



## 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

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**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

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### 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**

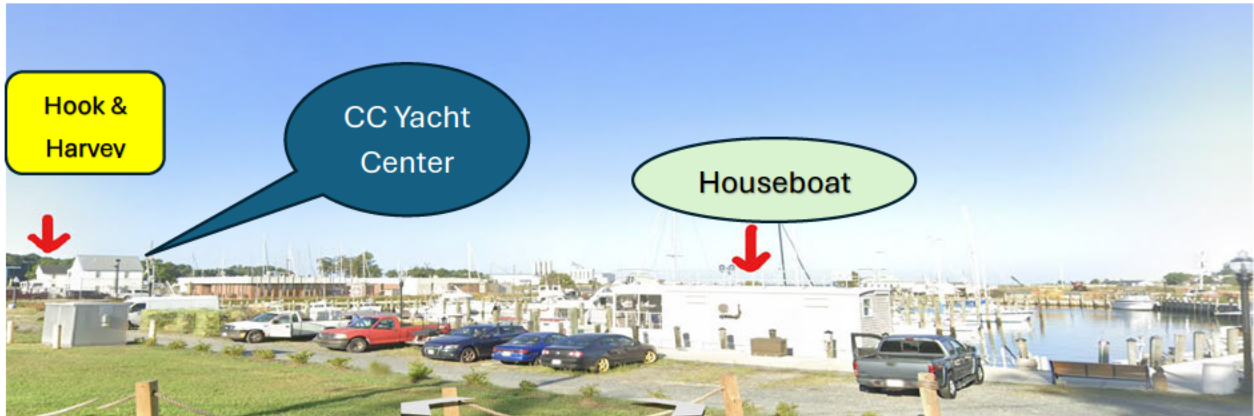


**P.2 - Location of the Applicant's houseboat within the Harbor Commercial (HAR-C) zoning district.**

- 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

**Attachment 1:**  
**Zoning Administrator Denial Decision**  
**dated October 3<sup>rd</sup>, 2025**



# *Municipal Corporation of Cape Charles*

October 3, 2025

Salty Belle Investments, LLC  
Derek Roncaioli

Sent via: Regular Mail, Certified & Return  
Receipt # \_\_\_\_\_ & Email

**RE: Business License Decision of Denial Based on Zoning Clearance for House Boat STR  
1011 Bayshore Rd., Cape Charles, VA 23310**

To: Derek Roncaioli

You submitted an application dated 9/23/2025 requesting a Business License (BPOL) and Application for Rental Inspection for a Short Term Rental (STR). The Cape Charles Zoning Ordinance Section 4.14 (B) states that an STR shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department and an STR shall not be operated until a STR zoning permit is issued by the Planning Department.

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 your 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). As a result, we do not have clearance to issue you a business license.

## **RIGHT OF APPEAL**

You have the right to appeal any Zoning Determination within 30 days of the receipt of this decision letter, pursuant to Cape Charles Zoning Ordinance Section 2.6.4 by filing an application with the Cape Charles Board of Zoning Appeals. The forms are attached to this letter and require a filing fee of \$500. You would also be responsible for the actual advertising costs and mailing costs for any adjacent property owner notification letters which the Town is responsible for handling and will send you a bill; said payments if you avail yourself of the right to appeal are to be made out to the Town of Cape Charles and made prior to any hearing before the Board of Zoning Appeals.

Pursuant to Code of Virginia §15.2-2309 (1), any appeal filed on a Zoning Determination issued by the Zoning Administrator shall be viewed by the Board of Zoning Appeals that the zoning determination is correct. The appellant has the requirement to state how the zoning determination is not correct under Zoning Ordinance, providing reference to the sections of the zoning ordinance that rebut the zoning determination.

Municipal Building · 2 Plum Street · Cape Charles, Virginia 23310

(757) 331-3259

Fax (757) 331-4820

This Zoning Determination shall be final and unappealable if not appealed within the prescribed 30 days.

Sincerely,

Katie H. Nunez  
Planning Director & Zoning Administrator

Cc: Rick Keuroglan, Town Manager  
Jeb Brady, Code Official  
Casey Quilter, Compliance & Inspector Officer  
Paula Davis, Harbor Master  
Marion Sofield, Treasurer

Attachments: CCZO Section 4.14 (B) – Short Term Rental Ordinance  
CCZO Appendix A – Definition of Short Term Rental  
CCZO Appendix A – Definition of Dwelling  
CCZO Section 2.6.4 – Appeals  
Code of Virginia §15.2-2309 (1)

## **Attachment 2:**

**Zoning Administrator Amended Denial  
Decision dated November 10<sup>th</sup>, 2025**



# *Municipal Corporation of Cape Charles*

November 10, 2025

Salty Belle Investments, LLC  
Derek Roncaioli

Sent via: Regular Mail, Certified & Return  
Receipt # \_\_\_\_\_ & Email

**RE: Business License Decision of Denial Revision for House Boat STR  
1011 Bayshore Rd., Cape Charles, VA 23310**

To: Derek Roncaioli

The Town of Cape Charles acknowledges and appreciates your Zoning Appeals Application received October 3, 2025, with the \$500 application fee. Based on the additional information you provided, the Town is amending the Zoning Determination letter regarding the use of your houseboat as a Short Term Rental (STR). Please see our original and additional comments below:

*You submitted an application dated 9/23/2025 requesting a Business License (BPOL) and Application for Rental Inspection for a Short Term Rental (STR). The Cape Charles Zoning Ordinance Section 4.14 (B) states that an STR shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department and an STR shall not be operated until a STR zoning permit is issued by the Planning Department.*

*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 your 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).*

In addition, we accept your classification of the houseboat as “non-navigable” and your position that you classify the houseboat as a floating home. Having said that, the houseboat is not within the US Coast Guard’s jurisdiction and does fall under the Town’s zoning jurisdiction. The Town’s Zoning Ordinance Section 3.8 does not permit single-family dwellings in the Harbor Commercial District (HAR-C). As a result, we do not have clearance to issue you a business license.

## **RIGHT OF APPEAL**

We are extending your right to amend your appeal application to address this amended Zoning Determination until Monday, November 17, 2025. You do not need to pay an additional application fee. Contact our office if you want to withdraw your appeal application based upon

Municipal Building · 2 Plum Street · Cape Charles, Virginia 23310

(757) 331-3259

Fax (757) 331-4820

the amended Zoning Determination Letter/Business License Decision of Denial. Otherwise, my office is proceeding to schedule this appeal hearing for Tuesday, December 9, 2025 at 10:00 a.m. with legal notice being placed in the Eastern Shore Post on Friday, November 28 & December 5, 2025.

*You have the right to appeal any Zoning Determination within 30 days of the receipt of this decision letter, pursuant to Cape Charles Zoning Ordinance Section 2.6.4 by filing an application with the Cape Charles Board of Zoning Appeals. The forms are attached to this letter and require a filing fee of \$500. You would also be responsible for the actual advertising costs and mailing costs for any adjacent property owner notification letters which the Town is responsible for handling and will send you a bill; said payments if you avail yourself of the right to appeal are to be made out to the Town of Cape Charles and made prior to any hearing before the Board of Zoning Appeals.*

*Pursuant to Code of Virginia §15.2-2309 (1), any appeal filed on a Zoning Determination issued by the Zoning Administrator shall be viewed by the Board of Zoning Appeals that the zoning determination is correct. The appellant has the requirement to state how the zoning determination is not correct under Zoning Ordinance, providing reference to the sections of the zoning ordinance that rebut the zoning determination.*

*This Zoning Determination shall be final and unappealable if not appealed within the prescribed 30 days.*

Sincerely,

Katie H. Nunez  
Planning Director & Zoning Administrator

Cc: Rick Keuroglan, Town Manager  
Jeb Brady, Code Official  
Casey Quilter, Compliance & Inspector Officer  
Jack Steinmayer, Zoning Compliance Officer  
Paula Davis, Harbor Master  
Marion Sofield, Treasurer

Attachments: CCZO Section 4.14 (B) – Short Term Rental Ordinance  
CCZO Appendix A – Definition of Short Term Rental  
CCZO Appendix A – Definition of Dwelling  
CCZO Section 2.6.4 – Appeals  
Code of Virginia §15.2-2309 (1)  
**NEW ATTACHMENT: CCZO Section 3.8 – Harbor Commercial Zoning District**

## **Attachment 3:**

**Appeal Application filed by Derek  
Roncaioli dated October 9<sup>th</sup>, 2025**



# Board of Zoning Appeals Application for Appeal of Administrative Zoning Decision

Planning & Zoning Department  
2 Plum Street; Cape Charles, VA 23310  
757-331-3259 x31  
[planningtech@capecharles.org](mailto:planningtech@capecharles.org)

Revised 02/2025	
Taxes	
Violations	
Fee	
Decision	

Budget Code: MISPL 100-3100-1070

### PART 1: APPLICATION NOTES

This form is used to appeal an administrative zoning decision. Appeal fee \$500. Fee must be paid at the time of application for appeal.

**FEES \*\* Payment of advertising costs, actual and adjacent property owner notification mailing costs, actual.**

### PART 2: PROPERTY INFORMATION

Subject Property Address: 1011 Bayshore Rd, Cape Charles, VA 23310

### PART 3: APPLICANT INFORMATION

Applicant's Name: Derek Roncaioli

Applicant's Mailing Address: [REDACTED]

Applicant's Phone #: [REDACTED]

Email: [REDACTED]

### PART 4: PROJECT INFORMATION

Briefly describe the decision that you are appealing. Provide a copy of the letter sent to you by the Zoning Administrator. If necessary, you may attach additional information to this form. Date of Decision: 3 October 2025

In accordance with the Code of Virginia, Section 15.2-2309 (1) and Cape Charles Zoning Ordinance Section 2.6.4 (A), I am appealing the decision of the Zoning Administrator. The appeal is based on the following information:

The applicants floating home is a permanent, utility-connected residential structure used exclusively for human habitation - meeting the Town's definition of "dwelling" under Appendix A. It is not a navigable houseboat as confirmed by the U.S Supreme Court in *Lozman v. City of Riviera Beach* (2013), which distinguishes stationary floating homes from vessels. Accordingly, denying the Short-Term Rental permit solely because the home floats rather than rests on land is inconsistent with both the intent and the plain language of the CCZO, and the ruling should be overturned. The intent of the STR ordinance (4.14) is to ensure that rental properties are safe, habitable, and properly licensed - not because the home floats rather than rests on pilings or concrete contradicts both the ordinances intent and equitable land-use principles.

This appeal is based on Section(s) 4.14 (B) of the Cape Charles Zoning Ordinance.

Applicant's signature: [Signature]

Date: 9 October 2025

Zoning Administrator's signature: \_\_\_\_\_

Date: \_\_\_\_\_

Chairman: \_\_\_\_\_

Date: \_\_\_\_\_

Notice sent to applicant by certified mail of the decision by the BZA with 30 day right to appeal to Circuit Court.

Date: \_\_\_\_\_ Sent by: \_\_\_\_\_

# Legal Summary Brief in Support of Appeal

**Applicant:** Derek Roncaioli

**Application Date:** September 23, 2025

**Subject:** Appeal of Denial – Short-Term Rental (STR) Zoning Permit and Business License

**Property:** [Floating Home / Current: Town Docks / Future: Cape Charles Yacht Center]

**Town:** Cape Charles, Virginia

## I. Overview

This brief supports the appeal of the Town’s denial of an STR zoning permit and Business License for the applicant’s floating home. The denial misclassifies the property as a “houseboat” rather than a “dwelling,” asserting it is “not a structure” and “not used exclusively for human habitation.” In fact, the property satisfies the definition of a *structure* and *dwelling* under the Cape Charles Zoning Ordinance and Town Code.

It is a **floating home**—a stationary residential structure, permanently moored, utility-connected, and used exclusively for habitation—fully meeting the spirit and letter of the Town’s zoning and business licensing provisions.

## II. Relevant Town Code and Zoning Provisions

### 1. Cape Charles Zoning Ordinance § 4.14(B)

“A Short-Term Rental shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department and a Short-Term Rental zoning permit is issued by the Planning Department.”

### 2. Town Code Chapter 18, Article II (Business, Professional, and Occupational License Taxes)

Requires any person engaging in business within the Town to first obtain a business license (BPOL).

### 3. Zoning Ordinance Appendix A – Definitions

*Short-Term Rental* – “A room or space suitable or intended for occupancy for dwelling.”  
*Dwelling* – “A structure used exclusively for human habitation.”

The denial rests entirely on the interpretation that the applicant’s floating home is **not a structure**, and thus not a dwelling.

### **III. Interpretation of “Structure” and “Dwelling”**

The Zoning Ordinance does not define “structure” to exclude floating buildings.

Under ordinary and legal usage, a “structure” is *anything constructed or erected with a fixed location on or in the ground or water, including buildings and facilities for human occupancy.*

Virginia law recognizes local authority to regulate structures built on water surfaces (see *Code of Virginia* § 15.2-2280 et seq., granting municipalities zoning power over all land and water within their jurisdiction).

Nothing in Town Code or state law limits “structures” to those resting on solid ground.

Therefore, the floating home—being physically constructed, permanently affixed to a specific location, and intended for occupancy—fits comfortably within the plain meaning of “structure.”

### **IV. Federal and State Authority Supporting Classification as a Dwelling**

#### **A. U.S. Supreme Court – *Lozman v. City of Riviera Beach*, 568 U.S. 115 (2013)**

In *Lozman*, the Supreme Court held 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).

The applicant’s floating home is analogous to the *Lozman* home:

- It lacks propulsion or navigation equipment.
- It is permanently moored and connected to land-based utilities.
- It is designed and used solely as a residence.

Thus, consistent with *Lozman*, it should be treated as a dwelling structure, not a boat.

#### **B. Virginia and Regional Planning References**

Virginia planning and legal studies (e.g., the Middle Peninsula Planning District Commission, *“Floating Structures in Virginia”* (2010)) confirm that localities may treat permanently moored floating homes as fixed dwellings subject to zoning.

Similarly, the National Sea Grant Law Center (2009) advisory on floating homes recognizes that local governments have discretion to define and regulate floating structures as part of the built environment.

These authorities demonstrate that classifying the applicant’s floating home as a dwelling is fully consistent with Virginia’s zoning powers and regional practice.

## V. Application of the Law to the Facts

Criterion	Evidence / Application
<b>Structure</b>	The floating home is constructed, permanently moored, and dependent on shore-based utilities—meeting ordinary meaning of “structure.”
<b>Exclusive human habitation</b>	Used solely as a residence with sleeping, cooking, and sanitation facilities; not navigable or commercial in purpose.
<b>Compliance with inspection &amp; safety standards</b>	Application materials and inspections confirm compliance with housing, electrical, and safety requirements under Chapter 8 and § 4.14(D) of the Zoning Ordinance.
<b>Business license prerequisites</b>	Applicant has applied for and is prepared to satisfy all BPOL and STR license conditions.

Hence, the floating home meets every definitional and regulatory requirement of a “dwelling” suitable for STR use.

## VI. Public Policy Considerations

The intent of the STR ordinance (§ 4.14) is to ensure that rental properties are **safe, habitable, and properly licensed**—not to discriminate based on structural foundation type.

The applicant’s floating home provides safe, code-compliant lodging and aligns with Cape Charles’s goals of promoting tourism, tax compliance, and waterfront vitality.

Denying eligibility solely because the home floats rather than rests on pilings or concrete contradicts both the ordinance’s intent and equitable land-use principles.

## VII. Requested Relief

The applicant respectfully requests that the Zoning Board of Appeals:

1. **Reverse** the Planning Department’s denial;
2. **Declare** that the applicant’s floating home qualifies as a “structure” and “dwelling” under Appendix A;

3. **Remand** the matter for issuance of a Short-Term Rental zoning permit, subject to standard inspection and business license requirements under Town Code Chapter 18; and
4. **Grant** such other relief as the Board deems appropriate.

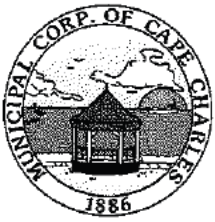
### **VIII. Conclusion**

Under the Cape Charles Zoning Ordinance, the Code of Virginia, and persuasive federal precedent, the applicant's floating home qualifies as a dwelling structure eligible for use as a Short-Term Rental.

It is a fixed residential unit meeting all habitability, safety, and licensing requirements. Accordingly, the denial should be reversed.

Respectfully submitted,  
**Derek Roncaioli**

9 October 2025



# *Municipal Corporation of Cape Charles*

October 3, 2025

Salty Belle Investments, LLC  
Derek Roncaioli

Sent via: Regular Mail, Certified & Return  
Receipt # \_\_\_\_\_ & Email

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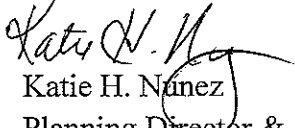
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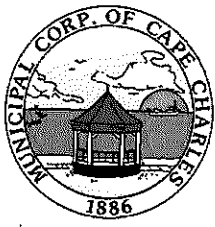
Sincerely,



Katie H. Nunez  
Planning Director & Zoning Administrator

Cc: Rick Keuroglan, Town Manager  
Jeb Brady, Code Official  
Casey Quilter, Compliance & Inspector Officer  
Paula Davis, Harbor Master  
Marion Sofield, Treasurer

Attachments: CCZO Section 4.14 (B) – Short Term Rental Ordinance  
CCZO Appendix A – Definition of Short Term Rental  
CCZO Appendix A – Definition of Dwelling  
CCZO Section 2.6.4 – Appeals  
Code of Virginia §15.2-2309 (1)



# *Municipal Corp. of Cape Charles*

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 4.14 - Short Term Rental (STR) Ordinance

#### A. Purpose and intent

1. The purpose and intent of this section is to regulate Short-Term Rentals (STRs). STRs are common in America today, including in the town. However, given that they are commercial uses which must co-exist with residential uses, and often in neighborhoods not designed for commercial activity, limits and regulations are needed. This article is intended to provide the requirements to allow these certain limited commercial uses in town zoning districts containing residential uses per Article III.
2. The regulations for short-term rentals are designed to accommodate an STR Owner's and operator's limited commercial use in a way that is safe for the guest, meets town requirements, does not change the character of the town, and fits in with the districts in which STRs operate.
3. This Section is intended to work in tandem with the town's business license requirements as contained in the Town Code, as a measure for the town to monitor the number of STRs and enforce regulations.
4. Owners and operators are allowed a one-year (1 yr) grace period, from the date Zoning Ordinance No. 20241121 is adopted, to come into compliance, and pay the zoning permit fee. However, this grace period is not intended to limit or change existing rules, regulations, or fees, including but not limited to requirements to obtain a business license, pay taxes, and comply with the building code.

#### B. Permitting Requirements

1. A short-term rental unit shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department.
2. A short-term rental unit shall not be operated until a Short-Term Rental (STR) zoning permit is issued by the Planning Department. The application for a zoning permit will require, as a minimum, the following:
  - a. Name of owner and operator of the short-term rental property
  - b. Address of the short-term rental property
  - c. Town business license number
  - d. For operators that are a lessee or sublessee, an attestation that the property owner has granted permission for use of such property as a short-term rental.
  - e. Contact information for all owner(s), operator(s), and property management companies (if applicable), to include: names, telephone numbers, mailing addresses, and e-mail addresses. If ownership is via partnership or corporation, a list of all partners, officers, and shareholders (as appropriate) must be provided with the same contact information.

- f. Contact information for the twenty-four (24) hour/seven (7) days a week contact who is the responsible party to address immediate concerns associated with a short-term rental, and who has the authority to act as the owner's and operator's agent.
  - g. If the property is governed by a homeowners' or condominium association, proof that authorization to operate the short-term rental was provided by the homeowners' or condominium association.
  - h. Certification that Town prepared STR training information has been reviewed annually.
  - i. Certification that adjacent property owners have been notified that an application for a STR zoning permit has been submitted.
3. Short-term rental zoning permits will be valid for one year (1 yr) and may be renewed each subsequent year, if there were no permit violations, and upon approval of the associated annual business license and re-inspection.
  4. Any change to information on the (STR) zoning permit application will require notification to the Planning Department within ten (10) business days.
  5. Any change in ownership of the property or short-term rental owner or operator will require a new application for the business license, short-term rental zoning permit, and inspection within twenty (20) business days.
  6. An owner (which includes, but is not limited to, corporations or partnerships, and entities or individuals that are stockholders, members or partners in corporations, companies, or partnerships) may only operate up to five (5) short-term rental units within the entire town.
  7. An operator is not prohibited from offering a property as a short-term rental solely on the basis that such operator is a lessee or sublessee, provided that the property owner has granted permission for such property's use as a short-term rental. However, a lessee or sublessee is limited to one (1) short-term rental within the town. An operator will be required to meet any subleasing requirements, if any, from any applicable homeowner's or condominium association.

#### C. Additional Requirements

1. Every short-term rental is required to submit transient occupancy tax (TOT) in accordance with Town Code Chapter 18, Article V.
2. Short-term rentals are only permitted in those districts as specified in Article III.
3. Simultaneous short-term rentals under separate contracts in the same dwelling are prohibited.
4. Commercial gatherings providing direct or indirect compensation, including but not limited to luncheons, banquets, parties, weddings, charitable fund-raising, commercial or advertising activities, or other similar occurrences are prohibited.
5. Occupancy: There shall be no more than two (2) lodgers per bedroom, plus two; with the maximum number of overnight lodgers per dwelling being no greater than ten (10). Occupancy shall not exceed any limit set by the Virginia Uniform Statewide Building Code (VA USBC) or local building official. This shall be identified as the Base Occupancy for STRs (BOSTR). For the purpose of the BOSTR, an occupant shall not include any person two years (2 yrs) of age or under.

Occupancy of greater than above may be approved, provided the property can accommodate sufficient off-street parking consisting of one (1) spot for every two (2) additional lodgers over the base occupancy for STRs (BOSTR), the property meets any other life safety

requirements as may be reasonably required for such higher occupancy, and the property will not exceed the VA USBC or local building code official limitations.

The town retains the right to investigate violations and complaints of permit violations, and to periodically contact STR lodgers to determine occupancy. If town investigators determine that a violation has occurred, notice of such violation will be provided to the STR zoning permit holder or agent who will be responsible to cure the violation.

6. The business license and emergency information must be conspicuously posted inside each rental, including the twenty-four/seven (24/7) contact information for the STR responsible party.
7. Signage is to comply with Article V, Section 11.1.
8. Refuse requirements: one (1)- and two (2)-bedroom dwelling units used as short-term rental units will require one (1) trash receptacle; three (3) or more-bedroom units will require two (2) receptacles; five (5) or more bedrooms will require three (3) receptacles. Owners and operators are required to maintain the receptacles so that they do not overflow.
9. Lodgers and their guests will be required to observe noise requirements contained in Town Code Chapter 20, Article I, Section 20-3.
10. Safety Equipment: Operable smoke detectors, fire extinguishers, and carbon monoxide detectors shall be present in compliance with the Virginia Uniform Statewide Building Code.
11. Under no circumstances shall the issuance of a certificate of zoning compliance (permit for short-term rental) by the Administrator (Town) be construed as abrogating, nullifying or invalidating any other provision of Federal, State or local law; any deed covenant or property right; or any homeowners' or condominium association bylaw, or rule.

#### D. Inspections

1. An initial inspection will be required for all short-term rentals in accordance with Town Code Chapter 8, Section 8-4.
2. An annual re-inspection by the Code Official or designee is required when filing for a short-term rental business license renewal.
3. The Building Code Official or designee maintains the right to inspect a short-term rental, based on complaints or reasonable suspicion, to verify that the rental is being operated in accordance with the Virginia Uniform Statewide Building Code, the permit, and other applicable laws and regulations.

#### E. Violations

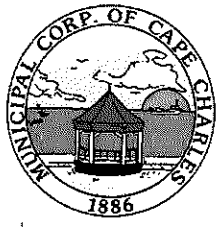
1. A Short-Term Rental (STR) zoning permit may be denied for any of the following violations:
  - a. Failure to obtain/maintain a town business license
  - b. Failure to pay all town real property taxes
  - c. Failure to pay all business taxes from the prior year
  - d. Failure to file and pay (if applicable) payment of transient occupancy taxes due the town for the previous three (3) months or more
  - e. Falsifying town forms or applications
  - f. Other applicable town zoning violations
  - g. Failure to provide responsive actions to issues raised to the twenty-four seven (24/7) contacts, as determined through town investigations.
  - h. Two (2) violations of safety/building code requirements within the same calendar year, that are not cured following reasonable notice.
  - i. Two (2) violations of occupancy limits within the same calendar year, that are not cured following reasonable notice.

Reasonable notice is satisfied when an authorized town official notifies the zoning permit holder or agent of a condition violating requirements of this section, and twenty-four hours (24 hrs.) pass without resolution of the violation.

Note: individual nuisance or noise violations will be issued directly to the offending party in addition to any consequence to the zoning permit holder.

Violations may be investigated by the Town Manager, Treasurer, Zoning Administrator, Building Code Official, Police Chief or their designees as appropriate. Once investigated, violations pursuant to this section will be issued by the Zoning Administrator.

2. An owner or operator, whose Short-Term Rental (STR) zoning permit has been denied pursuant to this Section, shall not be eligible to obtain another STR zoning permit for the subject short-term rental for the entire succeeding calendar year. Thereafter, the owner or operator will be required to apply for a new business license, STR zoning permit, and an inspection.
3. Before the denial of Short-Term Rental (STR) zoning permits is made effective, the town shall give written notice to the short-term rental owner or operator as noted on the STR zoning permit. The notice of permit denial under the provisions of the section shall contain:
  - a. A description of the violations constituting the basis of the denial, suspension or revocation;
  - b. If applicable, a statement of acts necessary to correct the violation(s); and
  - c. A statement that the owner may have a right to appeal the notice of a permit denial within thirty (30) days in accordance with the Code of Virginia Section 15.2-2311 (A) and that the decision of permit denial shall be final and unappealable if not appealed within thirty (30) days.



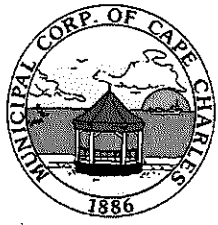
# *Municipal Corp. of Cape Charles*

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 2.6.4: Appeals and Procedure of Appeals

#### CCZO Appendix A – Definitions

**SHORT TERM RENTAL** means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than thirty (30) days, in exchange for a charge for the occupancy. This does not include a hotel, motel, or bed and breakfast.



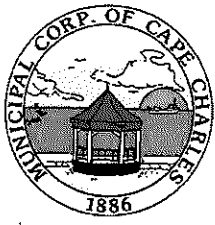
# *Municipal Corp. of Cape Charles*

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 2.6.4: Appeals and Procedure of Appeals

#### CCZO Appendix A – Definitions

**DWELLING** means a structure or portion thereof that is used exclusively for human habitation.



# *Municipal Corp. of Cape Charles*

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 2.6.4: Appeals and Procedure of Appeals

#### CCZO Section 2.6.4: Appeals and Procedure of Appeals

- A. An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by an officer, department, board, or bureau of the county or municipality affected by any decision of the Zoning Administrator or Administrative Officer in the administration or enforcement of this ordinance. The decision may be appealed within thirty (30) days thereof by filing a notice of appeal specifying the grounds of appeal. Said appeal shall be filed with the Zoning Administrator and with the Board of Zoning Appeals. The Zoning Administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.
- B. The board shall fix a reasonable time for the hearing of an application for appeal, give the public notice thereof as well as due notice to the parties of interest, and decide the same within sixty (60) days of the filing application for appeal. In exercising its powers, the board may reverse or affirm wholly in part or may modify an order, requirement, decision, or determination of an administrative officer or decide in favor of the applicant on any matter which it is required to effect any variance from the ordinance. The board shall keep minutes of its proceedings and other official actions, which shall be filed in the office of the Zoning Administrator and shall be public record. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.
- C. In accordance with 15.2-2313 of the Code of Virginia, where a building permit has been issued and the construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected, or abated as a violation of the zoning ordinance, by suit filed within fifteen (15) days after the start of construction by a person who had no actual notice of the issuance of the permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the administrative officer to the Board of Zoning Appeals

## § 15.2-2309. Powers and duties of boards of zoning appeals

Boards of zoning appeals shall have the following powers and duties:

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.

2. Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in § 15.2-2201, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows 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, 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 (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is 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; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application. Any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability may expire when

the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable. If a request for a reasonable modification is made to a locality and is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such request shall be granted by the locality unless a variance from the board of zoning appeals under this section is required in order for such request to be granted.

No variance shall be considered except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

In granting a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

Code 1950, §§ 15-831, 15-850, 15-968.9; 1950, p. 176; 1962, c. 407, § 15.1-495; 1964, c. 535; 1972, c. 695; 1975, cc. 521, 641; 1987, c. 8; 1991, c. 513; 1996, c. 555; 1997, c.; 2000, c. 1050; 2002, c. 546; 2003, c. 403; 2006, c. 264; 2008, c. 318; 2009, c. 206; 2015, c. 597; 2018, c. 757; 2025, c. 512.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

**Attachment 4:**  
**Amended Appeal Application filed by**  
**Derek Roncaioli dated October 17<sup>th</sup>,**  
**2025**



# Board of Zoning Appeals Application for Appeal of Administrative Zoning Decision

Planning & Zoning Department  
2 Plum Street; Cape Charles, VA 23310  
757-331-3259 x31  
[planningtech@capecharles.org](mailto:planningtech@capecharles.org)

Revised 02/2025

Taxes

Violations

Fee

Decision

Budget Code: MISPL 100-3100-1070

## PART 1: APPLICATION NOTES

This form is used to appeal an administrative zoning decision. Appeal fee \$500. Fee must be paid at the time of application for appeal.

**FEES \*\* Payment of advertising costs, actual and adjacent property owner notification mailing costs, actual.**

## PART 2: PROPERTY INFORMATION

Subject Property Address: 11A Marina Rd, Cape Charles, VA 23310

## PART 3: APPLICANT INFORMATION

Applicant's Name: Derek Roncaioli

Applicant's Mailing Address:

Applicant's Phone #:

Email:

## PART 4: PROJECT INFORMATION

Briefly describe the decision that you are appealing. Provide a copy of the letter sent to you by the Zoning Administrator. If necessary, you may attach additional information to this form. Date of Decision: 3 Oct / 10 Nov 2025

In accordance with the Code of Virginia, Section 15.2-2309 (1) and Cape Charles Zoning Ordinance Section 2.6.4 (A), I am appealing the decision of the Zoning Administrator. The appeal is based on the following information:

This appeal is based on Section(s) \_\_\_\_\_ of the Cape Charles Zoning Ordinance.

Applicant's signature:

Date: 16 November 2025

Zoning Administrator's signature: \_\_\_\_\_

Date: \_\_\_\_\_

Chairman: \_\_\_\_\_

Date: \_\_\_\_\_

Notice sent to applicant by certified mail of the decision by the BZA with 30 day right to appeal to Circuit Court.

Date: \_\_\_\_\_ Sent by: \_\_\_\_\_



# *Municipal Corporation of Cape Charles*

November 10, 2025

Salty Belle Investments, LLC  
Derek Roncaioli

Sent via: Regular Mail, Certified & Return  
Receipt # \_\_\_\_\_ & Email

**RE: Business License Decision of Denial Revision for House Boat STR  
1011 Bayshore Rd., Cape Charles, VA 23310**

To: Derek Roncaioli

The Town of Cape Charles acknowledges and appreciates your Zoning Appeals Application received October 3, 2025, with the \$500 application fee. Based on the additional information you provided, the Town is amending the Zoning Determination letter regarding the use of your houseboat as a Short Term Rental (STR). Please see our original and additional comments below:

*You submitted an application dated 9/23/2025 requesting a Business License (BPOL) and Application for Rental Inspection for a Short Term Rental (STR). The Cape Charles Zoning Ordinance Section 4.14 (B) states that an STR shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department and an STR shall not be operated until a STR zoning permit is issued by the Planning Department.*

*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 your 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).*

In addition, we accept your classification of the houseboat as "non-navigable" and your position that you classify the houseboat as a floating home. Having said that, the houseboat is not within the US Coast Guard's jurisdiction and does fall under the Town's zoning jurisdiction. The Town's Zoning Ordinance Section 3.8 does not permit single-family dwellings in the Harbor Commercial District (HAR-C). As a result, we do not have clearance to issue you a business license.

## **RIGHT OF APPEAL**

We are extending your right to amend your appeal application to address this amended Zoning Determination until Monday, November 17, 2025. You do not need to pay an additional application fee. Contact our office if you want to withdraw your appeal application based upon

Municipal Building · 2 Plum Street · Cape Charles, Virginia 23310

(757) 331-3259

Fax (757) 331-4820

the amended Zoning Determination Letter/Business License Decision of Denial. Otherwise, my office is proceeding to schedule this appeal hearing for Tuesday, December 9, 2025 at 10:00 a.m. with legal notice being placed in the Eastern Shore Post on Friday, November 28 & December 5, 2025.

*You have the right to appeal any Zoning Determination within 30 days of the receipt of this decision letter, pursuant to Cape Charles Zoning Ordinance Section 2.6.4 by filing an application with the Cape Charles Board of Zoning Appeals. The forms are attached to this letter and require a filing fee of \$500. You would also be responsible for the actual advertising costs and mailing costs for any adjacent property owner notification letters which the Town is responsible for handling and will send you a bill; said payments if you avail yourself of the right to appeal are to be made out to the Town of Cape Charles and made prior to any hearing before the Board of Zoning Appeals.*

*Pursuant to Code of Virginia §15.2-2309 (1), any appeal filed on a Zoning Determination issued by the Zoning Administrator shall be viewed by the Board of Zoning Appeals that the zoning determination is correct. The appellant has the requirement to state how the zoning determination is not correct under Zoning Ordinance, providing reference to the sections of the zoning ordinance that rebut the zoning determination.*

*This Zoning Determination shall be final and unappealable if not appealed within the prescribed 30 days.*

Sincerely,

Katie H. Nunez  
Planning Director & Zoning Administrator

Cc: Rick Keuroglan, Town Manager  
Jeb Brady, Code Official  
Casey Quilter, Compliance & Inspector Officer  
Jack Steinmayer, Zoning Compliance Officer  
Paula Davis, Harbor Master  
Marion Sofield, Treasurer

Attachments: CCZO Section 4.14 (B) – Short Term Rental Ordinance  
CCZO Appendix A – Definition of Short Term Rental  
CCZO Appendix A – Definition of Dwelling  
CCZO Section 2.6.4 – Appeals  
Code of Virginia §15.2-2309 (1)  
**NEW ATTACHMENT: CCZO Section 3.8 – Harbor Commercial Zoning District**

## **Re: Appeal of Zoning Determination – Houseboat Short-Term Rental Permit**

Dear Members of the Zoning Board of Appeals,

I would like to express my appreciation to the Town for its detailed correspondence acknowledging my Zoning Appeals Application (received October 3, 2025) and for the thoughtful review of my request for a business license and Short-Term Rental (STR) zoning permit for my permanently moored, non-navigable houseboat located within the Harbor Commercial (HAR-C) District.

This letter respectfully requests that the Board reconsider the determination that my houseboat does not meet the definition of a Short-Term Rental (“STR”) under the Cape Charles Zoning Ordinance, and grant approval for its use under Section 4.14 of the Ordinance.

### **I. The Houseboat Meets the Functional Definition of a Dwelling for STR Purposes**

Appendix A and Article II, Section 2.9 of the Zoning Ordinance define a **Short-Term Rental** as:

“The provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy. This does not include a hotel, motel, or bed and breakfast.”

While the Ordinance defines a “Dwelling” as a “structure used exclusively for human habitation,” the intent of this definition is to distinguish habitable, residential spaces from purely commercial or transient uses — not to exclude fixed, habitable floating homes.

My houseboat, which is **non-navigable, permanently moored, and connected to town utilities**, is designed and used **exclusively for human habitation**. It contains a full kitchen, bathroom, and sleeping quarters, and it undergoes inspection and maintenance equivalent to any land-based STR dwelling. Its functional use is entirely consistent with the intent of the Town’s STR regulations under Section 4.14: to ensure safe, taxable, and regulated lodging for guests.

### **II. STRs Are Permitted in the Harbor Commercial District**

The Town’s Zoning Ordinance **Section 3.9(C)** (Harbor Commercial District – Accessory Uses) explicitly lists:

“Short-Term Rental in accordance with Section 4.14.”

This provision confirms that STRs are allowed as an accessory use in the Harbor Commercial District, provided they meet the conditions of Section 4.14.

Therefore, an STR in the HAR-C is consistent with the zoning ordinance’s structure and intent. My application seeks approval under precisely that framework — through compliance with the STR permitting and licensing requirements established in Section 4.14(B):

“A short-term rental unit shall not be operated until an annual business license is issued ... [and] a short-term rental zoning permit is issued by the Planning Department.”

Nowhere does the ordinance limit STRs in the HAR-C to land-based structures or prohibit floating, habitable units that meet safety and occupancy standards.

### **III. The “Structure” Definition Should Be Interpreted Consistently with STR Intent**

The Town’s prior determination concluded that the houseboat “is not a structure and is not used exclusively for human habitation.” However, that interpretation is inconsistent with the **purpose and spirit** of Section 4.14.

- The STR definition focuses on *use* — spaces “suitable or intended for occupancy for dwelling, sleeping, or lodging purposes.”
- It does **not** require that the dwelling be land-anchored or built upon a foundation.
- The Town has recognized the houseboat as non-navigable and therefore within its jurisdiction, confirming its status as a stationary, habitable unit subject to Town regulation.

Given that the Ordinance’s intent is to regulate **habitable lodging uses**, it is both reasonable and consistent to interpret “structure” broadly to include permanently moored, non-navigable floating homes used exclusively for habitation.

### **IV. Precedent Within the Harbor District: “The Crows Nest” Above Hook & Harvey**

There is also a clear **precedent of STR operation** within the Harbor Commercial District under similar circumstances.

A publicly listed short-term rental, “**The Crows Nest – Sunsets at the Harbor**”, operates directly above **Hook & Harvey** restaurant in the same harbor district. ([VRBO listing #1800945](#))

This listing demonstrates that:

- The Town of Cape Charles has permitted or tolerated STR use **within a mixed-use commercial harbor property**.

- The unit is not a detached single-family dwelling but an upper-story lodging use integrated into a commercial structure — confirming that STRs can and do operate lawfully within the Harbor Commercial District.
- Town planning materials and public statements (see *Eastern Shore Post*, Dec 2024 – Jan 2025) further acknowledge that STRs are **allowed in most residential and commercial areas, including the harbor district.**

This precedent indicates that the Town recognizes flexible, tourism-based lodging uses in the harbor district. My non-navigable, utility-connected houseboat aligns squarely with that pattern of use and purpose — serving visitors, supporting local businesses, and contributing to the tourism-driven waterfront economy.

## V. Economic and Policy Consistency

Permitting this houseboat STR would:

- Promote fair, consistent application of the Town’s STR regulations;
- Support local tourism and small-business revenue in the harbor area;
- Provide taxable lodging that complies with safety, inspection, and occupancy rules; and
- Reflect the Town’s publicly stated objective in **Section 4.14(A)** to “accommodate an STR owner’s limited commercial use in a way that is safe for the guest, meets town requirements, does not change the character of the town, and fits in with the districts in which STRs operate.”

## VI. Requested Relief

I respectfully request that the Zoning Board of Appeals:

1. **Reverse or amend** the Zoning Administrator’s determination that the houseboat cannot qualify as a dwelling for STR purposes;
2. **Affirm that a permanently moored, non-navigable, utility-connected houseboat qualifies as a habitable space** under Section 2.9 and may be regulated under Section 4.14;
3. **Acknowledge that STRs are permitted as accessory uses** in the Harbor Commercial District (Section 3.9(C)); and
4. **Authorize issuance of an STR zoning permit and business license** consistent with the above findings.

## **VII. Commitment to Compliance**

I remain committed to full compliance with all STR operational, inspection, and safety standards, and welcome any reasonable conditions the Town may attach to ensure consistency with existing regulations and harbor-area aesthetics.

## **Conclusion**

The Town's own ordinance language, existing STR activity within the Harbor Commercial District, and the functional nature of my permanently moored houseboat all support this use's inclusion within the Town's STR framework.

I respectfully request that the Board of Zoning Appeals recognize this alignment and grant approval for the issuance of a Short-Term Rental zoning permit and business license for my houseboat.

Thank you for your time and consideration.

Very Respectfully,

Derek Roncaioli



# *Municipal Corporation of Cape Charles*

October 3, 2025

Salty Belle Investments, LLC  
Derek Roncaioli

Sent via: Regular Mail, Certified & Return  
Receipt # \_\_\_\_\_ & Email

**RE: Business License Decision of Denial Based on Zoning Clearance for House Boat STR  
1011 Bayshore Rd., Cape Charles, VA 23310**

To: Derek Roncaioli

You submitted an application dated 9/23/2025 requesting a Business License (BPOL) and Application for Rental Inspection for a Short Term Rental (STR). The Cape Charles Zoning Ordinance Section 4.14 (B) states that an STR shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department and an STR shall not be operated until a STR zoning permit is issued by the Planning Department.

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 your 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). As a result, we do not have clearance to issue you a business license.

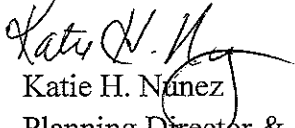
## **RIGHT OF APPEAL**

You have the right to appeal any Zoning Determination within 30 days of the receipt of this decision letter, pursuant to Cape Charles Zoning Ordinance Section 2.6.4 by filing an application with the Cape Charles Board of Zoning Appeals. The forms are attached to this letter and require a filing fee of \$500. You would also be responsible for the actual advertising costs and mailing costs for any adjacent property owner notification letters which the Town is responsible for handling and will send you a bill; said payments if you avail yourself of the right to appeal are to be made out to the Town of Cape Charles and made prior to any hearing before the Board of Zoning Appeals.

Pursuant to Code of Virginia §15.2-2309 (1), any appeal filed on a Zoning Determination issued by the Zoning Administrator shall be viewed by the Board of Zoning Appeals that the zoning determination is correct. The appellant has the requirement to state how the zoning determination is not correct under Zoning Ordinance, providing reference to the sections of the zoning ordinance that rebut the zoning determination.

This Zoning Determination shall be final and unappealable if not appealed within the prescribed 30 days.

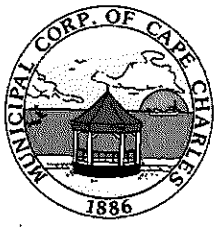
Sincerely,



Katie H. Nunez  
Planning Director & Zoning Administrator

Cc: Rick Keuroglan, Town Manager  
Jeb Brady, Code Official  
Casey Quilter, Compliance & Inspector Officer  
Paula Davis, Harbor Master  
Marion Sofield, Treasurer

Attachments: CCZO Section 4.14 (B) – Short Term Rental Ordinance  
CCZO Appendix A – Definition of Short Term Rental  
CCZO Appendix A – Definition of Dwelling  
CCZO Section 2.6.4 – Appeals  
Code of Virginia §15.2-2309 (1)



# *Municipal Corp. of Cape Charles*

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 4.14 - Short Term Rental (STR) Ordinance

#### A. Purpose and intent

1. The purpose and intent of this section is to regulate Short-Term Rentals (STRs). STRs are common in America today, including in the town. However, given that they are commercial uses which must co-exist with residential uses, and often in neighborhoods not designed for commercial activity, limits and regulations are needed. This article is intended to provide the requirements to allow these certain limited commercial uses in town zoning districts containing residential uses per Article III.
2. The regulations for short-term rentals are designed to accommodate an STR Owner's and operator's limited commercial use in a way that is safe for the guest, meets town requirements, does not change the character of the town, and fits in with the districts in which STRs operate.
3. This Section is intended to work in tandem with the town's business license requirements as contained in the Town Code, as a measure for the town to monitor the number of STRs and enforce regulations.
4. Owners and operators are allowed a one-year (1 yr) grace period, from the date Zoning Ordinance No. 20241121 is adopted, to come into compliance, and pay the zoning permit fee. However, this grace period is not intended to limit or change existing rules, regulations, or fees, including but not limited to requirements to obtain a business license, pay taxes, and comply with the building code.

#### B. Permitting Requirements

1. A short-term rental unit shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department.
2. A short-term rental unit shall not be operated until a Short-Term Rental (STR) zoning permit is issued by the Planning Department. The application for a zoning permit will require, as a minimum, the following:
  - a. Name of owner and operator of the short-term rental property
  - b. Address of the short-term rental property
  - c. Town business license number
  - d. For operators that are a lessee or sublessee, an attestation that the property owner has granted permission for use of such property as a short-term rental.
  - e. Contact information for all owner(s), operator(s), and property management companies (if applicable), to include: names, telephone numbers, mailing addresses, and e-mail addresses. If ownership is via partnership or corporation, a list of all partners, officers, and shareholders (as appropriate) must be provided with the same contact information.

- f. Contact information for the twenty-four (24) hour/seven (7) days a week contact who is the responsible party to address immediate concerns associated with a short-term rental, and who has the authority to act as the owner's and operator's agent.
  - g. If the property is governed by a homeowners' or condominium association, proof that authorization to operate the short-term rental was provided by the homeowners' or condominium association.
  - h. Certification that Town prepared STR training information has been reviewed annually.
  - i. Certification that adjacent property owners have been notified that an application for a STR zoning permit has been submitted.
3. Short-term rental zoning permits will be valid for one year (1 yr) and may be renewed each subsequent year, if there were no permit violations, and upon approval of the associated annual business license and re-inspection.
  4. Any change to information on the (STR) zoning permit application will require notification to the Planning Department within ten (10) business days.
  5. Any change in ownership of the property or short-term rental owner or operator will require a new application for the business license, short-term rental zoning permit, and inspection within twenty (20) business days.
  6. An owner (which includes, but is not limited to, corporations or partnerships, and entities or individuals that are stockholders, members or partners in corporations, companies, or partnerships) may only operate up to five (5) short-term rental units within the entire town.
  7. An operator is not prohibited from offering a property as a short-term rental solely on the basis that such operator is a lessee or sublessee, provided that the property owner has granted permission for such property's use as a short-term rental. However, a lessee or sublessee is limited to one (1) short-term rental within the town. An operator will be required to meet any subleasing requirements, if any, from any applicable homeowner's or condominium association.

#### C. Additional Requirements

1. Every short-term rental is required to submit transient occupancy tax (TOT) in accordance with Town Code Chapter 18, Article V.
2. Short-term rentals are only permitted in those districts as specified in Article III.
3. Simultaneous short-term rentals under separate contracts in the same dwelling are prohibited.
4. Commercial gatherings providing direct or indirect compensation, including but not limited to luncheons, banquets, parties, weddings, charitable fund-raising, commercial or advertising activities, or other similar occurrences are prohibited.
5. Occupancy: There shall be no more than two (2) lodgers per bedroom, plus two; with the maximum number of overnight lodgers per dwelling being no greater than ten (10). Occupancy shall not exceed any limit set by the Virginia Uniform Statewide Building Code (VA USBC) or local building official. This shall be identified as the Base Occupancy for STRs (BOSTR). For the purpose of the BOSTR, an occupant shall not include any person two years (2 yrs) of age or under.

Occupancy of greater than above may be approved, provided the property can accommodate sufficient off-street parking consisting of one (1) spot for every two (2) additional lodgers over the base occupancy for STRs (BOSTR), the property meets any other life safety

requirements as may be reasonably required for such higher occupancy, and the property will not exceed the VA USBC or local building code official limitations.

The town retains the right to investigate violations and complaints of permit violations, and to periodically contact STR lodgers to determine occupancy. If town investigators determine that a violation has occurred, notice of such violation will be provided to the STR zoning permit holder or agent who will be responsible to cure the violation.

6. The business license and emergency information must be conspicuously posted inside each rental, including the twenty-four/seven (24/7) contact information for the STR responsible party.
7. Signage is to comply with Article V, Section 11.1.
8. Refuse requirements: one (1)- and two (2)-bedroom dwelling units used as short-term rental units will require one (1) trash receptacle; three (3) or more-bedroom units will require two (2) receptacles; five (5) or more bedrooms will require three (3) receptacles. Owners and operators are required to maintain the receptacles so that they do not overflow.
9. Lodgers and their guests will be required to observe noise requirements contained in Town Code Chapter 20, Article I, Section 20-3.
10. Safety Equipment: Operable smoke detectors, fire extinguishers, and carbon monoxide detectors shall be present in compliance with the Virginia Uniform Statewide Building Code.
11. Under no circumstances shall the issuance of a certificate of zoning compliance (permit for short-term rental) by the Administrator (Town) be construed as abrogating, nullifying or invalidating any other provision of Federal, State or local law; any deed covenant or property right; or any homeowners' or condominium association bylaw, or rule.

#### D. Inspections

1. An initial inspection will be required for all short-term rentals in accordance with Town Code Chapter 8, Section 8-4.
2. An annual re-inspection by the Code Official or designee is required when filing for a short-term rental business license renewal.
3. The Building Code Official or designee maintains the right to inspect a short-term rental, based on complaints or reasonable suspicion, to verify that the rental is being operated in accordance with the Virginia Uniform Statewide Building Code, the permit, and other applicable laws and regulations.

#### E. Violations

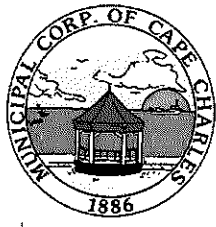
1. A Short-Term Rental (STR) zoning permit may be denied for any of the following violations:
  - a. Failure to obtain/maintain a town business license
  - b. Failure to pay all town real property taxes
  - c. Failure to pay all business taxes from the prior year
  - d. Failure to file and pay (if applicable) payment of transient occupancy taxes due the town for the previous three (3) months or more
  - e. Falsifying town forms or applications
  - f. Other applicable town zoning violations
  - g. Failure to provide responsive actions to issues raised to the twenty-four seven (24/7) contacts, as determined through town investigations.
  - h. Two (2) violations of safety/building code requirements within the same calendar year, that are not cured following reasonable notice.
  - i. Two (2) violations of occupancy limits within the same calendar year, that are not cured following reasonable notice.

Reasonable notice is satisfied when an authorized town official notifies the zoning permit holder or agent of a condition violating requirements of this section, and twenty-four hours (24 hrs.) pass without resolution of the violation.

Note: individual nuisance or noise violations will be issued directly to the offending party in addition to any consequence to the zoning permit holder.

Violations may be investigated by the Town Manager, Treasurer, Zoning Administrator, Building Code Official, Police Chief or their designees as appropriate. Once investigated, violations pursuant to this section will be issued by the Zoning Administrator.

2. An owner or operator, whose Short-Term Rental (STR) zoning permit has been denied pursuant to this Section, shall not be eligible to obtain another STR zoning permit for the subject short-term rental for the entire succeeding calendar year. Thereafter, the owner or operator will be required to apply for a new business license, STR zoning permit, and an inspection.
3. Before the denial of Short-Term Rental (STR) zoning permits is made effective, the town shall give written notice to the short-term rental owner or operator as noted on the STR zoning permit. The notice of permit denial under the provisions of the section shall contain:
  - a. A description of the violations constituting the basis of the denial, suspension or revocation;
  - b. If applicable, a statement of acts necessary to correct the violation(s); and
  - c. A statement that the owner may have a right to appeal the notice of a permit denial within thirty (30) days in accordance with the Code of Virginia Section 15.2-2311 (A) and that the decision of permit denial shall be final and unappealable if not appealed within thirty (30) days.



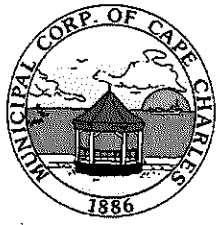
# *Municipal Corp. of Cape Charles*

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 2.6.4: Appeals and Procedure of Appeals

#### CCZO Appendix A – Definitions

**SHORT TERM RENTAL** means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than thirty (30) days, in exchange for a charge for the occupancy. This does not include a hotel, motel, or bed and breakfast.



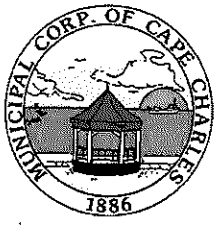
# *Municipal Corp. of Cape Charles*

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 2.6.4: Appeals and Procedure of Appeals

#### CCZO Appendix A – Definitions

**DWELLING** means a structure or portion thereof that is used exclusively for human habitation.



# *Municipal Corp. of Cape Charles*

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 2.6.4: Appeals and Procedure of Appeals

#### CCZO Section 2.6.4: Appeals and Procedure of Appeals

- A. An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by an officer, department, board, or bureau of the county or municipality affected by any decision of the Zoning Administrator or Administrative Officer in the administration or enforcement of this ordinance. The decision may be appealed within thirty (30) days thereof by filing a notice of appeal specifying the grounds of appeal. Said appeal shall be filed with the Zoning Administrator and with the Board of Zoning Appeals. The Zoning Administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.
- B. The board shall fix a reasonable time for the hearing of an application for appeal, give the public notice thereof as well as due notice to the parties of interest, and decide the same within sixty (60) days of the filing application for appeal. In exercising its powers, the board may reverse or affirm wholly in part or may modify an order, requirement, decision, or determination of an administrative officer or decide in favor of the applicant on any matter which it is required to effect any variance from the ordinance. The board shall keep minutes of its proceedings and other official actions, which shall be filed in the office of the Zoning Administrator and shall be public record. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.
- C. In accordance with 15.2-2313 of the Code of Virginia, where a building permit has been issued and the construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected, or abated as a violation of the zoning ordinance, by suit filed within fifteen (15) days after the start of construction by a person who had no actual notice of the issuance of the permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the administrative officer to the Board of Zoning Appeals

## § 15.2-2309. Powers and duties of boards of zoning appeals

Boards of zoning appeals shall have the following powers and duties:

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.

2. Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in § 15.2-2201, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows 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, 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 (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is 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; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application. Any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability may expire when

the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable. If a request for a reasonable modification is made to a locality and is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such request shall be granted by the locality unless a variance from the board of zoning appeals under this section is required in order for such request to be granted.

No variance shall be considered except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

In granting a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

Code 1950, §§ 15-831, 15-850, 15-968.9; 1950, p. 176; 1962, c. 407, § 15.1-495; 1964, c. 535; 1972, c. 695; 1975, cc. 521, 641; 1987, c. 8; 1991, c. 513; 1996, c. 555; 1997, c.; 2000, c. 1050; 2002, c. 546; 2003, c. 403; 2006, c. 264; 2008, c. 318; 2009, c. 206; 2015, c. 597; 2018, c. 757; 2025, c. 512.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

# Legal Summary Brief in Support of Appeal

**Applicant:** Derek Roncaioli

**Application Date:** September 23, 2025

**Subject:** Appeal of Denial – Short-Term Rental (STR) Zoning Permit and Business License

**Property:** [Floating Home / Current: Town Docks / Future: Cape Charles Yacht Center]

**Town:** Cape Charles, Virginia

## I. Overview

This brief supports the appeal of the Town’s denial of an STR zoning permit and Business License for the applicant’s floating home. The denial misclassifies the property as a “houseboat” rather than a “dwelling,” asserting it is “not a structure” and “not used exclusively for human habitation.” In fact, the property satisfies the definition of a *structure* and *dwelling* under the Cape Charles Zoning Ordinance and Town Code.

It is a **floating home**—a stationary residential structure, permanently moored, utility-connected, and used exclusively for habitation—fully meeting the spirit and letter of the Town’s zoning and business licensing provisions.

## II. Relevant Town Code and Zoning Provisions

### 1. Cape Charles Zoning Ordinance § 4.14(B)

“A Short-Term Rental shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department and a Short-Term Rental zoning permit is issued by the Planning Department.”

### 2. Town Code Chapter 18, Article II (Business, Professional, and Occupational License Taxes)

Requires any person engaging in business within the Town to first obtain a business license (BPOL).

### 3. Zoning Ordinance Appendix A – Definitions

*Short-Term Rental* – “A room or space suitable or intended for occupancy for dwelling.”

*Dwelling* – “A structure used exclusively for human habitation.”

The denial rests entirely on the interpretation that the applicant’s floating home is **not a structure**, and thus not a dwelling.

### **III. Interpretation of “Structure” and “Dwelling”**

The Zoning Ordinance does not define “structure” to exclude floating buildings.

Under ordinary and legal usage, a “structure” is *anything constructed or erected with a fixed location on or in the ground or water, including buildings and facilities for human occupancy.*

Virginia law recognizes local authority to regulate structures built on water surfaces (see *Code of Virginia* § 15.2-2280 et seq., granting municipalities zoning power over all land and water within their jurisdiction).

Nothing in Town Code or state law limits “structures” to those resting on solid ground.

Therefore, the floating home—being physically constructed, permanently affixed to a specific location, and intended for occupancy—fits comfortably within the plain meaning of “structure.”

### **IV. Federal and State Authority Supporting Classification as a Dwelling**

#### **A. U.S. Supreme Court – *Lozman v. City of Riviera Beach*, 568 U.S. 115 (2013)**

In *Lozman*, the Supreme Court held 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).

The applicant’s floating home is analogous to the *Lozman* home:

- It lacks propulsion or navigation equipment.
- It is permanently moored and connected to land-based utilities.
- It is designed and used solely as a residence.

Thus, consistent with *Lozman*, it should be treated as a dwelling structure, not a boat.

#### **B. Virginia and Regional Planning References**

Virginia planning and legal studies (e.g., the Middle Peninsula Planning District Commission, *“Floating Structures in Virginia”* (2010)) confirm that localities may treat permanently moored floating homes as fixed dwellings subject to zoning.

Similarly, the National Sea Grant Law Center (2009) advisory on floating homes recognizes that local governments have discretion to define and regulate floating structures as part of the built environment.

These authorities demonstrate that classifying the applicant’s floating home as a dwelling is fully consistent with Virginia’s zoning powers and regional practice.

## V. Application of the Law to the Facts

<b>Criterion</b>	<b>Evidence / Application</b>
<b>Structure</b>	The floating home is constructed, permanently moored, and dependent on shore-based utilities—meeting ordinary meaning of “structure.”
<b>Exclusive human habitation</b>	Used solely as a residence with sleeping, cooking, and sanitation facilities; not navigable or commercial in purpose.
<b>Compliance with inspection &amp; safety standards</b>	Application materials and inspections confirm compliance with housing, electrical, and safety requirements under Chapter 8 and § 4.14(D) of the Zoning Ordinance.
<b>Business license prerequisites</b>	Applicant has applied for and is prepared to satisfy all BPOL and STR license conditions.

Hence, the floating home meets every definitional and regulatory requirement of a “dwelling” suitable for STR use.

## VI. Public Policy Considerations

The intent of the STR ordinance (§ 4.14) is to ensure that rental properties are **safe, habitable, and properly licensed**—not to discriminate based on structural foundation type.

The applicant’s floating home provides safe, code-compliant lodging and aligns with Cape Charles’s goals of promoting tourism, tax compliance, and waterfront vitality.

Denying eligibility solely because the home floats rather than rests on pilings or concrete contradicts both the ordinance’s intent and equitable land-use principles.

## VII. Requested Relief

The applicant respectfully requests that the Zoning Board of Appeals:

1. **Reverse** the Planning Department’s denial;
2. **Declare** that the applicant’s floating home qualifies as a “structure” and “dwelling” under Appendix A;

3. **Remand** the matter for issuance of a Short-Term Rental zoning permit, subject to standard inspection and business license requirements under Town Code Chapter 18; and
4. **Grant** such other relief as the Board deems appropriate.

## **VIII. Conclusion**

Under the Cape Charles Zoning Ordinance, the Code of Virginia, and persuasive federal precedent, the applicant's floating home qualifies as a dwelling structure eligible for use as a Short-Term Rental.

It is a fixed residential unit meeting all habitability, safety, and licensing requirements. Accordingly, the denial should be reversed.

Respectfully submitted,

**Derek Roncaioli**

9 October 2025

**Attachment 5:**  
**Excerpts from Cape Charles Zoning**  
**Ordinance Sections 3.8, 4.14, and**  
**Appendix A**



## *Municipal Corp. of Cape Charles*

### CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

#### Section 4.14 - Short Term Rental (STR) Ordinance

##### A. Purpose and intent

1. The purpose and intent of this section is to regulate Short-Term Rentals (STRs). STRs are common in America today, including in the town. However, given that they are commercial uses which must co-exist with residential uses, and often in neighborhoods not designed for commercial activity, limits and regulations are needed. This article is intended to provide the requirements to allow these certain limited commercial uses in town zoning districts containing residential uses per Article III.
2. The regulations for short-term rentals are designed to accommodate an STR Owner's and operator's limited commercial use in a way that is safe for the guest, meets town requirements, does not change the character of the town, and fits in with the districts in which STRs operate.
3. This Section is intended to work in tandem with the town's business license requirements as contained in the Town Code, as a measure for the town to monitor the number of STRs and enforce regulations.
4. Owners and operators are allowed a one-year (1 yr) grace period, from the date Zoning Ordinance No. 20241121 is adopted, to come into compliance, and pay the zoning permit fee. However, this grace period is not intended to limit or change existing rules, regulations, or fees, including but not limited to requirements to obtain a business license, pay taxes, and comply with the building code.

##### B. Permitting Requirements

1. A short-term rental unit shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department.
2. A short-term rental unit shall not be operated until a Short-Term Rental (STR) zoning permit is issued by the Planning Department. The application for a zoning permit will require, as a minimum, the following:
  - a. Name of owner and operator of the short-term rental property
  - b. Address of the short-term rental property
  - c. Town business license number
  - d. For operators that are a lessee or sublessee, an attestation that the property owner has granted permission for use of such property as a short-term rental.
  - e. Contact information for all owner(s), operator(s), and property management companies (if applicable), to include: names, telephone numbers, mailing addresses, and e-mail addresses. If ownership is via partnership or corporation, a list of all partners, officers, and shareholders (as appropriate) must be provided with the same contact information.

- f. Contact information for the twenty-four (24) hour/seven (7) days a week contact who is the responsible party to address immediate concerns associated with a short-term rental, and who has the authority to act as the owner's and operator's agent.
  - g. If the property is governed by a homeowners' or condominium association, proof that authorization to operate the short-term rental was provided by the homeowners' or condominium association.
  - h. Certification that Town prepared STR training information has been reviewed annually.
  - i. Certification that adjacent property owners have been notified that an application for a STR zoning permit has been submitted.
3. Short-term rental zoning permits will be valid for one year (1 yr) and may be renewed each subsequent year, if there were no permit violations, and upon approval of the associated annual business license and re-inspection.
  4. Any change to information on the (STR) zoning permit application will require notification to the Planning Department within ten (10) business days.
  5. Any change in ownership of the property or short-term rental owner or operator will require a new application for the business license, short-term rental zoning permit, and inspection within twenty (20) business days.
  6. An owner (which includes, but is not limited to, corporations or partnerships, and entities or individuals that are stockholders, members or partners in corporations, companies, or partnerships) may only operate up to five (5) short-term rental units within the entire town.
  7. An operator is not prohibited from offering a property as a short-term rental solely on the basis that such operator is a lessee or sublessee, provided that the property owner has granted permission for such property's use as a short-term rental. However, a lessee or sublessee is limited to one (1) short-term rental within the town. An operator will be required to meet any subleasing requirements, if any, from any applicable homeowner's or condominium association.

#### C. Additional Requirements

1. Every short-term rental is required to submit transient occupancy tax (TOT) in accordance with Town Code Chapter 18, Article V.
2. Short-term rentals are only permitted in those districts as specified in Article III.
3. Simultaneous short-term rentals under separate contracts in the same dwelling are prohibited.
4. Commercial gatherings providing direct or indirect compensation, including but not limited to luncheons, banquets, parties, weddings, charitable fund-raising, commercial or advertising activities, or other similar occurrences are prohibited.
5. Occupancy: There shall be no more than two (2) lodgers per bedroom, plus two; with the maximum number of overnight lodgers per dwelling being no greater than ten (10). Occupancy shall not exceed any limit set by the Virginia Uniform Statewide Building Code (VA USBC) or local building official. This shall be identified as the Base Occupancy for STRs (BOSTR). For the purpose of the BOSTR, an occupant shall not include any person two years (2 yrs) of age or under.

Occupancy of greater than above may be approved, provided the property can accommodate sufficient off-street parking consisting of one (1) spot for every two (2) additional lodgers over the base occupancy for STRs (BOSTR), the property meets any other life safety

requirements as may be reasonably required for such higher occupancy, and the property will not exceed the VA USBC or local building code official limitations.

The town retains the right to investigate violations and complaints of permit violations, and to periodically contact STR lodgers to determine occupancy. If town investigators determine that a violation has occurred, notice of such violation will be provided to the STR zoning permit holder or agent who will be responsible to cure the violation.

6. The business license and emergency information must be conspicuously posted inside each rental, including the twenty-four/seven (24/7) contact information for the STR responsible party.
7. Signage is to comply with Article V, Section 11.1.
8. Refuse requirements: one (1)- and two (2)-bedroom dwelling units used as short-term rental units will require one (1) trash receptacle; three (3) or more-bedroom units will require two (2) receptacles; five (5) or more bedrooms will require three (3) receptacles. Owners and operators are required to maintain the receptacles so that they do not overflow.
9. Lodgers and their guests will be required to observe noise requirements contained in Town Code Chapter 20, Article I, Section 20-3.
10. Safety Equipment: Operable smoke detectors, fire extinguishers, and carbon monoxide detectors shall be present in compliance with the Virginia Uniform Statewide Building Code.
11. Under no circumstances shall the issuance of a certificate of zoning compliance (permit for short-term rental) by the Administrator (Town) be construed as abrogating, nullifying or invalidating any other provision of Federal, State or local law: any deed covenant or property right; or any homeowners' or condominium association bylaw, or rule.

#### **D. Inspections**

1. An initial inspection will be required for all short-term rentals in accordance with Town Code Chapter 8, Section 8-4.
2. An annual re-inspection by the Code Official or designee is required when filing for a short-term rental business license renewal.
3. The Building Code Official or designee maintains the right to inspect a short-term rental, based on complaints or reasonable suspicion, to verify that the rental is being operated in accordance with the Virginia Uniform Statewide Building Code, the permit, and other applicable laws and regulations.



## *Municipal Corp. of Cape Charles*

### CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

#### Section 2.6.4: Appeals and Procedure of Appeals

##### CCZO Appendix A – Definitions

**SHORT TERM RENTAL** means the provision of a room or space that is suitable or intended for occupancy for **dwelling**, sleeping, or lodging purposes, for a period of fewer than thirty (30) days, in exchange for a charge for the occupancy. This does not include a hotel, motel, or bed and breakfast.



## *Municipal Corp. of Cape Charles*

### CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

#### Section 2.6.4: Appeals and Procedure of Appeals

##### CCZO Appendix A – Definitions

**DWELLING** means a **structure** or portion thereof that is used exclusively for human habitation.

### **Section 3.8: Harbor – Commercial**

A. Statement of Intent. A working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles' working maritime and rail heritage and its strong historic traditions.

Any new development shall provide and encourage public access to the water's edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs.

The district's intent is to permit retail and commercial businesses generally found in a retail business area that would be complementary to the Commercial District within the Historic Overlay District. Mixed use development is encouraged with any housing located above commercial or retail space.

#### **B. Permitted Uses. The following uses are permitted by right:**

1. Condominium dwellings
2. Cooperative dwellings
3. Parks and playgrounds
4. Schools, community centers, and public facilities
5. Retail and other stores (less than twenty-five hundred square feet (2,500 SF) of gross floor area)
6. Offices
7. Galleries and museums
8. Indoor recreation facilities
9. Performing Arts Center
10. Conference centers
11. Restaurants and bars
12. Personal services (less than twenty-five hundred square feet (2,500 SF) of gross floor area)
13. Medical/dental practices (outpatient) and labs
14. Vehicle rental/sales (less than twenty-five hundred square feet (2,500 SF) of gross floor area)
15. Marinas, docks, and wharves (if contiguous to harbor)
16. Utility Facilities

C. Accessory Uses. The following accessory uses shall be allowed.

1. Accessory buildings
2. Other uses that are customarily associated and clearly incidental and subordinate to a principal use.
3. Temporary licensed uses such as festivals, displays, educational exhibits, outdoor gatherings or performances, and outdoor food markets.
4. Short Term Rental in accordance with Section 4.14
5. Home occupation per Section 4.0 in the residential uses

D. Conditional Uses. The following uses may also be permitted, subject to securing a Conditional Use Permit as provided for in this ordinance:

1. Recreational, cultural, and entertainment uses of the following types:
  - a. Assembly halls
  - b. Auditoriums
  - c. Theaters
2. Retail goods establishments of the following types with more than two thousand five hundred square feet (2,500 SF) of gross floor area:
  - a. Antique shops
  - b. Bookstores
  - c. Camera shops
  - d. Candy stores
  - e. Clothing stores
  - f. Dry goods stores
  - g. Florists, gift shops, card shops, and stationery shops
  - h. Grocery stores
  - i. Music stores
  - j. Newsstands
  - k. Upholstering shops and fabric stores
  - l. Watch and jewelry stores
3. Retail service establishments of the following types with more than two thousand five hundred square feet (2,500 SF) of gross floor area:
  - a. Beauty and barbershops
  - b. Bicycle moped, and golf cart sales and rentals
  - c. Blueprinting shops
  - d. Dressmaking, tailoring, millinery, dry cleaning
4. Multi-family dwellings
  - a. All dwelling units shall have direct access to the street level. Means of access may be shared with other dwelling units, but not commercial uses. Access through a commercial establishment on the first (1st) level is not permitted.
  - b. The first (1st) floor of all building facades adjacent to a public street shall have a commercial appearance and shall not have a residential appearance.

5. Childcare/adult daycare facilities and nursing homes
6. Hotels and motels
7. Laundromats
8. Any other use which is compatible in nature with the foregoing permitted and conditional uses and which the Zoning Administrator determines to be compatible with the intent of the District and is concurred with by the Planning Commission.