



BOARD OF ZONING APPEALS MEETING

August 12, 2022 at 7:00 PM

Council Chambers — Town Hall

AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

AGENDA ADOPTION

PUBLIC PARTICIPATION

APPROVAL OF MINUTES OF THE FEBRUARY 10, 2022 MEETING.

- [1.](#) BZA Agenda Packet

APPEAL: A220713-1

A hearing initiated by Ms. Susan Merritt to request an appeal of the decision of the Zoning Administrator pursuant to Article III, Section 8.4 of the Zoning Ordinance of the Town of Chincoteague. Ms. Merritt is appealing the decision that the boundary line adjustment of parcels 30A2-A-14 & 30A2-A-14 & 30A2-A-140 creates a nonconforming mobile home park.

The property is zoned R-3 Resort Residential.

BOARD ACTION ON APPEAL

ADJOURN

BOARD OF ZONING APPEALS MEETING

A G E N D A

TOWN OF CHINCOTEAGUE

August 11, 2022 - 7:00 P.M. – Council Chambers - Town Hall

CALL TO ORDER

PLEDGE OF ALLEGIANCE

AGENDA ADOPTION:

1. Public Participation
2. Approval of Minutes: February 10, 2022
3. **Appeal A220713-1** A hearing initiated by Susan Merritt to request an appeal of decision of the Zoning Administrator pursuant Article III, section 8.4 Zoning ordinance of the Town of Chincoteague. Ms. Merritt is appealing the decision that the boundary line adjustment of parcels 30A2-A-14- & 30A2-A-140 creates a nonconforming mobile home park.
4. The property zoned R-3 Resort Residential
5. Adjourn:

**MINUTES OF THE
BOARD OF ZONING APPEALS
FEBRUARY 10, 2022, AT 7:00 P.M.**

Members Present:

Jack Gillis, Chairman
David Landsberger
Donald Thornton
Mike McGee
Ernest W. Smith, Jr. via phone
Eddie Moran

Members Absent:

Call to Order

Chairman Gillis called the meeting to order at 7:00 p.m.

Pledge of Allegiance

Chairman Gillis led in the Pledge of Allegiance.

Public Participation

There was none.

Agenda Adoption

__ motioned, seconded by __ to adopt the agenda as presented. All present were in favor and the motion was carried.

Approval of Minutes of the September 9, 2021, meeting.

Mr. Thornton motioned, seconded by Mr. Moran to approve the minutes of the September 9, 2021, meeting as presented. All present were in favor and the motion was carried.

Appeal 210810-1

Building and Zoning Administrator Bowden read the appeal:

Appeal #210810-1: A variance request from Mr. James Rich, tax parcel 30A7-A-123. The applicant requests to place a new double wide residence on an existing non-conforming lot. The new home would be located 20.67' from the rear property line. Current zoning requires a minimum 25' setback from the rear property line. The property is zoned R-3 Resort Residential.

Mr. Shawn Taylor, with GEY Surveyor, advised they are making the appeal to the rear setback because they can't meet the 25 feet based on the size of the lot. The lot is 76' wide by 105'. When the property was deeded, it was intended to be 110' long and 105' wide. However, based on the property markers it's not.

Mr. Chuck Cheyne with Clayton Homes, stated that when they originally got into this, based on the information they had, they were under the impression that it would be fine. They believed that the front setback changed.

Mr. Taylor added that originally the front yard setbacks would be facing Woody's Lane. However, Building and Zoning Administrator Bowden found that it should face Circle Drive. He added that either way, it would require a variance.

Chairman Gillis opened the public hearing.

- Mrs. Lisa Cannon, 6368 Circle Drive, advised that she is there to speak for all of the neighbors who are upset about this. She understands that the setback is the only issue that the BZA addresses, and there is nothing she can do about this. This is a tiny parcel that is very wet. This is an old part of Chincoteague. Their homes are low to the ground, and they have no protection from the water displacement or from a double wide being raised way up. She added that when they bought their house, they were advised it is zoned R-2. She also stated that the realtor that sold the property knew it wasn't a buildable lot. This is a close-knit neighborhood. Every neighbor she talked to is sorry to see this would be allowed.

Chairman Gillis advised they have to have a majority of the members of the Board for the motion to be passed. Any person making the appeal, has the right to appeal the decision of the Board in the Circuit Court of Accomack County within 30 days of the meeting.

He asked for discussion.

Building and Zoning Administrator Bowden read the responses from neighboring properties: Mr. John P. Lands, stated that water cannot drain and requested disapproval. Dreamer Investments, who stated they are to the south and have no issue with this proposal. Mr. David Didden stated he checked both approved and disapproved and appreciated notice. Mr. David Johnson and Mrs. Lisa Cannon, disapproving. Mr. Robert Manning approves the request. Mr. Daniel Mell disapproves request. Ms. Louise Eden advised the parcel doesn't meet the 25' setbacks. The parcel has standing rainwater which would require backfilling and force water to migrate to adjacent properties. Mr. Kruno Filipic approves the request.

Mrs. Cannon also added that there was a mistake in the letter, and she doesn't understand that there wasn't a correction. It noted a "light seafood business" in this tiny spot. They were advised this was a mistake, but when one of them called GEY Surveyor they were advised it was not a mistake. She asked if there was a seafood business going in there or a food truck. She stated that if this is an error, they would have appreciated a corrected letter and not just an apology for a mistake.

Mr. Taylor, GEY Surveyors, apologized for that mistake. He advised that when completing the paperwork, it was missed. He added that this lot didn't just happen, it has been in existence since 1980. The original owner, Mr. Woodrow Taylor, purchased the lot in 1951 along with the lot to the south. Mr. Woodrow Taylor sold this lot in 1972. In 1980 it was back in Mr. Taylor's name and in 2020 Mr. Rich purchased it. They have no control that this lot has water running off of it.

Mr. Cheyne stated that this isn't unique to this lot. They plan to grade this to whatever Chincoteague's Stormwater Management Plan is. They are trying to get a building permit. He added that Mr. Rich didn't know of this, he thought he was buying a buildable lot. He stated that

there is no smaller house that he can put there. They are asking for a rear setback to put the house in there.

There was discussion as to the reason the lot was nonconforming which is because of the lot size. It was determined that a smaller home would meet the setbacks, but the lot would still be nonconforming. They discussed a solution for the drainage, such as a dry well that Clayton Homes is willing to put in to help with this. They further questioned the right-of-way/ingress and egress. Discussion about the foundation and the flood zone continued. They were reminded that the request was for a rear setback extension of 5 feet.

The Board discussed ingress/egress, the driveway, and placement of the house. They discussed setbacks, the possibility of a proffer, site plans, and stormwater management.

Chairman Gillis closed the public comment. He asked for discussion from the Board.

Mr. Thornton stated that the gentleman is disabled and in a wheelchair. The Board has given variances of more than this request and he feels that most of the lots in that area wouldn't meet the setbacks. He advised he is in favor of granting the variance and to include the dry wells.

Mr. McGee agreed with Mr. Thornton and feels they should grant the variance.

Mr. Landsberger advised he is unable to give an opinion either way as he is an owner of an adjacent property.

Mr. Moran agreed with Mr. Thornton and Mr. McGee. He stated that they would address the stormwater issues, he is also in favor of the variance.

Mr. Smith stated that if they stipulate that the contractor is willing to address the drainage with drywells if the Building and Zoning Administrator requires, he is willing to approve this as well.

Board Action on Appeal:

Mr. Smith motioned, seconded by Mr. Thornton to approve the variance request from Mr. James Rich and to include drywells if stormwater management is required by the Building and Zoning Administrator. All present were in favor and the motion was carried. The motion was carried.

Ayes: Smith, Thornton, McGee, Moran

Nays: None

Abstain: Landsberger

Absent: None

Adjourn

Mr. Landsberger motioned, seconded by Mr. Smith to adjourn. Unanimously approved.



TOWN OF CHINCOTEAGUE, INC.

May 10, 2022

Susan Merritt
7308 Kingfisher Ln
Chincoteague, VA 23336

RE: Property Line Adjustment

Dear Ms. Merritt:

I have reviewed your site plan for Tax parcels 30A2-A-140A & 30A2-A 140 for A Property/Boundary line adjustment.

The proposed Boundary line Adjustment between the above parcels would cause Parcel 30A2-4-140 to be in violation of current Zoning ordinance. The minimum area requirements for a mobile home park are five acres with lots not less than 5,000 square feet per lot with a minimum width of fifty feet or more in width at the setback line. The existing mobile home park is 23,343.48 square feet 0.55 Acres in area with five mobile homes located in the park.

Therefore, your request is denied.

You have the right to appeal to the Board of Zoning Appeals if you so desire. Such appeal must be submitted within 30 days of this notice. Failure to appeal within the 30 days voids such right.

If you have any questions regarding this matter, please give me a call.

Sincerely,

Mark Bowden
Zoning Administrator



TOWN OF CHINCOTEAGUE, INC.

July 13, 2022

Eastern Shore Post
P.O. Box 318
Tasley, VA 23441

Dear Sirs:

The Town of Chincoteague requests the following notice of public hearing be published in the Eastern Shore Post on Friday July 23, 2022, and Friday July 30, 2022.

Public Notice

The Board of Zoning Appeals of the Town of Chincoteague will hold a public hearing on Thursday August 11, 2022, at 7:00 p.m. in the Council Chambers located at 6150 Community Drive to receive public comments and views on the following zoning matter:

Appeal A220713-1 A hearing initiated by Susan Merritt to request an appeal of a decision of the Zoning Administrator pursuant Article VIII, section 8.4 zoning ordinance of the Town of Chincoteague. Ms. Merritt is appealing the decision that the Boundary line adjustment of Parcels 30A2-A-140A & 30A2-A 140. Creates a nonconforming mobile home park

Mark Bowden
Zoning Administrator



TOWN OF CHINCOTEAGUE

Item 1.

BOARD OF ZONING APPEALS STAFF REPORT

DEPARTMENT CONTACT:

MARK BOWDEN
 6150 Community Drive Chincoteague, VA 23336
 757-336-6519

DOCKET NUMBER:
 APPEAL A220713-1

PETITIONER/PROPERTY OWNER:
 Susan Merritt

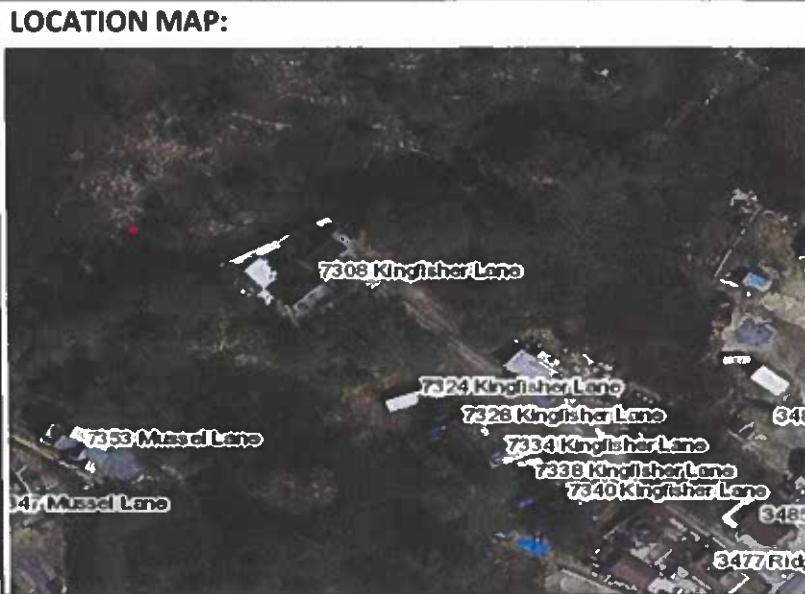
PUBLIC HEARING DATE:
 August 11, 2022, at 7:00 p.m. in the Council
 Chambers located at 6150 Community Drive.
 Chincoteague, VA 23336

PROPERTY ADDRESS/LOCATION:
 7308 King Fisher Lane
 Parcel # 30A2-A-140

SPECIFIC REQUEST: Appeal the decision of the Zoning Administrator Article VIII, section 8.4 of the zoning ordinance of Town of Chincoteague. The applicant is appealing the decision of the zoning administrator that the Boundary line adjustment of parcels 30A2-A-140 & 30A2-A-140. creates a nonconforming mobile home park.

SIZE OF PROPERTY: 12,500 sf +/-	EXISTING ZONING: R-3	EXISTING LAND USE: SINGLE FAMILY DWELLING MOBILE HOME PARK
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PROJECT SUMMARY: Susan Merritt applied for a boundary line adjust between parcels 30A2-A-140A and 30A2-A-140. Parcel 30A2-A-140A is Ms. Merritt's property which joins the back of her mother's property, which is currently a Mobile Home Park where the lots are leases, and most of the lessee's own their mobile home and rent the lots from Ms. Walker. This is an existing nonconforming mobile home park. Vacating the property line between Ms. Merritt and Ms. Walkers would increase the nonconformity of the Mobile Home Park. The Accomack County assessment covering the period from 1982 to 2002 there were 5 mobile homes on this parcel in 1982. 1982 predates all of the Island being annexed and incorporated.



STAFF RECOMMENDATION

APPROVE

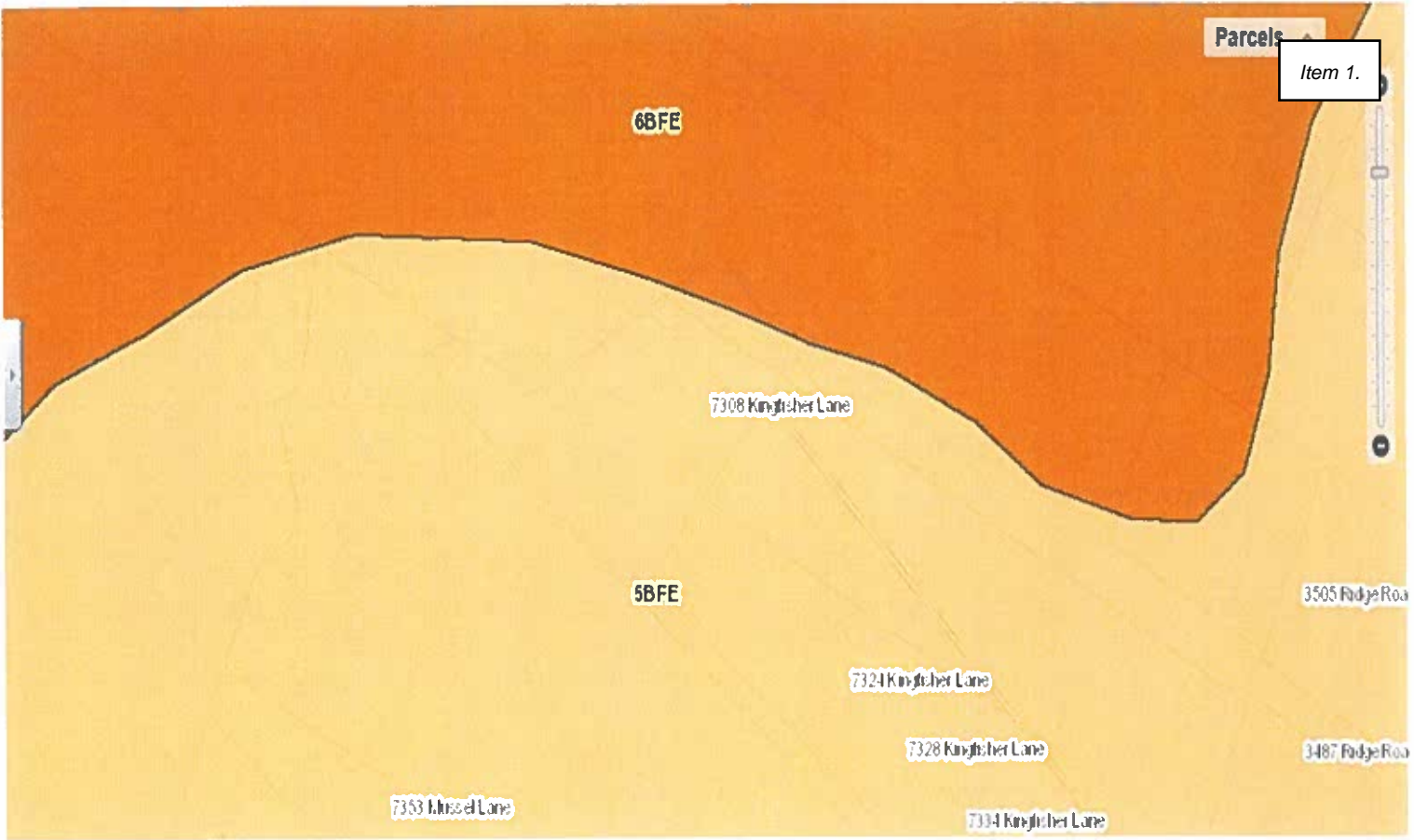
APPROVE WITH
CONDITIONS

DENY

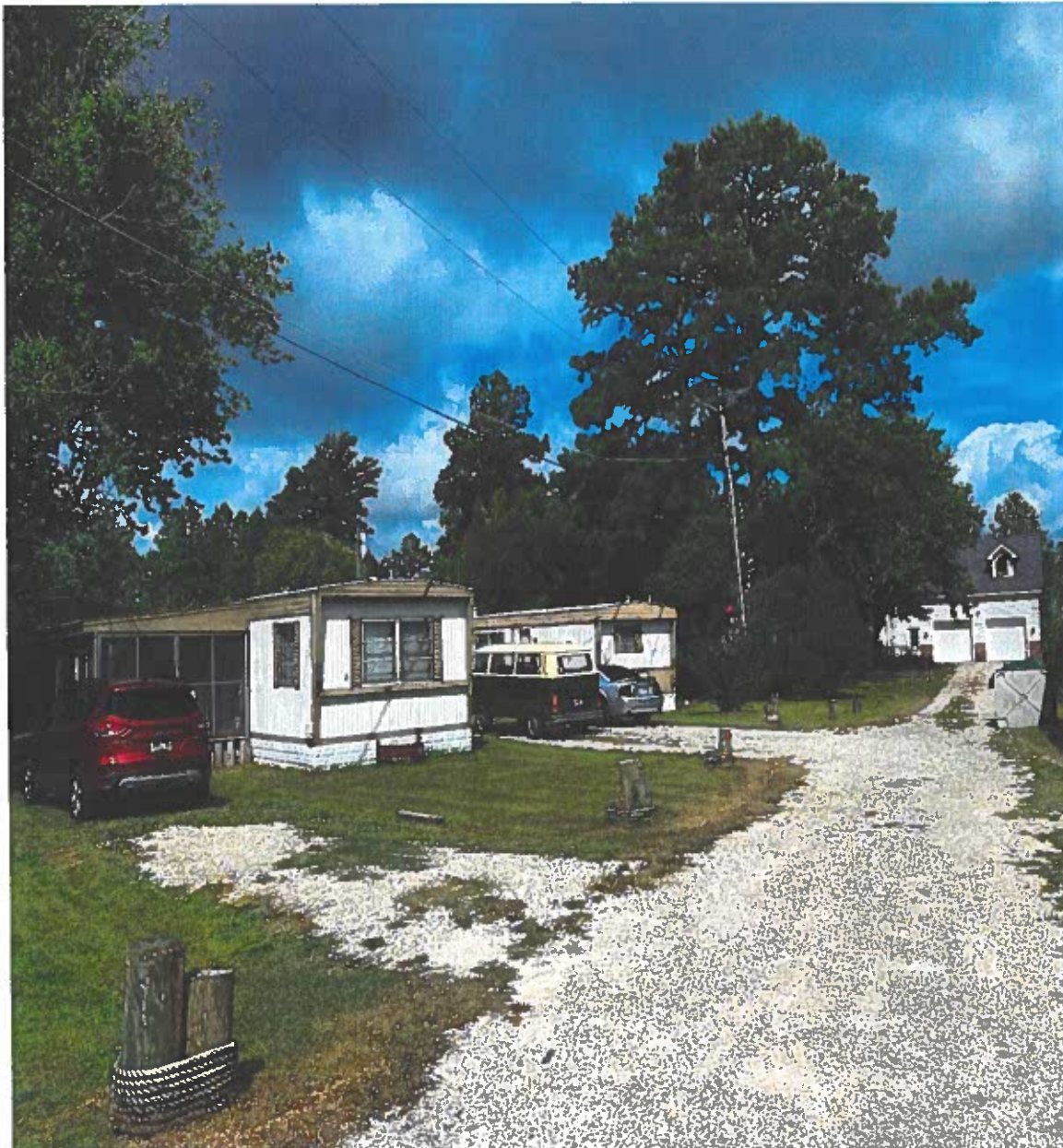
CONTINUE

Item 1.





Chinco06



SUBMITTED PLAN PUBLIC COMMENTS

PETITION NUMBER:
BZA – STAFF REPORT
AGENCY COMMENTS
 OTHER

Sec. 8.2. Powers of the board of zoning appeals. The board of zoning appeals shall have the following powers and duties: 8.2.1. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this ordinance.

8.2.2. To authorize upon appeal or original application in specific cases such variance as defined in section 2.173 from the terms of this ordinance as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this ordinance shall be observed and substantial justice done, as follows:

**CHINCOTEAGUE CODE
CDA:110**

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of this ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this ordinance.

The board of zoning appeals shall require the applicant for a special use permit to submit written comments from all property owners within 300 feet of the boundary line of the property upon which action is to be taken, when application is made to appeal for a variance, the applicant shall submit signatures from all adjoining property owners including the property owners across the street or across bodies of water adjacent to or dividing two properties. The Board of Zoning Appeals may require the applicant to submit written comments from additional property owners.

No such variance shall be authorized by the board unless it finds:

- (1) That the strict application of this ordinance would produce undue hardship.**
- (2) That the hardship is not shared generally by other properties in the same zoning district and the same vicinity.**
- (3) That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.**

No variance shall be authorized except after notice and hearing as required by Code of Virginia, § 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.

No variance shall be authorized unless the board finds that 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 this ordinance.

In authorizing 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.

PUBLIC COMMENTS:
See attached.







APPENDIX A—ZONING

into articles or substances of different character, or for use for a different purpose.

Sec. 2.98. Manufactured home.

See the VUSBC.

Sec. 2.99. Marina, commercial or club type.

A marina designed and operated for profit or operated by any club or organized group where hull and engine repairs, boat and accessory sales, packaged food sales, restaurants, personal services, fueling facilities, storage and overnight guest facilities or any combination of these are provided.

Cross reference—Water access facilities, ch. 70.

Sec. 2.100. Marina, private noncommercial.

A marina designed and intended to be used for mooring of boats by residents of the general neighborhood with no commercial facilities other than necessary for minor servicing and repairs.

Cross reference—Water access facilities, ch. 70.

Sec. 2.101. Marquee.

A permanent structure other than a roof attached to, supported by, and projecting from a building and providing protection from natural elements.

Sec. 2.102. Repealed 6/19/08.

Sec. 2.103. Mobile home.

A structure transportable in one section, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent metal chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. For purpose of this ordinance, a mobile home is not considered a single-family dwelling.

Sec. 2.104. Mobile home park.

Any area of five acres or more designed to accommodate not less than four nor more than ten mobile homes per acre and intended for residential use where residence is in mobile homes exclusively.

Sec. 2.105. Modular home.

A modular home is a dwelling constructed at the manufacturer's facility and transported after construction on streets and highways in sections for assembly at a site on a permanent foundation. A modular home must be built to standards established in the Virginia Uniform Statewide Building Code. (See Code of Virginia, § 36-71.1 et seq.) This definition shall not include a travel trailer or mobile home. (See "Mobile home," section 2.103 and "Travel

APPENDIX A–ZONING

Sec. 2.168. Townhouse.

At least three single-family dwellings that are connected to each other by common sidewalls, having individual ownership of unit and property, having fee simple title, and with open space on at least two sides and meeting setbacks as required.

Sec. 2.169. Travel trailer.

A portable structure built on a chassis, designed to be towed behind a motor vehicle and used as a temporary occupancy for travel, recreation or vacation, being less than 40 feet in length.

Sec. 2.170. Travel trailer park/sold lots.

Premises where travel trailers are parked in conjunction with travel, recreation or vacation. Permanent additions may not exceed the square footage of the original mobile unit. Any accessory building on the lot may not be more than 96 square feet. Minimum five-foot setback required for all structures.

Sec. 2.171. Two-family dwelling (duplexes).

A structure, located on a single lot, arranged or designed to be occupied by two families in two separate dwelling units, which meet all setbacks as required for a single structure; may be subdivided into separate ownership with less than the otherwise required square footage provided the front, side and rear setbacks are maintained as required, excluding any setback for the common center wall of the structure.

Sec. 2.172. Vacation rental cottages.

One or more rental buildings constructed independently of each other on the same lot. Cooking facilities may be provided for each unit. Such structures shall not be considered as single-family dwellings.

Sec. 2.173. Variance.

A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship as defined, above. As used in this ordinance, a variance is authorized only for height, area and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of other nonconforming activities or uses in the zoning division or district or adjoining zoning divisions or districts.

A reasonable deviation from these provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance and would result in substantial justice being done. It shall not include a change

CHINCOTEAGUE CODE

of the USBC (see USBC). A certificate of occupancy either for the whole or part of a building shall be applied for simultaneously with the application for a zoning permit. The certificate shall be issued after the erection or structural alteration of such building or part has conformed with the provisions of this ordinance.

Sec. 6.3. Uses not specifically covered by ordinance.

If, in any district established under this ordinance, a use is not specifically permitted within such district as a matter of right or by special exception, and such proposed use is occurring on a recurring basis, the zoning administrator shall so advise the governing body of such, which governing body may then take such action, in accordance with law, to amend this ordinance to provide for such use as a permitted use or a special exception, as it may deem advisable.

Sec. 6.4. Widening of highways and streets.

Whenever there shall be plans in existence, approved by the governing body, for the widening of any street or highway, the planning commission may recommend additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way, in order to preserve and protect the right-of-way for such proposed street or highway widening.

SECTION B. MOBILE HOME PARKS AND CAMPER PARKS

Sec. 6.5. Permanent mobile home parks.

The location of a mobile home park shall require, in addition to the zoning permit, a conditional use permit issued by the board of zoning appeals where not otherwise permitted by right.

The location of a camper/travel trailer park shall require, in addition to the zoning permit, a conditional use permit issued by the board of zoning appeals unless otherwise permitted by right.

6.5.1. Area requirements.

- (1) The developer of a mobile home rental park shall provide mobile home lots of not less than 5,000 square feet, with a minimum width of 50 feet at the setback line for each mobile home on the premises and shall adjoin an internal mobile home park street, road or right-of-way.
- (2) Mobile home parks in which lots are sold and served by central water and sewer systems shall have a minimum lot area of 5,000 square feet and shall be 50 feet or more in width at the setback line and shall adjoin an internal mobile home park street, road or right-of-way. All newly developed lots to accommodate doublewide structures shall contain 10,000 square feet and shall have a minimum width of 80 feet.

CDA:80

APPENDIX A–ZONING

- (3) Mobile home parks in which lots are sold and served by either central water or sewer systems shall have a minimum lot area of 10,000 square feet and shall be 50 feet or more in width at the setback line.
- (4) Mobile home parks in which lots are sold and served by neither central water nor sewer systems shall have a minimum lot area of 15,000 square feet and shall be 100 feet or more in width at the setback line.

6.5.2. Setback requirements. Each mobile home, travel trailer and/or camper shall be set back ten feet from the front, rear and side lot lines. Additions to mobile homes, travel trailers and campers shall not exceed the square footage of the original mobile home, travel trailer or camper unit. The term “original mobile home, travel trailer or camper unit” shall not include pull outs, bumpers or hitches. Any addition to a travel trailer or camper shall not extend more than three feet above the roof line of the travel trailer or camper unit. No accessory structure shall be within five feet of a property line.

(Amended 01-03-05)

Setback requirements for lots established prior to January 4, 1994 shall provide a distance of 15 feet or more between individual units, but in no case closer than five feet to the individual lot line of the mobile home space in the following mobile home parks: Daisey's Mobile Home Park, Midway Mobile Home Park, Magnolia Manor Mobile Home Park, Quillen's Mobile Home Park, Shady Pines Mobile Home Park and Reeds Mobile Home Park.

Setback requirements for lots established prior to January 4, 1994 shall be set back a minimum of five feet from any individual lot line in the following mobile home parks: Beebe's Park, Bowden Mobile Home Park, Bunker Hill Mobile Home Park, Circle Drive Mobile Home Park, El Rancho Mobile Home Park, El Rosha Mobile Home Park, Green Acres Mobile Home Park, Holly Ridge Mobile Home Park, Inlet View, Island's Pride Mobile Home Park, Kingfisher Court, Lee Bloxom Mobile Home Park, Misty Meadows, Mitchell Howard's Mobile Home Park, Nathan Hill's Mobile Home Park, Nock's Mobile Home Park, Ocean Breeze, Sulky Acres, Tom's Cove Mobile Home Park, Vacation Park, Walter Meyer Mobile Home Park, Little Bay Trailer Park, and Willow Court Mobile Home Park.

6.5.3. Sanitary facilities. All mobile homes shall have toilet facilities which are connected to an approved sewage disposal system.

6.5.4. Electrical connections. Each mobile home space shall be provided with electrical outlets installed in accordance with the National Electrical Code and/or Virginia Uniform Statewide Building Code.

6.5.5. Health permits. The state health department must have issued the mobile home park operator a valid health permit as required by state law and a valid approval of all mobile home and camper/travel trailer lots within the park.

6.5.6. Playground. Rental mobile home park operators shall provide a safe central playground area free of traffic hazards. The playground area shall be provided with at least 200 square feet of area for each mobile home lot contained within the mobile home park.

CHINCOTEAGUE CODE

6.5.7. *Subdivision compliance.* Mobile home parks and camper/travel trailer parks shall comply with the town subdivision ordinance.

6.5.8. *Special exceptions; special use permits.* The board of zoning appeals shall have the authority to consider applications for a special exception and may grant a special use permit for the establishment of mobile home parks and camper/travel trailer parks pursuant to all the provisions of this ordinance. Any expansion or establishment of additional lots in any existing mobile home park and camper/travel trailer park shall also require a special exception and a special use permit from the board of zoning appeals where not otherwise permitted by right.

6.5.9. *Compliance with article.* It shall be unlawful to allow any mobile home to remain occupied in a mobile home park unless all provisions of this article have been met.

6.5.10. *List of approved parks.* The board of zoning appeals shall create a list of mobile home parks and camper/travel trailer parks which were in existence prior January 4, 1994 and those mobile home parks and camper/travel trailer parks which have been approved by the planning commission prior to the enactment of this amendment to the ordinance. The mobile home, camper/travel trailer parks on this list and any mobile home, travel trailer parks which may be approved by the board of zoning appeals in the future will be considered as approved mobile home and camper/travel trailer parks.

6.5.11. *Request for location of mobile home in approved park.* A request for the location of a mobile home in an approved mobile home park shall not require a special exception or a special use permit from the board of zoning appeals.
(Ord. of 4-1994; Ord. of 8-1-1994; Ord. of 11-7-1994; Ord. of 7-3-1995; Ord. of 4-13-1998)

SECTION C. PARKING*

Sec. 6.6. Parking.

There shall be provided, at the time of erection of any main building or dwelling unit, or at the time any main building is enlarged, or the available customer floor space in a business structure is increased, minimum off-street parking spaces as identified in section 6.6.1 with adequate provisions for entrance and exit by standard sized automobiles as required by the Virginia Department of Transportation.

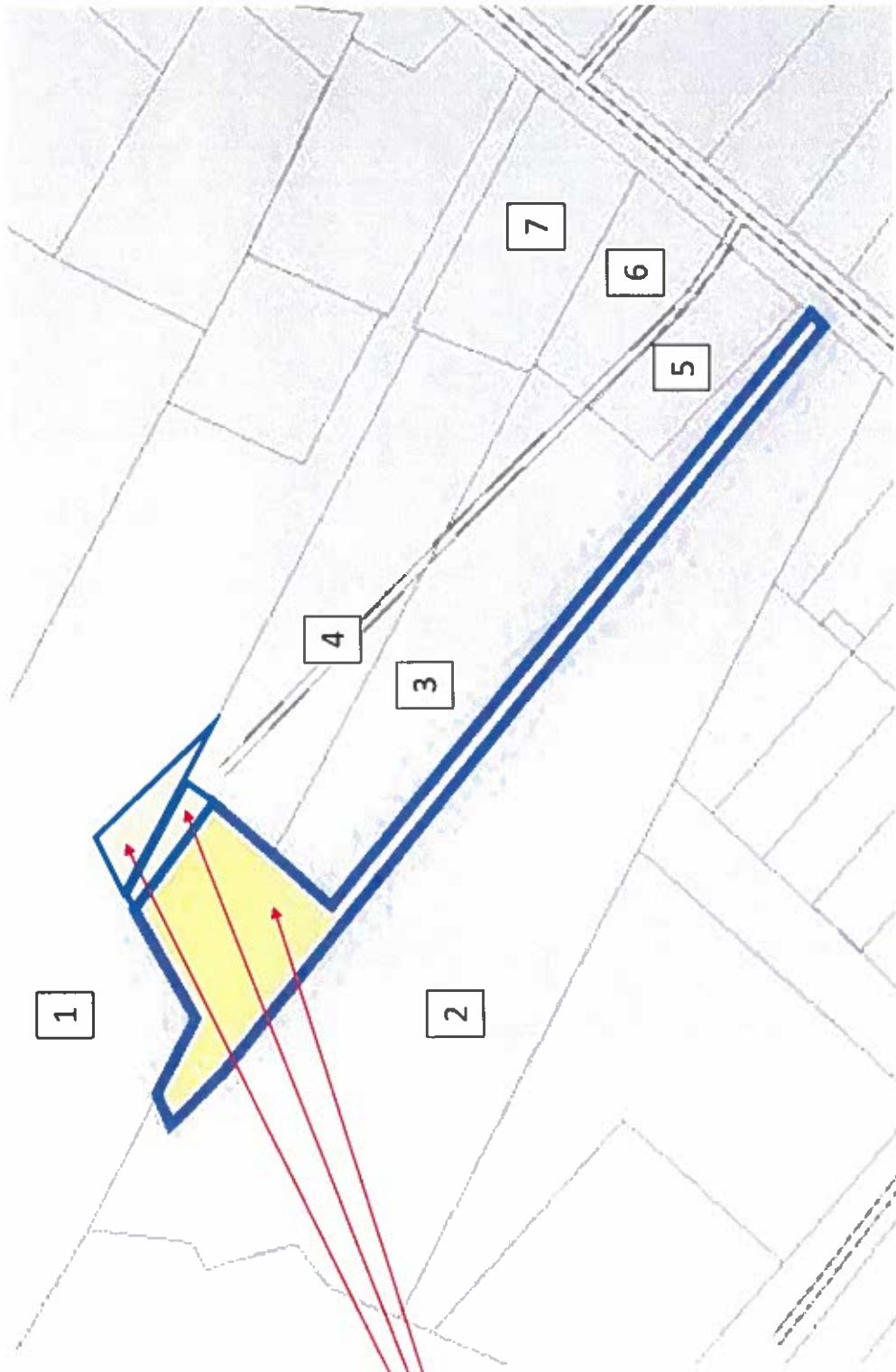
6.6.1. Definitions.

- (1) Accessible parking stalls - parking required for persons with disabilities.

*Cross reference—Stopping, standing and parking, § 58-166 et seq.

- (2) Accessway - a private vehicular facility for townhouse, multifamily,

**MERRITT APPEAL
ADJACENT PROPERTY OWNERS**



**3 PARCELS OWNED BY
APPELLANT**

MERRITT APPEAL PROPERTY OWNER NOTIFICATIONS				
PARCEL REFERENCE	OWNER NAME	MAILING ADDRESS	STATUS	NOTICE SENT VIA FIRST CLASS MAIL
1	TULL, EDWARD LUNN	PO BOX 468 CHINCOTEAGUE, VA 23336-0468	ADAJCENT PROPERTY OWNER	YES
2	MCCALL, STEPHANIE J	3465 RIDGE RD CHINCOTEAGUE, VA 23336-1616	ADAJCENT PROPERTY OWNER	YES
3	WALKER, NORA A	3485 RIDGE RD CHINCOTEAGUE, VA 23336-1617	GRANTOR	YES
4	WALKER, DAVID CHRISTOPHER	3477 RIDGE RD CHINCOTEAGUE, VA 23336-1616	ADAJCENT PROPERTY OWNER	YES
5	WALKER, DAVID CHRISTOPHER	3477 RIDGE RD CHINCOTEAGUE, VA 23336-1616	ADAJCENT PROPERTY OWNER	YES
6	WALKER, NORA A	3485 RIDGE RD CHINCOTEAGUE, VA 23336-1617	GRANTOR	YES
7	BLOXOM, JOSEPH LEE JAMES	3489 RIDGE RD CHINCOTEAGUE, VA 23336	ADAJCENT PROPERTY OWNER	YES

Nora A. Walker
3485 Ridge Road
Chincoteague Island, VA 23336

July 8, 2022

TO WHOM IT MAY CONCERN:

This letter references an appeal of a decision of the Zoning Administrator, that my daughter, Susan Walker Merritt, is pursuing with the Town of Chincoteague, regarding an incorrect reference in the Town Zoning Code.

My daughter is requesting a property line adjustment to add a small amount of property to her existing property and the elimination of two property lines.

I have received a letter, dated June 9, 2022, from my daughter, which was sent to all adjacent property owners regarding her zoning appeal application. The letter clearly states the purpose of the zoning appeal.

By way of this letter, I am letting the Town of Chincoteague Zoning Administrator know that I am in complete agreement with what my daughter is trying to accomplish.

Thank you for your time and consideration.

Sincerely,



Nora A. Walker

757/894-2404

**Starboard Environmental LLC
Chuck Ward
2281 Rudder Court
Greenbackville VA 23356**

25 JAN 2022

RE: Merritt/Walker Property Line Adjustment

Mark,

Please see attached a proposal on behalf of Susan Merritt regarding a property line adjustment between Ms. Merritt and adjacent property owner Nora Walker.

The Walker property is currently and has historically been used for vacation rental cottages. The dwelling units on the property are, and have been, occupied on a transient, seasonal basis and therefore conform to the definition of "vacation rental cottages." As such, the Walker property, under its current use, is a legal, conforming lot. A calculation regarding the minimum lot size requirement for the Walker property is provided in the attached presentation. The proposed property line adjustment would not affect the conforming status of the Walker property.

The Merritt home site, however, is comprised of three lots with multiple nonconformances. Ms. Merritt is considering consolidating her three lots into one (see attached presentation). Two of Ms. Merritt's lots do not meet the minimum lot size requirement for the R-3 district. Development of the site has occurred across property lines, increasing the non-conformities on all three lots.

The proposed transfer of 5,000 sq ft +/- from Ms. Walker to Ms. Merritt would make Ms. Merritt's home site less nonconforming with regards to the existing front yard setback. Vacating the lot lines on Ms. Merritt's three parcels would reduce the nonconformances associated with side yard setbacks and minimum lot sizes on those parcels.

In summary, the proposed property line reconfiguration and lot line vacations would reduce the existing nonconformances and provide greater adherence to the requirements of the Chincoteague Zoning Code. I request, on behalf of Ms. Merritt, that the proposed property transfer of 5,000 sq ft +/- from Ms. Walker to Ms. Merritt be found in compliance with applicable zoning regulations.

As for the vacation of property lines, I was unable to locate specific information and the application form to pursue such a request. If I am correct, the Town Code still requires lot line vacations to be approved by the Mayor and Council. I would hope the lot line vacation process includes few obstacles and minimal financial obligations, as Ms. Merritt's proposal to "resubdivide" is beneficial to the Town by creating a more conforming status for her property. Please provide information regarding the lot line vacation process in order for Ms. Merritt to consider her options.

As always, it is a pleasure to meet on the level with you. I anxiously await your response.

Regards,

Chuck Ward

Susan Merritt
Kingfisher Lane
Chincoteague VA 23336

June 9, 2022

To Whom It May Concern,

You are receiving this correspondence as required by the Chincoteague Town Code. I have filed an application for an appeal of the Town Code regarding a proposed property line adjustment.

To summarize, my home is situated on three parcels, neither of which conform to the setback requirements in the Town Zoning Code. The original development of my three parcels occurred prior to the Town's annexation in 1989. To resolve this issue as much as possible, I submitted an application to the Town to consolidate my three parcels into one. I also proposed to transfer a small area (5,000 sq ft +/-) of my mother's adjacent property. This transfer would allow me to gain ownership of a portion of my drainfield area, and would also bring a portion of my front yard into compliance with the Town's front yard setback requirement.

There are no changes of use proposed, simply a transfer of a small amount of property and the elimination of two property lines. My appeal is based on an incorrect Zoning Code reference which prohibits the Town's Zoning Administrator from approving my application. I am not requesting any special permissions, I am merely attempting to correct an error of which, until recently, I was unaware.

The appeal will be heard by the Chincoteague Board of Zoning Appeals in a public hearing within 90 days of the date of this letter. The property will be posted and a public notice of the hearing will be published in the local newspaper. I have enclosed a site plan indicating my proposed property line adjustment for your consideration.

If you have any questions or would like further clarification, feel free to contact me at 757.894.1861.

Sincerely,


Susan Merritt

CC: Adjacent Property Owners

by its occupants. A mobile home park is required to be a minimum of 5 acres, while vacation rental cottages are allowed by right in the R3 district on lots greater than 10,500 sq ft.

I request that the BZA consider the information in the documents attached. I have provided, for convenience, applicable Code sections. It is my hope that the BZA will find that Article XI contains an error, and as such, overturn the Town's decision to deny my request to reconfigure the property lines as originally presented.

My request would eliminate several nonconformances on my property, while not affecting the conforming status of my family's Vacation Rental Cottage property.

Please provide instructions regarding notification requirements to adjacent property owners. According to the Code, I am not required to send notice for an appeal via Certified Mail, but I will await further clarification from you.

Again, I sincerely thank you for the professional and kind manner with which you have assisted me through this process. I look forward to an open discussion with the BZA to resolve this issue.

Sincerely,


Susan Merritt

Enclosures:

1. Original Inquiry Letter JAN 2022
2. Town Denial Letter MAY 2022
3. Letter of Appeal JUN 2022
4. BZA Appeal Application Form JUN 2022
5. Adjacent Property Owner Letter JUN 2022
6. Adjacent Property Owner Information
7. Appeal Presentation Slides and Grounds for Appeal
8. Applicable Code Sections

Susan Merritt
Kingfisher Lane
Chincoteague VA 23336

June 9, 2022

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To summarize, my home is situated on three parcels, neither of which conform to the setback requirements in the Town Zoning Code. The original development of my three parcels occurred prior to the Town's annexation in 1989. To resolve this issue as much as possible, I submitted an application to the Town to consolidate my three parcels into one. I also proposed to transfer a small area (5,000 sq ft +/-) of my mother's adjacent property. This transfer would allow me to gain ownership of a portion of my drainfield area, and would also bring a portion of my front yard into compliance with the Town's front yard setback requirement.

There are no changes of use proposed, simply a transfer of a small amount of property and the elimination of two property lines. My appeal is based on an incorrect Zoning Code reference which prohibits the Town's Zoning Administrator from approving my application. I am not requesting any special permissions, I am merely attempting to correct an error of which, until recently, I was unaware.

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Sincerely,


Susan Merritt

CC: Adjacent Property Owners

PLEASE PROVIDE A BRIEF DESCRIPTION OF THE GROUNDS FOR THE APPEAL, SPECIAL EXCEPTION, OR OTHER REQUESTED ACTION.

ATTACH ADDITIONAL PAGES IF NECESSARY.

IF THE APPLICATION IS FOR A VARIANCE, ANSWER QUESTIONS 1-8 ON THE FOLLOWING PAGES.

Applicant has requested to combine (3) parcels upon which her home is located and proposes to add approximately 5,000 square feet +/- from adjacent parcel 30A2-A-140.

Current property line arrangement on the Susan Merritt property includes 3 parcels. Each parcel is arranged in such a way as to have property boundaries bisecting Ms. Merritt's home. Neither of the three parcels currently owned by Ms. Merritt are conforming lots. Front, rear, and side yard setback nonconformities exist on all three lots, and two lots do not conform to the minimum lot size requirement. Applicant's proposal would resolve many of these nonconformities.

Ms. Merritt's property arrangement, and the arrangement of the adjacent developed property owned by her mother, was established prior to the Island-wide annexation. The construction of her home was conducted prior to the current Chincoteague Zoning requirements. The Town, as a result of annexation, accepted the arrangement of the parcels and structures as it presently exists.

The Town has identified the property owned by Nora Walker as the "Kingfisher Court" Mobile Home Park" as stated in Article V1, Section 6.5. The Nora Walker property has never been utilized in a manner consistent with the definition of a Mobile Home Park. The Zoning Code defines a Mobile Home Park in Sec 2.104 as being "intended for residential use where residence is in mobile homes exclusively."

The Walker property's use is consistent with that of a Vacation Cottage Rental, which is defined in Sec. 2.172 as "One or more rental buildings constructed independently of each other on the same lot...Such structures shall not be considered as single-family dwellings." The Nora Walker property is not utilized for permanent residency, and as such has been wrongly identified as a Mobile Home Park.

The Town has denied Ms. Merritt's request to adjust her property lines, citing the assumption that such a realignment would create a more nonconforming condition for the "Kingfisher Mobile Home Park. This assumption is invalid, as the Walker property has never been used as a mobile home park.

The R-3 district allows Vacation Rental Cottages by right. The Nora Walker property exceeds the minimum lot size of 10,500 sq ft. by nearly 12,000 sq ft. The R-3 regulations state "For each additional attached family or dwelling unit permitted above one, the lot size required shall increase by 3,000 square feet."

The Nora Walker property has no "additional attached" and therefore conforms to the R-3 code.

The applicant's proposal would eliminate 2 nonforming lots (parcels 93A1 and 140B1) on the Merritt property and would cause no change or inconvenience to the Nora Walker property.

The applicant's proposal would align Ms. Merritt's property into an arrangement more conforming to the Town's zoning code by eliminating several nonconformities.

**TOWN OF CHINCOTEAGUE
BOARD OF ZONING APPEALS APPLICATION**

APPEAL CASE NUMBER: _____

FEE: \$ 450.00

APPLICANT/APPELLANT NAME: Susan Walker Merritt

ADDRESS: 7308 KINGFISHER LANE CHINCOTEAGUE ISLAND, VA 23336

PHONE NUMBER 757.894.1861 **E-MAIL** travelbug7308@gmail.com

OWNER/APPELLANT SIGNATURE: _____ **DATE** 3 JUN 2022

ADDRESS OF PROPERTY: 7308 Kingfisher Lane

TAX MAP#: 30A2-A-140A **PARCEL#** 140A **LOT SIZE:** 12, 500 sf +/-

ZONING DESIGNATION: R-3 Mixed Use Residential **DATE ACQUIRED:** 1985

THE APPLICANT/APPELLANT REQUEST THAT A HEARING BE CONDUCTED BEFORE THE BOARD OF ZONING APPEALS FOR THE FOLLOWING PURPOSE:

- VARIANCE FROM ZONING REGULATIONS**
- APPEAL FROM A DECISION OF THE ZONING ADMINISTRATOR**
- INTERPRETATION OF THE ZONING DISTRICT BOUNDARIES**
- APPEAL OF A ZONING VIOLATION NOTICE**
- SPECIAL EXCEPTION**
- APPEAL FROM ANY ORDER, REQUIREMENT, DECISION, OR DETERMINATION MADE BY ANY OTHER ADMINISTRATIVE OFFICIAL**
- REVOCAION OF SPECIAL EXCEPTION, OR OTHER REQUESTED ACTION.**
- APPEAL FROM FLOOD PLAIN ORDINANCE**

SECTIONS OF ZONING ORDINANCE UNDER APPEAL:

Appendix A. Zoning, Article VI General Provisions, Section B. Mobile Home Parks

Applicant is seeking an appeal to overturn a decision of the Zoning Administrator.

The Zoning Administrator's decision is based on an incorrect reference in the Town Zoning Code.

PLEASE PROVIDE RESPONSES AND EXPLANATIONS WHERE APPLICABLE TO THE FOLLOWING:

1. 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 ZONING ORDINANCE, 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.

YES NO **NOTE: Applicant is appealing a decision, not requesting a variance**

EXPLANATION: The request is designed to eliminate nonconformities that were created prior to the Town annexing the subject properties. The subject properties have been under the same ownership since prior to annexation. The applicant wishes to increase her front yard setback as much as is practicable at this time, and to eliminate the nonconformities associated with structures being built across property lines.

2. THE GRANTING OF THE VARIANCE WILL NOT BE OF SUBSTANTIAL DETRIMENT TO ADJACENT PROPERTY AND NEARBY PROPERTIES IN THE PROXIMITY OF THAT GEOGRAPHICAL AREA.

YES NO **NOTE: Applicant is appealing a decision, not requesting a variance**

EXPLANATION: The Nora Walker property is a cooperating adjacent property owner. No other properties would be affected by the proposed action. The proposal would decrease the nonconformities on Ms. Merritt's property, while retaining the current conformity of the Nora Walker property which is, and has been, used as for the purpose of Vacation Rental Cottages.

3. 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.

YES NO **NOTE: Applicant is appealing a decision, not requesting a variance**

EXPLANATION: The Town has incorrectly identified the Nora Walker property as a "Mobile Home Park" in Article VI, Sec. B, Paragraph 6.5.2. It is recommended that the Mayor and Council consider amending Article VI, Sec. B, Paragraph 6.5.2 to eliminate "Kingfisher Lane" as a Mobile Home Park. Ms. Walker nor Ms. Merritt were previously aware of the specific reference to the Nora Walker property in the Town Zoning Code.

4. 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.

YES

NO

NOTE: Applicant is appealing a decision, not requesting a variance

EXPLANATION: The proposed change would not result in a land use change on the Nora Walker property or the Merritt property. Conversely, should the Mayor and Council amend the previously referenced section of Code as suggested, the Nora Walker property would be correctly defined as a legal, conforming use. The proposal would also eliminate several nonconformities on Ms. Merritt's property.

5. 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 OF MODIFICATION OF A ZONING ORDINANCE PURSUANT TO SUBDIVISION A4 OF §15.2-2286 AT THE TIME OF THE FILING OF THE VARIANCE APPLICATION.

YES

NO

NOTE: Applicant is appealing a decision, not requesting a variance

EXPLANATION: No Special Exception is needed.

The Town Zoning Code should be revised to remove "Kingfisher Court" from the Mobile Home Park section.

6. IS THE PROPERTY SUBJECT TO ANY LEGAL ACTION INCLUDING BUILDING CODE VIOLATIONS, ZONING CODE VIOLATIONS OR ANY PENDING COURT ORDER?

YES

NO

EXPLANATION: _____

7. IF THE OWNER OF THE PROPERTY ELECTS REPRESENTATION BEFORE THE BOARD BY LEGAL COUNSEL, AGENT OR OTHERS ACTING ON BEHALF OF THE OWNER, THE FOLLOWING INFORMATION MUST BE PROVIDED:

REPRESENTATIVE'S NAME: _____

REPRESENTATIVE'S ADDRESS: _____

REPRESENTATIVE'S PHONE NUMBER: _____

REPRESENTATIVE'S EMAIL: _____

8. ATTACH ANY APPLICABLE SITE PLANS, BUILDING ELEVATIONS, GRADING PLANS, SEWERAGE LOCATIONS OR OTHER INFORMATION THAT MAY ASSIST THE BOARD IN THEIR CONSIDERATION OF THE MATTER.

OFFICIAL USE ONLY

DATE: _____

APPEAL # _____

MOTION ON APPEAL: _____

APPROVED

DENIED

CONDITIONALLY APPROVED;

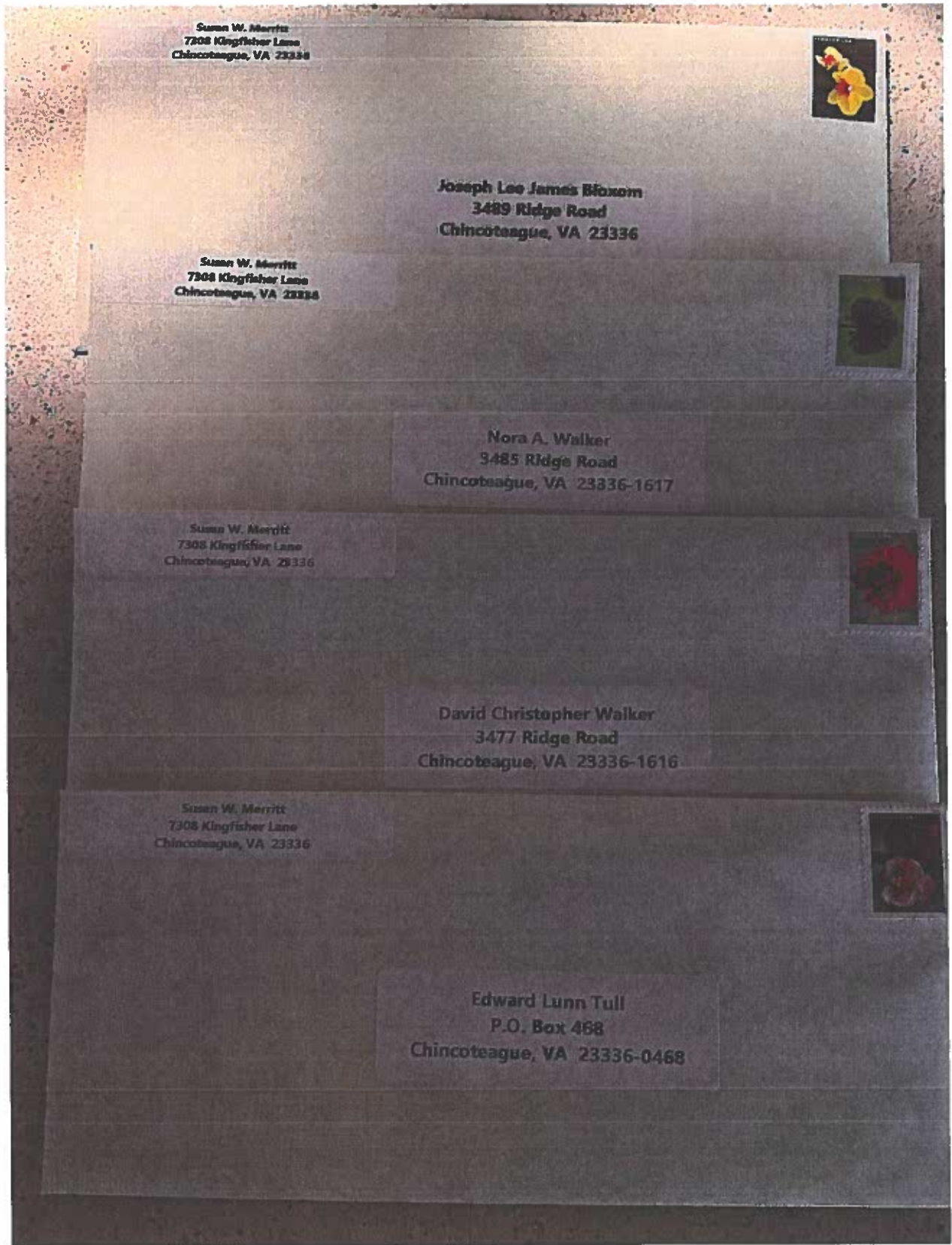
FOR :

JESSIE SPEIDEL DONNIE THORNTON ROBERT CHERRIX
 MIKE MCGEE JACK GILLISS CHUCK WARD DAVID LANDSBERGER

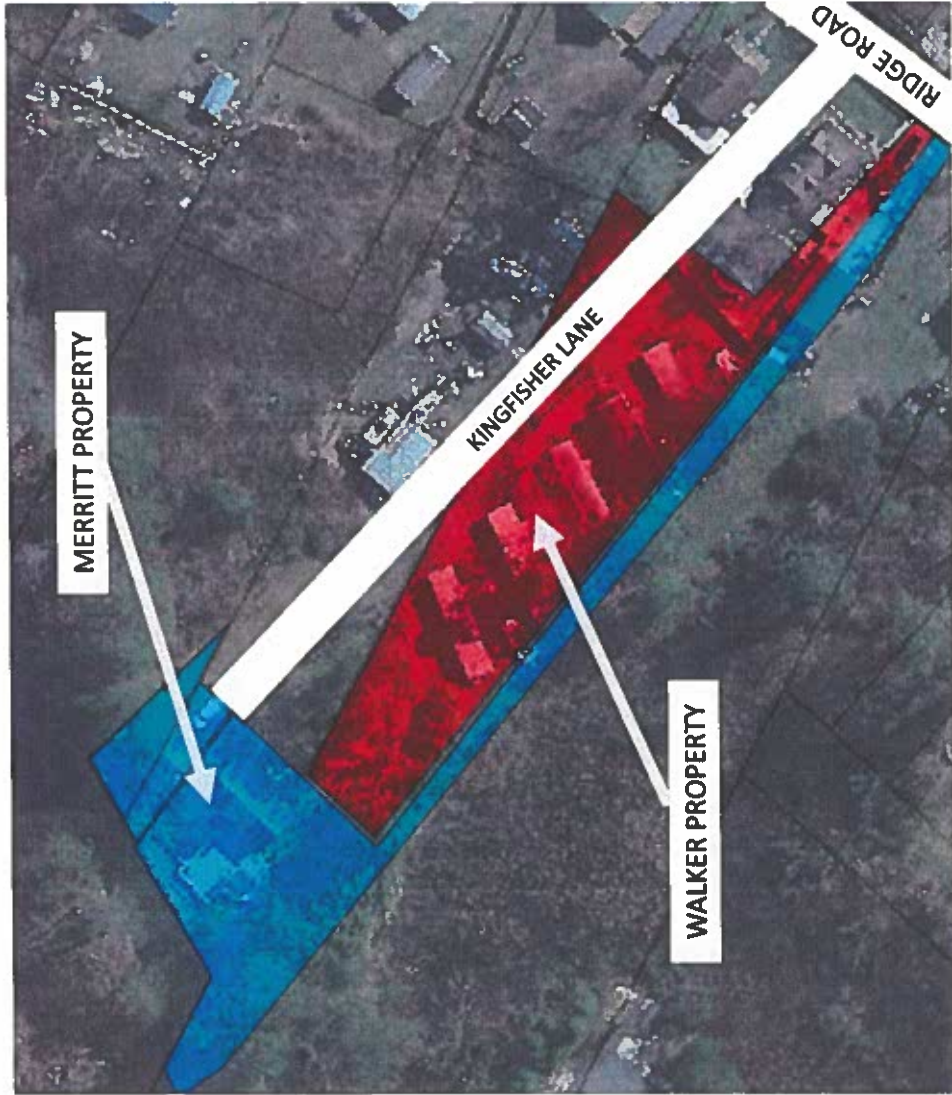
AGAINST:

JESSIE SPEIDEL DONNIE THORNTON ROBERT CHERRIX
 MIKE MCGEE JACK GILLISS CHUCK WARD DAVID LANDSBERGER

MERRITT APPEAL PROPERTY OWNER NOTIFICATIONS				
PARCEL REFERENCE	OWNER NAME	MAILING ADDRESS	STATUS	NOTICE SENT VIA FIRST CLASS MAIL
1	TULL, EDWARD LUNN	PO BOX 468 CHINCOTEAGUE, VA 23336-0468	ADAJCENT PROPERTY OWNER	YES
2	MCCALL, STEPHANIE J	3465 RIDGE RD CHINCOTEAGUE, VA 23336-1616	ADAJCENT PROPERTY OWNER	YES
3	WALKER, NORA A	3485 RIDGE RD CHINCOTEAGUE, VA 23336-1617	GRANTOR	YES
4	WALKER, DAVID CHRISTOPHER	3477 RIDGE RD CHINCOTEAGUE, VA 23336-1616	ADAJCENT PROPERTY OWNER	YES
5	WALKER, DAVID CHRISTOPHER	3477 RIDGE RD CHINCOTEAGUE, VA 23336-1616	ADAJCENT PROPERTY OWNER	YES
6	WALKER, NORA A	3485 RIDGE RD CHINCOTEAGUE, VA 23336-1617	GRANTOR	YES
7	BLOXOM, JOSEPH LEE JAMES	3489 RIDGE RD CHINCOTEAGUE, VA 23336	ADAJCENT PROPERTY OWNER	YES



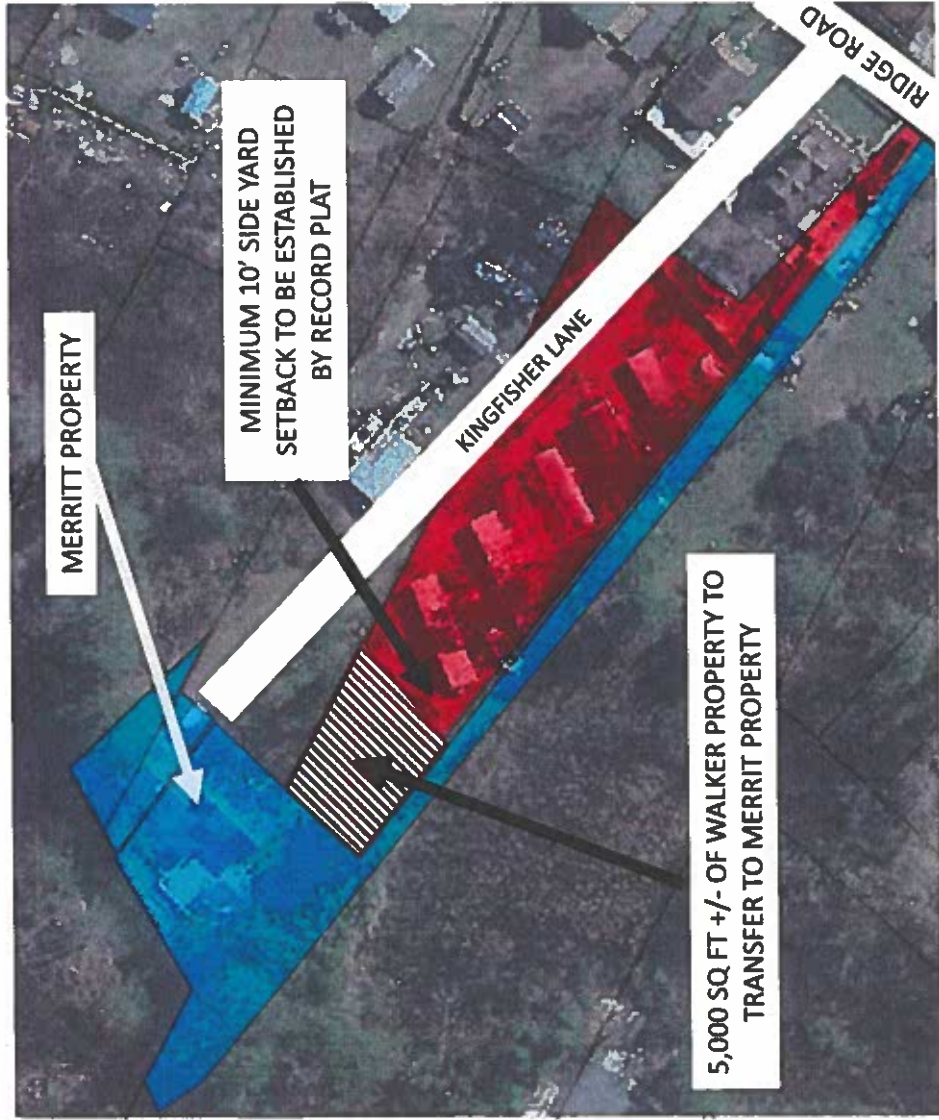
MERRITT / WALKER PROPERTIES CURRENT PROPERTY CONFIGURATION



NOTES

1. ZONED R-3 MIXED USE RESIDENTIAL
2. WALKER PROPERTY IS 22,400 SF +/-
3. WALKER PROPERTY HAS BEEN IS USED EXCLUSIVELY FOR (5) VACATION RENTAL COTTAGES SINCE 1973
4. VACATION RENTAL COTTAGES ARE ALLOWED BY RIGHT IN THE R-3 DISTRICT
5. R3 ZONING REQUIRES A MINIMUM LOT SIZE OF 10,500 SQUARE FEET

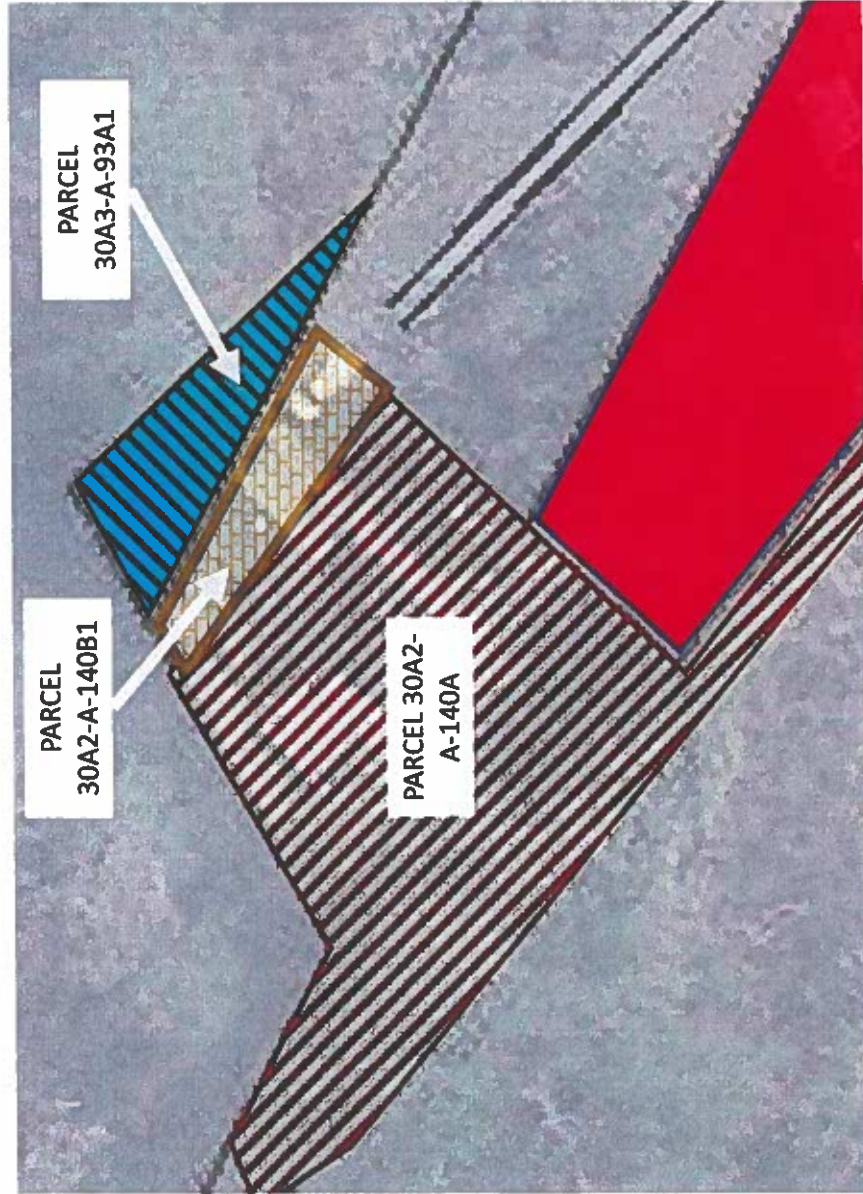
MERRITT / WALKER PROPERTIES PROPOSED PROPERTY LINE ADJUSTMENT



NOTES

1. NORA WALKER PROPERTY CURRENTLY CONTAINS 22,400 SQ FT +/-
2. WALKER PROPERTY CURRENTLY CONFORMS TO THE R3 ZONING DISTRICT'S PERMITTED USE OF VACATION RENTAL COTTAGES
3. PROPERTY OWNERS PROPOSE TO TRANSFER 5,000 SQ FT +/- FROM THE WALKER PROPERTY TO THE MERRITT PROPERTY
4. NO CHANGE OF USE IS PROPOSED
5. SURVEY PLAT WOULD BE PREPARED TO CONFIRM CONFORMANCE TO REQUIRED SETBACK
6. WALKER PROPERTY FRONTS ON KINGFISHER LANE
7. MINIMUM OF 10' SIDE YARD SETBACK WOULD BE ESTABLISHED ALONG THE WALKER NW PROPERTY LINE

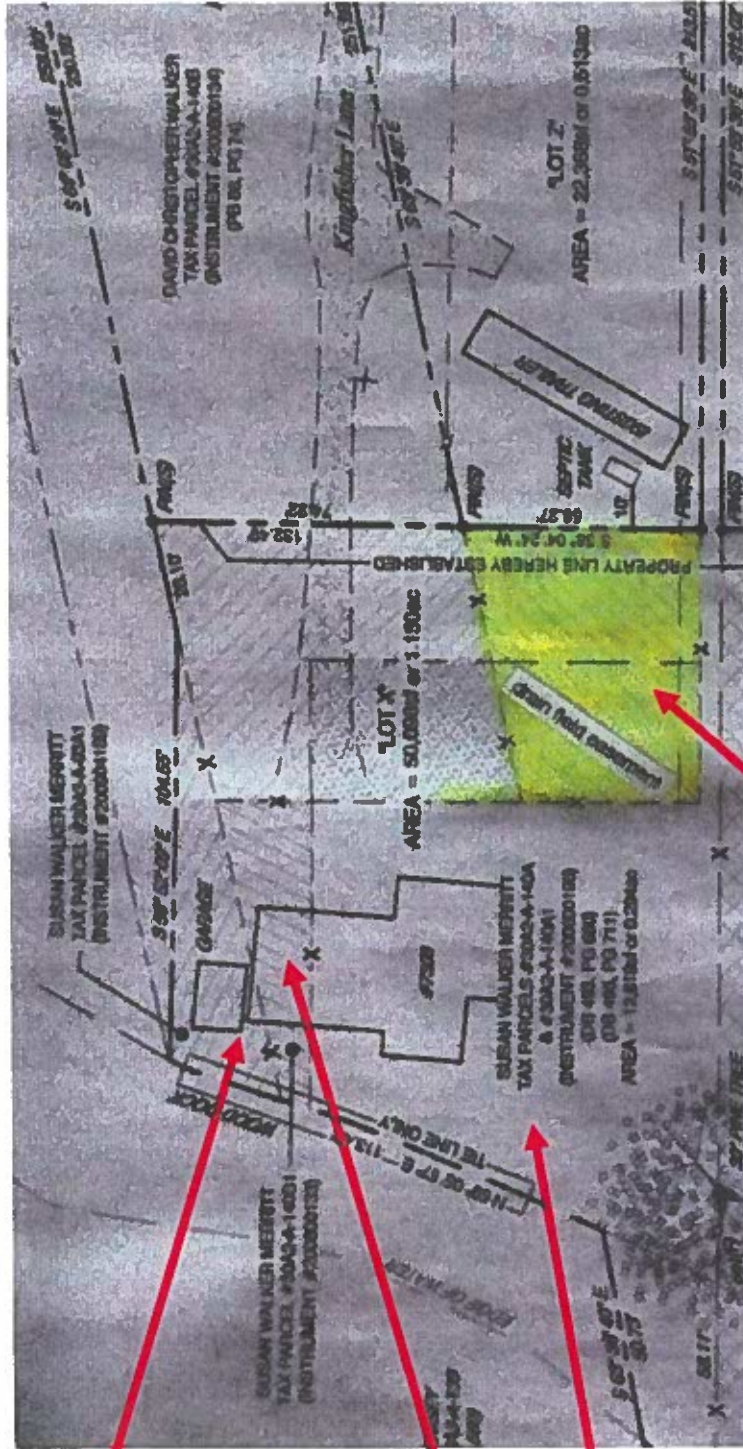
MERRITT PROPERTY NON-CONFORMING STATUS



NOTES

1. MERRITT PROPERTY IS COMPRISED OF 3 NONCONFORMING LOTS AS SHOWN
2. MERRITT DWELLING DOES NOT CONFORM TO FRONT OR SIDE YARD SETBACKS FROM PROPERTY LINES
3. THE TWO SMALL MERRITT LOTS DO NOT CONFORM TO SETBACK OR LOT SIZE REQUIREMENTS
4. PROPERTY OWNER PROPOSES TO RESUBDIVIDE ALL THREE LOTS INTO ONE LOT TO REDUCE THE NONCONFORMITIES

MERRITT PROPERTY EXISTING MERRITT PARCELS



PARCEL 30A3-A-93A1:
1,660 sq ft +/-

PARCEL 30A2-A-140B1:
1,440 sq ft +/-

PARCEL 30A2-A-140A:
12,800 sq ft +/-

HIGHLIGHTED AREA (5,000 sq ft +/-) FROM
PARCEL 30A2-A-140 TO BE TRANSFERRED TO
MERRITT PROPERTY

WALKER PROPERTY ANALYSIS OF CONFORMING STATUS

In 1989, the Town annexed Parcel 30A2-A-140 (Walker property) as part of the Island-wide annexation. The parcel was improperly identified as the "Kingfisher Court" Mobile Home Park in Article VI, Sec 6.5.2 below:

Setback requirements for lots established prior to January 4, 1994 shall be set back a minimum of five feet from any individual lot line in the following mobile home parks: Beebe's Park, Bowden Mobile Home Park, Bunker Hill Mobile Home Park, Circle Drive Mobile Home Park, El Rancho Mobile Home Park, El Kosha Mobile Home Park, Green Acres Mobile Home Park, Holly Ridge Mobile Home Park, Inlet View, Island's Pride Mobile Home Park, Kingfisher Court, Lee Bloxom Mobile Home Park, Misty Meadows, Mitchell Howard's Mobile Home Park, Nathan Hill's Mobile Home Park, Nock's Mobile Home Park,

The owner of the above referenced parcel was not informed of this designation. The owner was unaware until recently that such a designation existed. The owners have operated the property in the same manner, with the same number of seasonal, transient rental units, since 1973.

Sec. 2.104. Mobile home park.

Any area of five acres or more designed to accommodate not less than four nor more than ten mobile homes per acre and intended for residential use where residence is in mobile homes exclusively.

Since 1973, no family or individual has established a permanent residence at any of the five structures located on Parcel 30A2-A-140.

Sec. 2.172. Vacation rental cottages.

One or more rental buildings constructed independently of each other on the same lot. Cooking facilities may be provided for each unit. Such structures shall not be considered as single-family dwellings.

Parcel 30A2-A-140 has been utilized exclusively for Vacation Rental Cottages since the uses were installed in 1973.

The Nora Walker parcel is NOT a Mobile Home Park and is incorrectly identified in the Town Code as such.

WALKER PROPERTY ANALYSIS OF CONFORMING STATUS

The R-3 Zoning District allows Vacation Rental Cottages by right:

Sec. 3.7. Uses permitted by right.

The following uses shall be permitted in the R-3 mixed use residential district subject to all other provisions of this ordinance:

- 3.7.1. Single-family dwelling.
- 3.7.2. Two-family dwelling.
- 3.7.3. Repealed 4/2/12.
- 3.7.4. Home occupation.
- 3.7.5. Tourist home/tourist rental home.
- 3.7.6. Vacation rental cottages.

The R-3 District requires a minimum lot size of 10,500 sq ft and an additional 3,000 sq ft per *attached* unit.

Sec. 3.9. Area regulations.

3.9.1. Lot size.

- (1) The minimum lot size for permitted uses shall be 10,500 square feet. (For permitted uses utilizing individual sewage disposal systems, a larger area may be required by the health official.)
- (2) For each additional *attached* family or dwelling unit permitted above one, the lot size required shall increase by 3,000 square feet.

There are no attached units on the Walker property. All units on the property are detached structures.

SUMMARY:

The Nora Walker Parcel is used for Vacation Rental Cottages and exceeds the minimum lot size to conform to the R-3 regulations for Vacation Rental Cottages.

The proposal to transfer 5,000 sq ft +/- to the Merritt property would not affect the Walker property's conformance to the R-3 requirements for Vacation Rental Cottages. Additionally, the property line revisions as proposed would eliminate multiple nonconformities on the Merritt property.

The Town's Zoning Code incorrectly identifies the Walker property as a Mobile Home Park. The applicant requests that the Board of Zoning Appeals overturn the Administrator's decision to not allow the property line revision as requested.

It is also recommended that the Mayor and Council revise the Zoning Code to remove the "Kingfisher Court" language from the list of identified Mobile Home Parks.

CHINCOTEAGUE CODE

of the USBC (see USBC). A certificate of occupancy either for the whole or part of a building shall be applied for simultaneously with the application for a zoning permit. The certificate shall be issued after the erection or structural alteration of such building or part has conformed with the provisions of this ordinance.

Sec. 6.3. Uses not specifically covered by ordinance.

If, in any district established under this ordinance, a use is not specifically permitted within such district as a matter of right or by special exception, and such proposed use is occurring on a recurring basis, the zoning administrator shall so advise the governing body of such, which governing body may then take such action, in accordance with law, to amend this ordinance to provide for such use as a permitted use or a special exception, as it may deem advisable.

Sec. 6.4. Widening of highways and streets.

Whenever there shall be plans in existence, approved by the governing body, for the widening of any street or highway, the planning commission may recommend additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way, in order to preserve and protect the right-of-way for such proposed street or highway widening.

SECTION B. MOBILE HOME PARKS AND CAMPER PARKS

Sec. 6.5. Permanent mobile home parks.

The location of a mobile home park shall require, in addition to the zoning permit, a conditional use permit issued by the board of zoning appeals where not otherwise permitted by right.

The location of a camper/travel trailer park shall require, in addition to the zoning permit, a conditional use permit issued by the board of zoning appeals unless otherwise permitted by right.

6.5.1. Area requirements.

- (1) The developer of a mobile home rental park shall provide mobile home lots of not less than 5,000 square feet, with a minimum width of 50 feet at the setback line for each mobile home on the premises and shall adjoin an internal mobile home park street, road or right-of-way.
- (2) Mobile home parks in which lots are sold and served by central water and sewer systems shall have a minimum lot area of 5,000 square feet and shall be 50 feet or more in width at the setback line and shall adjoin an internal mobile home park street, road or right-of-way. All newly developed lots to accommodate doublewide structures shall contain 10,000 square feet and shall have a minimum width of 80 feet.

CDA:80

APPENDIX A—ZONING

- (3) Mobile home parks in which lots are sold and served by either central water or sewer systems shall have a minimum lot area of 10,000 square feet and shall be 50 feet or more in width at the setback line.
- (4) Mobile home parks in which lots are sold and served by neither central water nor sewer systems shall have a minimum lot area of 15,000 square feet and shall be 100 feet or more in width at the setback line.

6.5.2. *Setback requirements.* Each mobile home, travel trailer and/or camper shall be set back ten feet from the front, rear and side lot lines. Additions to mobile homes, travel trailers and campers shall not exceed the square footage of the original mobile home, travel trailer or camper unit. The term “original mobile home, travel trailer or camper unit” shall not include pull outs, bumpers or hitches. Any addition to a travel trailer or camper shall not extend more than three feet above the roof line of the travel trailer or camper unit. No accessory structure shall be within five feet of a property line.

(Amended 01-03-05)

Setback requirements for lots established prior to January 4, 1994 shall provide a distance of 15 feet or more between individual units, but in no case closer than five feet to the individual lot line of the mobile home space in the following mobile home parks: Daisey's Mobile Home Park, Midway Mobile Home Park, Magnolia Manor Mobile Home Park, Quillen's Mobile Home Park, Shady Pines Mobile Home Park and Reeds Mobile Home Park.

Setback requirements for lots established prior to January 4, 1994 shall be set back a minimum of five feet from any individual lot line in the following mobile home parks: Beebe's Park, Bowden Mobile Home Park, Bunker Hill Mobile Home Park, Circle Drive Mobile Home Park, El Rancho Mobile Home Park, El Rosha Mobile Home Park, Green Acres Mobile Home Park, Holly Ridge Mobile Home Park, Inlet View, Island's Pride Mobile Home Park, Kingfisher Court, Lee Bloxom Mobile Home Park, Misty Meadows, Mitchell Howard's Mobile Home Park, Nathan Hill's Mobile Home Park, Nock's Mobile Home Park, Ocean Breeze, Sulky Acres, Tom's Cove Mobile Home Park, Vacation Park, Walter Meyer Mobile Home Park, Little Bay Trailer Park, and Willow Court Mobile Home Park.

6.5.3. *Sanitary facilities.* All mobile homes shall have toilet facilities which are connected to an approved sewage disposal system.

6.5.4. *Electrical connections.* Each mobile home space shall be provided with electrical outlets installed in accordance with the National Electrical Code and/or Virginia Uniform Statewide Building Code.

6.5.5. *Health permits.* The state health department must have issued the mobile home park operator a valid health permit as required by state law and a valid approval of all mobile home and camper/travel trailer lots within the park.

6.5.6. *Playground.* Rental mobile home park operators shall provide a safe central playground area free of traffic hazards. The playground area shall be provided with at least 200 square feet of area for each mobile home lot contained within the mobile home park.

CDA:81

CHINCOTEAGUE CODE

6.5.7. *Subdivision compliance.* Mobile home parks and camper/travel trailer parks shall comply with the town subdivision ordinance.

6.5.8. *Special exceptions; special use permits.* The board of zoning appeals shall have the authority to consider applications for a special exception and may grant a special use permit for the establishment of mobile home parks and camper/travel trailer parks pursuant to all the provisions of this ordinance. Any expansion or establishment of additional lots in any existing mobile home park and camper/travel trailer park shall also require a special exception and a special use permit from the board of zoning appeals where not otherwise permitted by right.

6.5.9. *Compliance with article.* It shall be unlawful to allow any mobile home to remain occupied in a mobile home park unless all provisions of this article have been met.

6.5.10. *List of approved parks.* The board of zoning appeals shall create a list of mobile home parks and camper/travel trailer parks which were in existence prior January 4, 1994 and those mobile home parks and camper/travel trailer parks which have been approved by the planning commission prior to the enactment of this amendment to the ordinance. The mobile home, camper/travel trailer parks on this list and any mobile home, travel trailer parks which may be approved by the board of zoning appeals in the future will be considered as approved mobile home and camper/travel trailer parks.

6.5.11. *Request for location of mobile home in approved park.* A request for the location of a mobile home in an approved mobile home park shall not require a special exception or a special use permit from the board of zoning appeals.
(Ord. of 4-1994; Ord. of 8-1-1994; Ord. of 11-7-1994; Ord. of 7-3-1995; Ord. of 4-13-1998)

SECTION C. PARKING*

Sec. 6.6. Parking.

There shall be provided, at the time of erection of any main building or dwelling unit, or at the time any main building is enlarged, or the available customer floor space in a business structure is increased, minimum off-street parking spaces as identified in section 6.6.1 with adequate provisions for entrance and exit by standard sized automobiles as required by the Virginia Department of Transportation.

6.6.1. Definitions.

- (1) Accessible parking stalls - parking required for persons with disabilities.

*Cross reference—Stopping, standing and parking, § 58-166 et seq.

- (2) Accessway - a private vehicular facility for townhouse, multifamily,

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into articles or substances of different character, or for use for a different purpose.

Sec. 2.98. Manufactured home.

See the VUSBC.

Sec. 2.99. Marina, commercial or club type.

A marina designed and operated for profit or operated by any club or organized group where hull and engine repairs, boat and accessory sales, packaged food sales, restaurants, personal services, fueling facilities, storage and overnight guest facilities or any combination of these are provided.

Cross reference–Water access facilities, ch. 70.

Sec. 2.100. Marina, private noncommercial.

A marina designed and intended to be used for mooring of boats by residents of the general neighborhood with no commercial facilities other than necessary for minor servicing and repairs.

Cross reference–Water access facilities, ch. 70.

Sec. 2.101. Marquee.

A permanent structure other than a roof attached to, supported by, and projecting from a building and providing protection from natural elements.

Sec. 2.102. Repealed 6/19/08.

Sec. 2.103. Mobile home.

A structure transportable in one section, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent metal chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. For purpose of this ordinance, a mobile home is not considered a single-family dwelling.

Sec. 2.104. Mobile home park.

Any area of five acres or more designed to accommodate not less than four nor more than ten mobile homes per acre and intended for residential use where residence is in mobile homes exclusively.

Sec. 2.105. Modular home.

A modular home is a dwelling constructed at the manufacturer's facility and transported after construction on streets and highways in sections for assembly at a site on a permanent foundation. A modular home must be built to standards established in the Virginia Uniform Statewide Building Code. (See Code of Virginia, § 36-71.1 et seq.) This definition shall not include a travel trailer or mobile home. (See "Mobile home," section 2.103 and "Travel

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Sec. 2.168. Townhouse.

At least three single-family dwellings that are connected to each other by common sidewalls, having individual ownership of unit and property, having fee simple title, and with open space on at least two sides and meeting setbacks as required.

Sec. 2.169. Travel trailer.

A portable structure built on a chassis, designed to be towed behind a motor vehicle and used as a temporary occupancy for travel, recreation or vacation, being less than 40 feet in length.

Sec. 2.170. Travel trailer park/sold lots.

Premises where travel trailers are parked in conjunction with travel, recreation or vacation. Permanent additions may not exceed the square footage of the original mobile unit. Any accessory building on the lot may not be more than 96 square feet. Minimum five-foot setback required for all structures.

Sec. 2.171. Two-family dwelling (duplexes).

A structure, located on a single lot, arranged or designed to be occupied by two families in two separate dwelling units, which meet all setbacks as required for a single structure; may be subdivided into separate ownership with less than the otherwise required square footage provided the front, side and rear setbacks are maintained as required, excluding any setback for the common center wall of the structure.

Sec. 2.172. Vacation rental cottages.

One or more rental buildings constructed independently of each other on the same lot. Cooking facilities may be provided for each unit. Such structures shall not be considered as single-family dwellings.

Sec. 2.173. Variance.

A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship as defined, above. As used in this ordinance, a variance is authorized only for height, area and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of other nonconforming activities or uses in the zoning division or district or adjoining zoning divisions or districts.

A reasonable deviation from these provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance and would result in substantial justice being done. It shall not include a change

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SECTION C. R-3 MIXED USE RESIDENTIAL

Statement of intent. This district is composed of certain medium to high concentrations of residential uses, ordinarily located adjacent to commercial areas, and/or between residential and commercial areas, plus certain open space areas where similar development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for family life, and to permit, under certain conditions, certain neighborhood commercial uses of a character unlikely to develop extreme concentrations of traffic and crowds of customers, with the limitation of permitted outdoor advertising to only 6 sign types. The positive characteristics of residential neighborhoods shall be maintained while allowing for appropriate infill and redevelopment on vacant and under-utilized parcels. Specific building types will be permitted only by conditional use permit to assure neighborhood compatibility.

(Amended 4/2/12)

Sec. 3.7. Uses permitted by right.

The following uses shall be permitted in the R-3 mixed use residential district subject to all other provisions of this ordinance:

- 3.7.1. Single-family dwelling.
- 3.7.2. Two-family dwelling.
- 3.7.3. Repealed 4/2/12.
- 3.7.4. Home occupation.
- 3.7.5. Tourist home/tourist rental home.
- 3.7.6. Vacation rental cottages.
- 3.7.7. Boardinghouse.
- 3.7.8. Bed and breakfast.
- 3.7.9. Rest home.
- 3.7.10. Beauty/barber shop.
- 3.7.11. Professional office.
- 3.7.12. Day care facilities.
- 3.7.13. Nursing homes.
- 3.7.14. Municipal facilities.
- 3.7.15. Accessory structure.

- (1) No accessory building/structure may be closer than five feet to any side or rear property line. No accessory building/structure may be closer than 25 feet from the front property line or more than the average setback of the structures

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on either side.

- (2) The use of semi-trailers, trailers or other types of vehicles or parts of vehicles as storage or accessory structures is not allowed.

3.7.16. Fences.

- (1) All fences to be located from a point even with the rear of the main structure (excluding open decks and open porches) extending to the front lot line shall have a maximum height of four feet and shall be at least 30 percent open space when viewed at any point perpendicular (90° angle) to the fence line, regardless of construction materials. Any fence on the remainder of the property shall have a maximum height of six feet and may be of solid construction. A fence previously in compliance with this section may remain in place if a new addition is constructed to an existing residence.
- (2) As to any lot on which there is no existing main structure, all fences shall have a maximum height of four feet and shall be at least 30 percent open space, when viewed at any point perpendicular (90° angle) to the fence line, except for a fence erected or constructed along the rear lot line which may have a maximum height of six feet and may be of solid construction.
- (3) Fully enclosed containment fences of solid construction may be erected to enclose aboveground sewage disposal systems and fuel storage tanks. Such containment fences shall not extend more than three feet beyond the perimeter of that to be enclosed. The containment fence shall not extend more than one foot above that to be enclosed and shall not exceed a maximum height of six feet. Such containment fences shall not be placed closer than five feet from any side or rear lot line and shall not be placed closer than 15 feet from the front lot line.

3.7.17. Public utilities.

3.7.18. Signs (See Article VII, Signs.)

- (1) Street address signs.
- (2) Home occupation signs.
- (3) Resident identification signs.
- (4) Temporary signs.
- (5) Business signs only to advertise the sale or yearly rental of the premises upon which erected. Only one sign, limited to four square feet, will be allowed on each lot.
- (6) Church bulletin boards and identification signs as defined in Article VII.
(Amended 6/19/08.)

3.7.19. Recreational parks and playgrounds.

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3.7.20. Schools.

3.7.21. Churches.

3.7.22. Public piers, public boat ramps.

3.7.23. Pony Penning sales, yard sales.

3.7.24. Repealed 4/2/12.

3.7.25. Other. The temporary location of construction "site trailers" or other protective, storage or other office-type structures for construction purposes are permitted providing that such structures are removed prior to the issuance of a certificate of occupancy or whenever significant construction activity is discontinued or halted for 30 days or longer.

3.7.26. Any parcel which is located in two or more zoning districts may, at the property owner's request, apply the permitted usages of the district in which a majority of the parcel is located to the entire parcel so long as it remains a part of the original lot.

(Ord. of 8-1-1994; Ord. of 4-3-1995; Ord. of 11-4-1996; Ord. of 4-13-1998; Ord. of 4-5-1999) *(Amended 6/2/03, 9/2/03)*

Sec. 3.8. Special exceptions; special use permits; conditional use.

3.8.1. Cemetery.

3.8.2. Light waterfront seafood industry.

3.8.3. Townhouse.

3.8.4. Condominiums.

3.8.5. Multifamily dwelling.

3.8.6. Campgrounds.

3.8.7. Camper/travel trailer parks.

3.8.8. Hotels/motels.

3.8.9. Repealed 3/1/10.

3.8.10. Mobile Home.

3.8.11. Mobile Home Parks.

3.8.12. Such other temporary or permanent use of land, buildings, or structures as may be permitted by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.

(Ord. of 4-3-1995; Ord. of 8-2-1999; Ord. of 5-17-2001) *(Amended 5/3/04, 4/2/12)*

Sec. 3.9. Area regulations.

3.9.1. *Lot size.*

(1) The minimum lot size for permitted uses shall be 10,500 square feet. (For

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permitted uses utilizing individual sewage disposal systems, a larger area may be required by the health official.)

- (2) For each additional attached family or dwelling unit permitted above one, the lot size required shall increase by 3,000 square feet.

3.9.2. *Setback.* Structures excluding steps, and a landing not greater than 5 feet by 5 feet shall be located a minimum of 25 feet from any street right-of-way. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to corner lots or new subdivisions after enactment of this ordinance. This distance shall be known as the setback line.

(Amended 10/19/07)

3.9.3. *Open space.*

- (1) The minimum side yard for each main structure shall be ten feet.
- (2) Each main structure shall have a minimum rear yard of 25 feet except waterfront properties would have no required setback.

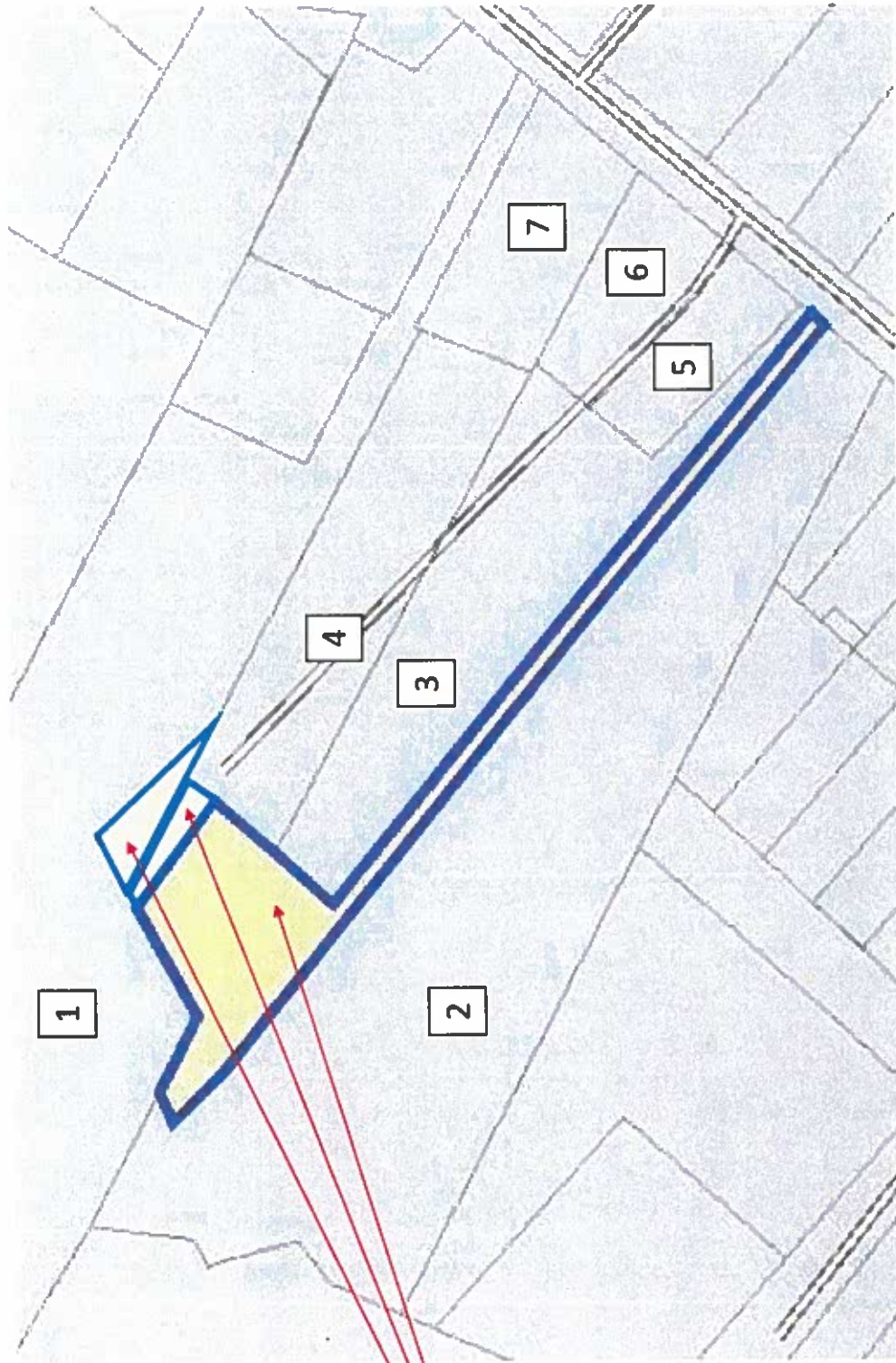
3.9.4. *Height regulations.*

- (1) Buildings may be erected up to 36 feet in height above base flood elevation. No structure shall exceed three stories in height. Exception: enclosures below the base flood elevation used for incidental storage, parking garages, and means of egress shall be exempt from being considered a story if such total space is less than 600 square feet in area, however the height restriction still applies.
- (2) No accessory building shall be more than 25 feet in height.
- (3) Chimneys and flues shall not be more than six feet above the height of the main buildings upon which they rest.
- (4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials maybe no higher than 70 feet above mean sea level (excluding public utilities).

3.9.5. *Corner lots.*

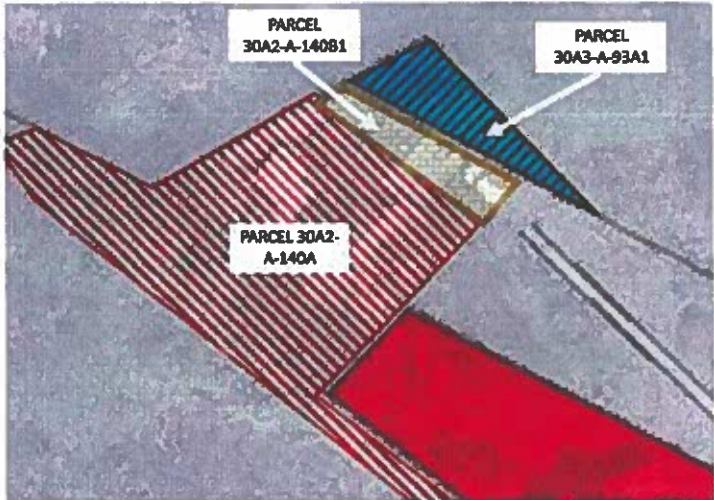
- (1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.
 - (2) The side yard setback abutting a street, road, right-of-way, or easement shall be 15 feet for both main and accessory structures excluding steps, and a landing not greater than 5 feet by 5 feet.
- (Ord. of 4-3-1995; Ord. of 7-3-1995; Ord. of 11-6-1995; Ord. of 7-7-1997; Ord. of 2-5-2001; Ord. of 5-17-2001) *(Amended 12/04/06, 10/19/07, 4/2/12)*

**MERRITT APPEAL
ADJACENT PROPERTY OWNERS**



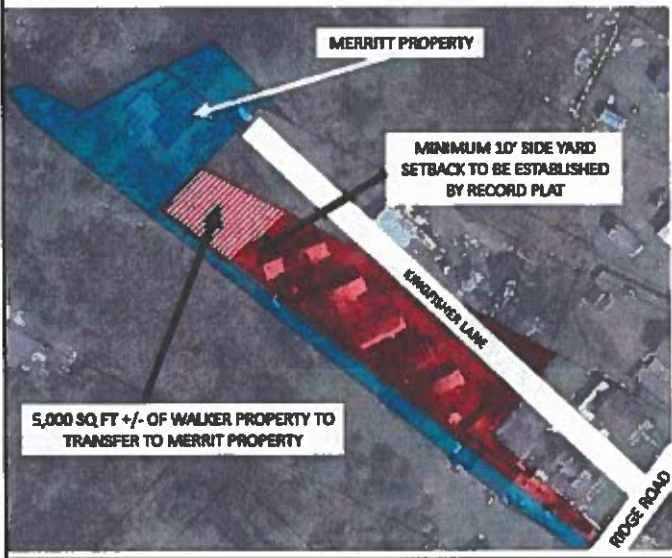
**3 PARCELS OWNED BY
APPELLANT**

MERRITT PROPERTY NON-CONFORMING STATUS



- NOTES**
1. MERRITT PROPERTY INDICATED ON PREVIOUS FIGURES IS CURRENTLY COMPRISED OF 3 NONCONFORMING LOTS AS SHOWN ON ADJACENT FIGURE
 2. MERRITT DWELLING DOES NOT CONFORM TO FRONT OR SIDE YARD SETBACKS FROM PROPERTY LINE
 3. THE TWO SMALL MERRITT LOTS DO NOT CONFORM TO SETBACKS OR LOTS SIZE REQUIREMENTS
 4. PROPERTY OWNER PROPOSES TO RESUBDIVIDE ALL THREE LOTS INTO ONE LOT TO REDUCE THE NONCONFORMANCES

MERRITT / WALKER PROPERTIES PROPOSED PROPERTY LINE ADJUSTMENT



- NOTES**
1. WALKER PROPERTY CURRENTLY CONTAINS 27,700 SQ FT +/-
 2. WALKER PROPERTY CURRENTLY CONFORMS TO THE R3 ZONING DISTRICT'S PERMITTED USE OF VACATION RENTAL COTTAGES
 3. PROPERTY OWNERS PROPOSE TO TRANSFER 5,000 SQ FT +/- FROM THE WALKER PROPERTY TO THE MERRITT PROPERTY
 4. NO CHANGE OF USE IS PROPOSED
 5. SURVEY PLAT WOULD BE PREPARED TO CONFIRM CONFORMANCE TO REQUIRED SETBACK
 6. WALKER PROPERTY FRONTS ON KINGFISHER LANE
 7. MINIMUM OF 10' SIDE YARD SETBACK WOULD BE ESTABLISHED ON THE WALKER'S NW PROPERTY LINE