



HISTORIC DISTRICT REVIEW BOARD

Regular Meeting and Work Session

Cape Charles Civic Center

November 17, 2020

6:00 p.m.

At 6:00 p.m., Chairman Kerry Shackelford, having established a quorum, called to order the Regular Meeting of the Historic District Review Board (HDRB). In addition to Kerry Shackelford, present were Michael Strub, Herb Thom, and Edward Wells. There was one vacancy on the board. Also, in attendance were Town Planner Allyson Finchum, Planning Technician Tracy Outten, and the applicants. There was one member of the public in attendance.

Kerry Shackelford started the HDRB Regular meeting with a moment of silence and the recitation of the Pledge of Allegiance.

PUBLIC COMMENT:

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

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

CONSENT AGENDA:

Motion made by Herb Thom, seconded by Michael Strub, to accept the agenda as presented. The motion was approved by unanimous vote.

UNFINISHED BUSINESS:

A. *Application for a Certificate of Appropriateness at 722 Randolph Avenue – to demolish the front façade wall on a commercial building.*

Leon Parham provided a brick for the board to review.

Motion made by Edward Wells, seconded by Michael Strub, to approve the proposed brick for the Certificate of Appropriateness at 722 Randolph Avenue to demolish the front façade wall on the commercial building as presented. The motion was approved by unanimous vote.

NEW BUSINESS:

A. *Application for a Certificate of Appropriateness at 549/551 Monroe Avenue – to renovate the exterior gables on a duplex.*

Anne Vantine and Deborah Glover, applicants, explained that the cedar was purchased after being told it was okay by the former contractor. Anne Vantine added that he had spoken with a town employee.

Discussion was as followed: (i) Michael Strub thought replacing vinyl with cedar was acceptable and an improvement; (ii) Herb Thom said a building permit was obtained but expired; (iii) Edward Wells said the board was trying to keep the traditional material intact; and (iv) Kerry Shackelford said the dilemma was that a past applicant was made to restore the original wood siding.

Motion made by Edward Wells, seconded by Michael Strub, to defer the application for the Certificate of Appropriateness at 549/551 Monroe Avenue to renovate the exterior gables on a duplex until the condition of the original wood siding was determined. The motion was approved by unanimous vote.

- B. *Pre-Application for a Certificate of Appropriateness at 410 Harbor Avenue – to construct a rear addition on a single-family dwelling and construct an accessory dwelling.*

Sam Scharpf, applicant, described the proposed rear addition.

Allyson Finchum state that the zoning had not been approved.

There was some discussion on the elevations and roof pitch.

The board requested that the following information be provided:

- Photographs of the building that was proposed to be demolished
- Better Documentation and photographs of the existing home
- Elevations for the rear building

- C. *Pre-Application for a Certificate of Appropriateness at 627 Monroe Avenue – to replace windows on a single-family detached dwelling.*

Robert Mucha, the applicant, apologize for any misunderstanding. He thought all paperwork had been taken care of by Richard Carretta, the window contractor. Richard Carretta said this was an honest mistake. Robert Mucha said the original windows needed to be replaced and matching them was hard.

Kerry Shackelford asked where the original windows were. The applicant said they had been demolished.

The board requested that the following information be provided:

- Evidence of the condition of the original windows
- Another window option to be placed in-kind

- D. *Pre-Application for a Certificate of Appropriateness at 416 Randolph Avenue – to extend an existing porch and to add screening on a single-family detached dwelling.*

June Pearlberg, the applicant, said she was not aware that the HDRB needed to approve a porch until Jeb Brady, Code Official, gave her a stop work order. He explained that the project did not have a building permit and one could not be issued without a Certificate of Appropriateness.

Discussion was as follows: (i) Edward Wells asked if there would be railings, no; and (ii) Herb Thom mentioned the roof pitch. Kerry Shackelford state the roof guidelines.

The board requested that the following information be provided:

- Plan view of plat
- Drawings
- Plat with drawings and measurements
- Details lists and samples

OTHER BUSINESS:

- Kerry Shackelford wanted to know the status of the following properties that were in violation:
 - 209 Mason Avenues – top storefront windows were removed and replaced with windows that were not approved
 - The corner of Mason Avenue and the bakery – siding work being done

ANNOUNCEMENTS:

There were no announcements.

Motion made by Michael Strub, seconded by Herb Thom, to close the November 17, 2020 Historic District Review Board Regular Meeting and move to the Work Session. The motion was unanimously approved.

WORK SESSION ORDER OF BUSINESS:

A. *Cape Charles Zoning Ordinance Article VIII Proposed Amendments.*

Discussion ensued on Paul Grossman's proposed changes to the Article VIII of the zoning ordinance.
(Please see attached.)

Motion made by Herb Thom, seconded by Edward Wells, to adjourn the November 17, 2020 Historic District Review Board Regular Meeting and Work Session at 8:26 p.m. The motion was unanimously approved.

Chairman Kerry Shackelford

Planning Technician

From: [Cynthia Emrich](#)
To: [Tracy Outten](#); [Allyson Finchum](#)
Cc: [C. Tucker Van Dyck](#); jmop@msn.com
Subject: Proposed Addition at 416 Randolph Avenue
Date: Monday, November 16, 2020 11:00:02 AM

Hi,

We own 420 Randolph Avenue and wanted to write in strong support of the screen porch addition June and Henry Pearlberg (416 Randolph Avenue) have submitted for the Town's approval. As the neighbors closest to the location of this porch, we have zero concerns about its impact and, to the contrary, regard it as yet another welcome improvement to our block.

Please let us know if you have any questions.

Take care,

Cynthia Emrich & Tucker Van Dyck

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Cynthia Emrich, Ph.D.
3 Pollard Park
Williamsburg, VA 23185
cell: 757-332-4230

Town of Cape Charles

Article VIII

Historic District Overlay

“The Cape Charles Historic District encompasses nearly all of the town of Cape Charles as it was originally laid out in 1883-1884 as well as the Sea Cottage addition, an area west of the original limits of the town, that was developed after 1909...The town was originally laid out in an unusual twenty-seven block grid pattern dominated by a central park with four landscaped streets that radiate from the park and serve as a main cross axis for the town’s circulation pattern. No other such plan is known to exist in Virginia.”
- 1989 National Register of Historic Places Registration Form Section 7, page 1.

“An interesting stock of architectural styles in both the residential area and the downtown commercial area contribute an historic style and authenticity. The street patterns, lot configurations and boundaries, which were laid out in an historic grid pattern, have remained largely unaltered, adding to the Town’s historical integrity. Cape Charles’ late nineteenth and early twentieth century character is a key element in the Town’s interest and attractiveness to tourists. The traditional downtown commercial area on Mason Avenue still serves as the commercial center for the Town. It is important that the Town’s historic character be protected, not only for its intrinsic value, but also to contribute to attract and expand tourism in Cape Charles.” – Town of Cape Charles 1999 Comprehensive Plan, page 40.

The Town of Cape Charles participates in the Certified Local Government program and in so doing demonstrates a commitment to keep what is significant from the past for the benefit of future generations. The architectural integrity of existing structures shall be recognized, and future development shall be compatible.

Section 8.1 Purpose of the District *[revised – 08/16/18]*

The purpose of this district is to provide for protection against destruction or encroachment upon historic areas, buildings, monuments, or other features, or buildings and structures of registered architectural significance which contribute or will contribute to the cultural, social, economic, political, artistic, or architectural heritage of the Town of Cape Charles and the Commonwealth of Virginia. It is also the purpose of the district to preserve the designated historic areas and historic landmarks and other historic or architectural features from destruction, damage, defacement to ensure that buildings, structures, streets, walkways, or signs shall be erected, reconstructed, altered, or restored so as to be kept architecturally compatible with the character of the historic district.

Section 8.2 Criteria for Establishing Historic Districts--General Character

The boundaries of the Historic District shall in general be drawn to include areas containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation. The district may include either individual buildings or places of such character, and a reasonable distance beyond, or it may include areas or groupings of structures which have significance relative to their patterns of development or social and

economic or architectural interrelationships even though some structures in the area might not possess significant merit when considered alone.

Section 8.3 Inventory of Landmarks and Contributing Properties Established

The Town of Cape Charles has established as part of this ordinance ~~a an inventory~~ map covering the area included in the Historic District, based on the criteria set forth in this ordinance. This map herein ~~after called the inventory map~~ shall be as much a part of this ordinance ~~as if fully described herein and shall be filed as a part of this ordinance by the Town Clerk of the Town of Cape Charles. Until such time as it is changed in this ordinance, the period of significance for the Town will be 1880s to 1964 as delineated in the Cape Charles Historic District National Register of Historic Places (amended 2019). As identified in the National Register, s~~ Structures or sites designated as properties which contribute to the historic character of the Town shall be known as contributing properties for the purpose of this Ordinance. ~~Should a building or structure within the boundaries of the historic district not be listed in the national register, the age of the house or structure will be used to determine classification (i.e., built before 1965 will be considered as contributing). The board may be presented with evidence of extensive changes previously made or other information that may warrant the board in changing a property's classification.~~ Structures or sites not designated as landmark or contributing properties shall be known as noncontributing properties. The ~~inventory~~ map may be amended from time to time in the same manner as the zoning district map.

Section 8.4. Application of the District; Relation to Other Zoning Districts

To enable the district to operate in harmony with the plan for land use and population density embodied in these regulations, the Historic District is created as a special district to be superimposed on other districts contained in these regulations and is to be so designated by a special symbol for its boundaries on the Zoning District Map. The uses, housing types, minimum lot requirements, minimum yard requirements, maximum height, and accessory uses and accessory signs shall be determined by the regulations applicable to the other districts over which the Historic District is superimposed except as these other district regulations may be modified by application of the regulations in the Historic District.

Section 8.5 Permitted Uses *[revised – 08/16/18]*

A building or land shall be used only for any use or accessory use permitted in the zoning district in which the premises are situated and upon which the Historic District is superimposed.

Section 8.6 Historic District Review Board; Creation

For the general purposes of this Article as herein stated and specifically to preserve and protect historic places and areas in the Town through the control of demolition of such places and through the regulation of architectural design and uses of structures in such areas, there is created a board known as the Historic District Review Board.

Section 8.7 Historic District Review Board; Membership *[revised – 08/16/18]*

The members of the Historic District Review Board shall be appointed by the Town Council. The Membership shall consist of five citizens, at least three of whom shall be residents of the local historic district.

Section 8.8 Historic District Review Board; Terms *[revised – 08/16/18]*

Upon approval by the Town Council, members shall be appointed for a term of five years. Appointments to fill vacancies shall be only for the unexpired term. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until a successor is appointed and qualifies.

Section 8.9 Historic District Review Board; Qualifications *[revised – 08/16/18]*

Members of the Historic District Review Board shall have demonstrated interest and knowledge in the historical and architectural development of the Town and when possible be a licensed architect or engineer, Planning Commission member, or licensed building contractor-

Section 8.10 Historic District Review Board; Organization *[revised – 08/16/18]*

The Historic District Review Board shall elect from its own membership a chairman and vice chairman who shall serve annual terms and may succeed themselves. The chairman shall preside over all meetings in addition to having the duties and responsibilities of other members of the Board. The vice chairman shall preside over meetings of the Board in the absence of the chairman.

Section 8.11 Historic District Review Board; Rules *[revised – 08/16/18]*

The Board shall meet in regular session on the third Tuesday of every month when an application has been filed requiring consideration. Special meetings of the Board may be called by the chairman or a majority of the members after public notice as required.

Section 8.12 Historic District Review Board; Meetings; Hearings *[revised – 08/16/18]*

Written notice of a special meeting is not required if the time of special meeting has been fixed at a regular meeting or if all members are present at a special meeting or file a written waiver of notice. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all voting members of the Board. The Board may make, alter, or rescind rules and forms for its procedures, consistent with the ordinances of the Town and the general laws of the Commonwealth of Virginia.

Section 8.13 Historic District Review Board; Procedures

The Board shall establish procedures for all matters coming before it for review and all meetings shall be open to the public.

Section 8.14 Historic District Review Board; Powers and Duties

The Historic District Review Board shall have the power and authority for issuing or denying Certificates of Appropriateness for construction, reconstruction, substantial exterior alteration, razing, or relocation within the historic district: In addition, the Board shall have the following duties:

- A. To assist and advise the Town Council, the Planning Commission, and other Town departments, agencies, and property owners in matters involving historically significant sites at buildings or other properties in historic districts such as, but not limited to, appropriate land usage, parking facilities, and signs.
- B. To continuously evaluate conditions and advise owners of historic landmarks or contributing structures or other properties in historic districts on problems of preservation.
- C. To conduct studies deemed necessary by the Town Council or Planning Commission concerning location of historic districts and means of preservation, utilization, improvement, and maintenance of historic assets in the Town.
- D. To propose additional historic districts or additions or deletions to districts.
- E. To adopt standards and guidelines for review to supplement the standards set forth in this Ordinance.
- F. To formulate recommendations to the Town Council concerning the establishment of an appropriate system of markers for selected historic sites and buildings, including proposals for the installation and care of such historic markers.
- G. To cooperate with and enlist assistance from the Virginia Department of Historic Resources, the National Trust for Historic Preservation, and other interested parties both public and private in its efforts to preserve, restore, and conserve historic landmarks, buildings, sites, or areas within the Town.

Section 8.15 Summary of Administration Review Procedures [revised – 08/16/18]

In general, it is the purpose of this ordinance to establish review procedures for actions affecting properties in the Historic District. To this end, some actions are exempted from special historic and architectural review altogether, except as normal review may be necessary for issuance of a building permit. Other actions, depending on the possible consequences thereof, may be reviewed by the Zoning Administrator or by the Historic District Review Board acting with original jurisdiction, or, in the most serious cases, action by the Town Council following action by the Historic District Review Board. In all cases the decisions of the Zoning Administrator shall be appealed to the Board of Zoning Appeals as stated in §2-2.6.2.C, the decisions of the Historic District Review Board may be appealed to the Town Council, and the final decisions of the Town Council may be appealed to the Circuit Court of Northampton County.

Section 8.16 Certain Minor Actions Exempted from Review by the Historic District Review Board [revised – 08/16/18]

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, small fountains, 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. Any changes to a structure (contributing and noncontributing) that are not visible from a public street or public place, i.e., alteration that is obscured from view from the street by the original structure and not merely obscured by fencing landscaping, non-historic additions, or other impermanent obstructions. Alleys in this context are not to be considered public places. SEE ALTERNATE WORDING IN I BELOW.

I. Minor additions or deletions to an existing building which are not subject to public view and which will not significantly alter the character of the building. Alleys in this context are not to be considered public places.

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

Receiving historic preservation tax credits through state or federal offices.

Demolition of non-contributing buildings or structures.

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

G.

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Section 8.17 Delegation of Authority [revised – 08/16/18]

- A. The Zoning Administrator shall have authority to order that work be stopped and that an appropriate application be filed for review by the Historic District Review Board in any case where the action has an adverse effect on the Historic District.
- B. The Historic District Review Board shall periodically review the design guidelines contained in this section.

Section 8.18 Approval of Historic District Review Board Required [revised – 08/16/18]

- 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. "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 change or alteration of the exterior architectural style of a structure, including removal or rebuilding of porches, openings, dormers, window sashes, chimneys, columns, structural elements, stairways, terraces, and the like.

- d. Any change or alteration of ~~the exterior color scheme of the structure or~~ any of its significant elements, including porches, openings, dormers, window sashes, awnings, canopies, chimneys, columns, stairways, terraces, or any other structural elements. This also applies to all structures on the site.
 - e. Addition to or removal of one or more stories or alteration of a roof line.
 - f. 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.
- C. 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.

Section 8.19. Certificate of Appropriateness *[revised – 08/16/18]*

Evidence of the approval required under the terms of the Historic District shall be a certificate of appropriateness issued ~~by-on behalf of~~ the Historic District Review Board, stating that the demolition, moving, or changes in the exterior architectural appearance of the proposed construction, reconstruction, alteration, or restoration for which application has been made are approved by the Historic District Review Board. The Historic District Review Board may permit modifications of original proposals if such modifications are formally acknowledged, clearly described, and recorded in the records of the case. A certificate of appropriateness shall be in addition to any other permits required. Any action by applicants following issuance of a permit-requiring certificate of appropriateness shall be in accord with the application and material approved and any conditions appended thereto.

Section 8.20 Design Guidelines; Standards for Review *[revised – 11/21/19]*

- A. The Historic District Review Board shall be guided in its decisions by the design guidelines.
- B. It shall be the duty of the Historic District Review Board to prepare amendments to the design guidelines.
- C. The Town Council shall adopt and amend the design guidelines after conducting at least one public hearing pursuant to §15.-22204 Code of Virginia.
- D. Guidelines shall offer general recommendations for all new infill buildings in Cape Charles' historic district. New infill construction building is not to diminish, detract, or distract from the character of surrounding historic buildings or the overall historic district. However, the intent of these infill guidelines is not to be overly specific or to dictate certain designs but to allow for the creation of new buildings that are compatible with their historic settings. The Historic District Review Board may be more flexible in applying these new construction guidelines.

§ 15.2-2306. Preservation of historical sites and architectural areas.

A. 1. Any locality may adopt an ordinance setting forth the historic landmarks within the locality as established by the Virginia Board of Historic Resources, and any other buildings or structures within the locality having an important historic, architectural, archaeological or cultural interest, any historic areas within the locality as defined by § [15.2-2201](#), and areas of unique architectural value located within designated conservation, rehabilitation or redevelopment districts, amending the existing zoning ordinance and delineating one or more historic districts, adjacent to such landmarks, buildings and structures, or encompassing such areas, or encompassing parcels of land contiguous to arterial streets or highways (as designated pursuant to Title 33.2, including § [33.2-319](#) of that title) found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures or districts therein or in a contiguous locality. A governing body may provide in the ordinance that the applicant must submit documentation that any development in an area of the locality of known historical or archaeological significance will preserve or accommodate the historical or archaeological resources. An amendment of the zoning ordinance and the establishment of a district or districts shall be in accordance with the provisions of Article 7 (§ [15.2-2280](#) et seq.) of this chapter. The governing body may provide for a review board to administer the ordinance and may provide compensation to the board. **The ordinance may include a provision that no building or structure, including signs, shall be erected, reconstructed, altered or restored within any such district unless approved by the review board** or, on appeal, by the governing body of the locality as being architecturally compatible with the historic landmarks, buildings or structures therein.

2. Subject to the provisions of subdivision 3 of this subsection **the governing body may provide in the ordinance that no historic landmark, building or structure within any district shall be razed, demolished or moved** until the razing, demolition or moving thereof is approved by the review board, or, on appeal, by the governing body after consultation with the review board.

3. The governing body shall provide by ordinance for appeals to the circuit court for such locality from any final decision of the governing body pursuant to subdivisions 1 and 2 of this subsection and shall specify therein the parties entitled to appeal the decisions, which parties shall have the right to appeal to the circuit court for review by filing a petition at law, setting forth the alleged illegality of the action of the governing body, provided the petition is filed within thirty days after the final decision is rendered by the governing body. The filing of the petition shall stay the decision of the governing body pending the outcome of the appeal to the court, except that the filing of the petition shall not stay the decision of the governing body if the decision denies the right to raze or demolish a historic landmark, building or structure. The court may reverse or modify the decision of the governing body, in whole or in part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the governing body.

In addition to the right of appeal hereinabove set forth, **the owner** of a historic landmark, building or structure, the razing or demolition of which is subject to the provisions of subdivision 2 of this subsection, **shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that:** (i) he has applied to the governing body for such right, (ii) the owner has for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell the landmark, building or structure, and the land pertaining thereto, to the locality or to any person, firm, corporation, government or agency thereof, or

political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the court from the decision of the governing body, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the governing body, but thereafter the owner may renew his request to the governing body to approve the razing or demolition of the historic landmark, building or structure. The time schedule for offers to sell shall be as follows: three months when the offering price is less than \$25,000; four months when the offering price is \$25,000 or more but less than \$40,000; five months when the offering price is \$40,000 or more but less than \$55,000; six months when the offering price is \$55,000 or more but less than \$75,000; seven months when the offering price is \$75,000 or more but less than \$90,000; and twelve months when the offering price is \$90,000 or more.

4. The governing body is authorized to acquire in any legal manner any historic area, landmark, building or structure, land pertaining thereto, or any estate or interest therein which, in the opinion of the governing body should be acquired, preserved and maintained for the use, observation, education, pleasure and welfare of the people; provide for their renovation, preservation, maintenance, management and control as places of historic interest by a department of the locality or by a board, commission or agency specially established by ordinance for the purpose; charge or authorize the charging of compensation for the use thereof or admission thereto; lease, subject to such regulations as may be established by ordinance, any such area, property, lands or estate or interest therein so acquired upon the condition that the historic character of the area, landmark, building, structure or land shall be preserved and maintained; or to enter into contracts with any person, firm or corporation for the management, preservation, maintenance or operation of any such area, landmark, building, structure, land pertaining thereto or interest therein so acquired as a place of historic interest; however, the locality shall not use the right of condemnation under this subsection unless the historic value of such area, landmark, building, structure, land pertaining thereto, or estate or interest therein is about to be destroyed.

The authority to enter into contracts with any person, firm or corporation as stated above may include the creation, by ordinance, of a resident curator program such that private entities through lease or other contract may be engaged to manage, preserve, maintain, or operate, including the option to reside in, any such historic area, property, lands, or estate owned or leased by the locality. Any leases or contracts entered into under this provision shall require that all maintenance and improvement be conducted in accordance with established treatment standards for historic landmarks, areas, buildings, and structures. For purposes of this section, leases or contracts that preserve historic landmarks, buildings, structures, or areas are deemed to be consistent with the purposes of use, observation, education, pleasure, and welfare of the people as stated above so long as the lease or contract provides for reasonable public access consistent with the property's nature and use. The Department of Historic Resources shall provide technical assistance to local governments, at their request, to assist in developing resident curator programs.

B. Notwithstanding any contrary provision of law, general or special, in the City of Portsmouth no approval of any governmental agency or review board shall be required for the construction of a ramp to serve the handicapped at any structure designated pursuant to the provisions of this section.

C. Any locality that establishes or expands a local historic district pursuant to this section shall identify and inventory all landmarks, buildings, or structures in the areas being considered for inclusion within the proposed district. Prior to adoption of an ordinance establishing or expanding a local historic district, the locality shall (i) provide for public input from the community and affected property owners in accordance with § [15.2-2204](#); (ii) establish written criteria to be used to determine which properties should be included within a local historic district; and (iii) review the inventory and the criteria to determine which properties in the areas being considered for inclusion within the proposed district meet the criteria to be included in a local historic district. Local historic district boundaries may be adjusted to exclude properties along the perimeter that do not meet the criteria. The locality shall include only the geographical areas in a local historic district where a majority of the properties meet the criteria established by the locality in accordance with this section. However, parcels of land contiguous to arterial streets or highways found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures, or districts therein, or in a contiguous locality may be included in a local historic district notwithstanding the provisions of this subsection.

1973, c. 270, § 15.1-503.2; 1974, c. 90; 1975, cc. 98, 574, 575, 641; 1977, c. 473; 1987, c. 563; 1988, c. 700; 1989, c. 174; 1993, c. 770; 1996, c. [424](#); 1997, cc. 587, [676](#); 2009, c. [290](#); 2011, c. [237](#); 2012, c. [790](#).

**Cape Charles Article VIII
Summary of Changes Made and Reasons
November 16, 2020**

Generic Change

- Changed language away from specific gender.

Section 8.3 Inventory of Landmarks and Contributing Properties Established

- Implemented Guiding Principle #6.
- Changed the period of significance from 1880s-1940 (approximately 50 years before first survey was taken) to 1880s-1964 (opening of the Chesapeake Bridge-Tunnel) that would be in agreement with the amended (2019) National Register's period of significance.
- The national register district boundary map is different (smaller footprint) than the district map adopted by the Town. Therefore, addressed housing and structures not listed in the national register. Housing and structures built before 1965 would be considered 'contributing' unless applicants have additional information that the board could consider otherwise.
- Changes between these national register survey lists are as follows to allow perspective on the degree of change in register inventory;

Classifications	Contributing homes	% change against initial contributing total (526)	Contributing 'Structure'	Non-contributing homes	Non-contributing 'structures'
National Register (period – 1940)	526		3	38	0
1.Contributing Deleted ' Demolished'	-52	-10%			
2.Contrib. deleted 'Other'	-44	-8%			
3.Non-contrib deleted ' Demolish'				-1	
4.Non-contrib deleted 'other'				-9	
5.Contributing added	42	+8%			
6.Non-contributing added				37	
7.Contributing to non-contributing	-13	-2%		13	
8.Non-contributing to contributing	15	+3%		-15	
9.Contributing structure added			1		
10.Non-contributing structure added					7
11.Contributing structure deleted			-2		
12.Non-contributing structure deleted					0
13.Accessory added to contributing			106		
14.Accessory added to non-contributing				168	
National Register (period – 1964) corrected	474	-10%	108	231	7

Section 8.9 Historic District Review Board Qualifications

- Change made to provide agreement with HDRB by-laws.

Section 8.14, Historic District Review Board: Powers and Duties

Cape Charles Article VIII
Summary of Changes Made and Reasons
November 16, 2020

- Changed ‘adopt standards’ to ‘adopt standards and guidelines’ which is what the Historic District Design Guidelines actually contain (i.e., extraction of the Secretary of the Interior’s rehabilitation standards and additional town guidelines).

Section 8.16, Certain Minor Actions Exempted from Review by the Historic District Review Board.

- Implemented **partial** Guiding Principle #13.
- Added a number of minor actions that can be taken care of by the Zoning Administrator. This is based on a survey taken of other historic districts’ exemptions. One of the more significant items is for the ZA to review demolition of non-contributing structures.
 - ~~Any changes to a structure (contributing and noncontributing) that are not visible from a public street or public place, i.e., alteration that is obscured by fencing, landscaping, non-historic additions, or other impermanent obstructions.~~ [Not accepted by HDRB November 4, 2020] Alternate wording proposed below.
 - Minor additions or deletions to an existing building which are not subject to public view and which will not significantly alter the character of the building. *[Example from Herndon and Smithfield. Many other cities/towns exclude anything not visible.]*
 - ~~Fences in rear and side, new or replacement, and decks in rear,~~ [Determined that HDRB guidelines do have criteria for fences]
 - Covered by other zoning ordinance requirements as administrated by the Zoning Administrator unless altered by the overlay ordinance, or
 - ~~Receiving historic preservation tax credits through state or federal offices,~~ [Not accepted by HDRB November 4, 2020]
 - ~~Demolition of non-contributing buildings or structures~~ [addressed in Section 8.18]
 - Alterations or repairs to a building or structure for the purpose of temporary emergency stabilization.

Section 8.18, Approval of Historic District Review Board Required

- Included the limitation of the HDRB to review of razing or demolition of contributing buildings and structures only.
- Changed new accessory buildings as substantial work to ‘new permanent accessory building requiring a building permit’. Currently building permits are not required for accessory structures below 256 sq. ft. If a permit is not required, then HDRB review is not required.
- Deleted as an example of work constituting ‘substantial alterations’ any alteration of the exterior color scheme of the structure. Although the design guidelines have general criteria for painting and the number of colors suggested to use, the actual color palate has not been a subject of review at board meetings. Therefore, drop this element.

Section 8.19 Certificate of Appropriateness

- Currently, COAs have been issued by Town staff. Added clarification that it is ‘on behalf’ of HDRB.