



**AGENDA  
BOARD OF APPEALS  
APRIL 8, 2024  
7:00 PM**

**I. Call to order and roll call.**

**II. Board of Appeals Case #2024-01 – Patuxent Property Purchasers, LLC,  
c/o Carl Buchheister 4011 14<sup>th</sup> Street, Chesapeake Beach MD.**

To consider an application from Patuxent Property Purchasers, LLC,  
C/O Carl Buchheister, who is the owner of real property known as 4011 14<sup>th</sup> Street,  
Chesapeake Beach, MD, for a Decision on Interpretation or Alleged Error to Article V,  
Section 290-20-Parking and Loading, (A). General regulations applying to required off-  
street parking facilities, (7) Location of parking space.

The Applicant is requesting of the Chesapeake Beach Zoning Board of Appeals, a variation  
from the requirements of 290-20(A)(7), restricting parking within the front setback for  
private residences."

**VII. Adjournment**

RECEIVED  
FEB 15 2024

APPLICATION  
ZONING BOARD OF APPEALS  
TOWN OF CHESAPEAKE BEACH

BY: .....

- ☒ Decision on Interpretation or Alleged Error  
☐ Special Exception  
☐ Variance from Strict Application of Ordinance

PAID  
CC \$500  
DATE 2/10/24  
KG

PROPERTY INFORMATION TM \_\_\_\_\_ BLK \_\_\_\_\_ Parcel \_\_\_\_\_ Lot \_\_\_\_\_  
TAX ID# \_\_\_\_\_ DEED REFERENCE: LIBER \_\_\_\_\_ FOLIO \_\_\_\_\_  
STREET ADDRESS 4011 14<sup>th</sup> ST Chesapeake Beach, MD  
PRIOR DECISION BY BOARD OF APPEALS YES \_\_\_\_\_ NO \_\_\_\_\_  
IF YES, DECISION NO. \_\_\_\_\_ DATE \_\_\_\_\_

PROPERTY OWNER  
NAME PATUXENT PROPERTY PURCHASERS LLC PHONE 240 687 0907  
ADDRESS 96 CARL BUCHEISTER PO BOX 225  
CITY SUNDERLAND STATE MD ZIP 20689

AUTHORIZED AGENT  
NAME \_\_\_\_\_ PHONE \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

VARIANCE  
APPLICABLE SECTION OF ZONING ORDINANCE \_\_\_\_\_  
DESCRIBE VARIANCE BEING REQUESTED \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SPECIAL EXCEPTION  
APPLICABLE SECTION OF ZONING ORDINANCE \_\_\_\_\_  
DESCRIBE SPECIAL EXCEPTION REQUEST \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DECISION ON INTERPRETATION OR ALLEGED ERROR  
APPLICABLE SECTION OF ZONING ORDINANCE A-7 LOCATION OF PARKING SPACE.  
DESCRIBE DECISION OR ERROR OWNER Recently Purchased + Renovated  
Property. There is NO PARKING SPACE. TENANT PARKS ON  
STREET.  
DESCRIBE CHANGE REQUESTED \_\_\_\_\_  
\_\_\_\_\_

### **PLEASE NOTE**

In order for the Board of Appeals to consider this application, the following information must be provided to the Board either with this application or at the time the Board meets to hear this case.

#### **VARIANCE** – Reference Article VIII 290-32

Testimony or evidence that shows the requested variance:

- (1) Is in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (2) Will not permit the existence within a District of any use which is not permitted in that District
- (3) Is needed because there are special circumstances or conditions fully described in the findings, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood and that said circumstances or conditions are such that strict interpretation of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building.
- (4) Is needed because there exists unnecessary hardship. If the hardship is general that is shared generally by land or buildings in the neighborhood, relief shall be properly obtained only by legislative action or by court review of an attack on the validity of the Ordinance.
- (5) Is the minimum necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will accomplish this purpose. It is not sufficient proof of hardship to show that greater profit would result if the variance were awarded. Furthermore, the hardship complained of cannot be self-created; it cannot be claimed by one who purchases with or without the knowledge of restrictions; it must result from the application of the Ordinance; it must be suffered directly by the property in question; and evidence of greater profitability and of variances granted under similar circumstances shall not be considered.

#### **SPECIAL EXCEPTION**

The applicant must provide to the Board information on how the Special Exception request is in accordance with the Town Comprehensive Plan, consistent with the purpose of the Zoning Ordinance, suitable for property including appropriate appearance and in character with neighborhood, suitable in terms of public safety and suitable in terms of traffic, congestion and hazards to the public.

#### **DECISION ON INTERPRETATION OR ALLEGED ERROR** – Article VIII 290-32

Provide copies of any applicable correspondence that would help the Board understand the purpose of this application.

Date Submitted: 2/17/24

By: Carl Buchheit  
Property Owner (Required)

By: \_\_\_\_\_  
Authorized Agent  
(If representing the property owner)



# Town Of Chesapeake Beach Zoning Permit Review

**NOT APPROVED**

## TOWN OF CHESAPEAKE BEACH ZONING PERMIT APPLICATION

Permit #: \_\_\_\_\_  
Issued: \_\_\_\_\_  
Fee Paid: ☒ Yes / ☐ No

### PROPERTY INFORMATION

SEE ATTACHED FEE SCHEDULE

Property Street Address: 4011 14th Street  
Property Tax ID#: 0503068013  
Specific Use of Property: Rental property

Water: Well ☐ Municipal ☒ Sewerage: Septic System ☒ Municipal ☐  
Is the above address within the floodplain? ☐ Yes ☒ No, In the Critical Area ☐ Yes ☐ No  
(If in Critical Area, please complete page 2 of this application)

### Property Owner Information

Name: Paluxent Property Purchasers LLC  
Address: PO Box 225  
City, State, Zip: Sunderland, MD 20689  
Day phone: 410-263-5044  
E-mail: info@paluxent.com

### Applicant Information

Name: Carl Buchholster  
Address: PO Box 225  
City, State, Zip: Sunderland, MD 20689  
Day phone: 410-263-5044  
E-mail: info@paluxent.com

Description of Proposed Work: Please submit four (4) hard copies of the proposed site plan and one (1) electronic copy with this application and a Grading Exemption Form for any project that involves grading.

Place 3 ton total of 3/4" white stone beside front steps and sidewalk of property.

### Signature of Owner or Authorized Agent

By signing below, I certify and agree as follows: (1) I am authorized to make this application; (2) all information provided is correct; (3) I will comply with all regulations of the Town of Chesapeake Beach which are applicable hereto; (4) I will perform only the work specifically described in this application and my submitted site plan; (5) I grant Town officials the right to enter onto the property for the purpose of evaluating my plan, inspecting the work permitted and posting notices if applicable; (6) I understand that if I choose to appeal, my appeal shall be in writing stating the grounds for appeal and shall be filed with the Board of Zoning Appeals within 30 calendar days of the date of issuance, decision, determination or order and that the right to appeal is waived if not timely filed.

Owner or Authorized Agent: (print) Carl Buchholster

Signature: \_\_\_\_\_

Designated by: Carl Buchholster  
SIGNED AS AGENT

Date: 11/20/2023

### FOR TOWN USE ONLY:

Reviewed by: \_\_\_\_\_

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

Final Approval: \_\_\_\_\_

Date: NOV 21 2023

Planning & Zoning Administrator

Is there a supplemental condition letter or notice to applicant:

☐ Yes ☐ No

Is this a application for Use & Occupancy:

☐ Yes ☐ No

Is there a requirement for Public Works to review prior to breaking ground:

☐ Yes ☐ No

If marked yes, the Public Works Administrator must provide approval prior to breaking ground:

Final Approval Public Works Administrator: \_\_\_\_\_

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

Page 1 of 2



## Critical Area Lot Coverage Worksheet with Zoning Permit

Completion of this form is required for all projects within the Critical Area. If mitigation of any form is required, it shall be noted and/or shown on the site plan. For mitigation in the form of vegetative planting, the site plan or a separate landscape plan must show the location for the proposed planting and include a table that shows the species of the plants and number of each species. Additional Information may be required. This form shall accompany a site plan and other relevant plan that shows the proposed work.

### Property Information

Property Address: 4011 14th Street  
 Critical Area Designation: Circle one: IDA, LDA, RCA  
 Within the 100-foot buffer? ☐ Yes, ☒ No

Total Site Area (square footage): 2511 sqft  
 Zoning District: 03

### Lot Coverage Calculations

| EXISTING CONDITIONS (square footage) |                 | PROPOSED CONDITIONS (square footage) |            |
|--------------------------------------|-----------------|--------------------------------------|------------|
| 1. Main Building                     | <u>640 sqft</u> | Main Building                        | <u>640</u> |
| 2. Accessory Structures              | <u>40</u>       | Accessory Structures                 | <u>40</u>  |
| 3. Driveway/Parking                  | <u>NA</u>       | Driveway/Parking                     | <u>190</u> |
| 4. Walkways                          | <u>25</u>       | Walkways                             | <u>25</u>  |
| 5. Patios                            | <u>NA</u>       | Patios                               | <u>NA</u>  |
| 6. Other                             | <u>NA</u>       | Other                                | <u>NA</u>  |
| Total Square footage                 | <u>705</u>      | Total Square footage                 | <u>895</u> |
| Percentage of Total Site Area        | <u>28%</u>      | Percentage of Total Site Area        | <u>35%</u> |

### Will trees be removed in the Critical Area?

☐ Yes ☒ No

If yes, please indicate location and number on the site plan.

### Certification

I certify these statements to be true and accurate and hereby grant the Town of Chesapeake Beach official permission to enter my property to review the plan and conduct inspections.

Owner / Authorized Agent: (print) Carl Buchheister

Signature:

DocuSigned by:  
[Signature]  
 11EDFAD37ATCAEF...

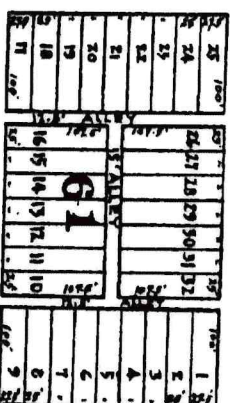
### WHAT IS LOT COVERAGE? The following is counted toward lot coverage:

Area coverage by buildings and structures, accessory structures, (e.g. sheds, garages, swimming pools), parking areas, driveways, walkways, patios, or roads. Area covered by gravel, stone, shells, impermeable decking, pavers, or any man-made impervious material. Lot coverage does not include a fence or wall, less than one foot in width, a walkway in the Buffer or expanded buffer including a stairway that provides direct access to a pier, a wood mulch pathway, or a deck with gaps to allow water to pass freely.

DIETZEN

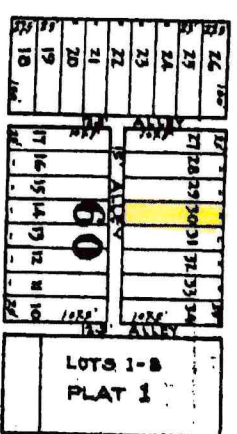
14th

NEW YORK AVENUE



MEARS

AVENUE



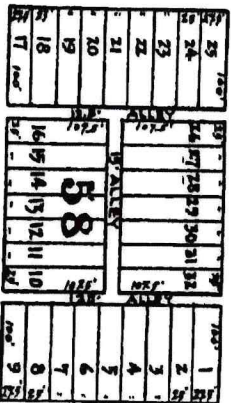
(60)

STREET

LOTS 1-8  
PLAT 1

AVENUE

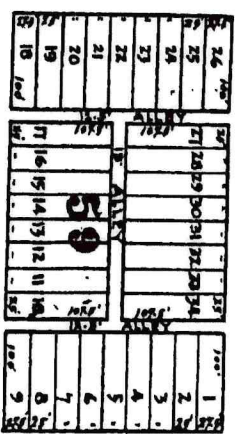
NEW YORK



13th

(60' wide)

AVENUE

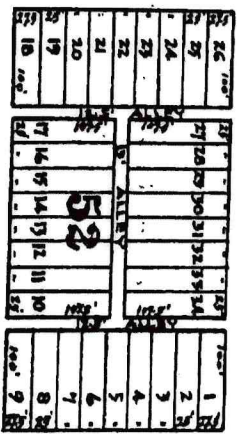


(60)

STREET

PLAT NO. 2  
CHESAPEAKE BEACH  
J. SPENCE HOWARD  
CIVIL ENGR.  
BALTO., MD.  
SCALE 1"=100'  
MARCH, 1922.  
File 244

COLORADO

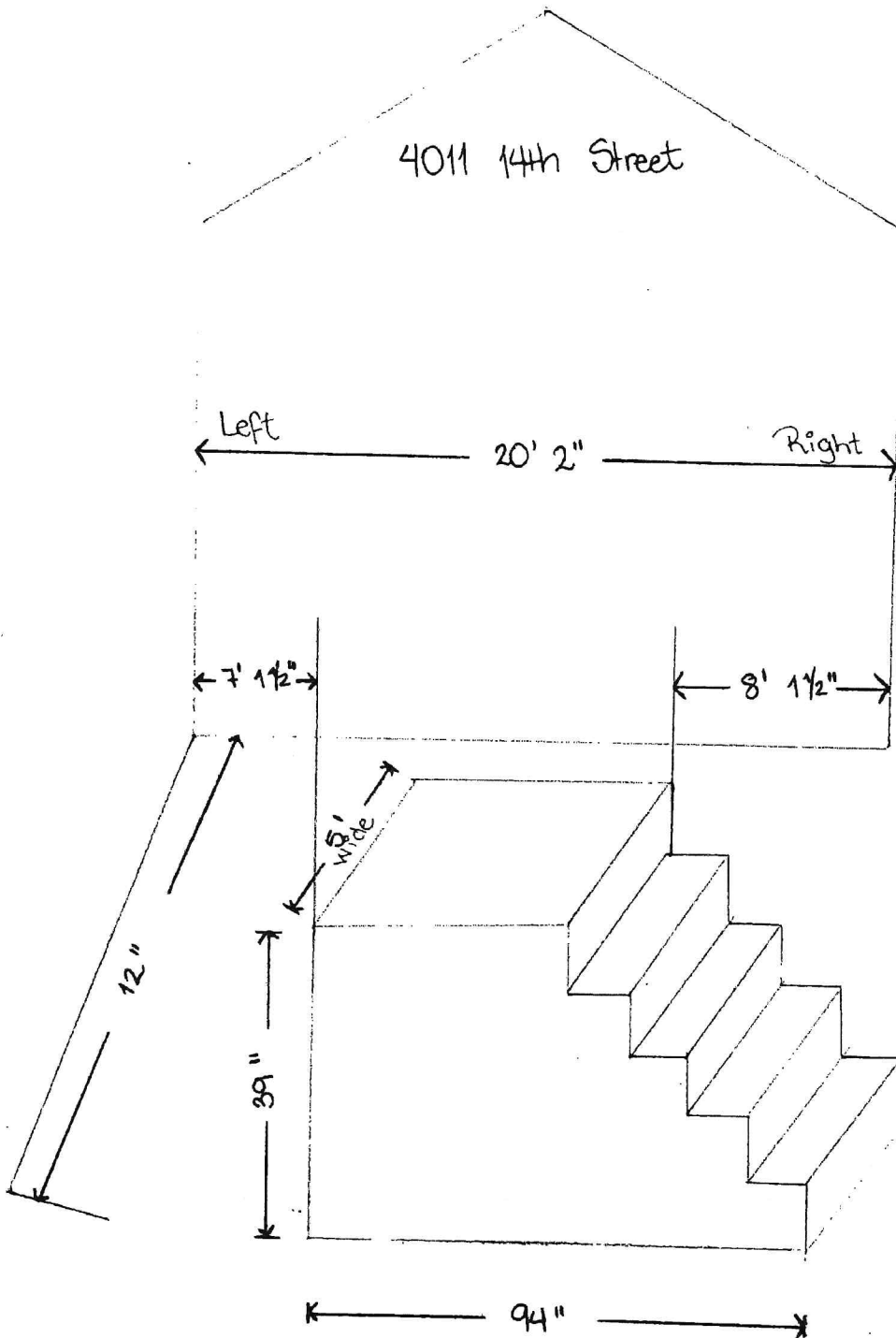


(60)

STREET

MARYLAND

Cabinet County Plat  
Road Runoff M.H. 7 — File 74  
Plot No. 2, Chesapeake Beach













**§ 290-20. Parking and loading.****A. General regulations applying to required off-street parking facilities.**

- (1) Existing parking. Structures and uses in existence at the date of adoption of this chapter shall not be subject to the requirements of this section so long as the kind or extent of use is not changed, provided that any parking facility now serving such structures or uses shall not in the future be reduced below such requirements.
- (2) Changes in requirements.
  - (a) Whenever there is an alteration of a structure or a use which increases the parking requirements according to the standards of Subsection B, the total additional parking required for the alteration, change, or extension shall be provided in accordance with the requirements of that subsection.
  - (b) No open space in an automobile parking compound shall be encroached upon by buildings, storage or any other use; nor shall parking space be reduced in area, except upon approval of the Zoning/Public Works Administrator and then only after proof that, by reason of reduction in floor area, meeting area, or other factors controlling the regulation of such parking facilities, the proposed reduction in off-street parking space is reasonable and in accordance with the standards of Subsection B.
- (3) Conflict with other uses. No parking area shall be used for any use that interferes with its availability for the parking need it is required to serve.
- (4) Continuing character of obligation. All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Off-street parking facilities shall not be reduced in total extent after their provision, except when such reduction is in conformity with the requirements of this section. Reasonable precautions shall be taken by the owner of the particular uses to assure the availability of required facilities to the customers, employees, or other persons whom the facilities are designed to serve.
- (5) Joint use. Two or more uses may provide for required parking in a common parking lot if the total space provided is not less than the sum of the spaces required for each use individually. If one parking lot serves several businesses with different parking characteristics or businesses that operate with different hours, the total number of parking spaces may be reduced by 20% by the Planning and Zoning Commission.
- (6) Fractional spaces. Where the computation of required parking space results in a fractional number, only the fraction of 1/2 or more shall be counted as one.
- (7) Location of parking space. Required off-street parking spaces shall be on the same lot or premises with the principal use served or, where this requirement cannot be met, within 400 feet of the principal use served within the same district or on a lot abutting a Commercial District subject to the requirements of Article III, § 290-9. Parking for private residences in residential districts shall not be located within the front setback area between the principal structure and the street. A parking space in

a garage or enclosed carport shall not be counted toward complying with the parking requirement for residential dwellings.

(8) Off-street loading and unloading.

(a) Off-street loading and unloading shall be provided especially and specifically for the following purposes:

- [1] To remove from the public streets all service vehicles being loaded or unloaded or awaiting loading or unloading.
- [2] To minimize the obstruction of both vehicular and pedestrian traffic on public streets, and on designated public ways in developments.

(b) Dimensions of off-street loading and unloading areas. Each area shall have the following minimum dimensions, exclusive of driveways, entrances and exits:

[1] Industrial wholesale and storage uses.

- [a] Length: 45 feet.
- [b] Width: 12 feet.
- [c] Height, if covered: 15 feet.

[2] All other uses.

- [a] Length: 35 feet.
- [b] Width: 12 feet.
- [c] Height, if covered: 15 feet.

(c) Off-street loading and unloading requirements.

[1] Apartment building.

- [a] First 20 units: none.
- [b] Twenty to 200 units: one per unit.
- [c] One additional for each additional 200 units, or fraction thereof.

[2] Hospitals or other institutions such as office buildings, hotels, theaters, auditoriums and other recreational facilities.

- [a] First 10,000 square feet: none.
- [b] One per 10,000 square feet to 100,000 square feet.
- [c] One additional for each additional 100,000 square feet or fraction thereof.

[3] Retail sales and services, per store.

# MEMO

To: Town of Chesapeake Beach Board of Appeals

From: Sarah Franklin, Town Planner

CC: Holly Wahl, Town Manager

Date: 03/18/2024

Regarding: Interpretation or Alleged Error Request - 4011 14th Street

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## Background

Carl Buchheister, on behalf of Patuxent Properties, has requested an after-the-fact permit for the three tons of white  $\frac{3}{4}$ -inch white stone he has placed in the front setback of the property at 4011 14th Street. Town staff noted the violation of the zoning code was when the property owner requested a rental license for the property. During the rental inspection Town staff noted that the yard and vegetation had been removed and replaced with stone.

The permit application was denied with regard to 290-20(A)(7), which prohibits parking in the front setback area of a residential lot. The applicant is requesting a decision on interpretation or alleged error on this decision.

## Site Conditions

4011 14th Street is located on the south side of the street, about a half mile from the shoreline in the Town's R-MD Zone, and in the IDA of the Critical Area. The property is a pre-existing non-conforming lot being 2,511 square feet, rather than the required 7,500 square feet. The building on the lot does not conform with front or side yard setbacks due to "grandfathering"



which permits uses that were present prior to the adoption of the Town's Zoning code to continue to exist on non-conforming lots.

Due to the small side setbacks on this and neighboring lots, driveways for rear or side yard parking are not possible on three of the four properties on this block, including the subject property. On-street parking is the only available option for these three residences. Due to this condition the Town of Chesapeake Beach allows parking on 14th Street.

The property is located in the Chesapeake Bay Critical Area and is designated as IDA. The IDA is meant to allow development and redevelopment to occur while also improving water quality of stormwater runoff. A requirement of permits granted in the IDA of the critical area is that the water quality of stormwater runoff is improved by 10% over the pre-development state. The change made to this site reduces the quality and increases the quantity of stormwater runoff from the site.

The pre-existing condition of the lot was a small concrete patio with a grass strip of the front yard remaining as seen in the Google street view included herein. There is grass and vegetation on the site, providing visual interest as well as benefits to water quality and the capturing of stormwater.

The post development conditions are shown in the photo on the right. The front yard setback is completely occupied with gravel. All vegetation has been removed and the visual appearance and character that the site contributes to appearance and presence of greenery on the street is substantially changed.



## Relevant Zoning Regulations

I made the decision to deny the permit after reviewing the zoning code. The section that I based this denial on is: **290-20 (A) Parking and Loading. (7) Location of parking space.** The text of this portion of the code is included below, with the relevant portion in bold.

*Required off-street parking spaces shall be on the same lot or premises with the principal use served or, where this requirement cannot be met, within 400 feet of the principal use served within the same district or on a lot abutting a Commercial District subject to the requirements of Article III, § 290-9. **Parking for private residences in residential districts shall not be located within the front setback area between the principal structure and the street.** A parking space in a garage or enclosed carport shall not be counted toward complying with the parking requirement for residential dwellings.*

In determining whether the permit should be approved or not I considered the following other areas of the Town of Chesapeake Beach Zoning Code to see if an exception would be allowed.

### **Section 290-19 Tables, Requirements, Exceptions. (A) Tables of Dimensional Requirements.**

This section sets the lot size, setbacks, and open space requirements for the R-MD zone requires a minimum front yard setback of 15 feet and side yard setback of 8 feet.

**Section 290-19 Tables, Requirements, Exceptions. (D) Exceptions to minimum lot sizes and lot widths.** This section allows exceptions for non-conforming lots recorded prior to May 26 1972. However, these exceptions apply only to the construction of a single-family detached dwelling and not the other requirements, such as setbacks or parking.

**Section 290-19 Tables, Requirements, Exceptions (E) Front Yard Reduction** allows reductions in front yards for a building, based on the location of its neighbors. However, it does not allow reductions for accessory or other uses, such as parking.

**Section 290-22.1 Standards of Compatibility (D) Compatibility Standards (2) & (5)** These sections address compatibility standards with regard to parking and landscape design. The character of 14th Street has substantially changed due to individual encroachments into the required front yard setbacks. The character has been negatively impacted by the loss of green space. The Google image below shows the households along the south side of 14th Street.

**Section 290-17 Critical Area Overlay District. (J) District Regulations. (1) Intensely Developed Areas.** This Section lays out the development requirements in the IDA of the Critical Area. The IDA allows development but requires that there be a ten-percent reduction of predevelopment pollutant loadings, reduced stormwater runoff, required plantings, and reductions in impervious surfaces.

Finding no applicable exceptions within the code to contradict the decision that 290-20(A)(7) would not permit the front yard to be used for parking, I denied the permit request.

#### Evaluation of Interpretation appeals

**290-32(J)(2) Interpretation Appeals**, states: *“Appeals concerning the interpretation of any provisions of this chapter shall exactly set forth the interpretation that is claimed.”*

The application submitted by the applicant states the error in interpretation is: “Owner recently purchased & renovated property. There is no parking space. Tenant parks on the street.”

#### Conclusion

The owner’s timeline of purchase and renovation and the absence of parking spaces are not factors in interpreting the zoning ordinance. A tenant parking on the street is further not a consideration in whether or not the zoning ordinance has been interpreted correctly.