BOARD OF ZONING APPEALS
Agenda
May 21, 2015
9:30 A.M.
Cape Charles Civic Center
500 Tazewell Avenue

1. Call to Order; Roll Call

2. Invocation and Pledge of Allegiance

3. Public Comments

4. Consent Agenda
A. Approval of Agenda Format
B. Approval of Minutes of January 7, 2015

5. New Business
A. Variance Application – 119 Fig Street – New accessory building and setback requirements; general lot coverage.
B. Informational presentation by Cape Charles Baptist Church for proposed parking lot addition.

6. Adjourn

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Board of Zoning Appeals

Public Hearing & Meeting

Cape Charles Civic Center
January 7, 2015
4:00 p.m.

At 4:00 p.m. in the Cape Charles Civic Center, Chairman Gene Kelly called to order the Board of Zoning Appeals Public Hearing and Meeting. In attendance were Board members Pete Baumann, Bill Murphy and Jay Wiegner. There was currently one vacancy on the Board. Also present were Interim Town Manager Bob Panek, Assistant Town Clerk Amanda Hurley and applicant Don MacLennan. There were no members of the public in attendance.

Gene Kelly led the Board in the recitation of the Pledge of Allegiance.

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

CONSENT AGENDA
Motion made by Jay Wiegner, seconded by Gene Kelly to accept the agenda format as presented. The motion was approved by unanimous consent.

The Board reviewed the minutes from the April 7, 2014 meeting and the April 14, 2014 reconvened meeting.

Motion made by Pete Baumann, seconded by Gene Kelly, to approve the minutes from the April 7, 2014 and April 14, 2014 meetings as presented. The motion was unanimously approved.

NEW BUSINESS
Variance Application – Bay Creek Nicklaus Golf Course
Holes 4 and 5 of the Bay Creek Nicklaus Golf Course had sustained substantial erosion from various storms and needed to be reinforced to prevent further loss. This section of the golf course was within the Resource Protection Area (RPA) governed by Article VII – Chesapeake Bay Preservation Area Overlay District of the Cape Charles Zoning Ordinance. As this was not a water dependent facility, it was not permitted in the RPA. However, the project could be considered via the exception process, § 7.15 of the Zoning Ordinance.

The applicant was proposing to build a bulkhead to protect the area from further damage. The estimated cost of the project was $1.2M.

Mr. MacLennan pointed out that plans were submitted to the Town for erosion control measures and approval could only be made by the Board of Zoning Appeals.

Gene Kelly stated that he did not have any objections.

Bill Murphy asked if there had been any other requests for bulkheads from waterfront property owners within the Town. Bob Panek responded that there had been two offshore breakwaters, but they were constructed on State property.

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Bill Murphy pointed out that there were many limitations on what could be done on the Bay Creek beach due to the Northeastern Beach Tiger Beetles. Mr. MacLennan stated that this project would have no impact to the beach.

Mr. MacLennan stated that the pile driven bulkhead would be underground in some areas and would be covered by vegetation in others.

Bob Panek clarified that this application was not an appeal, it was an exception to the Zoning Ordinance.

Motion made by Gene Kelly, seconded by Jay Wiegner, to approve the variance application for Bay Creek Nicklaus Golf Course as presented. The motion was approved by unanimous consent.

Motion made by Gene Kelly, seconded by Pete Baumann, to adjourn the Board of Zoning Appeals Meeting. The motion was approved by unanimous consent.

_____
Chairman Gene Kelly

_____
Assistant Town Clerk

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Board of Zoning Appeals Staff Report

From: Larry DiRe

Date: May 21, 2015

Item: 5A - Variance Application – 119 Fig Street

Attachments: Application, survey plat\site plan, general vicinity lot map, accessory building drawings

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Background

This lot is in the Residential-1 zoning district, the main building is a contributing structure to the Town of Cape Charles Historic District, and is not a standard lot shape of 40 x 140 (5600) square feet. The lot in question is 35.30 feet across the front, and 80 feet deep on each side (2824 square feet). A previously existing accessory building, identified on the survey plat\site plan as "metal garage" was located on a foot print that does not conform to the required setbacks for an accessory building. Accessory use buildings are a by-right use on conforming lots in the Residential-1 district.

Application Specifics

The applicant intends placing a new accessory building on the foot print of the previously existing metal garage. As shown on the survey plat\site plan, the metal garage footprint is slightly inside the side and rear property lines. Section 4.2.E addresses accessory use buildings in all residential districts and states the following:

"The following restrictions shall apply to accessory buildings located in residential districts. [adopted 1/2006] 1. The accessory building shall not be located in a front or side yard. 2. The accessory building shall not be closer than five feet (5') to any alley line. 3. The accessory building shall not be closer than two feet (2') to any side or rear lot line. 4. The accessory building shall not be closer than fifteen feet (15') from the main building. 5. A two-story building shall not be located any closer than five feet (5') to any lot line. 6. The sum of the footprint square footage (SF) of all buildings on the lot shall be less than 50% of the total lot SF. 7. Where total lot frontage on one (1) or more lots owned by the same party is less than eighty feet (80'), the sum of the footprint of all accessory buildings shall be less than the footprint of the primary residence or 550 SF whichever is lesser. 8. Where total lot frontage of one (1) or more lots owned by the same party is greater than or equal to eighty feet (80'), the sum of the footprint of all accessory buildings shall be less than the footprint of the primary residence or 660 SF, whichever is lesser. 9. Where the main structure possesses no more than one story above grade, no accessory structure shall be higher than the main structure. 10. Where the main structure possesses more than one story above grade, no accessory structure shall be higher than two-thirds the height of the main structure or twenty-four feet (24'), whichever is lesser. 11. Temporary Family Health Care Structures are only allowed per § 15.2-2292.1 of the Code of Virginia."

Considering the limited possible locations on this lot, and the general intent "to promote and encourage a suitable environment for family life" of the Residential-1 district ordinance, requiring the applicant to meet the restrictions of Section 4.2.E substantially removes the already limited back yard area.

Variance Criteria

Section 2.9 of the Zoning Ordinance states the following definition of variance:

> "*the permission to depart from the literal requirements of this zoning ordinance. A variance is a relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, size of structure, or size of yards and open spaces. Establishments or expansions of a use otherwise prohibited shall not be allowed by a variance, nor shall a variance be granted because of the presence (or existence) of non-conformities in the zoning district or adjoining districts*."

Section 2.6.2 B of the Zoning Ordinance states the following guidance in determining the basis for variance:

> *"When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size, or shape of specific piece of property at the time of the adoption of this ordinance, or where by reason of exceptional topographical conditions or other extraordinary situation or condition of such piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of this ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrated hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant. All variances shall be in harmony with the intended spirit and purpose of the ordinance."*

Section 2.6.2 B of the Zoning Ordinance provides the following guidance in determining the need to grant variances:

> *"No such variance shall be authorized by the board unless it finds all of the following conditions exist:*
>
> 1. *That the strict application of the ordinance would produce undue hardship.*
> 2. *That such hardship is not shared generally by other properties in the same zoning district and the same vicinity*
> 3. *That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance."*

Staff worked with the applicant to determine the location of the accessory building. The following items should be considered in meeting all three criteria cited above.

1. The width of the lot is less than 40 feet and is considerably narrower than many of the lots in the general vicinity. The house and driveway consume the entire width of the lot to the depth of the lot to the shallow and narrow back yard. This leaves the applicant with no other location except the back yard since “the accessory building shall not be located in a front or side yard.”
2. The depth of the lot is less than 140 feet and is considerably shallower than many other lots in the general vicinity. The lots immediately north and south of the applicant share similar narrow and shallow dimensions.
3. The variance may not be a substantial detriment to the neighborhood. It would put an accessory use building on the same foot print as the previously existing accessory building. In fact, the accessory building drawings provided show a materially superior structure to the one previously there, with no substantive change in square footage coverage to the previous building. Adding an accessory use building to a residential lot will not change the character of the district.
4. A variance for this applicant may not be contrary to the public interest owing to the limited width and depth of the property and not resulting from any action of this applicant.
5. To grant a variance, all three conditions cited above must exist.

Recommendations

1. Determine if all three of the conditions outlined in Section 2.6.2 B of the Zoning Ordinance exist.
2. Determine if the Board of Zoning Appeals will issue a variance for the setback and percentage of lot coverage per Section 4.2.E.

MUNICIPAL CORPORATION OF CAPE CHARLES, VIRGINIA

Application for Zoning Variance

Date April 20/2015

Permit No._____
Fee $250.00

Applicant Herbert A Thomas Jr Signature Herbert A Thomas Jr
Address 119 Fig ST Cape Charles, VA 23310 Telephone 442-7329 Home
710-708-2 Cell

Owner Herbert Thomas Jr
Address 119 Fig ST City Cape Charles State VA ZIP Code 23310

Contractor G.A. Kennedy
Address_____ City_____ State_____ ZIP Code_____
Town License No._____ State License No._____

Location of Improvement Back of YARD
Lot No._____ Block No._____ Lot Size_____ Lot Area 27 X 424 LOTS
Type of Improvement SHED
Proposed Use Store Tools, Bikes ECT
Estimated Construction Costs 8,000 TO 10,000 DOLLARS

Dimension of Structure or Improvement Width 10'+or- Length 18'+- Height 16' to 18'
Total Square Footage 180 SQFT

Structure or Improvement will be set back

- 7 from front property line
- 7 from side property line
- ___ from side property line on corner lot
- 0 from rear property line

Replace on old FOOT PRINT

Town Water Permit_____ Town Sewer Permit_____

CERTIFICATION OF APPLICANT

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.

Signature of Owner/Agent Herbert A Thomas Jr

BUILDING PERMIT

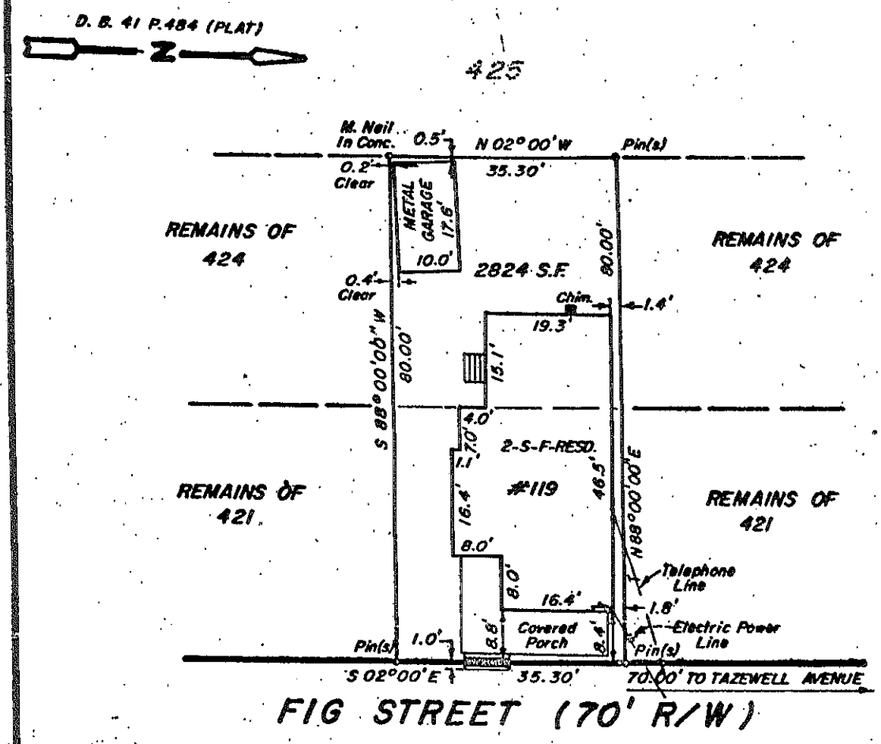
Issuance of the Zoning Variance in itself does not permit the applicant, owner, or contractor to proceed with the improvements noted above. Improvements can proceed only after issuance of a building permit from the Cape Charles Building Official, whose office is in the Municipal Building at 2 Plum Street in Cape Charles and who can be reached at 757-331-2176.

Date Approved_____ Date Denied_____

Zoning Administrator_____

THIS IS TO CERTIFY THAT I, ON 29 JANUARY 1990 SURVEYED THE PROPERTY SHOWN ON THIS PLAT, AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS ARE AS SHOWN ON THIS PLAT.
THE BUILDINGS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY, EXCEPT AS SHOWN.

SIGNED Bruce B. Gallup C.L.S.



NOTE: THE PROPERTY SHOWN HEREON APPEARS TO FALL INSIDE ZONE "C" AS SHOWN ON H. U. D. FLOOD HAZARD MAP PANEL #510106 0001 B EFFECTIVE DATE FEBRUARY 2, 1983.

RESUBDIVISION
AND
PHYSICAL SURVEY
OF PART OF

LOTS 421 AND 424

PLAT OF
MAP OF TOWN OF

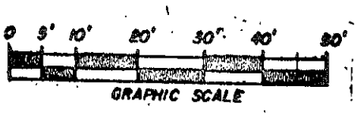
"CAPE CHARLES"

D.B. 41 P. 484 (PLAT)

CAPE CHARLES
CAPEVILLE DISTRICT
NORTHAMPTON COUNTY, VA.

SCALE: 1" = 20' 29 JANUARY 1990

MADE FOR
TERESA B. FREDERIKSEN



COMMONWEALTH OF VIRGINIA
BRUCE B. GALLUP
No. 1108
LAND SURVEYOR

EASTERN SHORE SURVEYORS, LTD.
P.O. BOX 456
BELLE HAVEN, VIRGINIA 23306
(804) 442-4418

2053-90

C.C. K.3 13.1
F.B. 32 P. 2

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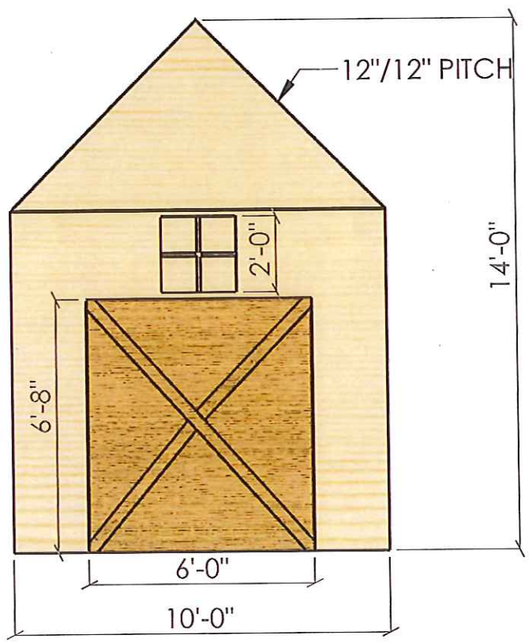
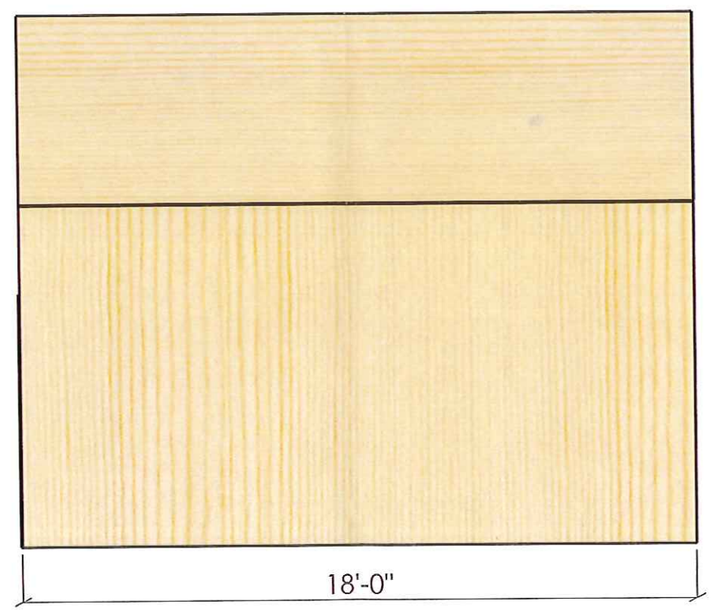
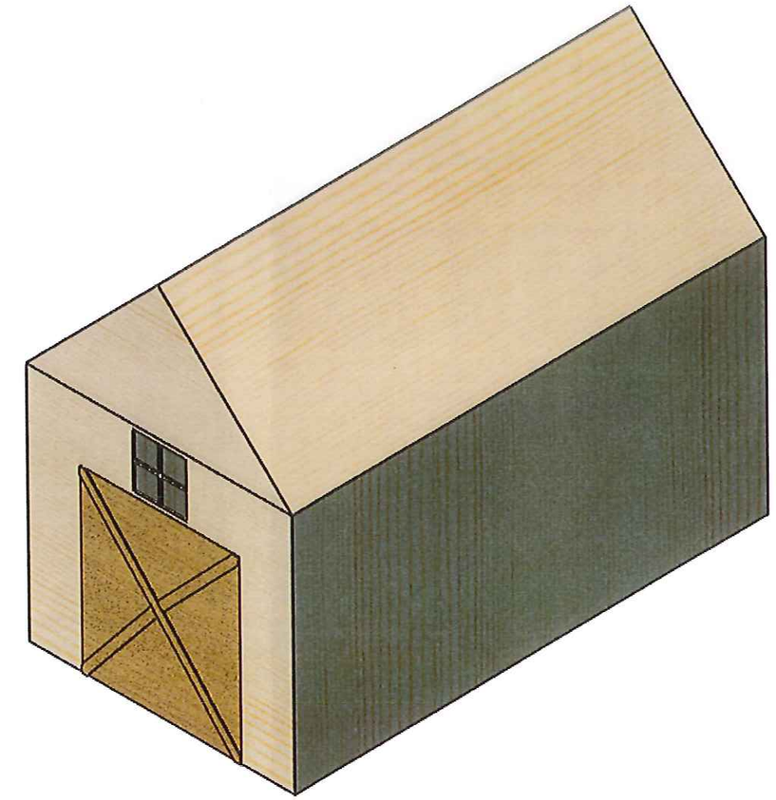
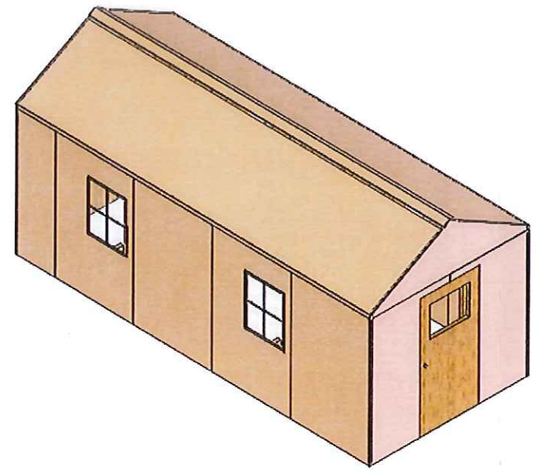
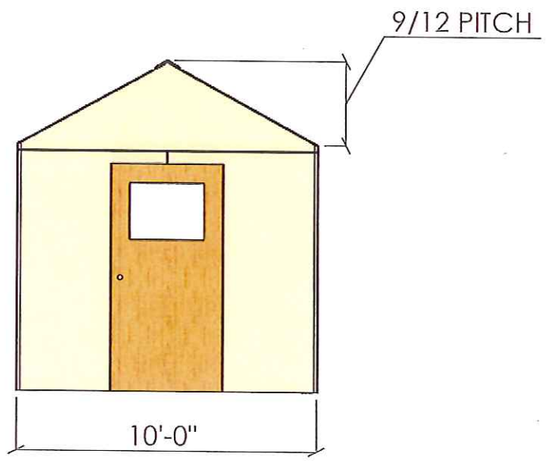


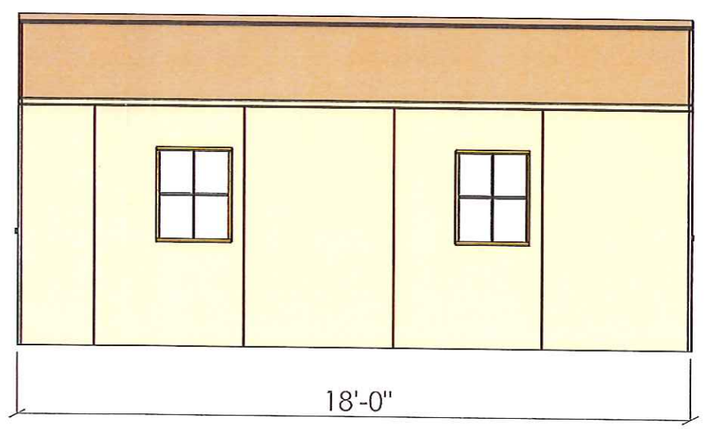




SHED







DWG. NO.	REV
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WEIGHT:	SHEET 1 OF 1

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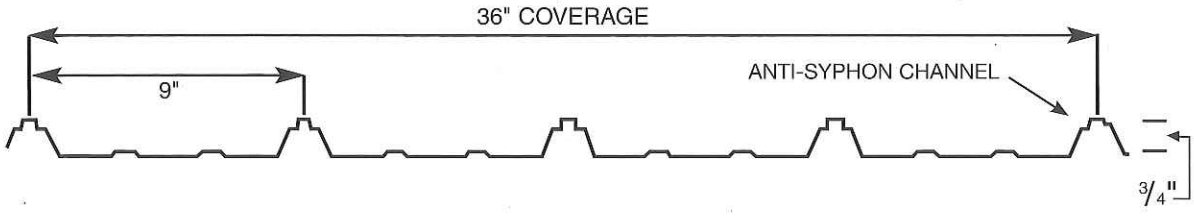
Ridge and Valley Metals

522 Rose Valley School Rd
Dover De 19904
302-678-2272

Shed Brown/Tan

* Brown	Tan	Ash Gray	Charcoal
Light Stone	Hunter Green	Alamo White	Rustic Red
Ocean Blue	Brilliant White	Burgundy	Taupe
Burnished Slate	Gallery Blue	Brite Red	Dark Green
Copper Metallic	Ivory	Matte Black	Pewter Gray



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the beauty goes on®

Colors shown may vary slightly from actual paint.

Board of Zoning Appeals Staff Report

From: Larry DiRe

Date: May 21, 2015

Item: 5B – Informational report – Southeast corner Plum Street and Randolph Avenue

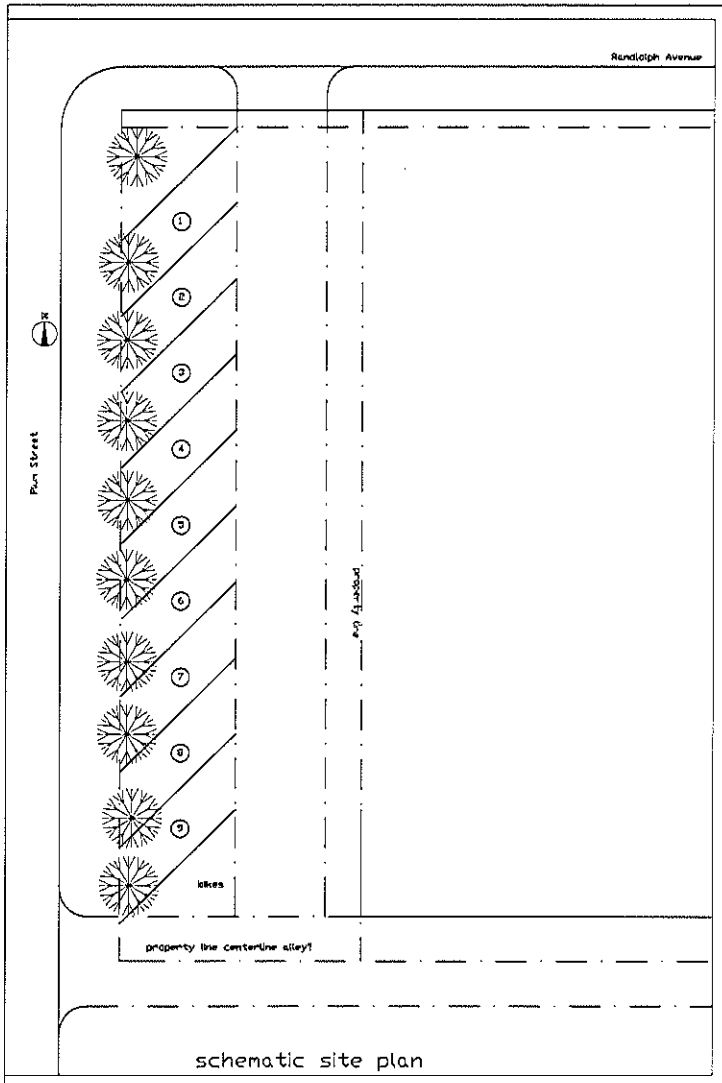
Attachments: Proposed site plan, lot map

Background

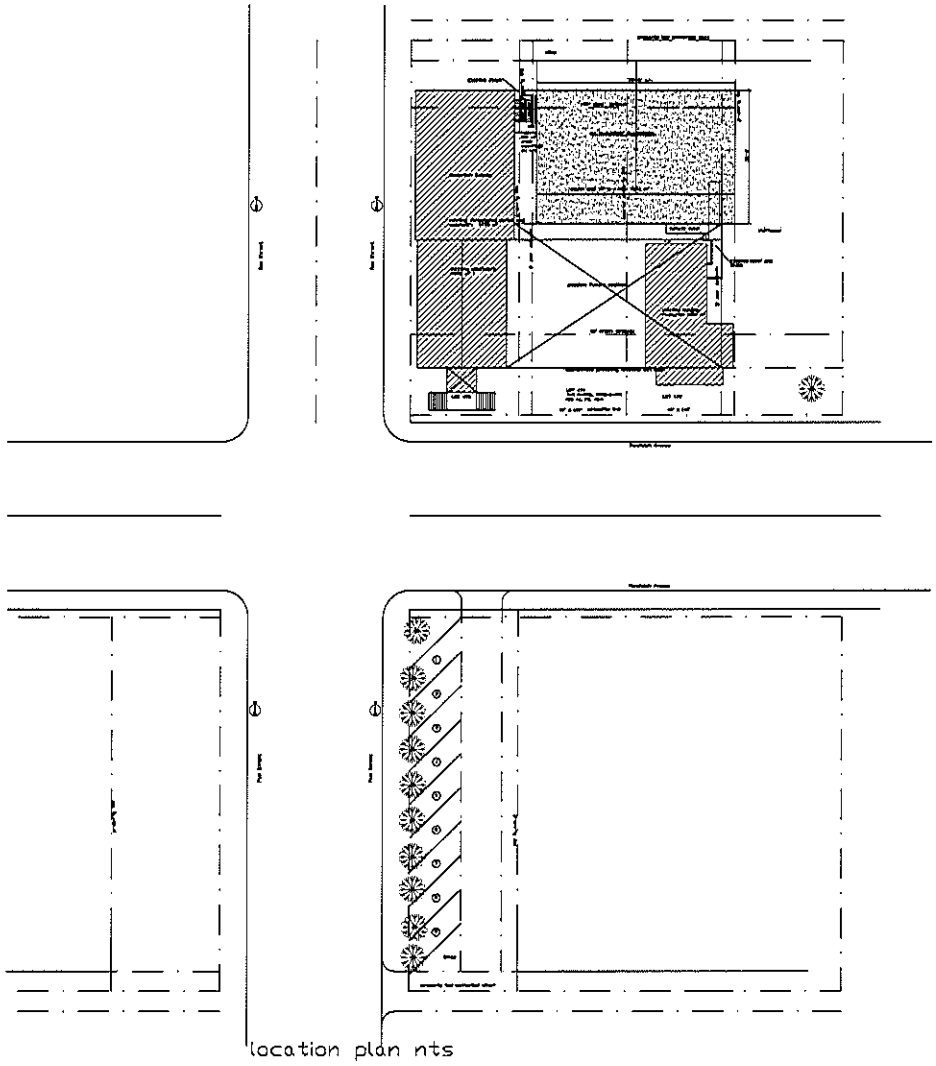
Staff was informed of the Cape Charles Baptist Church's interest in an off-street parking lot for their regular services, as well as for a growing congregation. There is a vacant lot, zoned Residential-1, directly south across Randolph Avenue. At this point the Church is interested in securing that lot for their off-street parking needs. Staff met with representatives of the Church to discuss a range of issues associated with the proposed site plan. As this proposed project moves forwarded, the Church may need to appear before the Board of Zoning Appeals. This is an opportunity for the Church to make an informational presentation about their plan.

Recommendations

1. Following the Church's presentation provide direction to staff.



schematic site plan



location plan nts

PARHAM
210 HARBOR AVENUE, CAPE CHARLES VIRGINIA 23310-3217
757.331.8133 ... rktek6@icloud.com
PARHAM ARCHITECT, R.A. NCARB

Cape Charles Baptist Church

Parking study

201506

lp	5-5-15		sk-a
	1"=20'		

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