



Board of Zoning Appeals Regular Meeting

October 14, 2025 at 10:00 AM

Cape Charles Civic Center - 500 Tazewell Avenue

Agenda

1. Call to Order

- A. Roll Call
- B. Establish Quorum

2. Invocation and Pledge of Allegiance

3. Old Business/Matters Deferred from Previous Meetings

- A. Acknowledgement of Chairwoman Blackburn's Resignation
- B. Election of Chair, Vice-Chair, Secretary

4. Consent Agenda

- A. Approval of Agenda Format
- B. Approval of Minutes

5. Old Business/Matters Deferred from Previous Meetings

6. New Business

- A. Application from Martin Mayer, for a variance from Article 3 Section 3.2 of the Cape Charles Zoning Ordinance to allow for a rear deck to extend 1.5' into the side setback and 5' into the rear setback.

7. Other Matters

8. Next Meeting

- A. November 11th, 2025

9. Adjournment



Board of Zoning Appeals Staff Report

Agenda Title: Variance Application
Agenda Date: October 14th, 2025
Prepared by: Jack Steinmayer, Zoning Compliance Officer
Reviewed By: Katie Nunez, Director of Planning/Zoning Administrator
Date: October 7, 2025

Applicant: Martin Mayer

Type Of Application: Variance

Site Address: 502 Plum Street

Specific Request: To allow for a rear deck to extend 1.5’ into the northside setback and 5’ into the rear yard setback for the rear deck

Tax Map: 83A1-6-A

Zoning: R-1

Lot Size: 3200 sq. ft.

Current Zoning: R-1

Date Received: September 12th, 2025

Date Deemed Complete: September 12th, 2025

Legal Deadline (90 Days from Complete Application – Directory, not Mandatory):
December 11th, 2025

Narrative of Proposal:

The applicant, Martin Mayer, is seeking a variance from Article 3, Section 3.2 of the Cape Charles Zoning Ordinance to allow for a rear deck to extend 1.5’ into the northside setback and 5’ into the rear yard setback for the rear deck to align with the neighbor's rear deck.

Aerial Map:



Ordinance Requirement to be Considered:

- (a) Does the evidence show that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance?**
- Because this house was constructed prior to zoning and the enforcement of setbacks, it would be unreasonable to enforce present-day setback requirements on this property to hinder the construction of a rear deck.
- (b) Was the property interest for which the variance is being requested acquired in good faith, and any hardship was not created by the applicant for the variance?**
- While the applicant did recently purchase this property and is seeking to make improvements including a rear deck that is requiring the request for the variance, the property was already a legal, non-conforming sized lot and the consideration of a back deck is relatively commonplace throughout the historic district.
 -
- (c) Will the granting of the variance not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area?**
- By granting the requested variance the property will conform to rest of the neighborhood in this area.
- (d) Is the condition or situation of the property concerned not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance?**
- This is a relatively unique variance request in this area of the historic district. The fact that it is a corner lot does not require any variance relief to the side of the lot facing Madison Avenue, and due to the original placement of this historic home when there were no zoning setbacks in place, this request is reasonable to the development pattern on this lot.
- (e) Does the granting of the variance result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property?**
- No, by granting this variance no change to the zoning classification will occur and decks are allowed.
- (f) Is the relief or remedy sought by the variance application not available through a special exception process that is authorized in the ordinance or the process for modification of a zoning ordinance at the time of the filing of the variance application?**
- No, a variance application is the only option to allow an encroachment into the setbacks.

Discussion Points:

1. Does the Board feel that allowing the variance request is reasonable?

Board of Zoning Appeals Review:

Some items that the BZA may wish to consider in its review:

1. Is the application complete and does it contain sufficient information and detail for the BZA to make a defensible ruling?
2. On its face, is the proposal a sound and well-thought-out one that has taken into account potential downsides as well as upsides?
3. Are there compelling reasons to approve or deny the request, beyond the fact that no one has spoken in opposition to it or that some are opposed to it?

Staff Recommendation:

Staff recommends that the Board of Zoning Appeals consider the items that have been raised in this report and consider the request at hand. The staff would recommend that the application be approved based upon the points raised in this staff report, specifically the section called, “Ordinance Requirements To Be Considered”.

Proposed Motion for Consideration:

Staff offers the following motion for the Board’s consideration: *“After careful consideration of the application and the staff report, the Board of Zoning Appeals votes to approve the Variance Application submitted by Martin Mayer for a variance to allow for a rear deck to extend 1.5’ into the northside setback and 5’ into the rear yard setback for the rear deck.”*

Attachments:

1. Variance Application



Zoning Variance Application

Planning & Zoning Department
 2 Plum Street; Cape Charles, VA 23310
 757-331-3259 x30

planningtech@capecharles.org

Revised 12/2024	
Taxes	✓ paid A.O
Violations	_____
check Fee #1204	\$500
BZA Date	10-14-2025
Decision	

BUDGET CODE: MISPL 100-3100-1070

PART 1: APPLICATION NOTES

- VARIANCE** means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. **It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.**
- The burden of proof shall be on the applicant for a variance to prove by the greater amount of evidence that the application meets the standard as defined, and the criteria set in number 3.
- The Board of Zoning Appeals shall grant a variance if the evidence shows the strict application of the terms of the zoning ordinance would reasonably restrict the utilization of the property, or the granting of the variance would alleviate hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability, and:
 - The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant.
 - The authorization of a variance will not be a substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.
 - Such hardship is not shared by other properties in the same zoning district and same vicinity.
 - The granting of the variance does not result in a use that is not permitted on such property or a change in the zoning classification of the property.
 - The remedy sought is not available through a special exception process that is authorized in the ordinance.
- If a variance is approved for a property only the minimum required to alleviate hardship will be granted.
- *FEES: \$500 & Payment of advertising costs, actual and adjacent property owner notification mailing, costs.**

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

- | | | |
|--|--|---|
| <input type="checkbox"/> Completed application & Justification Letter | <input type="checkbox"/> Existing site plan/survey | <input type="checkbox"/> Photos of existing conditions. |
| <input type="checkbox"/> Photos/elevation drawings of proposed project | <input type="checkbox"/> Proposed site plan/survey | <input type="checkbox"/> Payment of Fees * |

PART 2: PROPERTY INFORMATION

Property Address: 502 Plum Street	Tax Map #: 83A1-6-A
Existing Use: Residential	Zoning District: R1
Has a previous application been filed for a variance in connection with this property? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, attach an explanation Has a Conditional Use Permit been issued for the existing use? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, provide a copy Are there any proffers associated with this property? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, provide a copy Is the property located within an Overlay District? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, which one _____ Is this property located within a Subdivision? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, which one _____ Is this property located within a Resource Protection Area? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	

PART 3: PROPERTY OWNER INFORMATION

Name and/or Company: **Martin Mayer**

Mailing Address: **4309 Speckles Lane, Machipongo, VA 23405**

Phone Number: **3307206384** Email: **mkm180@gmail.com**

PART 4: APPLICANT INFORMATION

Check here if applicant is owner. (If applicant is not the property owner, an Owner's Permission Affidavit must be attached.)

Name and/or Company:

Mailing Address:

Phone Number: Email:

PART 5: ZONING ORDINANCE OR ACCAWMACKE PLANTATION PUD VARIANCE SECTION

Please provide the Zoning Ordinance Section that you are seeking relief from: Article 3

Please provide the Accawmacke Plantation PUD Section you are seeking relief from: N/A

PART 6: VARIANCE JUSTIFICATION

Applicant must explain (Please use additional pages where necessary)

A) PROPERTY DESCRIPTION

How do the zoning ordinance's strict regulations for the lot or parcel of land's shape, size, or area unreasonably restrict the utilization of the property?
The lot is non-conforming (80'x40') which leaves very little space off the rear of the property given the 25' rear setback.

What type of reasonable deviation is being sought?
 We would like to construct an 10' deck attached to the rear of the house. This would align with the next door neighbors 10' deck on the rear of their property.

Lot or Parcel Size: **40'x80'** Proposed Size: **8'x22' rear deck.**

Shape: Proposed Shape:

How does the zoning ordinance's strict limitations on the size, height, area, or location of the building or structure unreasonably restrict the utilization of the property?
 Given the non-conforming size of the lot and the strict rear/side setback ordinance, we are limited in our functional outdoor space. We are simply asking to match the deck setback of the immediate neighboring property and align it with the rear of the house.

What type of reasonable deviation is being sought?
 We are hoping to extend a few feet into the 25' setback to install a deck that aligns with the next-door neighbors.

Main Structure Size: Proposed Structure Size: **8'x22'**

Existing Height: Proposed Height:

Existing / Required Setback Front: Proposed Setback Front:

Existing / Required Setback West Side: Proposed Setback West Side:

Existing / Required Setback East Side: Proposed Setback East Side:

Existing / Required Setback Rear: Proposed Setback Rear:

B) CRITERIA

1. Does strict application of the zoning ordinance to the subject property result in a hardship to the owner? (Answer A or B)

A. Explain how the variance would alleviate a hardship caused by the physical characteristics of the property?
A variance would allow us to maximize our limited outdoor space while not changing the character of the neighboring properties.

B. Explain how the zoning ordinance unreasonably restricts the use of the property?
Given the non-conforming size of the lot and the strict rear/side setback ordinance, we are limited in our functional outdoor space. We are simply asking to match the deck setback of the immediate neighboring property.

2. Is the hardship unique to the property? **No**

A. Explain if the hardship is shared by other properties in the neighborhood.
The setback requirements impact all non-conforming lots, which there are five (including ours) in our neighborhood area.

B. Explain how this situation or condition of the property applies generally to the other properties in the same zone.
Three of the other four adjacent properties have decks, patios, or landings that encroach to the degree requested, or beyond into the 25' setback.

3. Was the hardship created or caused by the applicant? **No**

A. Did the condition exist when the property was purchased?
Yes

B. Did the applicant purchase the property without knowing of this hardship?
Yes

C. How and when did the condition which created the hardship first occur?
I was first alerted to the issue when submitting plans to the Historic District Review Board.

D. Did the applicant create the hardship and, if so, how was it created?
No.

E. What could have been done to avoid hardship?
N/A

4. Will the variance if granted be harmful to others?

A. Explain if the proposed variance will be detrimental to the adjacent properties or the neighborhood?
No, the adjacent properties on similar sized lots already have structures extending into the setback to the same degree or further than requested.

B. Explain how the proposed variance will affect the values of the adjacent and nearby properties.
There will be no detrimental impact. Granting the variance would help our property to match the existing layout and character of the adjacent properties.

C. Have you shown the proposed plans to the adjacent neighbors and other affected property owners? Have any of them objected, or have any of them written a letter of support for the proposed variance? If so, please attach the letter or submit it before the hearing. **N/A**

D. Explain how the proposed variance will change the character of the neighborhood?
It will match the existing homes in the neighborhood.

5. Is there any other administrative or procedural remedy to relieve the hardship?

Part 7: ALTERNATIVE SOLUTIONS

Have alternative plans or solutions been considered so a variance would not be needed? Please explain solutions that have been considered, and why it is unsatisfactory.

The options are to build the deck or not. Failing to do so would greatly limit our functional outdoor space.

Part 8: STATEMENT OF INTENT

Describe the planned use and explain why a variance from the district ordinance is needed. State the sections of the Town Zoning Ordinance or the Accawmacke Plantation PUD for which you are requesting a variance. Include the standards listed in the Zoning Ordinance/PUD and the amount of a variance you are requesting.

The added deck would allow for a functional outdoor space on our non-conforming lot. It would extend approximately 1.5' into the side setback (even with our home), and 5' into the rear setback. The deck would be set underneath the already approved roof off the rear of our property.

Section 3.2 Residential side and rear setback.

CERTIFICATION

I hereby certify that I have the authority to make the foregoing application, that the information given is true and correct, and that the construction or improvements will conform to the regulations in the Virginia Statewide Building Code, all pertinent Town Ordinances, including fire, sewer and water ordinances, and private building restrictions, if any, which may be imposed on the property by deed. Before any work begins, a zoning clearance request must be approved. I understand that for any changes made in the historic district, a Certificate of Appropriateness must be received; and any changes made in the Accawmacke Plantation PUD, an Architectural Review Committee approval letter must be received.

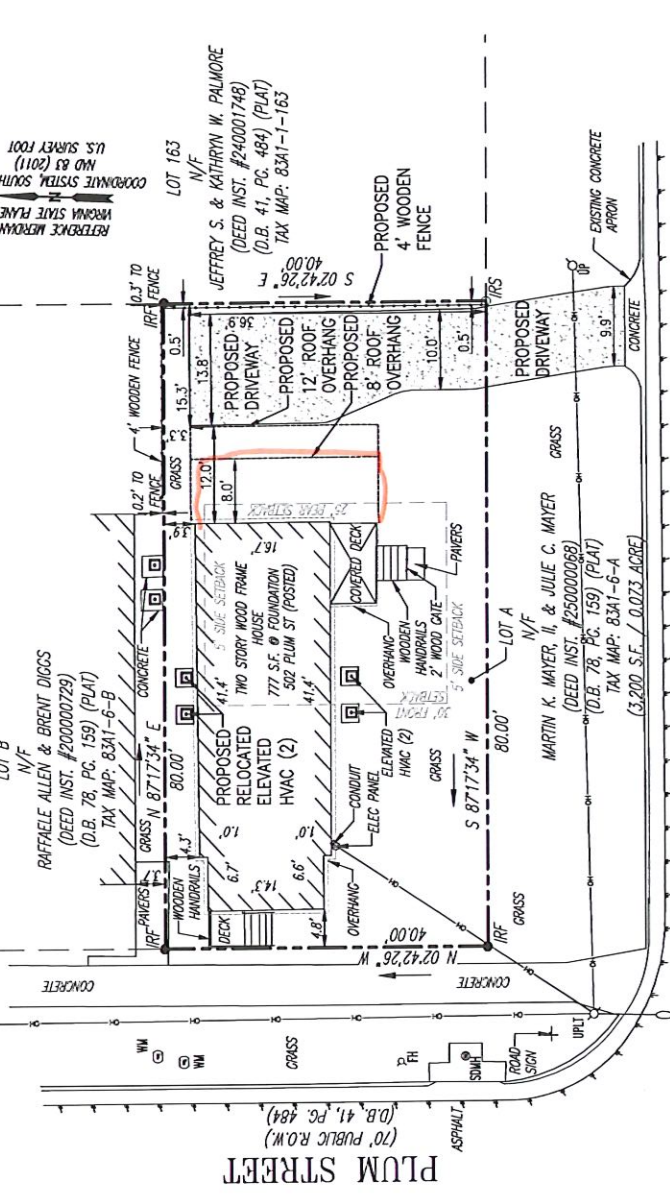
Applicant's signature: _____

Date: 8/19/2025

Zoning Administrator's signature: _____

Date: _____

Proposed deck on rear of property would connect to the "covered deck" on the south side of property and extend along the rear under the already approved roof overhang. As proposed, "covered deck" roof and deck would wrap around the south to the east side of the home. Deck width proposed at 8'x22". Outdoor shower would be located on the deck in the prior approved location.

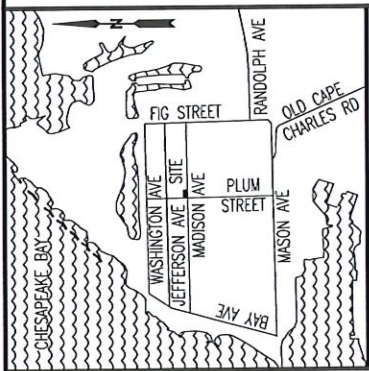


MAS-LD
MidAtlantic Surveying and Land Design
5257 Cleveland Street, Suite 109
Virginia Beach, VA 23462
757-557-0888
WWW.MAS-LD.COM
ADMIN@MAS-LD.COM

PROJECT #25090.0
FIELD BY: BDR/CER
FIELD DATES: 07/02/2025
DRAWN BY: JPM
SHEET 1 of 1



PHYSICAL SURVEY
OF
LOT A HALLETT SUBDIVISION
(D.B. 78, PG. 159)
FOR
MARTIN & JULIE MAYER
CAPE CHARLES, VIRGINIA
07/15/2025



LOCATION MAP
SCALE: 1" = 2000'

GENERAL SURVEY NOTES:

- THIS SURVEY WAS PRODUCED BY MID-ATLANTIC SURVEYING AND LAND DESIGN, INC. FOR MARTIN & JULIE MAYER.
- THIS SURVEY WAS PRODUCED WITHOUT BENEFIT OF A TITLE REPORT. ALL EASEMENTS, SERVITUDES AND RESTRICTIONS MAY NOT BE SHOWN.
- THE BOUNDARY LINES SHOWN ARE BASED ON A CURRENT FIELD BOUNDARY SURVEY.
- THIS SURVEY IS NOT INTENDED TO SHOW ALL UNDERGROUND UTILITY FEATURES. IT IS THE RESPONSIBILITY OF THE OWNER OR CONTRACTOR TO CONTACT MISS UTILITY BEFORE ANY EXCAVATION OR OTHER EARTH MOVING WORK.
- THIS SITE APPEARS TO LIE IN FLOOD ZONE X-SHADED, AS SHOWN ON FEMA FIRM MAP/PANEL# 51131C0295F, PANEL EFFECTIVE DATE 03/02/2015, FLOOD ZONE INFORMATION INDICATED HEREON SHOULD NOT BE CONSTRUED AS A DETERMINATION OF THE NEED OR LACK OF NEED FOR FLOOD INSURANCE. PROPERTY OWNERS SHOULD CONTACT A LOCAL FLOOD OFFICIAL FOR MORE INFORMATION. FLOOD ZONE DETERMINATION IS BASED ON F.I.R.M. AND DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE FREE FROM FLOODING OR DAMAGE.

ZONING: R-1
LOT SETBACKS:
FRONT = 30'
SIDE = 5'
REAR = 25'









