



PLANNING COMMISSION
Public Hearing and Regular Meeting
Cape Charles Civic Center
October 5, 2021
6:00 p.m.

At 6:00 p.m., Chairman Bill Stramm, having established a quorum, called to order the Public Hearing and Regular Meeting of the Planning Commission. In addition to Chairman Stramm, present were Commissioners Kenneth Butta, Diane D'Amico, Paul Grossman, Dennis McCoy, and Jim Holloway. Michael Strub participated via telephone. Also, in attendance were Interim Planning/Zoning Administrator Katie Nunez, Planning Technician Tracy Outten, Town Clerk Libby Hume, and the applicants. There were two members of the public in attendance and twenty-two viewers on Facebook Live.

A moment of silence was observed which was followed by the recitation of the Pledge of Allegiance.

AGENDA

Motion made by Paul Grossman, seconded by Jim Holloway, to approve the Consent Agenda as presented. The motion was approved by unanimous vote.

Chairman Bill Stramm read the Notice of Public Hear and opened the public hearing.

PUBLIC HEARING:

- A. *A Conditional Use Permit application from Renato & Jody Lucatello at 602 Tazewell Avenue (Tax Map #83A3-1-448) in the Residential-1 Zoning District for an accessory dwelling unit pursuant to Cape Charles Zoning Ordinance Section 3.2 (C) (7) & 4.2 (J)*

Katie Nunez read the staff report. Paul Grossman thought all requirements were covered for an accessory dwelling unit but the requirements for an accessory structure were not.

The commissioners asked the owner, Renato Lucatello, if the height was known, no.

Renato Lucatello said that the area above the garage would be used as a residence when he came to town as the main house was a vacation rental. He added that the future plan was for him and his family to move her and then, the accessory dwelling unit would be used as a long-term rental.

There were no public comments to be heard nor any written comments submitted prior to the meeting for this application.

Motion made by Kenneth Butta, seconded by Paul Grossman, to recommend Town Council approval of an Conditional Use Permit for an Accessory Dwelling Unit at 602 Tazewell Avenue on an application filed by Renato and Jody Lucatello, pursuant to Cape Charles Zoning Ordinance Sections 3.2 (C) (7) and 4.2 (J) with the following conditions: (1) the applicant applies and obtain Historic District Review Board approval for all exterior improvements, in accordance with the Historic District Overlay and Guidance Documents; and (2) the applicant obtains all required permits and approvals from the Building and Planning Departments; and further finds that the Conditional Use Permit (CUP) standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan. The motion was approved by majority vote with Diane D'Amico opposing.

Diane D'Amico has done research and the zoning ordinance can be interpreted in different ways. She thought accessory dwelling units were supposed to be affordable housing or workforce housing not short-term rentals; and other localities have put terms in their ordinances. Paul Grossman explained that our ordinance's intent was not for short-term rentals; that was why applicants had to sign an affidavit stated that someone was to be staying or renting for at least thirty-days. After much discussion on accessory dwelling units not being used as intended, Dennis McCoy stated that this was not the forum nor time to discuss these issues.

Katie Nunez would like to address some concerns and said that she would write in the staff report to Town Council that they include the Planning Commission's recommendations as conditions to the approval.

- B. *A Conditional Use Permit application from Susan, John & Kelly Robinson at 206A Jefferson Avenue (Tax Map #83A1-1-220) in the Residential-1 Zoning District for an accessory dwelling unit pursuant to Cape Charles Zoning Ordinance Section 3.2 (C) (7) & 4.2 (J)*

Katie Nunez said this was an after-the-fact approval and read the staff report.

Paul Grossman asked if a prior conditional use permit was received; no, this would be an approval after the fact. He wanted to know if the commission had the ability to approve this knowing it does not comply and violated the current ordinance; yes. There was some discussion on this matter.

Susan Robinson, applicant, explained that this building has been rented for the past twenty-five years and they were unaware of this issue when they purchased the residence. She apologized and said they would be live in the main house and rent the accessory dwelling unit long-term.

There were no public comments to be heard nor any written comments submitted prior to the meeting for this application.

Motion made by Paul Grossman, seconded by Jim Holloway, to recommend Town Council approval of an Conditional Use Permit for an Accessory Dwelling Unit at 206A Jefferson Avenue on an after-the-fact approval on an application filed by Susan, John, and Kelly Robinson, pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) with the following condition: (1) the applicant obtains a Certificate of Occupancy thru the Building Department for this Accessory Dwelling Unit; and that the applicant has expeditiously applied for this permit after the fact for this structure upon notification as the new owners of this property as of May 3, 2021. The motion was approved by unanimous vote.

- C. *A Conditional Use Permit application from Jose & Diana Gonzalez at 325 Madison Avenue (Tax Map #83A1-1-191) in the Residential-1 Zoning District for an accessory dwelling unit pursuant to Cape Charles Zoning Ordinance Section 4.2 (J)*

Katie Nunez said this was another after-the-fact approval and read the staff report.

Discussion and questions were as follows: (i) Paul Grossman asked if the proposed frame garage superseded by the hand drawn structure in the packet. Diane Gonzalez answered that the hand drawing depicts the actual accessory dwelling unit. (ii) Paul Grossman asked if a stove was needed for the room to be called a kitchen, no. He then asked if this structure had been issued a Certificate of Occupancy; no. (iii) Diane D'Amico asked why the applicant did not receive a Conditional Use Permit because the ordinance was in place and then asked if there was a fine associated with not having the correct permits. Jose Gonzalez said they never intended to do anything wrong. Katie Nunez said that the accessory dwelling unit

ordinance had not been written. and (iv) Diane D'Amico said that accessory dwelling units were intended to be used as affordable housing or workforce housing; not for the owners to live in while they rented their main house as a vacation rental. She thought the commissioners needed to keep that in mind when making decisions or recommendations.

Katie Nunez read a statement submitted by Diana Gonzalez, the applicant, pertaining to parking. (Please see attached.)

Planning Technician Tracy Outten read comments submitted in writing prior to the meeting. (Please see attached.)

Motion made by Jim Holloway, seconded by Dennis McCoy, to recommend Town Council approval of an Conditional Use Permit for an Accessory Dwelling Unit at 325 Madison Avenue on an after-the-fact approval on an application filed by Jose and Diane Gonzalez, pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) with the following condition: (1) the applicant obtains a Certificate of Occupancy thru the Building Department for this Accessory Dwelling Unit; and further finds that the Conditional Use Permit (CUP) standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan and that the applicant has expeditiously applied for this permit after the fact for this structure upon notification that a CUP is required for an accessory dwelling unit. The motion was approved by majority vote with Diane D'Amico opposing.

D. A Conditional Use Permit application from Michael Ryan and Donna Lee Wilkins at 654 Monroe Avenue (Tax Map #83A3-1-323) located in the Residential-1 Zoning District for an accessory dwelling unit pursuant to Cape Charles Zoning Ordinance Section 4.2 (J)

Katie Nunez read the staff report and added that additional material was received just before the meeting. Paul Grossman asked why this was an after-the-fact application if items could not be addressed. Katie Nunez answered that this was an existing structure.

Paul Grossman wanted to know how parking was being handled. Donna Wilkins, applicant, said parking was available in front of the garage, in the alley way, and on the street. Paul Grossman would like parking to be addressed in the staff report provided to the Town Council.

Donna Wilkins said they were new to the town and ignorantly rented the garage after buying the property because the realtor said it was okay.

Motion made by Jim Holloway, seconded by Dennis McCoy, to recommend Town Council approval of an Conditional Use Permit for the conversion of an Accessory Dwelling Unit at 654 Monroe Avenue on an application filed by Michael Ryan and Donna Lee Wilkins, pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) with the following condition: (1) the applicant obtains a Certificate of Occupancy thru the Building Department for this Accessory Dwelling Unit; and further finds that the Conditional Use Permit (CUP) standards in Section 4.3 are satisfied and that the issuance of the CUP is in general accord with the current Comprehensive Plan. The motion was approved by majority vote with Diane D'Amico opposing.

There were no public comments to be heard nor any written comments submitted prior to the meeting for this application.

Motion made by Jim Holloway, seconded by Paul Grossman, to close the public hearing portion of the Planning Commission meeting at 7:33 p.m. The motion was approved by unanimous vote.

CITIZEN COMMENTS:

There were no citizen comments to be heard nor any written comments submitted prior to the meeting.

Bill Stramm suggested scheduling a work session on Accessory Dwelling Units.

UNFINISHED BUSINESS

A. *Continued discussion and review of proposed amendments to the Planning Commission's Bylaws, including the Appendices to the Bylaws:*

1) *Citizen Participation Guidelines adopted by Town Council on 7/22/2021*

2) *Code of Ethics and Meeting Rules of Order adopted by Town Council on 7/22/2021*

Bill Stramm made a correction on page 5 to Article 8 Order of Business that "Public Hearing" needed to be moved before "Unfinished Business".

Motion made by Paul Grossman, seconded by Jim Holloway, to approve the amended Planning Commission's Bylaws, including the Appendices to the Bylaws: (1) Citizen Participation Guidelines adopted by Town Council on 7/22/2021; and (2) Code of Ethics and Meeting Rules of Order adopted by Town Council on 7/22/2021 with the revision on Page 5 and any grammatical errors necessary. The motion was approved by unanimous vote.

NEW BUSINESS

A. *Schedule public hearings for the following Conditional Use Permit Applications:*

1. *410 Harbor Avenue (Tax Map #83A3-2-8-7): Sam & Amy Scharpf – An accessory dwelling unit pursuant to CCZO Section 3.2 (C) (7) & 4.2 (J)*

Katie Nunez summarized the staff report.

Motion made by Paul Grossman, seconded by Kenneth Butta, to schedule a public hearing on November 9, 2021 for a Conditional Use Permit for an Accessory Dwelling Unit at 410 Harbor Avenue on an application filed by Sam and Amy Scharpf, pursuant to Cape Charles Zoning Ordinance Sections 3.2 (C) (7) and 4.2 (J). The motion was approved by unanimous vote.

2. *Randolph Avenue (Tax Map #83A4-1-B-26,27,28, &29): Tom & Katie Austin – A Mini Golf Course pursuant to CCZO Section 3.8 (B) (2) as determined by the Planning Commission at their meeting on 2/2/2021*

Katie Nunez summarized the staff report.

Motion made by Paul Grossman, seconded by Dennis McCoy, to schedule a public hearing on November 9, 2021 for a Conditional Use Permit for a Mini-golf Course on Randolph Avenue for Tax Map #83A4-1-B-26, #83A4-1-B-27, #83A4-1-B-28, and #83A4-1-B-29 on an application filed by Tom and Kate Austin, pursuant to Cape Charles Zoning Ordinance Section 3.8 (B) (2), as determined by the Planning Commission at their meeting on 2/2/2021. The motion was approved by unanimous vote.

B. *Review and Adopt the November 1, 2021 thru October 31, 2022 Meeting Calendar*

Bill Stramm said the November 2022 date needed to be changed due to Election Day.

Motion made by Paul Grossman, seconded by Jim Holloway, to approve the November 1, 2021 thru December 31, 2022 Meeting Calendar as presented with the correction of the November 2022 meeting date. The motion was approved by unanimous vote.

C. *Appointment of Planning Commission member to the Harbor Area Review Commission*

Motion made by Paul Grossman, seconded by Bill Stramm, to appoint Kenneth Butta to serve as the Planning Commission representative on the Harbor Area Review Board. The motion was approved by unanimous vote.

REPORT OF OFFICERS AND COMMITTEES

Bill Stramm informed the Commissioners that a Request for Proposal was posted for the comprehensive plan consulting work.

STANDING STAFF REPORTS

Katie Nunez gave updates on the following: Three subdivisions: (i) Dreams by the Bay, Bay Creek Village L – Phase 1A – 19 lots, and Bay Creek Recombo Master Plat; and (ii) Northampton County was hearing comment on an application to rezone four parcels from TE-1-Town Edge 1 to TE-CG-Town Edge – Commercial General on Lankford Highway for retail space. After some discussion, the Planning Commission would like a letter written to the Northampton County Planning Commission stating that a Virginia Department of Motor Vehicles Study needs to be provided and more information was needed a what would be in the retail space.

Bill Stramm said there were a lot of accessory dwelling units in Bay Creek.

ANNOUNCEMENTS

- Public Hearing & Regular Session – November 9, 2021, at 6:00 p.m. in the Civic Center
- Comprehensive Plan Work Sessions from 3:00 p.m. – 5:00 p.m. in the Civic Center:
 - November 15, 2021: Land Use (Ken Butta/Jim Holloway)
 - December 20, 2021: Community Facilities (Diane D'Amico)

Motion made by Jim Holloway, seconded by Dennis McCoy, to adjourn the Planning Commission Public Hearing and Regular Meeting at 8:21 p.m. The motion was approved by unanimous vote.

Chairman Bill Stramm

Planning Technician

October 5, 2021 Planning Commission Applicant Comments & Public Hearing Comments

Subject: Public Hearing Tuesday 10/5/21

My name is Diana Gonzalez. My husband and I own and reside at 325 Madison Avenue. We have applied to have our accessory building rezoned as an accessory dwelling.

After submitting all the relevant paperwork and fees, it occurred to me that one sticking point might be the issue of parking - which is to be decided on a case-by-case basis, according to what I have read.

Therefore I'd like to point out that our situation is rather unique. We live on the only block of Madison Avenue which faces Park Row. As a result, all the houses across the street from us have on-street parking on Park Row and additional rear-loading driveways on Madison Avenue.

On our side of the street, we are the only vacation rental home on the block. None of our neighbors rent out their homes, and all have created off-street parking for their vehicles. The only exception is our only adjacent neighbor, Mrs. Janet Dudley, who parks her car on the street in front of her house. Our house manual specifically forbids our guests from taking that space, a rule all guests have honored since we built 4 years ago.

We estimate there to be about 7-8 parking spaces on each side of our block that don't interfere with driveways, so 14-16 total. Our house rental typically uses 3 or 4. We own 1 car. As such, we do not believe we put undue pressure on the parking situation on our block, although we do encourage any renters that bring boats to park them on the empty lot we also own simply to keep traffic flowing smoothly.

Therefore, we hope you will not consider parking a negative factor when considering our accessory dwelling application.

Thank you

Diana Gonzalez

Janet Dudley

Subject: dwelling permit 325 Madison Avenue

My name is Janet Dudley and I Live at 303 Madison Avenue, I totally support Jose & Diana Gonzalez's request to have their tiny house as a "dwelling" they have been stellar neighbors, and whomever "turned them in for living there" have nothing better to do, obviously they need to get a hobby other than trying to create havoc where none exist.

The Gonzalez's have not committed any crimes they do not create any noise ordinances, they keep their property in good condition, they keep their rental property and guest informed about all town restrictions, and they don't have any dogs that bark all the time (in fact most of the neighbors have dogs including me and they spoil mine all they time).

So good for them for bring good neighbors, and give them that permit.

Respectively Submitted:

Janet Dudley

Edmund Sabo

Subject: 325 Madison Avenue

Town of Cape Charles

ATTN: Zoning Commission

Sir or Ma'am:

I am writing this letter in support of Jose and Diana Gonzalez' request to convert an Accessory Building to an Accessory Dwelling at their address, 325 Madison Avenue. I have reviewed the applicable town ordinances and feel that they have fulfilled all the requirements necessary to do so. It is my understanding that they intended to originally classify the structure as an Accessory Dwelling, and not doing so was just an administrative error.

I have lived next to the Gonzalez' fulltime for more than a year and have had no issues with them or their tenants. Quite the opposite, since Jose and Diana live on the property with their rental house, they are immediately available if their renters have an issue; much better than if the house was owned by an absentee landlord, or managed by a company which may have multiple units to care for. Also, since Jose and Diana live on site, they are members of our community not just landlords. They are engaged in our neighborhood and town happenings. Jose and I meet regularly to talk, borrow tools, help move heavy items, all things good neighbors do. He is sure to ask if I have any concerns about his guests, but to date his tenant selection process has been exceptional. I am confident I could discuss any issue with the Gonzalez' and come to an understanding.

I fully support Jose and Diana's request to convert their Accessory Building to an Accessory Dwelling and permit them to continue living on site.

Sincerely,
Edmund J Sabo II
Lucky Dog Cottage
325 Madison Avenue
540-905-2237

The Pattans

Subject: Testimony re 325

Madison

To whom it may concern:

I am writing on behalf of our neighbors at 325 Madison Ave Cape Charles VA 23310. We recently became aware of complaints lodged against Jose and Diane and their residence in the accessory building and were shocked that anyone was able to find a reason.

Having owned property and been neighbors since 2018, I can only say good things about the people, the property, and the business they run. In a small town, Jose and Diane have found a way to enjoy their time together while promoting the town, hosting tourists, and running a small business out of their home. Small business owners should be applauded for their efforts and ingenuity, not reported and scolded for using their property in a way they see fit that is not intrusive or disruptive to the neighborhood.

I'm unfamiliar with the letter of the law, though am certain the spirit of the law and common sense would find that Jose and Diane's situation is in no way a disruption or impediment to the neighborhood or broader town and should not be deemed a violation.

The Pattans
522 Strawberry Street

Jeanne Hollister

Subject: Public Hearing for 325 Madison Avenue Accessory Dwelling

Good afternoon,

We would like to submit this letter on behalf of our neighbors, Jose and Diana Gonzalez of 325 Madison Avenue, who have a scheduled public hearing regarding their accessory dwelling behind their rental property. We don't see any problem with Jose and Diana using this dwelling to live in as it is practical for them to live there while they keep an eye on and maintain their rental property.

Let us begin by sharing with you that the Gonzalez property is behind our home on Park Row, and we could not ask for better neighbors! They go over and above for everyone in our immediate neighborhood. We are scheduled to move permanently to Cape Charles this month; however, Jose Gonzalez has been kind enough to move our trash can back into our yard when we are not in town for over four years now. We never asked for this favor; he just began doing this for us. He also does the same for two other part-time residents. We can't tell you how many times we have seen the Gonzalezes policing the street for trash (candy wrappers, empty cups, cans, bottles, etc.), no doubt caused by visitors to our town park.

They fanatically maintain their property and the surrounding area. Due to the fact that they are "on-site," the Gonzalezes have done nothing but keep their home and yard in tip-top shape. They personally manage the repair of their sidewalk, paths around their home, lawn care, landscaping and their side property used for additional parking. The Gonzalezes were so concerned for their neighbors, that they paid to create additional parking for all their house guests so that there are plenty of available spots for all, including the many visitors to our town park.

Their rental home on Madison Avenue, Family Reunion, enjoys many visitors, thanks to the wonderful care they put forth daily. The Gonzalezes do much of the cleaning of this property themselves (makes economic sense for a healthy, active retired couple) and take tremendous effort to make certain their guests have a wonderful, memorable experience while visiting our little town. Thanks to all their immediate and thoughtful attention, The Family Reunion symbolizes the special place that we all here in town want Cape Charles to be for our visitors. Their daily upkeep does nothing but enhance the charm and stellar reputation that Cape Charles has with families who are seeking our town's unique experience.

Diana and Jose are great neighbors. They are always cheerful, pleasant, POSITIVE, and upbeat and highly concerned with our beautiful town. It is quite an asset for all of us to have them right here in town 24/7 to personally maintain their rental home.

If we can provide you any further insight in this matter for the public hearing, please do not hesitate to contact us.

Kindest regards,

Michael and Jeanne Hollister
7 Park Row