

BOARD OF ZONING APPEALS
Agenda
Cape Charles Civic Center - 500 Tazewell Avenue
July 25, 2016
10:00 A.M.

- 1. Call to Order; Roll Call**
- 2. Public Hearing**
 - A. Hear public comment on proposed variance
 - B. Close public hearing
- 3. Invocation and Pledge of Allegiance**
- 4. Public Comments**
- 4. Consent Agenda**
 - A. Approval of Agenda Format
 - B. Approval of Minutes of June 14, 2016 Work Session, and June 15, 2016 Meeting
- 5. New Business**
 - A. Variance application – Lot 83A3-5-1 parking standard relief
- 6. Adjourn**



DRAFT
BOARD OF ZONING APPEALS
Work Session
Cape Charles Town Hall – Conference Room
2 Plum Street
June 14, 2016
10:00 a.m.

At approximately 10:00 a.m., Vice Chairman Jay Wiegner, having established a quorum, called to order the Board of Zoning Work Session. In addition to Jay Wiegner, present were Diane D’Amico, Bill Murphy and Pete Baumann. Board member Kevin Hoffman was not in attendance. Also in attendance were Town Planner Larry DiRe and Assistant Town Clerk Tracy Outten. There were no members of the public in attendance.

Vice Chairman Jay Wiegner started the Board of Zoning Appeals Work Session with the recitation of the Pledge of Allegiance.

Town Planner Larry DiRe read his staff report.

Jay Wiegner stated that the reason for this work session was to review the off-street parking regulations due to a Variance Application for Lot 83A3-A-7 parcel A.

The following was discussed: (i) Diane D’Amico questioned what the Board was actually reviewing for approval and whether a variance was applicable. Larry DiRe explained the parcel involved in the “Phase 2” of the Strawberry Street Station LLC’s application was Parcel “A” located on the south side of the 200 block of Mason Avenue, adding that the applicant did need a variance; (ii) The undue hardship was not enough parking; (iii) Pete Baumann asked that the ordinance be updated; (iv) Jay Wiegner and Diane D’Amico asked if the town was going to do more to the public parking lot. Larry DiRe stated the town leased the lot from the railroad. Bill Murphy agreed parking would be an issue if the application was approved as written. The Board decided to wait and talk to the applicant, Patrick Hand, and asked Larry DiRe to contact Mr. Hand to make sure he would be at the public hearing.

Motion made by Jay Wiegner, seconded by Bill Murphy, to adjourn the Board of Zoning Appeals Work Session. The motion was approved by unanimous vote.

Vice Chairman Jay Wiegner

Assistant. Town Clerk



DRAFT
Board of Zoning Appeals
Public Hearing & Meeting
Cape Charles Civic Center
June 15, 2016
10:00 a.m.

At approximately 10:00 a.m. in the Cape Charles Civic Center, Vice Chairman Jay Wiegner called to order the Board of Zoning Appeals Public Hearing and Meeting. In attendance were Board members Pete Baumann, Diane D'Amico and Bill Murphy. Board member Kevin Hoffman was not in attendance. Also present were Town Planner Larry DiRe, Assistant Town Clerk Tracy Outten and applicant Patrick Hand. There was one member of the public in attendance.

Jay Wiegner led the Board in the recitation of the Pledge of Allegiance.

PUBLIC COMMENTS

- A. *Hear public comment on proposed variance*
Mark Clarke, MD, Property Owner, David Dalessio, DO, Property Owner and Paula Jones, Office Manager Riverside Cape Charles Medical Center
Assistant Town Clerk Tracy Outten read the comments submitted by Doctors Clarke and Dalessio and Paula Jones. (Please see attached.)

Applicant Patrick Hand advised the board that he had spoken with Dr. David Dalessio and they were going to work out a solution. The exit the doctors were concerned about was not a patient exit. Patrick Hand stated Dr. Dalessio said a sign could possibly work. Diane D'Amico suggested installation of a sign stating emergency exit only, if opened an alarm would sound.

There were no other public comments to be heard.

- B. *Close public hearing*
Motion made by Bill Murphy, seconded by Pete Baumann, to close the public hearing. The motion was approved by unanimous consent.

CONSENT AGENDA

Motion made by Bill Murphy, seconded by Jay Wiegner, to accept the agenda format as presented. The motion was approved by unanimous consent.

The Board reviewed the minutes from the September 9, 2015 Public Hearing and Meeting.

Motion made by Daine D'Amico, seconded by Bill Murphy, to approve the minutes from the September 9, 2015 Public Hearing and Meeting as presented. The motion was approved by unanimous consent.

NEW BUSINESS

- A. *Variance Application – Lot 83A3-A-7 parcel A parking standard relief*
Jay Wiegner reviewed the application. The board members agreed the biggest concern was parking. Patrick Hand stated his case and made suggestions regarding the town public parking lot. The board members asked Larry DiRe if the town had any plans to improve the parking lot. Larry DiRe responded in the negative. Patrick Hand expressed his willingness to help the town improve the public parking lot. After some discussion the Board of Zoning Appeals decided to approve the zoning variance for lot number 83A3-A-7 Parcel A with recommendations to the application as follows:

1. Percentage of "Open Space" required would be reduced the least amount necessary to add two more parking spaces at the east end of the parking lot of Parcel A;
2. Commercial space could include retail, office, and up to 800 square feet of restaurant space of Parcel A; and
3. Pedestrian walkway with a ten feet in width shall be provided across the swale to the municipal parking lot within 75 feet of the western end of the parking lot of Parcel A.

Motion made by Bill Murphy, seconded by Jay Wiegner, to approve the variance application for Lot 83A3-A-7 Parcel A with the noted recommendations. The motion was approved by unanimous consent.

Motion made by Diane D'Amico, seconded by Pete Baumann, to adjourn the Board of Zoning Appeals Meeting. The motion was approved by unanimous consent.

Vice Chairman Jay Wiegner

Assistant Town Clerk

DRAFT



Cape Charles Medical Center

RECEIVED JUN 14 2016

June 9, 2016

Municipal Corp. of Cape Charles
2 Plum St
Cape Charles, VA 23310

RE: Public Hearing, June 15, 2016 at 10 am and proposed variance from off-street parking requirements for Tax Map Number 83A3-A-7 parcel A

To Whom It May Concern;

As an adjacent property owner, we would like to bring to you our concern with the proposed variance. It is our understanding that there is going to be an entrance/exit to the parking lot which will be going right past one of the exit doors for our medical office. Although this is not a main entryway, it is an exit that is in use and the door swings out about 3 feet from the building. We are concerned that there is a safety issue for our employees and patients, especially if an emergency situation were to arise. We believe there needs to be a setback for the driveway of at least 3 feet from our building and we ask that you please take this into consideration.

Sincerely,

Mark Clarke, MD
Property Owner

David Dalessio, DO
Property Owner

Paula Jones
Office Manager Riverside Cape Charles Medical Center

Mark Clarke, M.D. • David Dalessio, D.O.
Family Practice and Geriatrics • Urgent Care • Minor Emergencies

Board of Zoning Appeals Staff Report

From: Larry DiRe 
Date: July 25, 2016
Item: 5A - Variance Application – Tax map lot # 83A3-5-1 (439 Mason Avenue)
Attachments: Application with narrative, general vicinity lot map and building photos; Article IV Section 4.5.

Background

Staff received an application for variance from the off-street parking requirements for a commercial tea room at 439 Mason Avenue. That lot is a small (approximately 3,505 square feet), corner lot within the Commercial – Residential District. For several decades the lot has been used as a residential lot, which is the current site of a small 1970s vinyl-clad ranch-style cottage. The lot has no curb cut and could not have a curb cut given the closeness of the structure to the lot lines. Absent a commercial entrance the ability to have commercial deliveries is curtailed and the only place likely for commercial delivery trucks to park is on Mason Avenue (given the rest of the 400 block of Mason is Commercial - 1 District it should be expected that Mason Avenue is a commercial delivery street). All the other parcels on the 400 block of Mason Avenue are exempt from the off-street parking requirements due to their Commercial – 1 District zoning.

Application Specifics

The applicant is seeking relief from a strict application of the off-street parking requirements found in the section below. Those requirements are based on the number of bedrooms for residential units and “nature of use” for commercial. The property is undergoing a change of use from residential to commercial. The applicant is seeking relief from the requirements of Article IV Section 4.5.1. That section states the following:

“Section 4.5.1 Table of Parking Standards”

Nature of Use Parking Standards

A. Park and Open Space:

- 1. Park and playground as determined by authority*
- 2. Golf course 36.0 spaces per 18-hole course plus 1 space per employee*
- 3. Accessory building as determined by authority*

B. Agricultural

- 1. Agricultural, as defined 1.0 space per employee*

C. Residential

- 1. Single-family dwelling 2.0 spaces per dwelling unit*
- 2. Two-family dwelling 2.0 spaces per dwelling unit*

3. *Townhouse 2.0 spaces per dwelling unit*
4. *Multi-family dwelling 1.0 space per one bedroom dwelling unit; otherwise 2.0 spaces per dwelling unit*
5. *Mobile home 2.0 spaces per dwelling unit*

D. Care Facility/Institutional

1. *Library 1.0 space per 300 sf GFA (Gross Floor Area)*
2. *Museum 1.0 space per 300 sf GFA*
3. *School*
 - a. *Nursery 1.0 space per employee*
 - b. *Elementary 1.0 space per employee*
 - c. *Middle 1.0 space per employee*
 - d. *Junior 1.0 space per employee*
 - e. *Other .25 space per student plus 1.0 space per employee*
4. *Instructional school .5 space per student plus 1.0 space per employee*
5. *Church*
 - a. *Parish house; Educational/ Social annex .25 space per seat*
 - b. *Place of Worship .25 space per seat*
6. *Hospital 2.0 spaces per bed*
7. *Cemetery 20 spaces per chapel or .25 space per seat*
8. *Funeral home 20 spaces per chapel or .25 space per seat, whichever is greater*

E. Residential/Commercial

1. *Home occupation see Section 4.8.C Residential Standards*
2. *Bed and breakfast 1.0 space per bedroom plus 1.0 space per owner/resident (see Section 3.2.C 4 c)*
3. *Rooming house 1.0 space per bedroom plus 1.0 space per employee*
4. *Boarding house 1.0 space per bedroom plus 1.0 space per employee*
5. *Hotel and motel 1.0 space per bedroom plus 1.0 space per employee*

F. Offices

1. *Office*
 - a. *Professional 1.0 space per 300 sf GFA*
 - b. *Other 1.0 space per 300 sf GFA*
2. *Principal Office/Medical*
 - a. *Physician 1.0 space per 200 sf GFA*
 - b. *Surgeon 1.0 space per 200 sf GFA*
 - c. *Dentist 1.0 space per 200 sf GFA*
3. *Bank*
 - a. *Standard 1.0 space per 200 sf GFA*
 - b. *Drive-in 1.0 space per 200 sf GFA (stacking as per Section 4.5.B)*
4. *Real estate 1.0 space per 250 sf GFA*

G. Retail 1.0 space per 200 sf GFA

H. Restaurant

1. *Standard (no drive in) 1.0 space per 100 sf GFA*
2. *Carry out 1.0 space per 100 sf GFA*
3. *Fast food (no drive in) 1.0 space per 100 sf GFA*

4. Drive in 1.0 space per 65 sf GFA
5. Delivery only/catering 1.0 space per employee and 1.0 space per each delivery vehicle

I. Service/General 1.0 space per 275 sf GFA

J. Entertainment

1. Private club 1.0 space per 3 seats
2. Club and lodge 1.0 space per 3 seats
3. Auditorium/assembly hall 1.0 space per 3 seats
4. Theater 1.0 space per 3 seats
5. Commercial recreation/entertainment 1.0 space per 3 seats
6. Recreation facility 1.0 space per 3 seats

K. Service/Manufacturing

1. Sign printing shop 1.0 space per 400 sf GFA
2. Upholstery shop 1.0 space per 400 sf GFA
3. Cabinet and furniture 1.0 space per 400 sf GFA
4. Printing/publishing 1.0 space per 400 sf GFA
5. Blacksmith shop 1.0 space per 400 sf GFA

L. Motor Vehicles

1. Convenience store 1.0 space per 200 sf GFA
2. Auto service station 2.0 spaces per service island plus 1.0 space per employee
3. Car wash 3.0 spaces per washing bay
4. Auto/trailer sales 3.0 spaces per employee
5. Automobile service 1.0 spaces per employee plus 4.0 spaces per bay

M. Wholesale

1. Nursery 1.0 space per 400 sf GFA
2. Machinery
 - a. Sales 1.0 space per 500 sf GFA
 - b. Service 3.0 spaces per service bay plus 2

N. Utilities

1. Transportation 1.0 space per 200 sf GFA
2. Public utilities and service 2.0 spaces per employee
3. Public utility generating, booster, or 1.0 space per 1,500 sf GFA plus relay stations, transmission lines and 1.0 space per employee tower, for maintenance of public utilities, including railroads and facilities and water and sewerage facilities

O. Storage:

1. Monumental stone works 1.0 space per 1,500 sf GFA
2. Coal, wood yards, lumber yards, 1.0 space per 1,500 sf GFA feed and seed
3. Frozen food locker 1.0 space per 1,500 sf GFA

P. Manufacturing

1. Manufacturing 1.0 space per 500 sf GFA

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.”

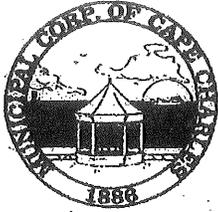
Section 2.6.2 B of the Zoning Ordinance provides the following guidance in determining the need to grant variances:

“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.”*

Recommendation

Determine if all three of the conditions outlined in Section 2.6.2 B of the Zoning Ordinance exist, and determine if the Board of Zoning Appeals will issue a variance.



MUNICIPAL CORPORATION OF CAPE CHARLES, VIRGINIA

Application for Zoning Variance

Date 27 June 2016

Permit No. _____
Fee: \$250.00

Applicant Jane Gittinger Signature Jane Gittinger
Address 439 MASON AVE Cape Charles, VA 23310 Telephone 703-340-9037

Owner Jane Gittinger
Address 4 Tazewell AVE City Cape Charles State VA ZIP Code 23310

Contractor TBD
Address _____ City _____ State _____ ZIP Code _____
Town License No. _____ State License No. _____

Location of Improvement 439 MASON AVE
Lot No. 591A590 Block No. 83A-5-1 Lot Size 3500 (50x70) Lot Area 3500
Type of Improvement Remove stoop; Add handicap ramp; Roof over front porch; Addition
Proposed Use Russian Tea Room of decorative trim; signage.
Estimated Construction Costs UNKNOWN

Dimension of Structure or Improvement Width _____ Length _____ Height _____
Total Square Footage _____

Structure or Improvement will be set back
_____ from front property line
_____ from side property line
_____ from side property line on corner lot
_____ from rear property line

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 Jane Gittinger
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 _____

June 27, 2016

Cape Charles Board of Zoning Appeals:

Recently we purchased property at 439 Mason Ave., Cape Charles. The planned use of the property is as a commercial tea room.

I am requesting relief from the off-street parking requirements found in Article IV Sections 4.5 and 4.5.1 of the zoning ordinance.

There is no space on the property for parking. On-street parking is plentiful and guests of the tea room will park in these spaces near the property.

Names and addresses of adjacent property owners/interested parties is attached.

Thanks for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Jone Gittinger". The signature is written in black ink and is positioned to the right of the typed name.

Jone Gittinger
4 Tazewell Ave.
703-340-9037

401 Mason Ave
Cape Charles, VA 23310

Owner: Carol and Beth Ann Sabo
2459 Townfield Drive
Cape Charles, VA 23310

425 Mason Ave
Cape Charles, VA 23310

Owner: Harbor Sunset LLC
2807 Ackley Ave.
Richmond, VA 233228

433 Mason Ave
Cape Charles, VA 23310

Owner: Lola Bailey
P.O. Box 94
Cape Charles, VA 23310

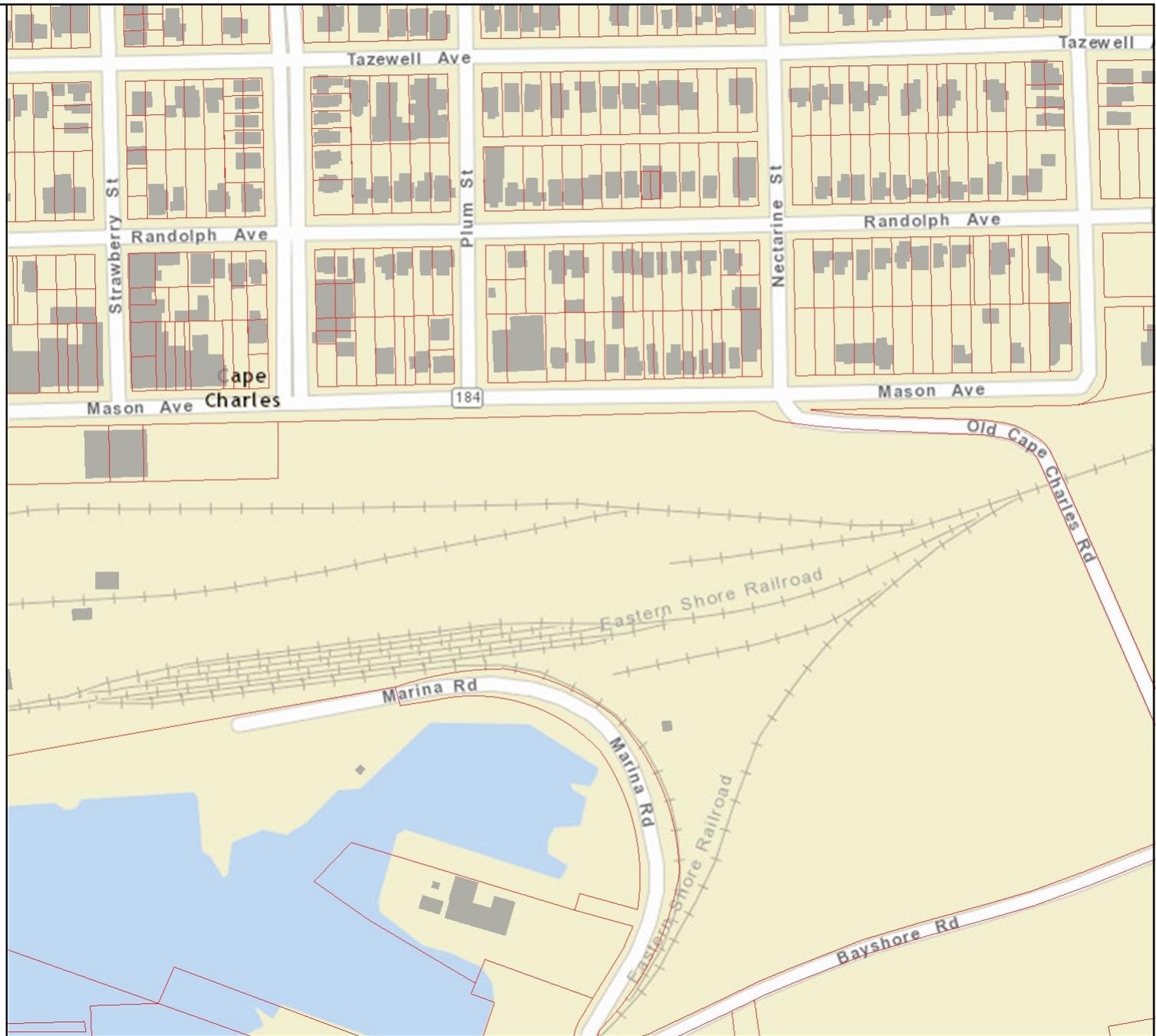
7 Plum Street
Cape Charles

Owner: Stephen Michel
10 Peach Street
Cape Charles, VA 23310

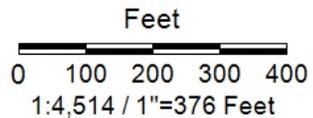
Northampton County, Virginia

Legend

- Parcels
- Building Footprints



Map Printed from Northampton
<http://northampton.mapsdirect.net/>



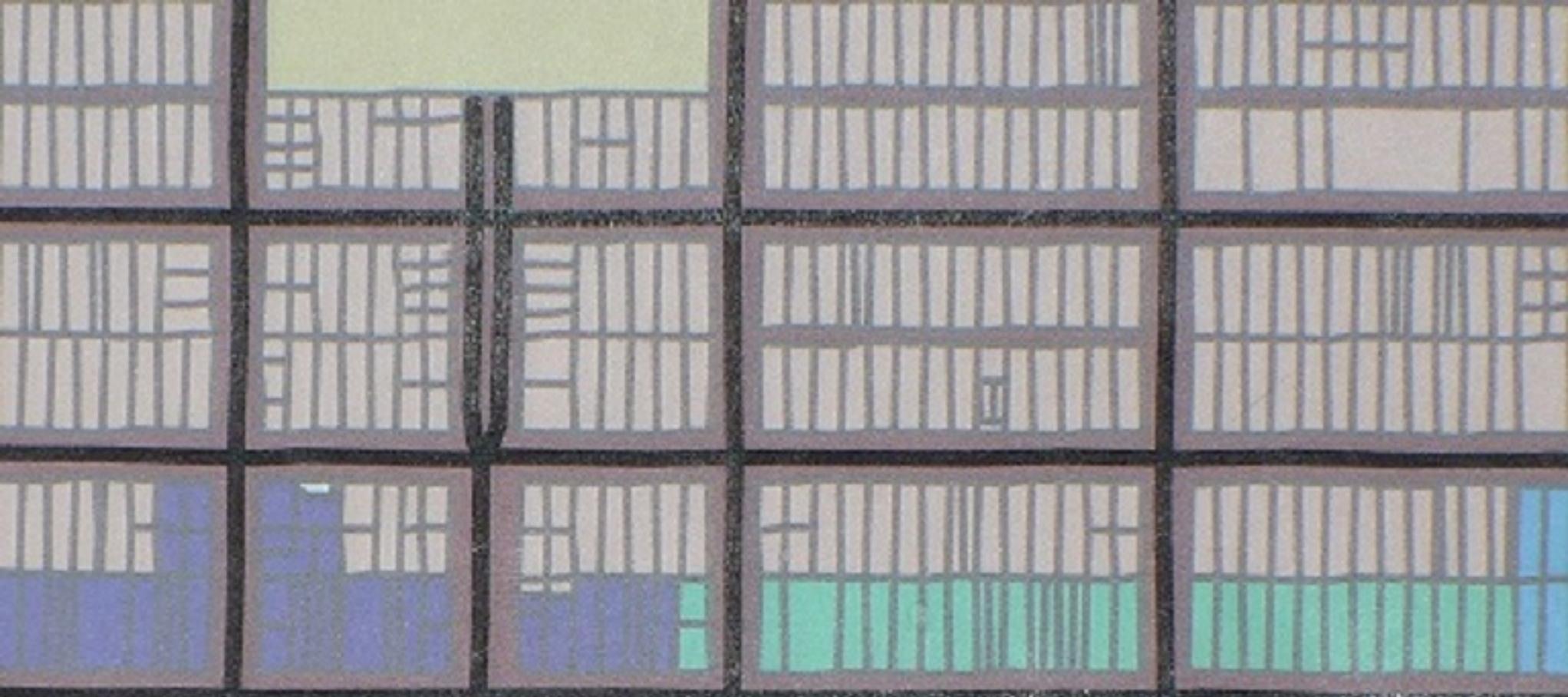
Title: Parcels

Date: 5/30/2016

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Northampton County is not responsible for its accuracy or how current it may be.







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