



Zoning Variance Application

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

planningtech@capecharles.org

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

BUDGET CODE: MISPL 100-3100-1070

PART 1: APPLICATION NOTES

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

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

- | | | |
|--|--|---|
| ☐ Completed application & Justification Letter | ☐ Existing site plan/survey | ☐ Photos of existing conditions. |
| ☐ Photos/elevation drawings of proposed project | ☐ Proposed site plan/survey | ☐ Payment of Fees * |

PART 2: PROPERTY INFORMATION

Property Address: **502 Plum Street**

Tax Map #: **83A1-6-A**

Existing Use: **Residential**

Zoning District: **R1**

- Has a previous application been filed for a variance in connection with this property? ☒ No ☐ Yes, attach an explanation
- Has a Conditional Use Permit been issued for the existing use? ☒ No ☐ Yes, provide a copy
- Are there any proffers associated with this property? ☒ No ☐ Yes, provide a copy
- Is the property located within an Overlay District? ☒ No ☐ Yes, which one _____
- Is this property located within a Subdivision? ☒ No ☐ Yes, which one _____
- Is this property located within a Resource Protection Area? ☒ No ☐ Yes

PART 3: PROPERTY OWNER INFORMATION	
Name and/or Company: Martin Mayer	
Mailing Address: 4309 Speckles Lane, Machipongo, VA 23405	
Phone Number: 3307206384	Email: mkm180@gmail.com
PART 4: APPLICANT INFORMATION	
☐ Check here if applicant is owner. (If applicant is not the property owner, an Owner's Permission Affidavit must be attached.)	
Name and/or Company:	
Mailing Address:	
Phone Number:	Email:
PART 5: ZONING ORDINANCE OR ACCAWMACKE PLANTATION PUD VARIANCE SECTION	
Please provide the Zoning Ordinance Section that you are seeking relief from: <u>Article 3</u>	
Please provide the Accawmacke Plantation PUD Section you are seeking relief from: <u>N/A</u>	
PART 6: VARIANCE JUSTIFICATION	
<i>Applicant must explain (Please use additional pages where necessary)</i>	
A) PROPERTY DESCRIPTION	
How do the zoning ordinance's strict regulations for the lot or parcel of land's shape, size, or area unreasonably restrict the utilization of the property? The lot is non-conforming (80'x40') which leaves very little space off the rear of the property given the 25' rear setback.	
What type of reasonable deviation is being sought? We would like to construct an 10' deck attached to the rear of the house. This would align with the next door neighbors 10' deck on the rear of their property.	
Lot or Parcel Size: 40'x80'	Proposed Size: 8'x22' rear deck.
Shape:	Proposed Shape:
How does the zoning ordinance's strict limitations on the size, height, area, or location of the building or structure unreasonably restrict the utilization of the property? Given the non-conforming size of the lot and the strict rear/side setback ordinance, we are limited in our functional outdoor space. We are simply asking to match the deck setback of the immediate neighboring property and align it with the rear of the house.	
What type of reasonable deviation is being sought? We are hoping to extend a few feet into the 25' setback to install a deck that aligns with the next-door neighbors.	
Main Structure Size:	Proposed Structure Size: 8'x22'
Existing Height:	Proposed Height:
Existing / Required Setback Front:	Proposed Setback Front:
Existing / Required Setback West Side:	Proposed Setback West Side:
Existing / Required Setback East Side:	Proposed Setback East Side:
Existing / Required Setback Rear:	Proposed Setback Rear:

B) CRITERIA

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 7: ALTERNATIVE SOLUTIONS

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

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

Part 8: STATEMENT OF INTENT

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

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

Section 3.2 Residential side and rear setback.

CERTIFICATION

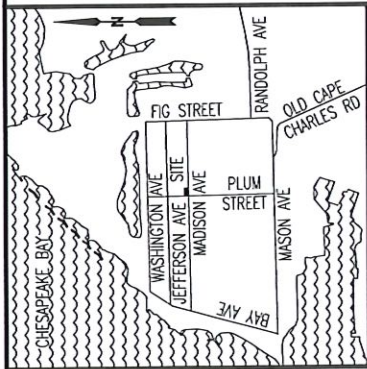
I hereby certify that I have the authority to make the foregoing application, that the information given is true and correct, and that the construction or improvements will conform to the regulations in the Virginia Statewide Building Code, all pertinent Town Ordinances, including fire, sewer and water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

Applicant's signature: _____

Date: 8/19/2025

Zoning Administrator's signature: _____

Date: _____



LOCATION MAP

SCALE: 1" = 2000'

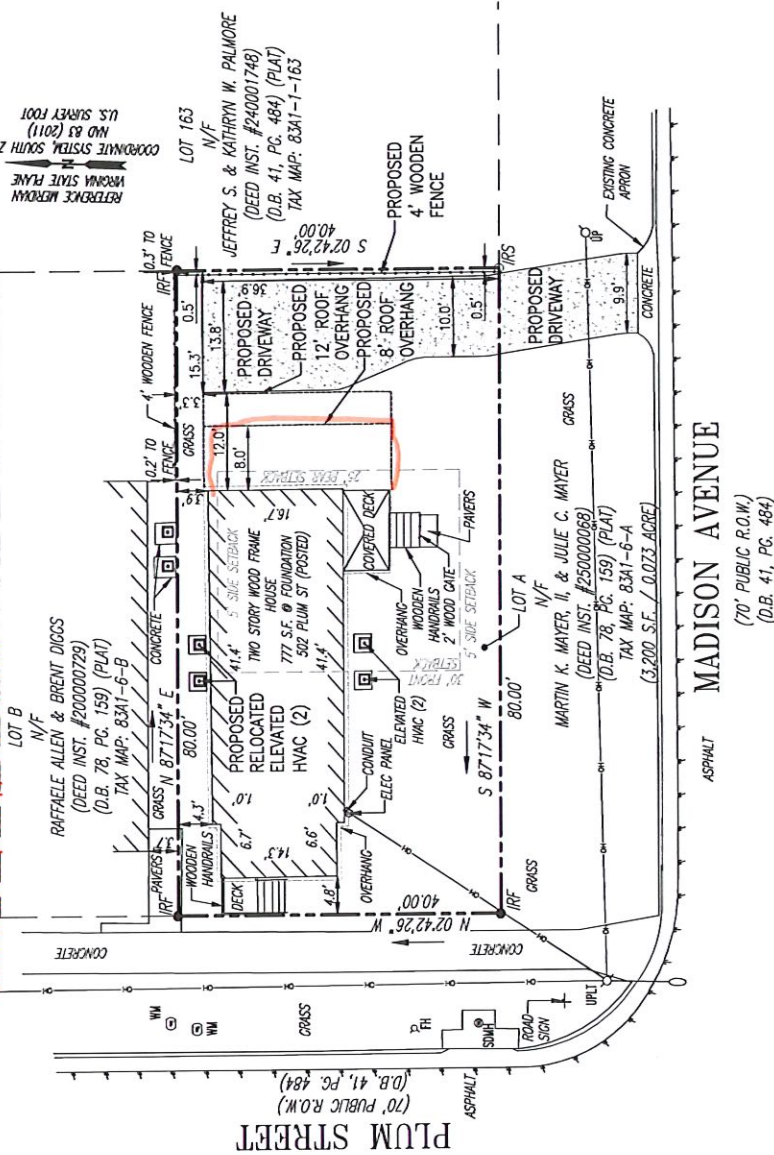
GENERAL SURVEY NOTES:

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

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

GRAPHIC SCALE: 1" = 15'
0' 15' 30' 45'

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



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



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

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