

Department of Planning, Zoning and Wetlands



VIA CERTIFIED MAIL

January 25, 2023

Hole in the Wall Waterfront Grill, LLC
PO Box 321
Grimstead, VA 23064

NOTICE OF VIOLATION AND CORRECTION ORDER

**RE: Unpermitted Addition:
384 Old Ferry Rd. - Tax Map Parcel #11A5 (A) 6**

Dear Hole in the Wall Waterfront Grill, LLC:

This letter is to advise you that the Mathews County Planning, Zoning & Wetlands Office has determined the property described above is in violation of Chapter 175, Section(s) 20.1; 16.4 A.(1)-(4), 22.6, 22.11 B. (3), (4); 15.7 A. of the Mathews County Zoning Ordinance as a result of work done to construct an addition on the east side of the existing building and expand a previously permitted deck. Mathews County records indicate that the above-mentioned addition did not exist prior to 2017. The unpermitted addition was discovered as part of a field survey dated March 30, 2021. That same March 30, 2021 field survey further found that a previously permitted 18' x 41' deck was expanded to 20' x 44'. The unpermitted additions were also noted in a February 18, 2022 Memorandum from Thomas Jenkins, Director of Planning & Zoning to David Schlosser, County Administrator and Andrea Erard, County Attorney. These additions, for which no approvals or water quality impact assessments were obtained, constitute non-permitted redevelopment activity within the buffer areas established by the Chesapeake Bay Preservation Overlay District. It also creates new encroachment in the established setback.

Specifically, the violations of the Mathews County Zoning Ordinance are as follows:

Chapter 175 Section 20.1. Zoning Permit (clearances) required

There are no records on file that show a zoning permit was issued for the "living space" addition on the east side of the existing building. The zoning permit on file with Mathews County, dated May 3, 2017, is for an 18' x 41' deck. The existing deck, according to the March 30, 2021 field survey created by Alistair James Ramsay, is 20' x 44'.

Chapter 175 Section 16.4 A. (4) Expansion or Enlargement

804.725.4034 office
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50 Brickbat Road | P.O. Box 839 | Mathews, VA 23109

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Chapter 175 Section 22.6

Chapter 175 Section 22.11 B. (3), (4)

An addition was built to the east side of the building and the deck was expanded outside the limits approved by the May 3, 2017 zoning permit. Any such development or redevelopment activity within the 100 foot buffer area of the Chesapeake Bay Preservation Area Overlay District must, at a minimum, comply with the administrative process established by Article 22 of the Zoning Ordinance, including establishing that there is no increase in impervious cover or encroachment into the RPA (Resource Protection Area) and the provision of a water quality impact assessment. There are no records showing that any such administrative processes was initiated for the addition to the-existing dwelling. Accordingly, it violates Chapter 175, Section 22.11(B)(3), (4) (Performance Criteria for RPA). Chapter 175, Section 16.4(A)(4) (Nonconforming Uses and Lots - Expansion or enlargement) further requires compliance with Chapter 175, Section 22.46 (Waiver for nonconforming structure) which states that any expansion or enlargement of a non-conforming structure must comply with all other requirements of the Zoning Ordinance. Similarly, Chapter 175, Section 22.6 (Conflict with other regulations) requires any development or redevelopment within the RPA to otherwise comply with the Zoning Ordinance. There are no records in the Mathews County property files for the referenced property that show that the construction complied with the applicable approval process set forth in the Zoning Ordinance, nor that any form of administrative process or waiver was sought or authorization obtained for the construction. Accordingly, the addition violates the Zoning Ordinance, and therefore violates these provisions.

Chapter 175, Section 16.4 A. Nonconforming Uses and Lots-Expansion or enlargement

Chapter 175, Section 15.7 A. Side and rear yard requirements

The addition on the east side of the building violates the restrictions on nonconforming structures because it does not comply with the provisions outlined in Chapter 175. The addition further violates the side and rear yard requirements for non-residential use of a building abutting a Residential-1 (R-1) zoned parcel.

By virtue of the authority granted to this office by Chapter 175, Section 20.8 of the Mathews County Zoning Ordinance you are hereby requested to correct these violations immediately. To come into compliance with the above cited code sections of the Mathews County Zoning ordinance all illegal additions or portions thereof must be removed.

You have the right to appeal this Notice of Zoning Violation and written order within 30 days in accordance with Va. Code § 15.2-2311 and § 175-20.8 of the Mathews County Zoning Ordinance. The decisions herein shall be final and unappealable if not appealed within that same 30 days. Such appeal shall be in writing and must be filed with the Secretary of the Board of Zoning Appeals,

copied to the Planning and Zoning Office. Such appeal shall indicate in specific terms the grounds of the appeal of each of these decisions appealed and must be accompanied by a filing fee of two hundred seventy-five dollars (\$275). Further information can be obtained by contacting the Mathews County Department of Planning, Zoning and Wetlands, P.O. Box 839, 50 Brickbat Road, Suite 208, Mathews, VA 23109.

Failure to correct these violations or appeal this decision within the specified time period may result in civil proceedings or criminal penalties being brought against you and/or corrective action to abate the violations, as specified in Chapter 175, Section 20.8 of the Mathews County Zoning Ordinance.

Sincerely,

A handwritten signature in blue ink, appearing to read 'James Knighton', is written over the typed name and title.

James Knighton
Director of Planning & Zoning

cc: Board of Supervisors, Mathews County, PO Box 839, Mathews, VA 23109

Hole in the Wall Waterfront Grill, LLC 384 Old Ferry Road, Gwynn, VA 23066

James S. Sease, Registered Agent, 10455 Buckley Hall Road, Box 715, Mathews, VA 23109