



Board of Zoning Appeals Staff Report

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

Applicant: Martin Mayer

Type Of Application: Variance

Site Address: 502 Plum Street

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

Tax Map: 83A1-6-A

Zoning: R-1

Lot Size: 3200 sq. ft.

Current Zoning: R-1

Date Received: September 12th, 2025

Date Deemed Complete: September 12th, 2025

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

Narrative of Proposal:

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

Aerial Map:



Ordinance Requirement to be Considered:

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

Discussion Points:

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

Board of Zoning Appeals Review:

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

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

Staff Recommendation:

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

Proposed Motion for Consideration:

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

Attachments:

1. Variance Application