

VIRGINIA: IN THE CIRCUIT COURT OF NORTHAMPTON COUNTY

DONALD RILEY

Plaintiff/Appellant,

v.

CASE NO: CL 13-\_\_\_\_\_

CAPE CHARLES TOWN COUNCIL,

Serve: Dora Sullivan, Mayor  
Town of Cape Charles  
2 Plum Street  
Cape Charles, VA 23310

APPEAL AND COMPLAINT  
FOR DECLARATORY AND INJUNCTIVE RELIEF

NOW COME your plaintiff/appellant, Donald Riley pro se and file this Appeal and Complaint for Declaratory and Injunctive Relief ("Appeal") for consideration by this Honorable Court, and in support thereof, state as follows,

This matter concerns an appeal pursuant to the Code of Virginia sections 15.2-2201 and 15.2-2306 A1,2,3 regarding the Historic District in Cape Charles and the construction of a structure that does not conform to the town zoning ordinance and historic guidelines.

The appellant made an appeal to the Cape Charles Town Council of a decision by the Historic District Review Board to allow the construction of a bathroom on park property in the Historic District of Cape Charles that is not in keeping with the Guidelines of the Historic District as stated on page 21 of said guidelines, which is attached herewith as Exhibit A.

The building that is being constructed in the park is the size, shape and style of a 1980's sewage pump station that was built in the park before the Historic District was established and therefore was exempt from the guidelines. The building is not in keeping with the character of the historic buildings in the area and does not include any of the elements that define the character of the neighborhood, which is a requirement of the guidelines.

The appellant was unaware of plans to build this structure in the park until he came upon the crew as they began work. He immediately recognized the inappropriateness of such a building in the proposed location.

The appellant presented his concerns to the Town Council as proscribed in the guidelines page 21, provided as Exhibit B, and town zoning ordinance 8.15 provided herewith as Exhibit C.

The appellant went to the mayor and the assistant town manager to register his concern. E-mails regarding his visit are provided as Exhibit D. He sent a letter to Town Council appealing the Historic District Review Board decision to provide a certificate of appropriateness for the structure, label herewith as Exhibit E. Work was stopped awaiting the appeal to the Town Council.

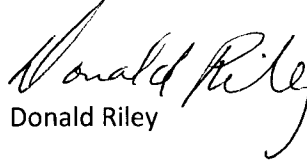
Although there was no such requirement town staff had the Planning Commission review the location of the building prior to the Town Council meeting at which the appeal was heard.

Town Council provided no formal notification to the appellant that a hearing was being held other than a phone call. It was scheduled during the Town Council meeting of January 10, 2013 under new business. No procedures were explained to the appellant. Not realizing that he would be authorized to speak during the meeting the appellant made his remarks about the inappropriateness of the building during the public comments.

During the hearing town staff presented the decision of the Planning Commission, which was not germane to the appeal, and argued the appropriateness of the building without addressing the requirements of page 21 of the guidelines. Town Council upheld the decision of the Historic District Review Board without commenting on the Historic District Guidelines.

WHEREFORE, for the foregoing reasons and in accord with Town of Cape Charles Zoning Ordinance Article VIII section 8.36 provided as Exhibit F, plaintiff/appellant respectfully requests that the Honorable Court grant the following relief:

- (A) Entry of an order finding and declaring that the decision of the Historic District Review Board was arbitrary and capricious and not in keeping with the Guidelines attached hereto and are invalid and void.
- (B) Entry of an order granting such other and further relief as deemed appropriate under the circumstances of this Appeal.



Donald Riley

Donald Riley  
538 Monroe Avenue  
Cape Charles, VA 23301  
(757) 395 0797