



**MINUTES  
CHESAPEAKE BAY PRESERVATION AREA BOARD  
VIRGINIA BEACH, VIRGINIA  
MAY 22, 2017**

Chair Mr. Jester, called to order the **Chesapeake Bay Preservation Area Board** meeting in the City Council Chambers, City Hall Building, Virginia Beach Municipal Center, on Monday, May 22, 2017.

A motion was made by Mr. Poole and seconded by Mrs. McDaniels to approve the April 24, 2017 minutes. All voted for the motion. This vote also serves as the official roll call for this meeting. All members were present except Mr. Sobota.

**BOARD ACTION: APPROVED APRIL 24, 2017 MINUTES ON MAY 22, 2017**

**AYE 8 NO 0 ABSTAIN 0 ABSENT 1**

<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>AYE</b>
<b>MARTIN</b>	<b>AYE</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>AYE</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>SOBOTA</b>	<b>ABSENT</b>

**Board Members Present: David France, David Jester, Arthur Jones, Brad Martin, Wayne McCoy, June McDaniels, Richard Poole, and Reese Smith.**



Applicant **Charles and Elizabeth Walker**  
Address **1253 N Bay Shore Drive**  
Public Hearing **May 22, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**1**

**Description: GPIN: 2418-19-6272**

**AGENT: Eddie Bourdon, Sykes Bourdon Ahern & Levy**

**BOARD ACTION: APPROVED WITH 16 CONDITIONS ON MAY 22, 2017**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the redevelopment of the property is consistent with the redevelopment activity within this neighborhood and who are subject to the provisions of this ordinance and are similarly situated.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that these parcels were platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing portions of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief, as the applicant has reduce the overall impervious cover by 5,224 square feet or 8.3 percent of the lot.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of the CBPA ordinance, and not injurious to the neighborhood, and is not of substantial detriment to water quality due to the use of nonstructural best management practices (BMP's) required with stormwater compliance, the limitation of turf within the buffer as provided by the applicant, and the overall reduction in impervious cover. Based on these factors, the Board remains of the opinion that the request will not be detrimental to the public welfare.
- 5) The reduction of impervious cover is a means towards meeting no net increase in nonpoint source pollution load.
- 6) Finally, the following reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

### CPBA Variance Conditions:

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed approximately 15 feet from improvements.
5. Construction limits shall lie approximately 15 feet from the proposed improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.

10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **3,551 square feet x 200 percent = 7,102 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance: **18 canopy trees, 18 understory trees, 36 large shrubs, and 54 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

13. The required buffer associated with the October 1, 2015 administrative variance shall be documented on the revised site plan. Said restoration is in addition to the buffer restoration requirement documented in the above condition.
14. This variance and associated conditions are **in addition** to the conditions of the administrative variance dated October 1, 2015.
15. **\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$623.33 and is based on 25 percent of the proposed impervious cover within the Resource**

Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 680 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.

16. The conditions and approval associated with this variance are based on the exhibit plan dated January 4, 2017 and revised April 28, 2017 prepared by WPL, signed April 28, 2017 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

**Eddie Bourdon, Attorney with Sykes Bourdon Ahern & Levy appeared before the Board representing the applicants.**

**There was no opposition present.**

**A motion was made by Mr. Smith, seconded by Mr. France to approve the variance with the 16 conditions listed above. All voted for the motion except Mr. Jones and Mrs. McDaniels.**

**AYE 6 NO 2 ABSTAIN 0 ABSENT 1**

<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>NO</b>
<b>MARTIN</b>	<b>AYE</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>NO</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>SOBOTA</b>	<b>ABSENT</b>



Applicant **Warren and Wendy Smith**  
Address **521 Susan Constant Drive**  
Public Hearing **May 22, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**2**

**Description: GPIN: 2419-41-8783**

**AGENT: Billy Garrington, Governmental Permitting Consultants**

**BOARD ACTION: APPLICATION WITHDRAWN ON MAY 22, 2017**

**Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the applicants.**

**There was no opposition present.**

**A motion was made by Mr. McCoy, seconded by Mr. Jones to withdraw this application. All voted for the motion.**

**AYE 8 NO 0 ABSTAIN 0 ABSENT 1**

<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>AYE</b>
<b>MARTIN</b>	<b>AYE</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>AYE</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>SOBOTA</b>	<b>ABSENT</b>



Applicant **Thomas and Barbara Joynt**  
Address **1332 Kingfisher Court**  
Public Hearing **May 22, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**3**

**Description: GPIN: 2418-12-4863**

**AGENT: Robert Simon**

**BOARD ACTION: DEFERRED FOR 90 DAYS ON MAY 22, 2017 UNTIL THE AUGUST 28, 2017  
PUBLIC HEARING**

**Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the agent.**

**There was no opposition present.**

**A motion was made by Mr. McCoy, seconded by Mr. Jones to defer the variance request for 60 days until the August 28, 2017 public hearing. All voted for the motion.**

**AYE 8 NO 0 ABSTAIN 0 ABSENT 1**

<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>AYE</b>
<b>MARTIN</b>	<b>AYE</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>AYE</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>SOBOTA</b>	<b>ABSENT</b>



Applicant **James and Ashley Jackson**  
Address **3724 Albacore Key**  
Public Hearing **May 22, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**4**

**Description: GPIN: 1487-49-3876**

**AGENT: Billy Garrington, Governmental Permitting Consultants**

**BOARD ACTION: APPROVED WITH 16 CONDITIONS ON MAY 22, 2017**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the area encroached upon for the redevelopment of the property is consistent with other properties within this neighborhood who are subject to the provisions of this ordinance and are similarly situated with relatively small rear yards where development has occurred within the Resource Protection Area (RPA).
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this neighborhood was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing this entire property within the RPA.
- 3) The variance is the minimum necessary to afford relief, as Staff has worked with the applicant to situate the improvements proposed within the 50 foot seaward buffer so that the most sensitive portions of the buffer are preserved to the greatest extent practicable.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of the CBPA ordinance and will not be injurious to the neighborhood and not of substantial detriment to water quality with the introduction of buffer planting along the seaward portion of the proposed improvements, conditioning the limits of construction specific to existing site features, limiting vegetation removal, and utilizing existing topography towards siting proposed improvements.
- 5) The use of nonstructural (bioretention) stormwater BMPs and preservation of existing vegetation, as a means to manage towards a no net increase in nonpoint source pollution load, is proposed.



- 6) Finally, the following reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

**CPBA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition. At said meeting, the location of tree protection barriers shall be discussed and delineated outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved adjacent to the proposed improvements. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed 5 feet from improvements.
5. Construction limits shall lie a maximum of 5 feet seaward of improvements. **All areas outside limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact. Said condition shall be so noted on the site plan.**
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
8. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.

9. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
10. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
11. Buffer restoration shall be installed equal to **852 square feet**. Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance: **3 canopy trees, 3 understory, 6 large shrubs and 9 small shrubs**.

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.
12. No perimeter fill is authorized outboard or seaward of the proposed improvements.
13. **\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$195.25 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 213 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**
14. Mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal fringe marsh.
15. This variance and associated conditions **are in addition to** the conditions of the Board variance granted April 26, 2004.

16. The conditions and approval associated with this variance are based on the exhibit plan dated February 7, 2017 and revised April 28, 2017 prepared by WPL, signed April 28, 2017 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

**Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the applicants.**

**Eric Garner of WPL appeared before the Board to make commentary.**

**There was no opposition present.**

**A motion was made by Mr. McCoy, seconded by Mr. France to approve the variance with the 16 conditions as amended (Amended Condition 15). All voted for the motion except Mr. Jones, Mr. Martin, and Mrs. McDaniels who voted no.**

**AYE 5 NO 3 ABSTAIN 0 ABSENT 1**

<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>NO</b>
<b>MARTIN</b>	<b>NO</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>NO</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>SOBOTA</b>	<b>ABSENT</b>



Applicant **Amy Angelopoulos**  
Address **3937 Meeting House Road**  
Public Hearing **May 22, 2017**  
City Council District **Bayside**

Agenda  
Item

**5**

**Description: GPIN: 1489-13-9923**

**AGENT: Billy Garrington, Governmental Permitting Consultants**

**BOARD ACTION: APPROVED WITH 18 CONDITIONS ON MAY 22, 2017**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the redevelopment of the property conforms to other properties within this neighborhood who are subject to the provisions of this ordinance and are similarly situated where the majority of development has occurred within the variable width buffer and Resource Management Area.
- 2) The encroachment into the RPA on this lot is based upon conditions or circumstances that have been imposed by the applicant's predecessor in title that limits a reasonable construction footprint solely for a principal structure; therefore, this request to further encroach has been designed in a manner that minimizes encroachment into the 50 foot landward buffer.
- 3) The variance is the minimum necessary to afford relief, as Staff has conditioned the request to reduce the impervious cover by 10 percent of the original April 24, 2017 submission and the applicant has primarily focused proposed improvements within the variable width buffer.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood, nor otherwise detrimental to the public welfare, as the applicant has minimized encroachment into the 100 foot buffer and maintained the majority of the first 100 foot buffer in a vegetated state.
- 5) The use of nonstructural best management practices (BMPs) and the preservation of existing vegetation are proposed, as a means to manage towards a no net increase in nonpoint source pollution load.

- 6) Finally, the following reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

**CPBA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
5. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.

9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **2,192 square feet x 200 percent = 4,384 square feet.**

Said restoration shall achieve the full complement of vegetation, to the greatest extent practicable consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance: **11 canopy trees, 11 understory, 22 large shrubs, and 33 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the landward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

13. No perimeter fill is authorized outboard or seaward of the proposed improvements.
14. **\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$502.33 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 548 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**

15. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.

16. This variance and associated conditions **are in addition to** the conditions of the Board variance granted December 16, 1991.

17. The conditions and approval associated with this variance are based on the exhibit plan dated February 23, 2017 and revised April 28, 2017 prepared by WPL, signed April 28, 2017 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

18. The pool deck corner shall be removed from the 50 foot landward buffer.

**Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the applicant.**

**There was no opposition present.**

**A motion was made by Mr. Martin, seconded by Mr. Poole to approve the variance with the 18 conditions as amended (Added Condition 18). All voted for the motion.**

<b>AYE</b>	<b>8</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>1</b>
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<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>AYE</b>
<b>MARTIN</b>	<b>AYE</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>AYE</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>SOBOTA</b>	<b>ABSENT</b>



Applicant **Maurice Newton, et al**  
Address **Shore Drive and Woodlawn Avenue**  
Public Hearing **May 22, 2017**  
City Council District **Bayside**

Agenda  
Item

**6**

**Description: GPIN: 1489-18-8897**

**AGENT: Eddie Bourdon, Sykes Bourdon Ahern & Levy**

**BOARD ACTION: APPLICATION WITHDRAWN ON MAY 22, 2017**

**Eddie Bourdon, Attorney with Sykes Bourdon Ahern & Levy appeared before the Board representing the applicant.**

**Paul Schubert of 2249 Sunvista Drive appeared before the Board in opposition.**

**A motion was made by Mr. McCoy, seconded by Mr. Jones to withdraw this application. All voted for the motion.**

**AYE 8 NO 0 ABSTAIN 0 ABSENT 1**

<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>AYE</b>
<b>MARTIN</b>	<b>AYE</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>AYE</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>SOBOTA</b>	<b>ABSENT</b>





Applicant **Darren and Marcella King Joint Revocable Living Trust**  
Address **3931 Richardson Road**  
Public Hearing **May 22, 2017**  
City Council District **Bayside**

Agenda  
Item

**7**

**Description: GPIN: 1488-15-6345**

**AGENT: Eddie Bourdon, Sykes Bourdon Ahern & Levy**

**BOARD ACTION: APPROVED WITH 19 CONDITIONS ON MAY 22, 2017**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the redevelopment of the property, Staff believes, is in substantial conformance with adjacent developments within this neighborhood who are subject to the provisions of this ordinance and are similarly situated.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that these parcels were platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance therefore, placing portions of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief, as Staff has conditioned to reduce the impervious cover associated with the circular driveway.
- 4) With the applicant addressing the shoreline conditions prior to the upland improvements, the preservation of upland riparian features, the use of nonstructural best management practices (BMP's) towards stormwater run-off capture, and the retention of existing riparian vegetation, the Board is of the opinion that the variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood. In addition it will not be of substantial detriment to water quality, nor otherwise detrimental to the public welfare.
- 5) The use of nonstructural best management practices (BMPs), as a means to manage towards a no net increase in nonpoint source pollution load, is proposed.

- 6) Finally, the following reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

**CPBA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed approximately 15 feet from improvements.
5. Construction limits shall lie approximately 15 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.

9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. Buffer restoration shall be installed equal to 6,000 square feet.

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance to the greatest extent practicable.

The defined areas shall have a mulch layer of organic material 4 to 6 inches in depth. Said mulched and naturalized restoration areas shall be maintained and not removed or allowed to revert to turf in the future. Trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Canopy trees shall not be planted below the 3 foot contour to prevent future marsh shading or within 15 feet of the bulkhead. Salt and flood tolerant plant species shall be planted below the 5 foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

13. The proposed RV parking space and car parking spaces shall be constructed of a permeable pavement system.
14. The pool shall be constructed prior to or concurrent with the residence.
15. No perimeter fill is authorized outboard or seaward of the proposed improvements.
16. \*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$2,823.33 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an

approximate 3,080 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.

17. Mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal fringe marsh.
18. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
19. The conditions and approval associated with this variance are based on the exhibit plan dated June 18, 2015, prepared by WPL, signed March 6, 2017 by Eric Garner and presented to the Board at the May 22, 2017 CBPA public hearing. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

**Eddie Bourdon, Attorney with Sykes Bourdon Ahern & Levy appeared before the Board representing the applicants.**

**There was no opposition present.**

**A motion was made by Mrs. McDaniels, seconded by Mr. McCoy to approve the variance with the 19 conditions as amended (Amended Conditions 12, 14 and 20 and deleted condition 13). All voted for the motion.**

<b>AYE</b>	<b>8</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>1</b>
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<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>AYE</b>
<b>MARTIN</b>	<b>AYE</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>AYE</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>SOBOTA</b>	<b>ABSENT</b>



Applicant **Gregory and Teresa Hall**  
Address **1124 Lady Ginger Lane**  
Public Hearing **May 22, 2017**  
City Council District **Bayside**

Agenda  
Item

8

**Description: GPIN: 1478-86-5845**

**AGENT: Billy Garrington, Governmental Permitting Consultants**

**BOARD ACTION: APPROVED WITH THE 15 CONDITIONS ON MAY 22, 2017**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property who are subject to the provisions of this ordinance and are similarly situated, as the proposed improvements are similar to others within this subdivision that have requested approval for accessory structures within the variable width buffer.
- 2) The encroachment into the RPA on this lot is based upon conditions or circumstances that have been imposed by the applicant's predecessor in title; however, the request as per the performance standards set forth in Section 106(B) of the CBPA Ordinance is deemed acceptable.
- 3) Given the location of proposed improvements within the RPA, Staff is of the opinion that the variance is the minimum necessary to afford relief.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, nor otherwise detrimental to the public welfare given the location of proposed improvements within the RPA.
- 5) The applicant's placement of the proposed improvements within the upper limits of the variable width buffer provides a substantial distance for run-off to travel through an established 100 foot RPA buffer therefore promoting infiltration as a means to manage towards a no net increase in nonpoint source pollution load.
- 6) Finally, the following reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

### **CBPA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed approximately 15 feet from improvements.
5. Construction limits shall lie approximately 15 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
8. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
9. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
10. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.

11. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,745 square feet x 200 percent = 3,490 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance: **9 canopy trees, 9 understory, 18 large shrubs, and 27 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the variable width buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

12. In addition the buffer restoration associated with this request, the documented 1,709 square feet of buffer restoration associated with the requirements of the June 24, 2002 CBPA Board variance condition 3 that has been reverted to turf shall be specified and documented on the revised site plan.
13. **\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$399.66 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 436 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**
14. This variance and associated conditions **are in addition to** the conditions of the Board variance granted June 24, 2002.
15. The conditions and approval associated with this variance are based on the exhibit plan dated March 15, 2017, prepared by John E. Sirine and Associates, signed March 15, 2017 by Jeffrey D. Williams. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

**Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the applicants.**

There was no opposition present.

As an item of the consent agenda, a motion was made by Mr. Poole, seconded by Mr. McCoy to approve the variance request with the 15 conditions listed above. All voted for the motion except Mr. McCoy who was abstained because he worked with the original subdivision request.

<b>AYE</b>	<b>7</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>1</b>	<b>ABSENT</b>	<b>1</b>
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<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>AYE</b>
<b>MARTIN</b>	<b>AYE</b>
<b>MCCOY</b>	<b>ABSTAIN</b>
<b>MCDANIELS</b>	<b>AYE</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>SOBOTA</b>	<b>ABSENT</b>





Applicant **John and Rachel Ashby**  
Address **1440 W Little Neck Road**  
Public Hearing **May 22, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

9

**Description: GPIN: 1489-30-5230**

**AGENT: John Ashby**

**BOARD ACTION: APPROVED WITH THE 8 CONDITIONS ON MAY 22, 2017**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the redevelopment of this property conforms to other properties within this neighborhood who are subject to the provisions of this ordinance and are similarly situated where redevelopment of existing impervious cover has occurred within the RPA feature.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted and the residence constructed prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing the existing improvements of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief, given the extent of riparian buffer vegetation preservation, redevelopment of existing impervious cover, and minimal expansion of accessory structures within the RPA feature.
- 4) Due to the preservation of riparian buffer vegetation along the seaward portion of the proposed improvements and the minimal increase in overall impervious cover for the site, the Board is of the opinion that the variance is in harmony with the purpose and intent of the CBPA ordinance and will not be injurious to the neighborhood, and will not be of substantial detriment to water quality.
- 5) The preservation of the existing riparian buffer vegetation and the mature forest floor seaward of the proposed improvements coupled with underdeck treatment being conditioned as a means to manage erosion and sedimentation towards a no net increase in nonpoint source pollution load.
- 6) Finally, the following reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

**CBPA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development.
3. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed approximately 10 feet from improvements.

Construction limits shall lie approximately 10 feet from the proposed improvements.

**Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**

4. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
5. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **699 square feet x 200 percent = 1,398 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance: **4 canopy trees, 4 understory trees, and 8 large shrubs, and 12 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five foot

contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

6. Under deck treatment of sand and gravel shall be installed.
7. Mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal fringe marsh.
8. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.

**Rachel Ashby and Diane Smith appeared before the Board.**

**There was no opposition present.**

**As an item of the consent agenda, a motion was made by Mr. Poole, seconded by Mr. McCoy to approve the variance request with the 8 conditions listed above. All voted for the motion.**

<b>AYE</b>	<b>8</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>1</b>
<b>FRANCE</b>		<b>AYE</b>					
<b>JESTER</b>		<b>AYE</b>					
<b>JONES</b>		<b>AYE</b>					
<b>MARTIN</b>		<b>AYE</b>					
<b>MCCOY</b>			<b>AYE</b>				
<b>MCDANIELS</b>		<b>AYE</b>					
<b>POOLE</b>		<b>AYE</b>					
<b>SMITH</b>		<b>AYE</b>					
<b>SOBOTA</b>		<b>ABSENT</b>					



Applicant **John and Jo Ann Peterson**  
Address **1845 N Alanton Drive**  
Public Hearing **May 22, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**10**

**Description: GPIN: 2409-53-5586**

**AGENT: Tuck Bowie**

**BOARD ACTION: APPROVED WITH THE 8 CONDITIONS ON MAY 22, 2017**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Area who are subject to the provisions of this ordinance and are similarly situated, as the redevelopment of the property is consistent with other properties throughout this area with substantial fetch conditions and pronounced bank features adjacent to existing hardened shorelines.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that these parcels were platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing portions of this property is within the RPA.
- 3) The variance is the minimum necessary to afford relief, as the applicant's agent has conducted a site analysis and has designed the proposed improvements to address the specific areas of erosion and does so in a means that minimized land disturbance.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood as the redevelopment of the property is consistent with other properties throughout this area with pronounced bank features adjacent to existing hardened shorelines and with substantial fetch conditions. The request will not be detrimental to the public welfare, nor will it be of substantial detriment to water quality, due to the limited amount of land disturbance and the applicant's desire to address the on-going erosion of their property.
- 5) The use of sand backfill material and minimal leveling of steep slopes, as a means to manage towards run-off reduction, infiltration, and a no net increase in nonpoint source pollution load is proposed.

- 6) Finally, the following reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

**CBPA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development.
3. Construction limits shall be addressed in the field with the Civil Inspector at the pre-construction meeting. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
4. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
5. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
6. Buffer restoration shall be installed equal to 400 square feet within the RPA. Said restoration shall be within the area of proposed sand backfill and be comprised of wood plant material susceptible to wind and salt spray.

The required restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

7. This variance and associated conditions **are in addition to** the conditions of the Board variance granted March 25, 2002.
8. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and

Inspections may require additional information that may affect the release of a building permit.

**Tuck Bowie appeared before the Board representing the applicants.**

**There was no opposition present.**

**As an item of the consent agenda, a motion was made by Mr. Poole, seconded by Mr. McCoy to approve the variance request with the 8 conditions listed above. All voted for the motion.**

<b>AYE</b>	<b>8</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>1</b>
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<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>AYE</b>
<b>MARTIN</b>	<b>AYE</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>AYE</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>SOBOTA</b>	<b>ABSENT</b>



Applicant **Molly Jenkins, et al**  
Address **1325 Lynnwood Drive**  
Public Hearing **May 22, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**11**

**Description: GPIN: 1488-88-1351**

**AGENT: Eddie Bourdon, Sykes Bourdon Ahern & Levy**

**BOARD ACTION: APPROVED WITH 18 CONDITIONS ON MAY 22, 2017**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the redevelopment of the property is consistent with other subdivision requests within this neighborhood on properties that are subject to the underlying R-40 zoning district and to the provisions of the CBPA ordinance.
- 2) The encroachment into the RPA is based upon conditions that are or have been created or imposed by the applicant; however, the request as per the performance standards set forth in Section 106(B) of the CBPA Ordinance is deemed acceptable and is necessitated by the fact that the original parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance therefore placing portions of this property is within the RPA.
- 3) The variance is the minimum necessary to afford relief, as Staff has worked with the applicant to reduce the number of lots that could be legally subdivided out of this large parcel given the dimensional requirements for the R-40 zoning district.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood, nor otherwise detrimental to the public welfare, as the request is in conformance with the other existing R-40 lots within this neighborhood and the applicant has minimized encroachment into the 100 foot buffer while maintaining the majority of the first 100 foot buffer in a vegetated state.
- 5) The use of nonstructural stormwater BMPs and the preservation of existing vegetation are proposed, as a means to manage towards a no net increase in nonpoint source pollution load.

- 6) Finally, the following reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

**CPBA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition as well as for the construction of individual single family lots.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development.
3. Wire reinforced 36 inches silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed approximately 15 feet from improvements.
4. Construction limits shall lie approximately 15 feet seaward of improvements. All areas outside limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact. Said condition shall be so noted on the site plan.
5. Prior to clearing, grading, demolition or construction, tree protection shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. Said protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
8. Individual single-family lot encroachments into the RPA buffer shall be limited to the designated building envelopes as shown on the Chesapeake Bay Preservation Area (CBPA) exhibit. No encroachment for any lot shall extend outboard of the designated building envelope.
9. The maximum impervious cover for each proposed lot shall not exceed the following:

Proposed lot A-1:	7,601.52 square feet	19 percent of individual lot
Proposed lot B-1:	17,780.16 square feet	16 percent of individual lot



10. An individual single-family site plan for each lot shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit. The conditions of this variance shall be noted on the submitted site plan.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
13. Buffer restoration shall be installed equal to 200% of the proposed new impervious cover within the RPA. Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance to the greatest extent practicable. Planting / buffer restoration areas shall have a mulch layer of organic material 4 to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.
14. Turf area for each lot shall be located no further seaward than the seaward limits of the proposed building envelope and limited to the remaining building envelope area for each lot minus the total impervious cover permitted.

Proposed lot A-1: 14,774 square feet minus the proposed impervious cover

Proposed lot B-1: 22,180 square feet minus the proposed impervious cover

15. When applicable, under deck treatment of sand and gravel shall be installed.
16. **\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with individual site plan approval. Payment shall be calculated as follows (proposed impervious cover in the Resource Protection Area (RPA) divided by 4, divided by 27, times 15, and times 1.65 for the total amount required). Said amount is based on 25% of the proposed impervious cover within the RPA and shall provide for an oyster shell plant within the Lynnhaven River Basin.**

17. The recordation of this variance shall be referenced on the subdivision plat by the following note:

*"A CHESAPEAKE BAY PRESERVATION AREA (CBPA) BOARD VARIANCE WAS APPROVED (provide date of variance). THE VARIANCE APPROVAL CONTAINED CONDITIONS FOR ALL PROPOSED CONSTRUCTION THAT QUANTIFIED LIMITS OF IMPERVIOUS COVER FOR EACH SINGLE FAMILY LOT. LIMITS OF IMPERVIOUS COVER ARE SHOWN ON THE CBPA EXHIBITS AND ARE ON FILE WITH THE DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT. DEVIATION FROM THE CONDITIONS OF THE CBPA BOARD VARIANCE MAY REQUIRE RESUBMITTAL FOR BOARD CONSIDERATION."*

18. The conditions and approval associated with this variance are based on the exhibit plan dated March 30, 2017, prepared by Gallup Surveyors and Engineers, signed March 30, 2017 by Bruce Gallup. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

**Eddie Bourdon, Attorney with Sykes Bourdon Ahern & Levy appeared before the Board representing the applicant.**

**Leighton Roper, Jr. appeared before the Board to make commentary.**

**There was no opposition present.**

**A motion was made by Mr. Jones, seconded by Mr. Martin to approve the variance with the 18 conditions listed above. All voted for the motion except Mr. France and Mrs. McDaniels who voted no.**

**AYE 6 NO 2 ABSTAIN 0 ABSENT 1**

<b>FRANCE</b>	<b>NO</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>AYE</b>
<b>MARTIN</b>	<b>AYE</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>NO</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>SOBOTA</b>	<b>ABSENT</b>



Applicant **Tasos Anthony and Jennifer Galiotos**  
Address **916 Hall Haven Ddrive**  
Public Hearing **May 22, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**12**

**Description: GPIN: 1498-43-6107**

**AGENT: Billy Garrington, Governmental Permitting Consultants**

**BOARD ACTION: APPROVED WITH 19 CONDITIONS ON MAY 22, 2017**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the request conforms to other properties within this neighborhood which are subject to the provisions of this ordinance and are similarly situated where development has occurred landward of the 50 foot seaward buffer.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing portions of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief, given the porosity associated with the proposed materials and the conditioned expansion of the accessory structure to be within the 50 foot landward buffer in an area currently devoted to turf.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of the CBPA ordinance and will not be injurious to the neighborhood. The request will not be of substantial detriment to water quality due to the drainage capability of the proposed improvements and incorporation of buffer restoration.
- 5) The preservation of the existing riparian buffer and of the mature forest floor seaward of the proposed improvements are proposed as a means to manage towards a no net increase in nonpoint source pollution load.
- 6) Finally, the following reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

### **CPBA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed approximately 15 feet from improvements.
5. Construction limits shall lie approximately 15 feet from the proposed improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
8. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
9. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.

10. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
11. The conditions of the existing Chesapeake Bay Preservation Area (CBPA) variance, specifically the required buffer restoration and stormwater management facilities shall be documented on the revised site plan. Documentation shall describe the health and functionality of said requirements. Prior restoration requirements shall be installed if not present.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,395 square feet x 200 percent = 2,790 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance: **7 canopy trees, 7 understory trees, 14 large shrubs and 21 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

13. The proposed improvements shall be located landward of the 50 foot seaward buffer.
14. No perimeter fill is authorized seaward of the proposed improvements.
15. Any redevelopment of the Sport Court area shall be of equal permeability.
16. **\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$319.00 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 348 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**

- 17. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
- 18. This variance and associated conditions **are in addition to** the conditions of the Board variance granted October 24, 2011.
- 19. The conditions and approval associated with this variance are based on the exhibit plan dated November 20, 2015, prepared by WPL, signed April 5, 2017 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

**Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the applicant.**

**Eric Garner of WPL appeared before the Board to make commentary.**

**Mr. Galitos appeared before the Board to make commentary.**

**There was no opposition present.**

**A motion was made by Mr. McCoy, seconded by Mr. Smith to approve the variance with the 19 conditions (Amended Condition 15). All voted for the motion except Mrs. McDaniels who voted no.**

<b>AYE</b>	<b>7</b>	<b>NO</b>	<b>1</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>1</b>
<b>FRANCE</b>		<b>AYE</b>					
<b>JESTER</b>		<b>AYE</b>					
<b>JONES</b>		<b>AYE</b>					
<b>MARTIN</b>		<b>AYE</b>					
<b>MCCOY</b>		<b>AYE</b>					
<b>MCDANIELS</b>		<b>NO</b>					
<b>POOLE</b>		<b>AYE</b>					
<b>SMITH</b>		<b>AYE</b>					
<b>SOBOTA</b>		<b>ABSENT</b>					



Applicant **Long Creek Enterprises, Inc.**  
Address **2036 Alphine Road**  
Public Hearing **May 22, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**13**

**Description: GPIN: 1499-78-5229**

**AGENT: Eddie Bourdon, Sykes Bourdon Ahern & Levy**

**BOARD ACTION: APPROVED WITH 17 CONDITIONS ON MAY 22, 2017**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property who are subject to the provisions of this ordinance and are similarly situated given that the redevelopment of the property proposes to limit encroachment to the 50 foot landward buffer and Resource Management Area (RMA) on a shallow property primarily encumbered by the RPA.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that the property was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing portions of this property is within the RPA.
- 3) The variance is the minimum necessary to afford relief, as the applicant's agent has reduced the impervious cover, utilized redevelopment on the property to the greatest extent practicable, and has withdrawn the proposed impervious cover request from the 50 foot seaward buffer.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, nor otherwise detrimental to the public welfare as the redevelopment of this parcel is consistent with other parcels in the vicinity and throughout the Bay Island neighborhood where lots are challenged by lot dimensions. The request will not be of substantial detriment to water quality due to the use of nonstructural best management practices and buffer restoration.
- 5) The use of nonstructural stormwater BMP's, as a means to manage towards a no net increase in nonpoint source pollution load, are proposed.

- 6) Finally, the following reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

**CPBA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed approximately 15 feet from improvements.
5. Construction limits shall lie approximately 15 feet from the proposed improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
8. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
9. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of



shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.

10. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
11. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **2,731 square feet x 200 percent = 5,462 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance: **14 canopy trees, 14 understory, 28 large shrubs and 42 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

12. The pool decking area shall be constructed of a permeable pavement system.
13. Under deck treatment of sand and gravel shall be installed.
14. No perimeter fill is authorized seaward of the proposed improvements.
15. **\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$625.16 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 682 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**

16. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.

17. The conditions and approval associated with this variance are based on the exhibit plan dated March 30, 2017, prepared by WPL, signed April 4, 2017 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

**Eddie Bourdon, Attorney with Sykes Bourdon Ahern & Levy appeared before the Board representing the applicant.**

**There was no opposition present.**

**A motion was made by Mr. Martin, seconded by Mr. Jones to approve the variance with the 17 conditions as amended (Amended Condition 11 and 12). All voted for the motion.**

<b>AYE</b>	<b>8</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>1</b>
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<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>AYE</b>
<b>MARTIN</b>	<b>AYE</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>AYE</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>SOBOTA</b>	<b>ABSENT</b>



Applicant **Lora Bashford / Jeff and Eileen Gourley**  
Address **1500 Watersedge Drive**  
Public Hearing **May 22, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**14**

**Description: GPIN: 1499-00-8319**

**AGENT: Billy Garrington, Governmental Permitting Consultants**

**BOARD ACTION: APPROVED WITH 15 CONDITIONS ON MAY 22, 2017**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the redevelopment of the property Staff believes is in conformance with the existing large residential lots zoned R-40 within this neighborhood. The proposed lot coverage is consistent with properties within the neighborhood and throughout the Chesapeake Bay Preservation Area who are subject to the provisions of this ordinance and are similarly situated.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that these parcels were platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance therefore, placing this property is within the RPA.
- 3) The variance is the minimum necessary to afford relief, given the resulting impervious cover proposed and the Boards condition that the pool deck be constructed of permeable pavers.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of the CBPA Ordinance and will not be not injurious to the neighborhood, or detrimental to the public welfare, as the redevelopment of the property, is in conformance with the other existing R-40 lots within this neighborhood. In addition, the proposal will and not of substantial detriment to water quality, due to the use of nonstructural best management practices coupled with the amount of proposed impervious cover.

- 5) The retention of existing riparian buffer and the use of nonstructural stormwater BMPs, are a means to manage towards a no net increase in nonpoint source pollution load.
- 6) Finally, the following reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

**CPBA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed approximately 15 feet from improvements.
5. Construction limits shall lie approximately 15 feet from the proposed improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of

occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.

9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. A maximum of 3,500 square feet of turf is permitted for this property. Said turf shall not be permitted within the 50 foot seaward buffer. All remaining impervious area shall be areas of buffer restoration. Buffer restoration areas shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance to the greatest extent practicable.

The required restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

13. **\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program, concurrent with site plan approval. Payment shall be in the amount of \$1,572.99 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an**

approximate 1,716 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.

- 14. The conditions and approval associated with this variance are based on the exhibit plan dated March 22, 2017, prepared by WPL, signed April 4, 2017, by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.
- 15. The house development shall be pulled landward to avoid encroachment into the 50 foot seaward buffer.

**Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the applicant.**

**There was no opposition present.**

**A motion was made by Mr. Martin, seconded by Mr. McCoy to approve the variance with the 15 conditions as amended (Deleted conditions 13 and 14 and added a new condition). All voted for the motion.**

<b>AYE</b>	<b>8</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>1</b>
<b>FRANCE</b>		<b>AYE</b>					
<b>JESTER</b>		<b>AYE</b>					
<b>JONES</b>		<b>AYE</b>					
<b>MARTIN</b>		<b>AYE</b>					
<b>MCCOY</b>		<b>AYE</b>					
<b>MCDANIELS</b>		<b>AYE</b>					
<b>POOLE</b>		<b>AYE</b>					
<b>SMITH</b>		<b>AYE</b>					
<b>SOBOTA</b>		<b>ABSENT</b>					



Applicant **Andrew Johnson, et al**  
Address **812 Oriole Drive**  
Public Hearing **May 22, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**15**

**Description: GPIN: 2418-42-6120**

**AGENT: Billy Garrington, Governmental Permitting Consultants**

**BOARD ACTION: APPROVED WITH 17 CONDITIONS ON MAY 22, 2017**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the proposed improvements, specifically the circular driveway, is consistent with other residential properties within this neighborhood that are subject to the provisions of this ordinance and that are similarly situated.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this property was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing portions of this property is within the RPA.
- 3) The variance is the minimum necessary to afford relief as the applicant has minimized the amount of impervious cover requested, has maintained the existing conditions of the previous variance specific to buffer restoration, and has proposed the use of permeable pavers to further promote the infiltration of stormwater.
- 4) The Board is of the opinion that the variance proposed for the a circular driveway is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood or detrimental to the public welfare, as this request is consistent with other requests in the vicinity, and will not be of substantial detriment to water quality due to the combined use of structural and nonstructural best management practices.
- 5) The use of both nonstructural best management practices (BMPs) and structural (permeable paving system) stormwater BMP, as a means to manage towards a no net increase in nonpoint source pollution load, are proposed.

- 6) Finally, the following reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

**CPBA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed approximately 15 feet from improvements.
5. Construction limits shall lie approximately 15 feet from the proposed improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.



9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC), for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. Buffer restoration shall be installed per the CBPA exhibit, sheet C-3.0. Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance to the greatest extent practicable.

The restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

13. No less than 100 percent of the proposed driveway shall be constructed of a permeable pavement system.
14. The realigned walkway, located along the west side of the garage shall be constructed of organic material (mulch, non-compacted gravel, crushed stone, etc.), and be a maximum of 3 feet in width. If stepping stones are utilized, the stepping stones not to exceed 50 percent of the walkway area.
15. \*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$608.66 and is based on 25 percent of the proposed impervious cover within the Resource

Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 664 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.

16. This variance and associated conditions **are in addition to** the conditions of the Board variance granted September 27, 2004.
17. The conditions and approval associated with this variance are based on the exhibit plan dated March 9, 2017 and revised April 28, 2017 prepared by WPL, signed April 28, 2017 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

**Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the applicant.**

**Eric Garner with WPL appeared before the Board to make commentary.**

**There was no opposition present.**

**A motion was made by Mr. Smith, seconded by Mr. Poole to approve the variance with the 17 conditions as amended (Amended condition 13). All voted for the motion except Mr. France and Mr. Jester who voted no.**

**AYE 6 NO 2 ABSTAIN 0 ABSENT 1**

<b>FRANCE</b>	<b>NO</b>
<b>JESTER</b>	<b>NO</b>
<b>JONES</b>	<b>AYE</b>
<b>MARTIN</b>	<b>AYE</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>AYE</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>SOBOTA</b>	<b>ABSENT</b>



Applicant **Allen and Tiffany Shaw**  
Address **1304 Laurelwood Lane**  
Public Hearing **May 22, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**16**

**Description: GPIN: 1488-38-4759**

**AGENT: Billy Garrington, Governmental Permitting Consultants**

**BOARD ACTION: APPROVED WITH THE 17 CONDITIONS ON MAY 22, 2017**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the proposal conforms to other properties within this neighborhood, which are subject to the provisions of this ordinance and are similarly situated where development has occurred landward of the 50 foot seaward buffer and above the top of bank feature.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted and the residence constructed prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing portions of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief, given the extent of riparian buffer vegetation preservation and minimal expansion of an accessory structures within the 50 foot landward buffer in areas currently devoted to turf.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of the CBPA ordinance and will not be injurious to the neighborhood. The request will not of substantial detriment to water quality due to the preservation of buffer plantings along the seaward portion of the proposed improvements and minimal increase in the overall impervious cover of the site.
- 5) The preservation of existing riparian buffer and mature forest floor, seaward of the proposed improvements, as a means to manage towards a no net increase in nonpoint source pollution load is proposed.
- 6) Finally, the following reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

### **CBPA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed approximately 15 feet from improvements.
5. Construction limits shall lie approximately 15 feet from the proposed improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.

10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1715 square feet x 200 percent = 3,430 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance to the greatest extent practicable.

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

13. Under deck treatment of sand and gravel shall be installed.
14. **\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$392.33 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 428 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**
15. Mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal fringe marsh.

16. This variance and associated conditions **are in addition to** the conditions of the Board variance granted October 27, 1997 and December 22, 2008.

17. The conditions and approval associated with this variance are based on the exhibit plan dated April 3, 2017, prepared by WPL, signed April 4, 2017, by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

**Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the applicants.**

**There was no opposition present.**

**As an item of the consent agenda, a motion was made by Mr. Poole, seconded by Mr. McCoy to approve the variance request with the 17 conditions as amended (Amended condition 16). All voted for the motion.**

<b>AYE</b>	<b>8</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>1</b>
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<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>AYE</b>
<b>MARTIN</b>	<b>AYE</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>AYE</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>SOBOTA</b>	<b>ABSENT</b>



Applicant **John and Lynn Murrell**  
Address **3755 Oyster Pint Quay**  
Public Hearing **May 22, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**17**

**Description: GPIN: 1489-41-8495**

**AGENT: Billy Garrington, Governmental Permitting Consultants**

**BOARD ACTION: APPROVED WITH 20 CONDITIONS ON MAY 22, 2017**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property who are subject to the provisions of this ordinance and are similarly situated, as the applicant has provided a detailed engineered infiltration system to address and capture existing stormwater runoff from the proposed impervious cover.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that these parcels were platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing portions of this property is within the RPA.
- 3) The variance is the minimum necessary to afford relief, as the applicant has provided a balanced approach toward redevelopment of the lot that is cognitive of capturing stormwater from the existing impervious cover and the management of sediment.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood and not of substantial detriment to water quality due to the extensive infiltration system proposed for rainwater capture, of both existing and proposed impervious surfaces. This request will not be detrimental to the public welfare.
- 5) The use of structural infiltration BMP's, as a means to manage towards a no net increase in nonpoint source pollution load, is proposed.
- 6) Finally, the following reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

### CPBA Variance Conditions:

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan.
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
5. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved as per the submitted CBPA Exhibit. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.



10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. Buffer restoration shall be in substantial compliance with the areas defined as mulched beds and naturalized areas on the CBPA exhibit plan.

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance to the greatest extent practicable.

The defined areas shall have a mulch layer of organic material 4 to 6 inches in depth. Said mulched and naturalized restoration areas shall be maintained and not removed or allowed to revert to turf in the future. Trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Canopy trees shall not be planted below the 3 foot contour to prevent future marsh shading. Salt and flood tolerant plant species shall be planted below the 5 foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

13. Under deck treatment of sand and gravel shall be installed.
14. Gravel downspout intercepts and/or gravel dripline intercepts shall be provided as a means of erosion and sediment control for stormwater run-off from the proposed improvements.
15. The discharge pipe from the infiltration system shall be located above the 3 foot contour and outlet protection provided to prevent scour and minimize the potential for downstream erosion.
16. The proposed walkway along the southeastern portion of the property shall be constructed as an open pile structure over land.

17. **\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$869.91 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 949 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**
18. Mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal fringe marsh.
19. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
20. The conditions and approval associated with this variance are based on the exhibit plan dated March 21, 2017 prepared by Gallup Surveyors and Engineers, signed April 4, 2017 by Jessica Nelson. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

**Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the applicants.**

**There was no opposition present.**

**A motion was made by Mr. Martin, seconded by Mr. McCoy to approve the variance with the 20 conditions as amended (Amended condition 16). All voted for the motion.**

<b>AYE</b>	<b>8</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>1</b>
<b>FRANCE</b>		<b>AYE</b>					
<b>JESTER</b>		<b>AYE</b>					
<b>JONES</b>		<b>AYE</b>					
<b>MARTIN</b>		<b>AYE</b>					
<b>MCCOY</b>		<b>AYE</b>					
<b>MCDANIELS</b>		<b>AYE</b>					
<b>POOLE</b>		<b>AYE</b>					
<b>SMITH</b>		<b>AYE</b>					
<b>SOBOTA</b>		<b>ABSENT</b>					



Applicant **Damon and Carolyn Josue Living Trust**  
Address **3728 N Queensgrove Circle**  
Public Hearing **May 22, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**18**

**Description: GPIN: 1488-41-0100**

**AGENT: Damon Josue**

**BOARD ACTION: APPROVED WITH THE 4 CONDITIONS ON MAY 22, 2017**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated, as similar properties in the vicinity have accessory structure encroachments within the 100 foot RPA buffer.
- 2) The encroachment into the RPA on this property is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this property was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing portions of this property is within the RPA.
- 3) The variance is the minimum necessary to afford relief based on the overall reduction in impervious cover on the property.
- 4) The variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, is not of substantial detriment to water quality, or otherwise detrimental to the public welfare.
- 5) There is a no net increase in nonpoint source pollution load as under deck treatment will be utilized to address erosion and sedimentation control.
- 6) Finally, the following reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

**CBPA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development.
3. Under deck treatment of sand and gravel shall be installed.
4. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.

**Damon Josue appeared before the Board.**

**There was no opposition present.**

**As an item of the consent agenda, a motion was made by Mr. Poole, seconded by Mr. McCoy to approve the variance request with the 4 conditions listed above. All voted for the motion.**

**AYE 8 NO 0 ABSTAIN 0 ABSENT 1**

<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>AYE</b>
<b>MARTIN</b>	<b>AYE</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>AYE</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>SOBOTA</b>	<b>ABSENT</b>