



Board of Zoning Appeals Staff Report

Agenda Title: Houseboat Short Term Rental Denial
Agenda Date: December 9, 2025
Prepared by: Casey Quilter, STR Compliance Officer
Reviewed By: Katie Nunez, Director of Planning & Zoning
Date: November 17, 2025

Applicant: Derek Roncaioli

Type Of Application: APPEAL2025-02

Site Address: Marina Road, Cape Charles,
VA 23310

Specific Request: Seeking a Business License
with Zoning Clearance for a Short-Term Rental

Tax Map: 83A3-A-10

Zoning Ordinance: CCZO Section 3.8

Lot Size: n/a

Current Zoning: Harbor Commercial District
(HARB-C)

Date Received: September 25, 2025

Date Deemed Complete: November 16, 2025

Legal Deadline (90 Days from Complete Application – Directory, not Mandatory):
February 16, 2026

Narrative of Proposal:

On Thursday, September 25, 2025, the applicant emailed a Short-Term Rental (STR) Zoning Application to the Town of Cape Charles. The applicant stated that his houseboat was already parked in the Harbor Marina and he wished to get a business license and STR inspection to use his houseboat as a short-term rental. His houseboat is moored in the northeastern corner of the Town Harbor along Marina Road. It has shore power and water, but no sewer (see P.1 and P.3).

Upon receipt of the business application Katie Nunez, the Planning/Zoning Administrator asked Jeb Brady, Code Official, Jack Steinmayer, Planning & Zoning Admin Assistant & Zoning Compliance Officer, Paula Davis, Harbor Master, and Casey Quilter, STR Inspector & Compliance Officer, to review the Town of Cape Charles Zoning Ordinances, Zoning Map, and the Virginia state building code for references to house boats and/or short-term rentals in the Harbor Commercial District (HAR-C)(see P.2). Ms. Nunez requested the review give specific attention to aspects of the Dillon Rule in Virginia. The group's review resulted in a decision of denial for the business license to operate an STR in the marina.

On October 3, 2025, the applicant was emailed, mailed, and certified-mailed the Planning/Zoning Administrator's decision which contained a description constituting the basis of denial and the right to appeal. In it, definitions of a *Short-Term Rental* and *Dwelling* were highlighted from the Zoning Code Appendix A (Section 2.6.4). Zoning Ordinance Appendix A defines a Short-Term Rental as a room or space that is suitable or intended for occupancy for "dwelling". It defines a Dwelling as a "structure" that is used "exclusively for human habitation". Therefore, because the applicant's House Boat is not a structure and is not used exclusively for human habitation, it does not fit the definition of a Short-Term Rental (STR).

Mr. Roncaioli filed an appeal application (APPEAL 2025-02) on October 13, 2025 and in his appeal, he stated:

"My argument rests on the fact that the Cape Charles town code does not specify structure foundation type. While most STR structures considered dwellings are built on concrete footings or blocks, my dwelling is built on a floating barge that lacks propulsion and is tied in the land utilities. In 2013 the U.S. Supreme Court actually ruled on a similar case (Lozman v. City of Riviera Beach, 568 U.S. 115) establishing precedent that a floating structure without self-propulsion, used as a home, and intended to remain stationary was not a "vessel" under maritime law. A reasonable observer, the Court said, would view such a floating home as a house or residence, not as a mode of transportation. This decision draws a clear legal distinction between houseboats (vessels) and floating homes (structures used for habitation). Considering the structure meets all safety requirements for human habitation I believe there is a strong case to overturn the ruling.

Upon further review and the applicant's email reply on October 13, 2025, the town refined its response accepting his classification of his houseboat as lacking propulsion or "non-navigable" and a floating home. In an email dated November 12, 2025, Ms. Nunez wrote the houseboat is not within the US Coast Guard's jurisdiction because it is not a vessel and DOES fall under the Town's zoning jurisdiction. In addition, the Town's Zoning Ordinance Section 3.8 does not permit single-family homes in the Harbor Commercial District (HAR-C). As a result, the Planning/Zoning Administrator gave additional justification for the Town's basis of denial.

Mr. Roncaioli replied on November 17, 2025:

This appeal respectfully requests that the Town of Cape Charles grant Short-Term Rental approval for my permanently moored, non-navigable floating home, which is fully subject to the Town's zoning authority and capable of meeting all STR compliance requirements. The Town's position that my floating home is not a "structure" suitable for "dwelling" conflicts with both its real-world use and with existing STR activity in the Harbor District—most notably the actively operating "Crows Nest – Sunsets at the Harbor" rental above Hook & Harvey. This demonstrates that the Town already permits STR uses in the Harbor Commercial District and interprets "dwelling" flexibly to accommodate non-traditional structures. In the interest of uniform enforcement, fair application of the ordinance, and alignment with established precedent, I request approval of my STR permit and business license.

The Town's position is that Section 3.8 clearly states in the intent statement for the Harbor-Commercial District that it is a working waterfront and that "mixed used development is encouraged with any housing located above commercial or retail space". In the list of uses for this district, it states that condominium and cooperative dwellings are permitted by-right and multi-family dwellings by Conditional Use Permit but single-family dwellings are not permitted either by-right or thru a conditional use permit. The Town also contends that a houseboat is not

connected to sewer and would not pass an STR inspection because it does not fall under the purview of state building codes like all other structures the town currently inspects.

Furthermore, the Town disagrees with the implication that it is allowing flexibility to The Crow's Nest to operate as an STR in the Harbor Commercial district when the zoning ordinance clearly states that it encourages "mixed use development located above commercial or retail space". The applicant's houseboat is not located above a commercial or retail space, but the "Crow's Nest" is (see P.3 & P.4). While the applicant did not reference the other STR that has operated in this district, we are including it so that the Board has a full understanding of any STRs that have been approved by the Town within the Harbor-Commercial Zoning District – this is the "Captain's Quarters" which is located on the second floor of the Cape Charles Yacht Center which is a allowable under the zoning ordinance for this district since the residential unit is on the second floor above a commercial space on the first floor.

Aerial Map:

P.1 - Location of the Applicant's houseboat



P.2 - Location of the Applicant's houseboat within the Harbor Commercial (HAR-C) zoning district.

- Open Space
- Single Family Residential (R-1)
- Medium Density Residential (R-2)
- Multi-Family Residential (R-3)
- Commercial Residential (CR)
- Commercial District (C-1)
- Commercial District (C-2)
- Commercial District (C-3)
- Industrial (M-2)
- Harbor Light Industrial (HAR-LI)
- Harbor Commercial (HAR-C)
- Bay Crossing



P.3 - Location of the Applicant's houseboat, Hook & Harvey (with approved STR) & CC Yacht Center (with STR) within the Harbor Commercial (HAR-C) district.



P.4 - The Hook & Harvey restaurant within the Harbor Commercial (HAR-C) district and its upstairs STR, The Crow's Nest.



P.5 - Cape Charles Yacht Center within the Harbor Commercial (HAR-C) district and its upstairs STR, Captain's Quarters.



Ordinance Requirements to be Considered:

Code of Virginia Section 15.2-2309 (1) provides the following powers and duties of boards of zoning appeals:

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. **The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence.** Altering the order of evidence is a reversible error only if the appellant lodges an objection citing this section and the board subsequently refuses to reorder the hearing. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision, or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.

Cape Charles Zoning Ordinance - each section listed below has been provided as attachments to this staff report.

- Sections 4.14 - Short Term Rental
- Appendix A – Definitions of Short Term Rental & Dwelling
- Section 3.8 – Harbor- Commercial Zoning District

Discussion Points:

- 1.) Has evidence been provided by the appellant which proves the Zoning Administrator's application of the Zoning Ordinance was incorrect as required by the Code of Virginia?

Board of Zoning Appeals Review:

Based upon the staff report and associated public hearing testimony, the Board should consider all information provided against the standard required by the Code of Virginia 15.2-2309 (1) and the various section of the Town Zoning Ordinance that address the Harbor-Commercial Zoning District and the Short-Term Rental Zoning Ordinance

Staff Recommendation:

The Town of Cape Charles staff recommends that the Board of Zoning Appeal deny the appeal application 2025-02 and uphold the decision of Zoning Administrator Katie Nunez to deny a Business License due to failure to obtain zoning clearance for the houseboat to operate a Short Term Rental (STR) in the Harbor-Commercial District since a single-family dwelling, which the houseboat meets that standard, is not allowed as a use in the Harbor-Commercial

Proposed Motion for Consideration:

The Zoning Administrator respectfully requests that the Board of Zoning Appeals deny Appeal 2025-02 and uphold Zoning Determination letter dated October 3, 2025 and further amended on November 10, 2025 and find that the Town's Zoning Ordinance Section 3.8 does not allow a

single-family home which the houseboat meets that designation as a permitted use in the Harbor-Commercial District, thus there is no ability to have a Short Term Rental be licensed and permitted by the Town for the houseboat.

Attachments: PLEASE NOTE: All mailing addresses, e-mails and phone numbers have been redacted from the publicly available documents.

- (1) Zoning Administrator Denial Decision dated October 3, 2025
- (2) Zoning Administrator Amended Denial Decision dated November 10, 2025
- (3) Appeal Application filed by Derek Roncaioli dated October 9, 2025
- (4) Amended Appeal Application filed by Derek Roncaioli dated November 17, 2025
- (5) Excerpts from Cape Charles Zoning Ordinance: Section 4.14 – Short Term Rentals; Appendix A – Definition of Short Term Rental & Dwelling; Section 3.8 – Harbor-Commercial Zoning District