.065 AC

(49% LOT COVERAGE)

DISTURBED AREA=5,729 S.F.
(SILT FENCE IS LIMITS OF DISTURBANCE)



WILLIAM SCOTT LANE
50' R/W

20 10 0 20 40
scale feet

PLOT PLAN FOR
LOT B-345
BAYSIDE VILLAGE
BAY CREEK
NORTHAMPTON COUNTY, VIRGINIA

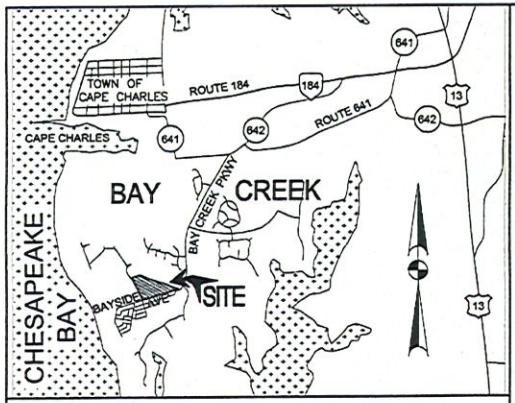
PARRISH LAYNE DESIGN GROUP
Engineers • Surveyors • Planners
P.O. Box 9164, Chesapeake, VA 23321
Phone: 757.686.3345 Fax: 757.686.3348

DRAWN: DMJ	DATE: 7/31/24	REVISIONS
COMP.: BJL	SCALE: 1"=20'	1- MOVE GARAGE/CONCRETE 8/2/24
CHECKED: BJL		2- ADD SWALE SLOPE 8/21/24

REFERENCE: INST. #240000451

SHEET NO. 1

PROJ.:7500.0-24



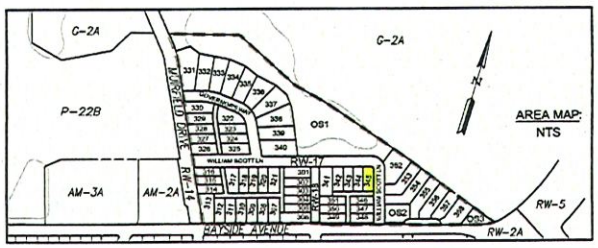
VICINITY MAP
(NTS)

GENERAL NOTES:

1. THIS PLAT HAS BEEN PREPARED FROM AN ACTUAL FIELD SURVEY DONE AS PER THE DATE OF THIS PLAT, AND THERE ARE NO VISIBLE EASEMENTS OR ENCROACHMENTS EXCEPT AS SHOWN.
2. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT, AND DOES NOT, THEREFORE, NECESSARILY INDICATE ALL ENCUMBRANCES ON THIS PROPERTY.
3. HORIZONTAL DATUM: VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 83 (1994 HARN ADJ.). COORDINATE VALUES ARE EXPRESSED IN U.S. SURVEY FEET. COUNTY MONUMENTS USED:

VCR 1	N: 3,641,131.26'	E: 12,229,469.41'	ELEV.: 28.54' (NAVD 88)
863 2200 B TIDAL	N: 3,594,389.45'	E: 12,215,265.30'	ELEV.: 8.20' (NAVD 88)

4. THIS IS NOT A PHYSICAL SURVEY. PHYSICAL IMPROVEMENTS, INCLUDING UTILITIES ON OR SERVING THE PROPERTY, HAVE NOT BEEN FIELD LOCATED AND ARE NOT SHOWN HEREON.
5. THIS SUBDIVISION IS LOCATED OUTSIDE OF THE RPA AND THE RMA OF THE CHESAPEAKE BAY PRESERVATION AREA, AS SHOWN IN INSTRUMENT NO. 210000110.
6. THIS PROJECT IS ZONED TO THE ACCAWMACKE PLANTATION PUD, AND THE SUBDIVISION APPROVED IN ACCORDANCE WITH DIVISION 6, ARTICLE 8 OF THE ACCAWMACKE PLANTATION PUD, DATED JANUARY 1, 2008, AS AMENDED.
7. IN ADDITION TO EASEMENTS SPECIFICALLY SHOWN ON THIS PLAT, EASEMENTS ON ALL VILLAGE LOTS ARE RESERVED IN THE RESTRICTIVE COVENANTS AS FOLLOWS: FOR DRAINAGE AND UTILITIES, 5' FRONT, SIDE, AND REAR.
8. ALL ROADS IN THIS SUBDIVISION ARE PRIVATE AND WILL BE PRIVATELY MAINTAINED. THEY ALSO DEFINE THE LIMITS OF A PRIVATE DRAINAGE EASEMENT AND THE LIMITS OF A PUBLIC UTILITY EASEMENT. THE STREETS AND ALLEYS SHOWN ON THIS PLAT ARE TO BE CONVEYED TO BAY CREEK DEVELOPMENT COMMUNITY ASSOCIATION, INC., AS COMMON AREA SUBJECT TO THE MASTER DECLARATION RECORDED IN THE NORTHAMPTON COUNTY REGISTER OF DEED.
9. THE PROPERTY BEING SUBDIVIDED IS LOCATED IN ZONE "X", AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, AND IS NOT IN A SPECIAL FLOOD HAZARD AREA, IN ACCORDANCE WITH THE FLOOD INSURANCE RATE MAPS, COMMUNITY NUMBER 51131C, PANEL NUMBERS 0295F AND 0410F, WHICH BEAR AN EFFECTIVE DATE OF MARCH 2, 2015.
10. THE LOCATION OF FIRE HYDRANTS MEETS THE NATIONAL FIRE PROTECTION ASSOCIATION SPECIFICATIONS AND HAVE BEEN DEDICATED TO THE TOWN OF CAPE CHARLES.
11. THE OWNER GRANTS AN ADDITIONAL 5' PUBLIC UTILITY EASEMENT ON ANY LOT ABUTTING A STREET AND OR ALLEY (SEE PLAT). THIS IS IN ADDITION TO THE PUBLIC UTILITY EASEMENT CONTAINED WITHIN STREETS AND ALLEYS.
12. ALL LOTS BEING CREATED BY THIS SUBDIVISION ARE TO HAVE DRIVEWAYS THAT ENTER FROM THE ALLEY, WITH THE EXCEPTION OF LOTS B-331 THRU B-340 AND B-352 THRU B-358.
13. THE SUBDIVISION SHOWN HEREON IS ALL OF PARCEL P-14A AND RECORDED AS INSTRUMENT NO. 210002383.
14. ALL MONUMENTATION WILL BE SET UPON COMPLETION OF CONSTRUCTION.
15. MINIMUM SETBACKS PER VILLAGE DISTRICT ZONING ARE AS LISTED IN THE BREAKDOWN TO THE RIGHT: MIN. LOT AREA = 1,500 S.F., MIN. LOT WIDTH = 30', MIN. LOT DEPTH = 50'.



SETBACKS:

LOTS B-301 TO B-321, B-326 TO B-330, B-341 TO B-351
FRONT: 5', REAR: 5', SIDE: 5'
CORNER SIDE: 10'
CORNER SIDE FOR LOT B-316: 5'

LOTS B-322 TO B-325
FRONT: 10', REAR: 5', SIDE: 5'
CORNER SIDE: 10'

LOTS B-331 TO B-340
FRONT: 10', REAR: 30', SIDE: 5'
CORNER SIDE: 10'

LOTS B-352 TO B-358
FRONT: 15'
FRONT B-353 TO B-356: SEE PLAT
REAR: 20', SIDE: 5'
CORNER SIDE: 15'

CERTIFICATION OF SOURCE OF TITLE

THIS IS TO CERTIFY THAT THE LANDS EMBRACED IN THIS PLAT OF SUBDIVISION ARE IN THE NAME OF BAY CREEK DEVELOPMENT, LLC AND WAS ACQUIRED FROM BAY CREEK SOUTH, LLC BY DEED DATED JANUARY 1, 2021 AND RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF NORTHAMPTON COUNTY AS INSTRUMENT NO. 210000245 .

OWNER'S CONSENT AND DEDICATION

I HEREBY CERTIFY THAT I, BAY CREEK DEVELOPMENT, LLC, AM THE OWNER OF THE PROPERTY DEPICTED ON THIS PLAT. THE PLATTING OR DEDICATION OF THE FOLLOWING PROPERTY SHOWN ON THIS PLAT IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS AND/OR TRUSTEES. I HEREBY ESTABLISH THE LOT LINES SHOWN HEREON AND DEDICATE ALL STREETS, ALLEYS, WALKS, RIGHTS-OF-WAY, PARKS, EASEMENTS, OPEN SPACES AND OTHER AREAS AND FACILITIES TO PUBLIC OR PRIVATE USE AS INDICATED ON THE PLAT.

BAY CREEK DEVELOPMENT, LLC
A VIRGINIA LIMITED LIABILITY COMPANY

BY: Robert F. Masters 12/19/2023
ROBERT F. MASTERS, AUTHORIZED AGENT (SIGNATURE) DATE

NOTARY

STATE OF Virginia
CITY OF Northampton TO WIT:

I, Erin Kennedy Sayo A NOTARY PUBLIC IN AND FOR THE CITY AND STATE AFORESAID, DO HEREBY CERTIFY THAT THE ABOVE PERSONS WHOSE NAMES ARE SIGNED TO THE FOREGOING WRITING HAVE ACKNOWLEDGED THE SAME BEFORE ME IN THE CITY AND STATE AFORESAID. THEY ARE PERSONALLY KNOWN TO ME OR HAVE PRODUCED Drivers License IDENTIFICATION.

GIVEN UNDER MY HAND THIS 19th DAY OF December 2023

Erin Kennedy Sayo
NOTARY PUBLIC
MY COMMISSION EXPIRES 8/31/2026
NOTARY REGISTRATION NUMBER: 7582842

ERIN KENNEDY SAYO
NOTARY PUBLIC
REG. #7582842
MY COMMISSION EXPIRES
August 31, 2026
COMMONWEALTH OF VIRGINIA

CERTIFICATE OF OWNERSHIP, COMMON AREAS, AND CERTAIN EASEMENTS

THE UNDERSIGNED HEREBY CERTIFIES THAT THE LAND SHOWN HEREON IS OWNED BY BAY CREEK DEVELOPMENT, LLC (THE 'OWNER').

OWNER, BY RECORDATION OF THIS PLAT, HAS DESIGNATED CERTAIN AREAS OF LAND SHOWN HEREON AS COMMON AREA. THE COMMON AREAS ARE NOT DEDICATED FOR USE BY THE GENERAL PUBLIC BUT ARE TO BE CONVEYED TO BAY CREEK DEVELOPMENT COMMUNITY ASSOCIATION, INC. (THE ASSOCIATION) FOR THE USE AND ENJOYMENT OF PROPERTY OWNERS IN BAY CREEK, SUBJECT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR BAY CREEK DEVELOPMENT COMMUNITIES RECORDED IN INSTRUMENT #230002783, NORTHAMPTON COUNTY REGISTRY, AS AMENDED.

OWNER GRANTS TO A&N ELECTRIC MEMBERSHIP COOPERATIVE, VERIZON-VIRGINIA, LLC., CABLE TV PROVIDER AS DESIGNATED BY THE ASSOCIATION, AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE EASEMENT TO INSTALL AND MAINTAIN THEIR RESPECTIVE UTILITY LINES, WIRES, CONDUITS AND PIPES WITHIN THE COMMON AREAS, FOR THE PURPOSE OF PROVIDING SERVICE WITHIN THE DEVELOPMENT (AS DEFINED IN THE MASTER DECLARATION), TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS OVER AND UPON THE COMMON AREAS FOR SUCH PURPOSE, PROVIDED THAT SUCH RIGHTS MUST BE USED IN A MANNER THAT INTERFERES AS LITTLE AS POSSIBLE WITH THE USE OF THE COMMON AREAS BY THE ASSOCIATION AND THE MEMBERS THEREOF.

OWNER RESERVES FOR ITSELF, ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE RIGHT OF WAY AND EASEMENT FOR INGRESS AND EGRESS OVER AND UPON THE COMMON AREAS, AND THE FOR THE INSTALLATION AND MAINTENANCE OF DRAINAGE FACILITIES AND UTILITIES (INCLUDING IRRIGATION) IN THE COMMON AREAS, AND SUCH OTHER EASEMENTS AS SHOWN OR DESCRIBED ON THIS PLAT, IN THE MASTER DECLARATION, OR IN THE DECLARATION OF RESTRICTIVE COVENANTS APPLICABLE TO THIS PLAT TO BE EXECUTED BY OWNER AND RECORDED IN THE NORTHAMPTON COUNTY REGISTRY, WHICH RIGHT OF WAY AND EASEMENTS MAY BE ASSIGNED IN WHOLE OR IN PART.

BAY CREEK DEVELOPMENT, LLC
A VIRGINIA LIMITED LIABILITY COMPANY

BY: Robert F Masters 12/19/2023
ROBERT F. MASTERS, AUTHORIZED AGENT (SIGNATURE) DATE

PLATS OF REFERENCE:

INSTR.# 190002168
INSTR.# 210002383

INSTRUMENT 240000451
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY CIRCUIT COURT ON
MARCH 18, 2024 AT 01:49 PM
TRACI L. JOHNSON, CLERK
RECORDED BY: MWD

AREA RESERVED FOR RECORDATION INFORMATION

CERTIFICATE OF APPROVAL

THE SUBDIVISION SHOWN HEREON IS APPROVED BY THE UNDERSIGNED IN ACCORDANCE WITH THE EXISTING SUBDIVISION REGULATIONS AND MAY BE ADMITTED TO RECORD.

APPROVED.

MANAGER, TOWN OF CAPE CHARLES 3/18/24 DATE

PLANNING DIRECTOR, TOWN OF CAPE CHARLES 3/18/2024 DATE

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE, THIS PLAT COMPLIES WITH ALL OF THE REQUIREMENTS OF THE PUD REGARDING THE PLATTING OF SUBDIVISION WITHIN THE TOWN.

MARK HOUSTON RICKETTS L.S. #001811

COMMONWEALTH OF VIRGINIA
MARK HOUSTON RICKETTS
Lic. No. 001811
12/18/2023
LAND SURVEYOR

TRUSTEE'S CONSENT AND DEDICATION:

BY: TRUSTEE SIGNATURE 12-21-23 DATE

JOHN P. CUSTIS TITLE

DEED OF TRUST DATED: MAY 3, 2023
RECORDED AS INSTRUMENT NO.: 230000791
BENEFICIARY: SPRUCE BAY CREEK, LLC.

NOTARY PUBLIC FOR TRUSTEES, SPRUCE BAY CREEK, LLC:

CITY/COUNTY OF Accomack
COMMONWEALTH OF VIRGINIA
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 21st DAY OF December, 2023
BY: Kyle Hall
(NAME OF PERSON SEEKING ACKNOWLEDGEMENT)

NOTARY PUBLIC
NOTARY REGISTRATION NUMBER:
MY COMMISSION EXPIRES: 12-31-2024

KYLE H. HALL
Commonwealth of Virginia
Notary Public
Commission No. 105686
My Commission Expires

Rev.	Date	Description	Revised By

AES CONSULTING ENGINEERS
816 Greenbrier Circle, Suite F
Chesapeake, Virginia 23320
Phone: (757) 410-7436
www.aesva.com
Hampton Roads | Central Virginia | Middle Peninsula

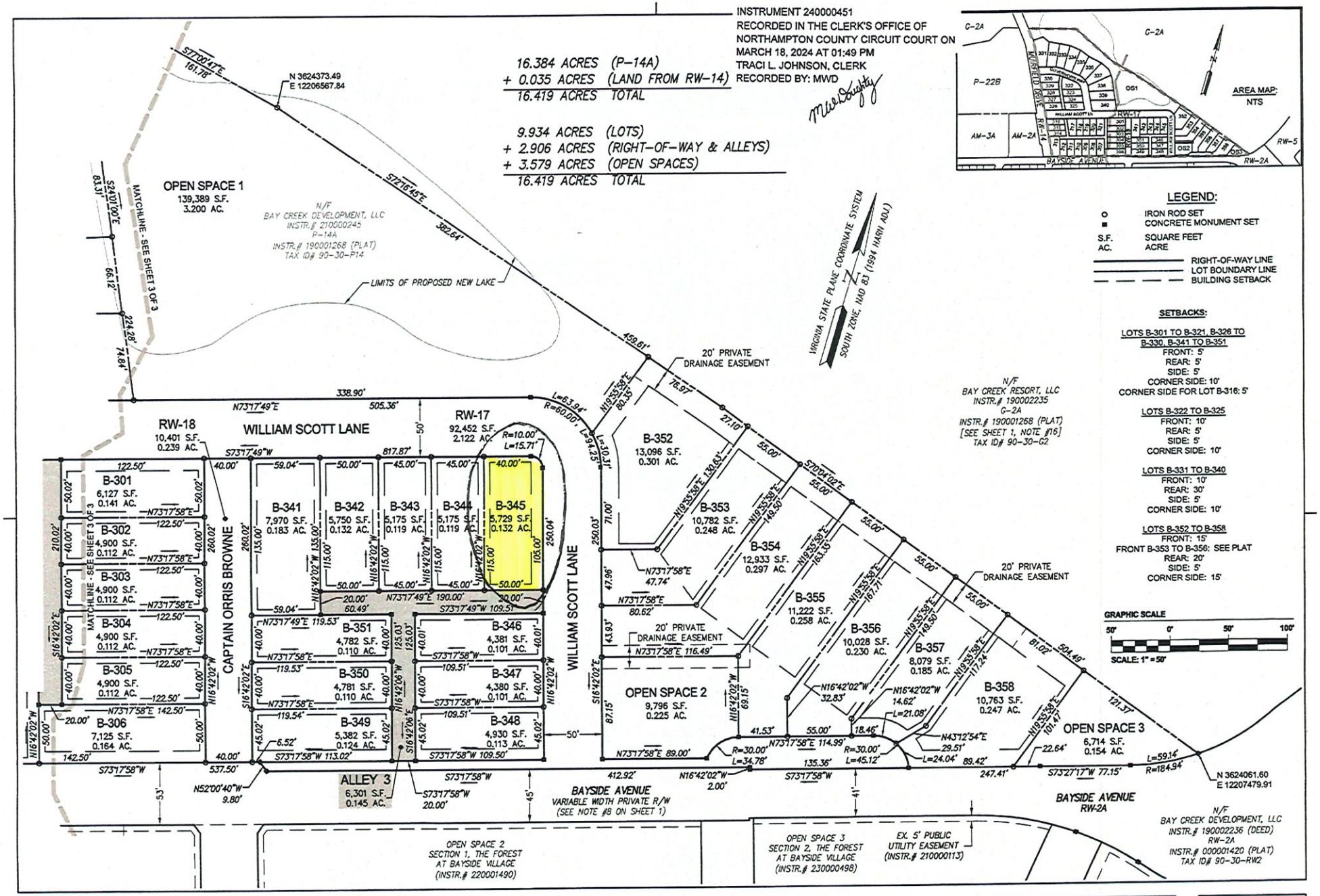
SUBDIVISION PLAT
OF
LOTS B-301 TO B-358
BAYSIDE VILLAGE
BAY CREEK
TOWN OF CAPE CHARLES NORTHAMPTON COUNTY VIRGINIA

Project Contacts:	MHR / JCA
Project Number:	H10059-19
Scale: AS SHOWN	Date: 09/29/2022
Sheet Number	1 of 3

INSTRUMENT 240000451
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY CIRCUIT COURT ON
MARCH 18, 2024 AT 01:49 PM
TRACI L. JOHNSON, CLERK
RECORDED BY: MWD

16.384 ACRES (P-14A)
+ 0.035 ACRES (LAND FROM RW-14)
16.419 ACRES TOTAL

9.934 ACRES (LOTS)
+ 2.906 ACRES (RIGHT-OF-WAY & ALLEYS)
+ 3.579 ACRES (OPEN SPACES)
16.419 ACRES TOTAL



LEGEND:

- IRON ROD SET
- CONCRETE MONUMENT SET
- S.F. SQUARE FEET
- AC. ACRE
- RIGHT-OF-WAY LINE
- LOT BOUNDARY LINE
- BUILDING SETBACK

SETBACKS:

LOTS B-301 TO B-321, B-326 TO B-330, B-341 TO B-351
FRONT: 5'
REAR: 5'
SIDE: 5'
CORNER SIDE: 10'
CORNER SIDE FOR LOT B-316: 5'

LOTS B-322 TO B-325
FRONT: 10'
REAR: 5'
SIDE: 5'
CORNER SIDE: 10'

LOTS B-331 TO B-340
FRONT: 10'
REAR: 30'
SIDE: 5'
CORNER SIDE: 10'

LOTS B-352 TO B-358
FRONT: 15'
FRONT B-353 TO B-356: SEE PLAT
REAR: 20'
SIDE: 5'
CORNER SIDE: 15'

GRAPHIC SCALE
50' 0' 50' 100'
SCALE: 1" = 50'

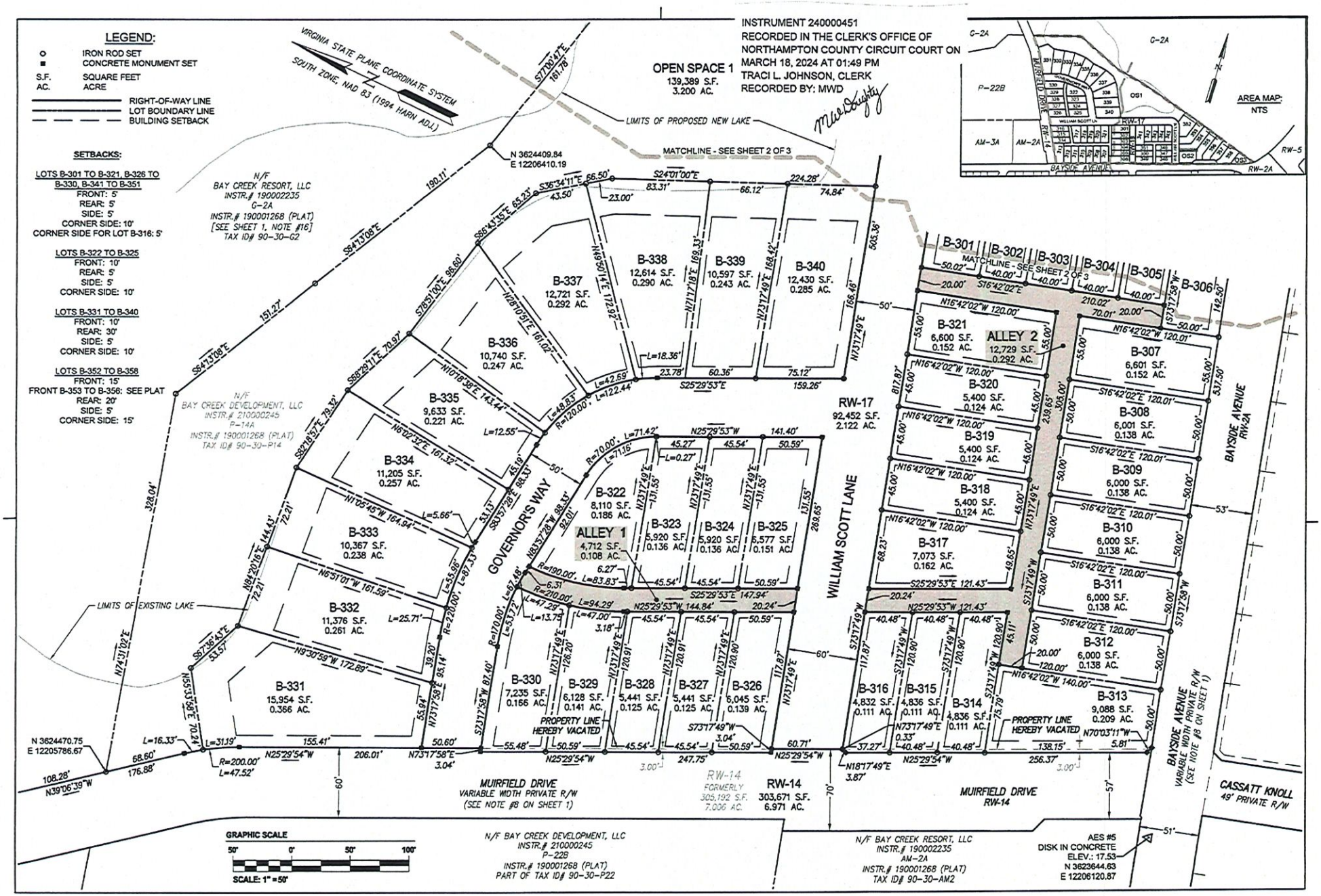
Rev.	Date	Description	Revised By

COMMONWEALTH OF VIRGINIA
MARK HOUSTON RICKARDS
No. 001811
12/18/2023
LAND SURVEYOR

AES CONSULTING ENGINEERS
816 Greenbrier Circle, Suite F
Chesapeake, Virginia 23320
Phone: (757) 410-7436
www.aesva.com
Hampton Roads | Central Virginia | Middle Peninsula

SUBDIVISION PLAT
OF
LOTS B-301 TO B-358
BAYSIDE VILLAGE
BAY CREEK
TOWN OF CAPE CHARLES NORTHAMPTON COUNTY VIRGINIA

Project Contacts:	MHR / JCA
Project Number:	H10069-19
Scale: 1" = 50'	Date: 09/29/2022
Sheet Number	2 of 3



Rev.	Date	Description	Revised By

COMMONWEALTH OF VIRGINIA
MARK HOUSTON RICKARD
No. 001811
LAND SURVEYOR
12/18/2023

AES CONSULTING ENGINEERS
816 Greenbrier Circle, Suite F
Chesapeake, Virginia 23320
Phone: (757) 410-7436
www.aesva.com
Hampton Roads | Central Virginia | Middle Peninsula

SUBDIVISION PLAT
OF
LOTS B-301 TO B-358
BAYSIDE VILLAGE
BAY CREEK
TOWN OF CAPE CHARLES NORTHAMPTON COUNTY VIRGINIA

Project Contacts:	MHR / JCA
Project Number:	H10069-19
Scale: 1" = 50'	Date: 09/29/2022
Sheet Number	3 of 3

VIRGINIA
BUILDERS
Virginia Builders, LLC.
105 Old Drive
Chesapeake, Virginia

THE JAMES
CLIENT: The Naylor Family

CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AT THE JOB SITE AND NOTIFY THE ARCHITECT OF ANY DIMENSIONAL ERRORS, OMISSIONS OR DISCREPANCIES BEFORE BEGINNING OR FABRICATING ANY WORK.

THESE DRAWINGS ARE THE PROPRIETARY WORK PRODUCT AND PROPERTY OF VIRGINIA BUILDERS, LLC.,DEVELOPED FOR THE EXCLUSIVE USE OF VIRGINIA BUILDERS, LLC.USE OF THESE DRAWINGS AND CONCEPTS CONTAINED THEREIN WITHOUT THE WRITTEN PERMISSION OF VIRGINIA BUILDERS, LLC. IS PROHIBITED AND MAY SUBJECT YOU TO A CLAIM FOR DAMAGES FROM VIRGINIA BUILDERS, LLC.

Engineer reviewed the plans with respect to the structural design and the specified building envelope materials included in the Exterior Materials Specifications Schedule. I certify that it is my professional opinion that the structure, including doors and windows, if built according to the plans, is designed to withstand 120 miles per hour wind speeds without structural damage.

COMMONWEALTH OF VIRGINIA
GARY WITSMAN
Lic. No. 016067
PROFESSIONAL ENGINEER

Gary R. Witsman, P.E. / President
VA PE No. 016067 / 8/29/24

FIRST FLOOR CONDITIONED:1702 SQ FT
SECOND FLOOR CONDITIONED: 1372 SQ FT
TOTAL CONDITIONED:3074 SQ FT
TOTAL FRAMED FOOTAGE: 3577 SQ FT

GARAGE FRAMED FOOTAGE: 459 SQ FT

CODE INFORMATION
1) PLANS DRAWN TO COMPLY WITH:
- 2018 INTERNATIONAL RESIDENTIAL BUILDING CODE (I.R.C.)
- 2018 VIRGINIA UNIFORM STATEWIDE BUILDING CODE (U.S.B.C.)
- 2018 NATIONAL DESIGN SPECIFICATION FOR WOOD CONSTRUCTION (N.D.S.)
- ACSE-7 A.S.C.E. MINIMUM DESIGN LOADS FOR BUILDINGS & OTHER STRUCTURES
- 9TH EDITION A.I.S.C. MANUAL OF STEEL CONSTRUCTION
- ACI 318 A.C.I. BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE
- ACI 530 A.C.I. BUILDING CODE REQUIREMENTS FOR MASONRY STRUCTURES

DESIGN LIVE LOADS (GRAVITY):

LOCATION	LIVE	DEAD	LIVE LOAD DEFLECT. LIMIT
ROOF (WITH FINISHED CEILING):	20 PSF	10 PSF	L/240
ROOF (NO FINISHED CEILING):	20 PSF	10 PSF	L/180
CEILING (NO STORAGE ABOVE):	10 PSF	10 PSF	L/240
CEILING (STORAGE ABOVE):	20 PSF	10 PSF	L/240
FLOOR (NON-SLEEPING ROOM):	40 PSF	10 PSF	L/360
FLOOR (SLEEPING ROOM):	30 PSF	10 PSF	L/360
DECKS:	60 PSF	10 PSF	L/360
WALLS:			L/240

DESIGN LIVE LOADS (LATERAL):
WIND SPEED: VULT =117-123 VAND =89-93,
EXPOSURE "B"
SEISMIC: PER THE 2018 I.R.B.C.

2) ALLOWABLE SOIL BEARING PRESSURE IS ASSUMED TO BE 1,500 P.S.F. FOR DESIGN PURPOSES. ACTUAL SOIL BEARING VALUES MAY BE VERIFIED BY CONTRACTOR AND R401.4.
IF ACTUAL SOIL BEARING VALUES ARE FOUND TO BE LESS THAN ASSUMED VALUE, CONTRACTOR MUST NOTIFY THE DESIGNER BEFORE CONSTRUCTION BEGINS.
3) STRUCTURE IS TO BE NOISE TESTED BEFORE CERTIFICATE OF OCCUPANCY IS TO BE ISSUED AS REQUIRED PER U.S.B.C. R1207.4.
4) DETACHED ONE AND TWO FAMILY DWELLINGS SHALL MEET THE PRESCRIPTIVE REQUIREMENTS OF CHAPTER 11 OF THE IRC OR SHALL COMPLY WITH THE INTERNATIONAL ENERGY CONSERVATION CODE. A PERMANENT CERTIFICATE SHALL BE POSTED ON OR IN AT THE ELECTRICAL DISTRIBUTION PANEL. THE CERTIFICATE SHALL BE COMPLETED BY THE BUILDER AND SHALL LIST THE PREDOMINANT R-VALUES OF THE INSULATION INSTALLED IN OR ON CEILING/ROOF, WALLS, FOUNDATION, SLAB, CRAWLSPACE WALL AND/ OR FLOOR AND DUCTS OF CONDITIONED SPACES; U-FACTORS FOR FENESTRATION AND SOLAR HEAT GAIN; COEFFICIENT OF FENESTRATION. THE CERTIFICATE SHALL ALSO LIST THE TYPE OF AND ...

FOUNDATION VENTILATION CALCULATIONS
TOTAL AREA TO BE VENTED: N.A. SQ. FT.
TOTAL AREA REQUIRED: N.A. SQ. IN.
* VALUES BASED ON 1:1500 RATIO WITH A VAPOR BARRIER PRESENT IN THE CRAWL SPACE. REQUIRED VALUES TO BE BASED ON 1:150 RATIO IF NO VAPOR BARRIER IS USED IN CRAWL.

ATTIC VENTILATION CALCULATIONS
TOTAL AREA TO BE VENTED: 1,506 SQ. FT.
TOTAL AREA REQUIRED FOR INTAKE (EAVE/CORNICE): 361 SQ. IN.
TOTAL AREA REQUIRED FOR EXHAUST (UPPER ROOF): 361 SQ. IN.
* VALUES BASED ON 1:300 RATIO (VAPOR BARRIER INSTALLED ON WARM SIDE OF CEILING). DOUBLE REQUIRED VALUES IF 1:150 RATIO USED (NO VAPOR BARRIER).

GENERAL NOTES
1) SOME ADJUSTMENTS MAY BE REQUIRED DEPENDING ON SITE CONDITIONS. ALL WORK SHALL BE DONE TO THE BEST PRACTICES OF THE TRADES AND ACCORDING TO THE ESTABLISHED STANDARDS AND IN ACCORDANCE WITH THE LATEST MUNICIPALITY, STATE OR NATIONAL BUILDING CODES.
2) CERTAIN DIMENSIONS MAY VARY ACCORDING TO THE MATERIAL USED AND/OR THE CONTRACTOR'S BUILDING METHODS. IF VARIATIONS EXIST BETWEEN THE BUILDING SITE AND PLANS, THE CONTRACTOR MUST ADVISE MAYFIELD DESIGNS INC. AS SOON AS POSSIBLE. WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALE MEASUREMENTS. CONTRACTOR SHALL COORDINATE AND VERIFY ALL DIMENSIONS PRIOR TO BEGINNING WORK.
3) THE STRUCTURE HAS BEEN DESIGNED ACCORDING TO CURRENT STANDARDS, USING A COMBINATION OF ENGINEERED WOOD MEMBERS AND CONVENTIONAL DIMENSION WOOD MEMBERS. ENGINEERED WOOD SUPPLIERS MAY PROPOSE COMPARABLE FRAMING SYSTEMS REQUIRING MODIFICATION TO THE FRAMING DESIGN SHOWN ON THESE DRAWINGS. THE SUPPLIER OR MANUFACTURER MUST SUPPLY THE BUILDER WITH ALL DESIGN CRITERIA FOR PROPER MODIFICATIONS REGARDING OTHER TRADES INVOLVED IN THE CONSTRUCTION. ALL STRUCTURAL DESIGN CHANGES MUST BE REVIEWED BY A LICENSED PROFESSIONAL ENGINEER.
4) THESE PLANS HAVE BEEN DRAWN ACCORDING TO HIGH-QUALITY STANDARDS AND PRACTICES AND ARE AN ACCURATE GUIDE TO BUILDING CONSTRUCTION. HOWEVER, LOCAL REGULATIONS AND LOCAL BUILDING CODE REQUIREMENTS VARY, AND AS SUCH, MAY REQUIRE CHANGES. THE BUILDING CONTRACTOR MUST REVISE AND ENSURE WITH HIS CLIENT THAT THE PLANS CONFORM TO ALL CURRENT GOVERNMENTAL AND/OR BUILDING CODE REQUIREMENTS IN THE MUNICIPALITY WHERE THE HOME WILL BE BUILT. THE CLIENT IS RESPONSIBLE FOR THE VERIFICATION OF MUNICIPAL REGULATIONS.
5) YOUR CITY OR STATE MAY REQUIRE THAT YOU HAVE A CERTIFIED ARCHITECT OR ENGINEER APPROVE YOUR PLANS AND AFFIX HIS SEAL TO THE PLANS FOR SAFETY REASONS OR PARTICULAR REGULATION.

FLOOR NOTES
1) LUMBER GRADE AND SPECIES: ALL LUMBER TO BE SOUTHERN YELLOW PINE #2 (S.Y.P. #2) UNLESS OTHERWISE NOTED.
2) STRUCTURAL BEARING SUPPORT: MINIMUM BEARING AT THE ENDS OF EACH JOIST, BEAM OR GIRDER SHALL BE NOT LESS THAN 1.5 INCHES ON WOOD OR METAL AND NOT LESS THAN 3 INCHES ON MASONRY OR CONCRETE. EXCEPTION: WHERE SUPPORTED ON A 1 INCH-BY-4-INCH RIBBON STRIP AND NAILED TO THE ADJACENT STUD OR BY THE USE OF APPROVED JOIST HANGERS.
3) FLOORS, DRAFT-STOPPING: WHEN THERE IS USABLE SPACE BOTH ABOVE AND BELOW THE CONCEALED SPACE OF A FLOOR/CEILING ASSEMBLY, DRAFT STOPS SHALL BE INSTALLED SO THAT THE CONCEALED SPACE DOES NOT EXCEED 1000 SQUARE FEET. DRAFT STOPPING SHALL BE INSTALLED SO AS TO DIVIDE THE SPACE EVENLY. DRAFT STOPPING IS REQUIRED IN SUSPENDED CEILINGS UNDER THE FLOOR SYSTEM AND WHEN FLOOR FRAMING IS CONSTRUCTED OF TRUSS TYPE OPEN WEB OR PERFORATED MEMBERS.
4)INSULATION: MIN. R19 REQUIRED.

FLOOR PLAN NOTES
1) BATH & SHOWER WALL COVERING: WALLS AND FLOOR OF BATHTUBS AND SHOWERS WITH A SHOWER HEAD SHALL HAVE NONABSORBENT SURFACES UP TO 6 FEET IN HEIGHT. CEMENT, FIBER-CEMENT AND GLASS MAT GYPSUM BACKERS, IN COMPLIANCE WITH ASTM C 1288, C 1325 OR C1178 INSTALLED AS PER THE MANUFACTURE'S RECOMMENDATIONS SHALL BE USED AS BACKERS FOR WALL TILE IN TUBS AND SHOWER AREAS AND WALL PANELS IN SHOWER AREAS. INDICATE ON THE PLANS THE CERAMIC TILE WALL BACKER IN TUB AND SHOWER AREAS.
2) DESIGN PRESSURES: BUILDINGS AND PORTIONS THEREOF SHALL BE LIMITED BY WIND SPEED AS DEFINED IN TABLE R301.2(1) AND AS PER FIGURE R301.2(4) AND CONSTRUCTION METHODS IN ACCORDANCE WITH THIS CODE. THE ABOVE TABLE DEFINES CITY OF AS LOCATED IN THE VULT MPH 3 SEC GUST AND NOMINAL 89-93 VASD IN ACCORDANCE WITH ASCE 7-16 Cat II. WHERE LOADS FOR WINDOWS, SKYLIGHTS AND EXTERIOR DOORS AND GARAGE DOORS ARE NOT OTHERWISE SPECIFIED, THE LOADS LISTED IN TABLE R301.2(2) ADJUSTED FOR HEIGHT AND EXPOSURE PER TABLE R301.2(3) SHALL BE USED TO DETERMINE LOAD PERFORMANCE FOR WINDOWS, DOORS, SIDING, AND ROOFING USE COLUMN FOR 115-120 MPH IN ABOVE TABLES.
3) WINDOW AND DOOR FENSTRATION: ALL EXTERIOR WINDOWS AND DOORS SHALL BE LABELED WITH A FENESTRATION U FACTOR OF 0.32 OR LESS AND A SOLAR HEAT GAIN FACTOR OF 0.40 OR LESS. ONE (1) OPAQUE DOOR PER HOME DOES NOT HAVE TO MEET THIS REQUIREMENT AND UP FIFTEEN (15) SQUARE FEET OF WINDOW AREA DOES NOT HAVE TO MEET THE FENESTRATION REQUIREMENTS. SHOW ON PLANS
4) WINDOWS FOR EMERGENCY ESCAPE AND RESCUE: PROVIDE NET OPENING OF 5.7 SQUARE FEET FOR BEDROOMS, HABITABLE ATTICS AND SLEEPING SPACES EXCEPT 5.0 SQUARE FEET FOR GRADE FLOOR ESCAPE WINDOWS. NOTE THAT THE SILL MUST BE NO HIGHER THAN 44 INCHES ABOVE THE INTERIOR FLOOR. MINIMUM OPENING HEIGHT IS 24 INCHES HEIGHT AND MINIMUM WIDTH IS 20 INCHES. SHOW THE WINDOW SIZES AND TYPES ON THE PLANS.
5) WINDOW SILL MINIMUM HEIGHT FOR ALL SECOND AND THIRD FLOOR WINDOWS: IN DWELLING UNITS, WHERE THE OPENING OF AN OPERABLE WINDOW IS LOCATED MORE THAN 72 INCHES ABOVE THE OUTSIDE FINISHED GRADE OR SURFACE BELOW, THE LOWEST PART OF THE CLEAR OPENING OF THE WINDOW SHALL BE A MINIMUM OF 18 INCHES ABOVE THE FINISHED FLOOR OF THE ROOM IN WHICH THE WINDOW IS LOCATED. GLAZING BETWEEN THE FLOOR AND 18 INCHES SHALL BE FIXED OR HAVE OPENINGS THROUGH WHICH A 4-INCH DIAMETER SPHERE CANNOT PASS. EXCEPTIONS: 1. WINDOWS WHOSE OPENINGS WILL NOT ALLOW A 4 INCH DIAMETER SPHERE TO PASS THROUGH THE OPENING WHEN THE OPENING IS IN ITS LARGEST OPENED POSITION. 2. OPENINGS THAT ARE PROVIDED WITH WINDOW GUARDS THAT COMPLY WITH ASTM F 2006 OR F 2090. SHOW ON PLANS.
6) KITCHEN FIRE EXTINGUISHER: IN DWELLINGS THAT ARE NOT EQUIPPED WITH AN AUTOMATIC FIRE SPRINKLER SYSTEM IN ACCORDANCE WITH SECTION R313, NOTE THE LOCATION OF A FIRE EXTINGUISHER HAVING A RATING OF 2-A:10-B:C OR AN APPROVED EQUIVALENT TYPE OF FIRE EXTINGUISHER WHICH SHALL BE INSTALLED IN THE KITCHEN AREA.

WALLS, EXTERIOR NOTES
1) LUMBER GRADE AND SPECIES: ALL LUMBER TO BE SOUTHERN YELLOW PINE #2 (S.Y.P. #2) UNLESS OTHERWISE NOTED.
2) BUILDING THERMAL ENVELOPE: THE BUILDING THERMAL ENVELOPE MUST BE DURABLY SEALED TO LIMIT INFILTRATION. THE FOLLOWING MUST BE CAULKED, GASKETED, WEATHER STRIPPED OR OTHERWISE SEALED WITH AN AIR BARRIER MATERIAL, SUITABLE FILM OR SOLID MATERIAL. 1). ALL JOINTS, SEAMS AND PENETRATIONS. 2). SITE WINDOWS, DOORS AND SKYLIGHTS. 3). OPENINGS BETWEEN WINDOWS AND DOOR ASSEMBLIES AND THEIR RESPECTIVE JAMBS AND FRAMING. 4). UTILITY PENETRATIONS. 5). DROPPED CEILINGS OR CHASES ADJACENT TO THERMAL ENVELOPE. 6). KNEE WALLS. 7). WALLS AND CEILINGS SEPARATING GARAGE FROM CONDITIONED SPACES. 8). BEHIND TUBS AND SHOWERS ON EXTERIOR WALLS. 9). COMMON WALLS BETWEEN DWELLING UNITS. 10). ATTIC OPENINGS. 11). RIM JOIST JUNCTION. 12). OTHER SOURCES OF INFILTRATION
3) HEADER INSULATION R-3 USBC: GAPS IN HEADERS MUST BE INSULATED TO A MINIMUM OF R-3
4) WALL CORNER CAVITY R-3 USBC: GAPS IN CORNERS MUST BE INSULATED TO A MINIMUM OF R-3
5) EXTERIOR WALL INSULATION: R15 OR R13+1 (R13 INSULATION IN THE CAVITY AND R-1 ON THE EXTERIOR SHEATHING.
6) FIREBLOCKING REQUIRED; FIRE BLOCKING SHALL BE PROVIDED TO CUT-OFF ALL CONCEALED DRAFT OPENINGS (BOTH VERTICAL AND HORIZONTAL) AND FORM AN EFFECTIVE FIRE BARRIER BETWEEN STORIES, AND BETWEEN A TOP STORY AND THE ROOF SPACE. FIRE BLOCKING SHALL BE PROVIDED IN WOOD-FRAME CONSTRUCTION IN THE FOLLOWING LOCATIONS. (1). IN CONCEALED SPACES OF STUD WALLS AND PARTITIONS INCLUDING FURRED SPACES. ALSO VERTICALLY AT CEILING AND FLOOR LEVELS AND HORIZONTALLY AT INTERVALS NOT EXCEEDING 10 FEET. (2). AT ALL INTERSECTIONS BETWEEN CONCEALED VERTICAL AND HORIZONTAL SPACES SUCH AS SOFFITS, DROP CEILINGS, AND COVE CEILINGS. (3). IN CONCEALED SPACES BETWEEN STAIR STRINGERS AT THE TOP AND BOTTOM OF THE RUN. (4). AT OPENINGS AROUND VENTS, PIPES, AND DUCT AT CEILING AND FLOOR LEVEL, WITH AN APPROVED PRODUCT TO RESIST THE PASSAGE OF FLAME AND PRODUCTS OF COMBUSTION. (5). FIRE BLOCKING OF CHIMNEYS AND FIREPLACES SEE R1003.19. (6). FIRE BLOCKING OF CORNICES OF A TWO FAMILY DWELLING IS REQUIRED AT THE LINE OF DWELLING UNIT SEPARATION.
7) ANCHOR BOLTS: PROVIDE ½ INCH DIAMETER ANCHOR BOLTS, IN SILL AND BOTTOM PLATES, SPACED A MINIMUM OF 6 FEET ON CENTER AND A MAXIMUM OF 1 FOOT FROM THE ENDS OF SILL PLATES. ANCHOR BOLTS MUST BE EMBEDDED A MINIMUM OF 7 INCHES INTO MASONRY CELLS AND CONCRETE.
8) EXTERIOR STUDS CONTINUOUS: EXTERIOR WALLS OF WOOD FRAME CONSTRUCTION SHALL HAVE STUDS THAT ARE CONTINUOUS FROM A SUPPORT AT THE BOTTOM PLATE TO A SUPPORT AT THE TOP PLATE TO RESIST LOADS PERPENDICULAR TO THE WALL. THE SUPPORT SHALL BE A FOUNDATION OR FLOOR AND A CEILING OR ROOF DIAPHRAGM.
9) JACK AND KING STUDS: HEADERS MUST BE SUPPORTED ON EACH END BY ONE OR MORE JACK STUDS AS PER TABLE R602.7(1) AND (2). A KING STUD MUST BE ADJACENT TO THE JACK STUD ON EACH END OF THE HEADER AND NAILED TO THE HEADER WITH 4-12D NAILS.
10) WEEPHOLES FOR BRICK VENEER: WEEP HOLE ARE REQUIRED IN THE OUTSIDE WYTHE OF MASONRY WALLS AT A MAXIMUM SPACING OF 33 INCHES ON CENTER. WEEP HOLES MUST BE AT LEAST 3/16 OF AN INCH IN DIAMETER AND LOCATED IMMEDIATELY ABOVE THE FLASHING.

FOUNDATION NOTES
1) FOOTING DEPTH (FROST LINE): THE BOTTOM OF ALL FOOTINGS MUST BE A MINIMUM OF 12 INCHES BELOW FINAL GRADE.
2) CONCRETE SLABS: ALL GARAGE SLABS, DRIVEWAYS, PATIOS, SIDEWALKS EXPOSED TO THE WEATHER MUST BE A MINIMUM OF 3000 PSI CONCRETE.
3) PIER MAXIMUM UNFILLED HEIGHT: THE UNSUPPORTED HEIGHT OF INTERIOR MASONRY PIERS SHALL NOT EXCEED TEN TIMES THEIR LEAST DIMENSION. WHEN HOLLOW CONCRETE MASONRY UNITS ARE USED FOR ISOLATED INTERIOR PIERS TO SUPPORT BEAMS AND GIRDERS, THE CELLULAR SPACES SHALL BE FILLED SOLIDLY WITH CONCRETE OR TYPE M OR S MORTAR IF THEIR UNSUPPORTED HEIGHT IS MORE THAN FOUR TIMES THEIR LEAST DIMENSIONS.
4) PIER CAP: HOLLOW PIERS SHALL BE CAPPED WITH 4 INCHES OF SOLID MASONRY OR CONCRETE OR SHALL HAVE THE CAVITIES OF THE TOP COURSE FILLED WITH CONCRETE OR GROUT.
5) FOUNDATION VENTS: AT LEAST ONE FOUNDATION VENT MUST BE WITHIN 3 FEET OF EACH CORNER.
6) CRAWL SPACE GRADE: THE FINISH GRADE OF UNDER-FLOOR SURFACE MUST BE AT OR ABOVE OUTSIDE FINISHED GRADE (UNLESS APPROVED DRAINAGE SYSTEM IS PROVIDED).
CRAWL SPACE HEIGHT: PROVIDE MINIMUM 12 INCHES TO GIRDERS AND 18 INCHES TO FLOOR JOISTS.
7) PRESSURE TREATED LUMBER: PRESSURE TREATED LUMBER TO BE USED WHERE LUMBER WILL POSSIBLY BE EXPOSED TO MOISTURE OR GROUND CONTACT.
8) PRESSURE TREATED WOOD FASTENERS: FASTENERS, WASHERS AND STEEL BOLT NUTS IN CONTACT WITH PRESSURE TREATED PRESERVATIVE AND FIRE RETARDANT-TREATED WOOD SHALL BE HOT-DIPPED GALVANIZED STEEL, STAINLESS STEEL, SILICON BRONZE, OR COPPER. EXCEPTION: ONE-HALF INCH DIAMETER OR GREATER STEEL BOLTS.

WALLS, INTERIOR NOTES
1) FIREBLOCKING REQUIRED; FIRE BLOCKING SHALL BE PROVIDED TO CUT-OFF ALL CONCEALED DRAFT OPENINGS (BOTH VERTICAL AND HORIZONTAL) AND FORM AN EFFECTIVE FIRE BARRIER BETWEEN STORIES, AND BETWEEN A TOP STORY AND THE ROOF SPACE. FIRE BLOCKING SHALL BE PROVIDED IN WOOD-FRAME CONSTRUCTION IN THE FOLLOWING LOCATIONS. (1). IN CONCEALED SPACES OF STUD WALLS AND PARTITIONS INCLUDING FURRED SPACES. ALSO VERTICALLY AT CEILING AND FLOOR LEVELS AND HORIZONTALLY AT INTERVALS NOT EXCEEDING 10 FEET. (2). AT ALL INTERSECTIONS BETWEEN CONCEALED VERTICAL AND HORIZONTAL SPACES SUCH AS SOFFITS, DROP CEILINGS, AND COVE CEILINGS. (3). IN CONCEALED SPACES BETWEEN STAIR STRINGERS AT THE TOP AND BOTTOM OF THE RUN. (4). AT OPENINGS AROUND VENTS, PIPES, AND DUCT AT CEILING AND FLOOR LEVEL, WITH AN APPROVED PRODUCT TO RESIST THE PASSAGE OF FLAME AND PRODUCTS OF COMBUSTION. (5). FIRE BLOCKING OF CHIMNEYS AND FIREPLACES SEE R1003.19. (6). FIRE BLOCKING OF CORNICES OF A TWO FAMILY DWELLING IS REQUIRED AT THE LINE OF DWELLING UNIT SEPARATION.

ROOF STRUCTURE NOTES
1) LUMBER GRADE AND SPECIES: (IDENTIFY THE LUMBER GRADE AND SPECIES OF WOOD TO BE USED FOR ROOF AND CEILING FRAMING MEMBERS.)
2) RAFTERS AND CEILING JOISTS, MINIMUM BEARING: MINIMUM BEARING AT THE ENDS OF EACH RAFTER OR CEILING JOIST SHALL BE NOT LESS THAN 1-1/2 INCHES OF BEARING ON WOOD OR METAL AND NOT LESS THAN 3 INCHES ON MASONRY OR CONCRETE.
3) ATTIC ACCESS INSULATED AND SEALED: ALL ATTIC ACCESSES MUST BE INSULATED WITH AN R VALUE EQUAL TO THE DIAPHRAGM THAT THEY PENETRATE. ALL ACCESSES MUST BE GASKETED AND CONSTRUCTED TO CONTAIN INSULATION SPILL OVER. THIS INCLUDES ATTIC PULL DOWN LADDERS MAY REQUIRE AN INSULATED HATCH AND GASKET. INSULATION MUST BE A MIN. OF R-49 OR R-38 WHEN 100% COVERAGE IS PROVIDED AND EXTENDS FULLY TO COVER WALL PLATE AT THE EAVES.

GARAGE NOTES
1) CONCRETE SLABS. PROVIDE MINIMUM 3000 PSI CONCRETE FOR GARAGE SLABS. SLOPE FLOOR FOR DRAINAGE TO DRAIN OR MAIN DOOR PER R309.3
2) OPENINGS FROM ATTACHED GARAGE INTO HOUSE: OPENINGS FROM A PRIVATE GARAGE DIRECTLY INTO A ROOM USED FOR SLEEPING PURPOSES PROHIBITED. PROVIDE OTHER OPENINGS BETWEEN A GARAGE AND RESIDENCE WITH SOLID WOOD DOORS NOT LESS THAN 1-3/8 INCHES IN THICKNESS, SOLID OR HONEYCOMB STEEL DOORS NOT LESS THAN 1-3/8 INCHES THICK, OR 20 MINUTE FIRE RATED DOORS.
3) GARAGE SEPARATION: SEPARATE GARAGE WALLS FROM THE RESIDENCE AND ITS ATTIC AREA BY NOT LESS THAN 1/2 INCH GYPSUM BOARD APPLIED TO THE GARAGE SIDE. SEPARATE GARAGES BENEATH HABITUAL ROOMS ABOVE BY NOT LESS THAN 5/8 TYPE X GYPSUM BOARD OR EQUIVALENT. ALL STRUCTURAL ELEMENTS (STEEL COLUMN, STEEL BEAM OR BEARING WALL) SUPPORTING A CEILING OR ROOF ABOVE AN ATTACHED GARAGE MUST BE PROTECTED BY NOT LESS THAN 1/2 GYPSUM.
4) DUCT PENETRATIONS: PROVIDE MINIMUM 26 GAGE SHEET STEEL OR OTHER APPROVED MATERIALS AND NO OPENINGS INTO GARAGE.
5) RETURN AIR: OUTDOOR AND RETURN AIR FOR FORCED-AIR SYSTEMS PROHIBITED FROM THE GARAGE.

To the best of my knowledge these plans are drawn to comply with owner's and/ or builder's specifications and any changes made on them after prints are made will be done at the owner's and / or builder's expense and responsibility. The contractor shall verify all dimensions and enclosed drawing. VIRGINIA BUILDERS, LLC. is not liable for errors once construction has begun. While every effort has been made in the preparation of this plan to avoid mistakes, the maker can not guarantee against human error. The contractor of the job must check all dimensions and other details prior to construction and be solely responsible thereafter.

REVISION TABLE			
NUMBER	DATE	REVISED BY	DESCRIPTION

THE NAYLOR FAMILY
345 BAYSIDE VILLAGE

COVER PAGE

VIRGINIA BUILDERS
Virginia Builders, LLC.
Chesapeake, Virginia

DATE: 8/29/24
SCALE:
SHEET: 1P-1

Exterior Elevation Front

Exterior Elevation Left

Exterior Elevation Back

Exterior Elevation Right

Engineer reviewed the plans with respect to the structural design and the specified building envelope materials included in the Exterior Materials Specifications Schedule. I certify that it is my professional opinion that the structure, including doors and windows, if built according to the plans, is designed to withstand 120 miles per hour wind speeds without structural damage.

COMMONWEALTH OF VIRGINIA
GARY WITSMAN
Lic. No. 016067
PROFESSIONAL ENGINEER

Gary R. Witsman, P.E. / President
VA PE No. 016067 / 8/29/24

REVISION TABLE

NUMBER	DATE	REVISED BY	DESCRIPTION

THE NAYLOR FAMILY
345 BAYSIDE VILLAGE

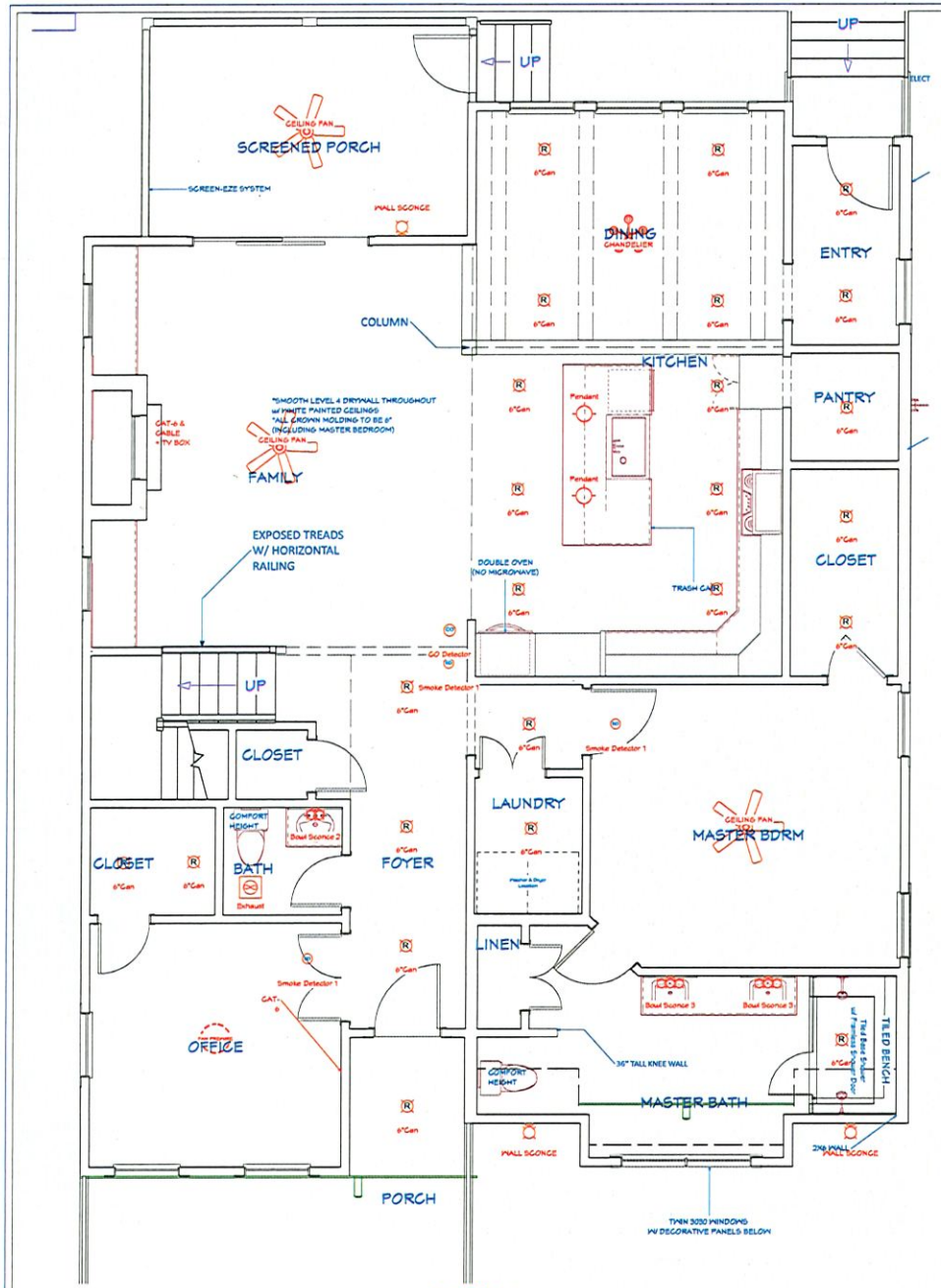
EXTERIOR ELEVATION PLAN

VIRGINIA
Virginia Builders, LLC.
Chesapeake, Virginia

DATE:
8/29/24

SCALE:
1/4" = 1'

SHEET:
6

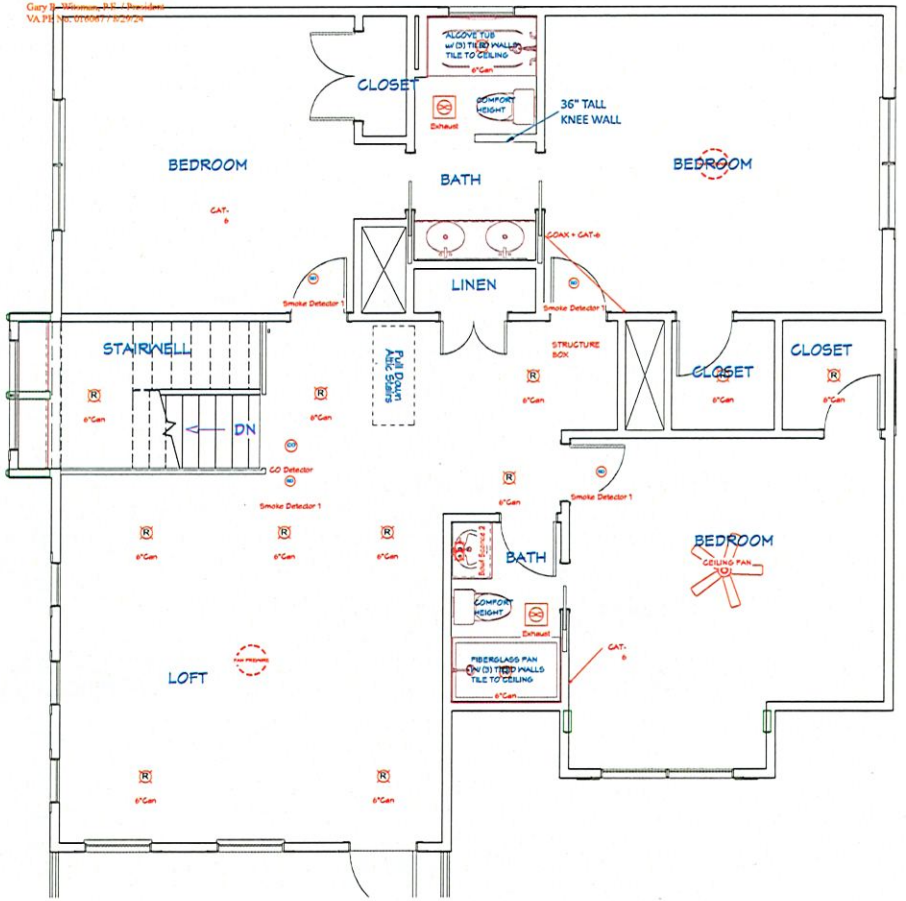


1st Floor

Engineer reviewed the plans with respect to the structural design and the specified building envelope materials included in the Exterior Materials Specifications Schedule. I certify that it is my professional opinion that the structure, including doors and windows, if built according to the plans, is designed to withstand 120 miles per hour wind speeds without structural damage.

COMMONWEALTH OF VIRGINIA
GARY WITSMAN
LIC. No. 016067
PROFESSIONAL ENGINEER

Gary B. Witsman, P.E. (Provident)
VA PE No. 016067 / 8/29/24



2nd Floor

REVISION TABLE		
NUMBER	DATE	REVISED BY / DESCRIPTION

THE NAYLOR FAMILY
345 BAYSIDE VILLAGE

ELECTRICAL PLAN

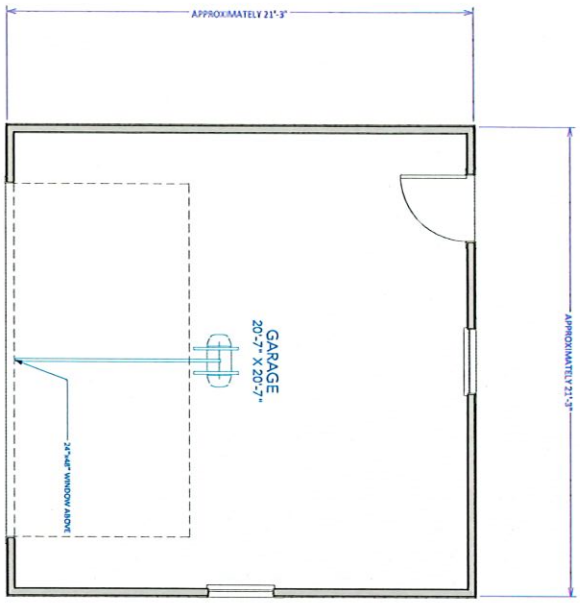
VIRGINIA
Virginia Builders, LLC.
Chesapeake, Virginia

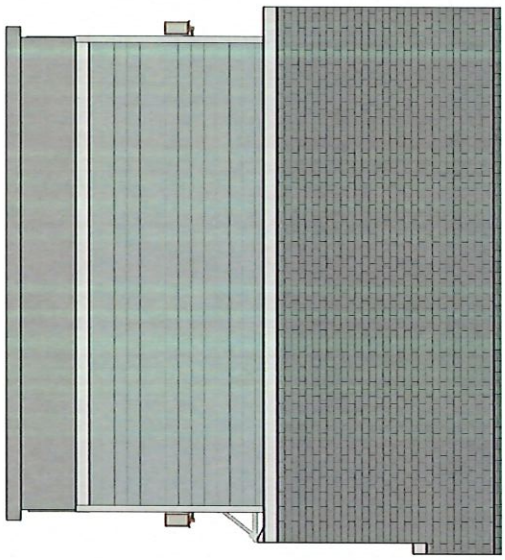
DATE:
8/29/24

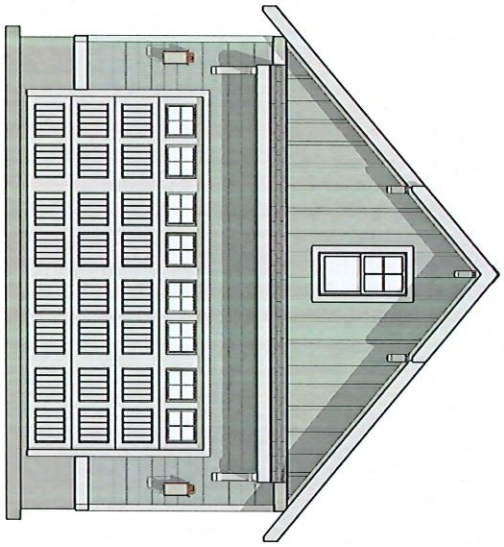
SCALE:
3/8" = 1'

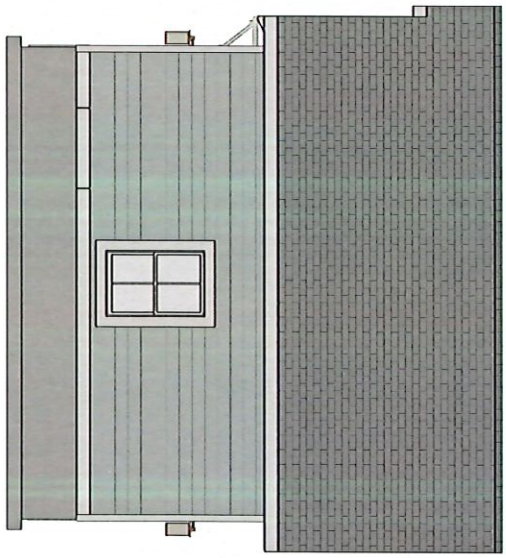
SHEET:
7

Plans and elevations are artist's renderings only, may not accurately represent the actual condition of a home as constructed, and may contain options which are not standard on all designs. We reserve the right to make changes to these floor plans, specifications, dimensions, designs and elevations without prior notice. Stated dimensions and square footage are estimated and should not be used as representation of the home's actual size or net useable square footage which may be less than the estimated square footage.









SHEET:	SCALE:	DATE:	VIRGINIA BUILDERS Virginia Builders, LLC. Chesapeake, Virginia	KEY - GARAGE PLAN	THE NAYLOR FAMILY
18		8/29/24			

REVISION TABLE

NUMBER	DATE	REVISED BY	DESCRIPTION

Staff Report for Variance Application submitted by Robert and Kathie Naylor

BOARD OF ZONING APPEALS

Meeting Date: October 8, 2024
Item #: 6C – Variance
Date: September 20, 2024
Prepared by: Katie H. Nunez, Planning/Zoning Administrator and Jack Steinmayer, Zoning Compliance Officer

APPLICANT: Robert and Kathie Naylor
SITE ADDRESS: 107 William Scott Lane
TAX MAP: 90-32-B345
LOT SIZE: 5,729 sq. ft.
TYPE OF APPLICATION: Variance
SPECIFIC REQUEST: 3.1' side yard setback from 10' to 6.9'
ZONING: Accawmacke Plantation Planned Unit Development (PUD) Article 4.2 (E) (2)
CURRENT ZONING: PUD R-2

DATE RECEIVED: September 9, 2024
DATE DEEMED COMPLETE: September 9, 2024
LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): December 8, 2024

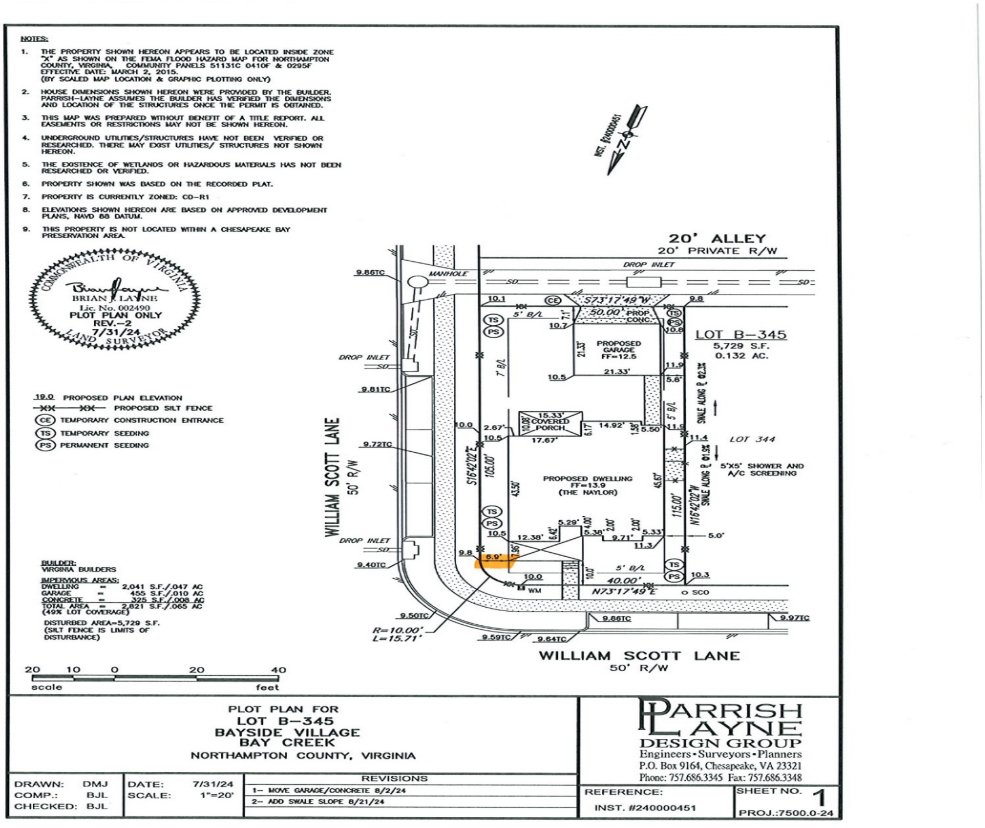
NARRATIVE OF PROPOSAL

The applicant is seeking to receive a variance from Section 3.12 of the PUD for a side yard setback reduction on the Northwest side of the property from 10' to 6.9' a difference of 3.1'. This lot is located in PUD Village subdivision within Bay Creek and falls under the Accawmacke Plantation Planned Unit Development (PUD) which is an appendix to the Cape Charles Zoning Ordinance.

AERIAL MAP

PLAT with Lot # and Address Assignments

Based upon the survey provided by the applicant, the side variance requested is highlighted in orange (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 this lot will be the location of a newly constructed single-family dwelling. The applicant is seeking to receive a variance to allow for a 6.9' side yard setback instead of a 10' side yard setback. The lot has not been restricted from being developed with a single-family dwelling.

(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 2024, who purchased it knowing the setback requirements of this subdivision.

(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?
This sort of variance has not been done in this area of Bay Creek before and while there won't be a copious amount of traffic in this residential area, consideration needs to be given to the neighbors and service vehicles that will be in the area. Furthermore, safety concerns need to be taken under advisement, by moving this house 3.1 ft closer to William Scott Lane. There is a small possibility that someone could take that corner much too fast and either clip the house or crash into the house. The 10 ft setback is there to prevent such accidents from occurring no matter how rare they might be.

(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 reoccurring situation on other lots that front William Scott Lane and the Town may need to inquire further of the developer when subdivision plats are being proposed and alternate setbacks are being submitted on the plat to examine the full requirements that would allow for a side setback variance of this type in the future.

(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?
No. Granting the variance would not change the zoning classification

(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 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"

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 Robert and Kathie Naylor (Tax Map #90-32-B345) for a 3.1 ft. side yard variance to the side yard setback requirement of 10ft. pursuant to Accawmacke Plantation PUD Article 4.2 (E) (2).***

Attachments:

Attachment 1 – Application and Documents
Attachment 2 – Cape Charles Zoning Ordinance Appendix - Accawmacke Plantation PUD Article 4.2 (E) (2)

Cape Charles Zoning Ordinance
Accawmacke PUD Article 4.2 (E) (2)

E. Lot, Yard, Height and Coverage Requirements. Within the R-2 Land Use Classification, the following standards shall apply to each category below:

1. Minimum Lot Requirements.

	Single Family Dwelling	Patio Dwelling	Duplex Dwelling	Zero Lot Line Dwelling
Lot area (sq. ft.)	6,000	6,000	10,000	6,000
Lot width (feet)	50	50	60	50
Lot depth (feet)	85	85	85	85

2. Minimum Yard Requirements.

Front yard (feet)	25	25	25	25
Side yard (feet)	5 & 10	5*	10	0 & 10
Side yard-corner (feet)	20	10*	20	0 & 20
Rear yard (feet)	20	20	20	20

**modified January 14, 2003*

3. Maximum Building Height.

Vertical measure (feet)	40	40	40	40

4. Bufferyards. Where R-2 Land Use Classifications adjoin R-1 Land Use Classifications within the PUD, bufferyards are required as follows:

   a. When a zoning lot within an R-2 Land Use Classification adjoins an R-1 Land Use Classification, the following shall be required along all lot lines within the R-2 Land Use Classification adjoining the R-1 Land Use Classification:

      i) A 50 foot separation of road right-of-way, golf, lake, drainage easement, or natural feature; or
      ii) A 50 foot bufferyard exclusive of any other yard requirements, landscaped by a Category I landscape screening in accordance with Appendix A.

5. Building Coverage. No more than 50% of the lot may be covered by the principal and accessory buildings.

6. Dwelling Size. Each single-family dwelling and single-family patio dwelling shall have a minimum habitable area of 1,000 square feet. Each duplex shall have a minimum habitable area of 850 square feet.