



**MINUTES  
CHESAPEAKE BAY PRESERVATION AREA BOARD  
VIRGINIA BEACH, VIRGINIA  
JUNE 26, 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, June 26, 2017.

A motion was made by Mr. McCoy and seconded by Mr. France to approve the May 22, 2017 minutes. All voted for the motion except Mr. Sobota who abstained due his absence from the May hearing. This vote also serves as the official roll call for this meeting. All members were present except Mr. Jones, Mrs. McDaniels, and Mr. Pool.

**BOARD ACTION: APPROVED MAY 22, 2017 MINUTES ON JUNE 26, 2017**

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

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

**Board Members Present: David France, David Jester, Brad Martin, Wayne McCoy, Reese Smith, and Dennis Sobota.**



Applicant **Fiona Halbritter**  
Address **3550 Glen Arden Road**  
Public Hearing **June 26, 2017**  
City Council District **Kempsville**

Agenda  
Item

**1**

**Description: GPIN: 1456-19-6362**

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

**BOARD ACTION: APPROVED WITH THE 13 CONDITIONS ON JUNE 26, 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 proposal conforms to other properties within this neighborhood, which are subject to the provisions of the CBPA 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 is within the RPA.
- 3) The variance is the minimum necessary to afford relief, given the expansion of an accessory structure within the 50 foot landward buffer in an area currently devoted to turf, and the overall impervious cover of the property post-development being under 17 percent of the property area outside of water and wetlands.
- 4) Staff 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 encroachment into the RPA is consistent with the location of improvements on other properties in the vicinity, and not of substantial detriment to water quality due to the access to and limits of expansion within the RPA in areas currently devoted to turf, nor otherwise detrimental to the public welfare.
- 5) The preservation of the existing riparian buffer vegetation seaward of the proposed improvements, coupled with the proposed improvements situated within an area of flat topography is proposed as means to manage erosion and sedimentation towards a no net increase in nonpoint source pollution load.

- 6) Finally, Staff recommends 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. 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 15 feet from improvements.
4. Construction limits shall lie a maximum of 15 feet seaward of improvements.
5. 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.
6. 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.
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: **1,110 square feet x 200 percent = 2,220 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: **6 canopy trees, 6 understory, 12 large shrubs and 18 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. **\*\*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 \$253.91 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 277 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**
13. The conditions and approval associated with this variance are based on the exhibit plan dated June 9, 2017, prepared by American Engineering, signed June 9, 2017 by J.A. Michael Nichols. 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.**

**There was no opposition present.**

As an item of the consent agenda, a motion was made by Mr. McCoy, seconded by Mr. Sobota to approve the variance request with the 13 conditions as amended (Deleted condition 11). All voted for the motion except Mr. Martin who was abstained because his company prepared the plans and the application.

AYE 5 NO 0 ABSTAIN 1 ABSENT 3

FRANCE	AYE
JESTER	AYE
JONES	ABSENT
MARTIN	ABSTAIN
MCCOY	AYE
MCDANIELS	ABSENT
POOLE	ABSENT
SMITH	AYE
SOBOTA	AYE



Applicant **Greg and Deborah McCormack**  
Address **2701 Cattayle Street**  
Public Hearing **June 26, 2017**  
City Council District **Beach**

Agenda  
Item

**2**

**Description: GPIN: 1497-58-8269**

**AGENT: Self**

**BOARD ACTION: APPROVED WITH THE 8 CONDITIONS ON JUNE 26, 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 which are subject to the provisions of the CBPA 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 the majority of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief, as the applicant proposes to situate the improvements within the 50 foot landward buffer, so that the most sensitive portions of the buffer are preserved to the greatest extent practicable.
- 4) Staff 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, nor be of substantial detriment to water quality with the retention of all existing vegetation within the property, the introduction of buffer planting within a sparsely wooded property, the proposed improvements outboard of the 50 foot seaward buffer, and the minimal site impact associated with the proposed improvements.
- 5) The use of underdeck treatment is conditioned as a means to manage erosion and sedimentation control towards a no net increase in nonpoint source pollution load.

- 6) Finally, Staff recommends 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. 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 15 feet from improvements.
4. Construction limits shall lie a maximum of 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.**
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 200 percent of the proposed new impervious cover within the RPA: **654 square feet x 200 percent = 1,308 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, 8 understory, and 12 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.

7. Under deck treatment of sand and gravel shall be installed.
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.

**Greg McCormack, homeowner appeared before the Board.**

**There was no opposition present.**

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

**AYE 6 NO 0 ABSTAIN 0 ABSENT 3**

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





Applicant **Jerry and Mary Flowers**  
Address **102 Ridge Road**  
Public Hearing **June 26, 2017**  
City Council District **Beach**

Agenda  
Item

**3**

**Description: GPIN: 2418-55-2319**

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

**BOARD ACTION: APPROVED WITH 15 CONDITIONS ON JUNE 26, 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, which are subject to the provisions of the CBPA 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 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) Given the unique lot dimensions of this property, the 1916 date the lot was created, the substandard right-of-way, and the condition to construct the driveway out of permeable pavers, it is Staff's opinion that the variance is the minimum necessary to afford relief.
- 4) With the amount of existing impervious cover utilized towards redevelopment, the preservation of upland riparian features, and the use of nonstructural best management practices (BMPs) towards stormwater run-off capture, 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.
- 5) The use of both nonstructural (bioretention) and structural (permeable paving system) stormwater BMPs are proposed, as a means to manage towards a no net increase in nonpoint source pollution load.

- 6) Finally, Staff recommends 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" 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 staked in the field by the Engineer of Record and reviewed with the Civil Inspector at the pre-construction meeting.
5. Construction limits shall lie a maximum of 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: **3,516 square feet x 200 percent = 7,032 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.

12. The proposed driveway and parking court area shall be constructed of a permeable pavement system.
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 \$805.74 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 879 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. The conditions and approval associated with this variance are based on the exhibit plan prepared by Gaddy Engineering Services, signed June 15, 2017 by Michael Gaddy. 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. Sobota, seconded by Mr. Smith to approve the variance with the 15 conditions listed above. All voted for the motion.**

**AYE 6 NO 0 ABSTAIN 0 ABSENT 3**

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



Applicant **Patrick and Valerie Gehrke**  
Address **3928 Brentwood Crescent**  
Public Hearing **June 26, 2017**  
City Council District **Rose Hall**

Agenda  
Item

**4**

**Description: GPIN: 1487-11-7614**

**AGENT: Self**

**BOARD ACTION: APPROVED WITH THE 7 CONDITIONS ON JUNE 26, 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 within 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 minimal encroachments within the RPA of the man-made tidal ditch.
- 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 is within the RPA.
- 3) The variance is the minimum necessary to afford relief, as the shed is reasonable in size and collectively the sheds on the property are under the maximum square footage of 500 square feet required by the Zoning Ordinance.
- 4) The variance is in harmony with the purpose and intent of the CBPA Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, nor otherwise detrimental to the public welfare.
- 5) There is a no net increase in nonpoint source pollution load, as buffer restoration will be utilized towards mitigating for stormwater run-off capture and infiltration on the property.
- 6) Finally, Staff recommends 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. Construction limits shall lie a maximum of 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.**
4. The shed located along the west property line of side of the residence shall be removed from the 5 foot drainage and utility easement.
5. The unauthorized shed along the north or rear property line shall be removed and the area permanently stabilized with vegetation prior to a final building inspection.
6. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **320 square feet x 200 percent = 640 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: **2 canopy trees, 4 understory, and 6 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. 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.

7. 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.

**Valerie Gehrke, homeowner appeared before the Board.**

**There was no opposition present.**

**As an item of the consent agenda, a motion was made by Mr. McCoy, seconded by Mr. Sobota to approve the variance request with the 7 conditions listed above. All voted for the motion.**

**AYE 6 NO 0 ABSTAIN 0 ABSENT 3**

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



Applicant **Douglas and Jennifer Altamura**  
Address **1637 Godfrey Lane**  
Public Hearing **June 26, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**5**

**Description: GPIN: 2409-12-7920**

**AGENT: Self**

**BOARD ACTION: APPROVED WITH THE 5 CONDITIONS ON JUNE 26, 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 the property is being maintained in a natural state that contributes to the ecological and biological processes of a mature riparian buffer.
- 2) The application is not based upon conditions or circumstances that are or have been created or imposed by the applicant or his predecessor in title.
- 3) The variance is the minimum necessary to afford relief, as the outdoor kitchen and patio area are reasonable in size.
- 4) The variance is in harmony with the purpose and intent of the CBPA Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, nor otherwise detrimental to the public welfare.
- 5) There is a no net increase in nonpoint source pollution load, as buffer restoration will be utilized towards the mitigation of stormwater run-off and infiltration on the property.
- 6) Finally, Staff recommends 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. Construction limits shall lie a maximum of 5 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.**
4. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **198 square feet x 200 percent = 396 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: **1 canopy trees, 2 understory, and 3 shrubs.**

The required restoration shall be located in the Resource Protection Area. 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.

5. 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.

**No one appeared before the Board.**

**There was no opposition present.**

As an item of the consent agenda, a motion was made by Mr. McCoy, seconded by Mr. Sobota to approve the variance request with the 5 conditions listed above. All voted for the motion.

AYE 6 NO 0 ABSTAIN 0 ABSENT 3

FRANCE	AYE
JESTER	AYE
JONES	ABSENT
MARTIN	AYE
MCCOY	AYE
MCDANIELS	ABSENT
POOLE	ABSENT
SMITH	AYE
SOBOTA	AYE



Applicant **Susan Pender**  
Address **1238 E Bay Shore Drive**  
Public Hearing **June 26, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**6**

**Description: GPIN: 2418-59-7146**

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

**BOARD ACTION: APPROVED WITH 7 CONDITIONS ON JUNE 26, 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 based upon circumstances that have been imposed by the applicant; however, the request as per the performance standards set forth in Section 106(A) of the CBPA Ordinance is deemed acceptable as land disturbance is limited to the area necessary to provide for the proposed use and the utilization of permeable pavers is proposed to minimize impervious cover and to promote the infiltration of stormwater.
- 3) The variance is the minimum necessary to afford relief, as the applicant as maintained the retreat of the previous driveway from the 50 foot seaward buffer and has constructed a retaining wall further removing the necessity to introduce fill material within the 50 foot seaward buffer associated with the site improvements being constructed.
- 4) With the applicant's use of nonstructural best management practices (BMPs) towards stormwater run-off capture, Staff 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. In addition, it will not be of substantial detriment to water quality, nor otherwise detrimental to the public welfare.
- 5) The use of a structural (permeable paving system) stormwater BMP is proposed, as a means to manage towards a no net increase in nonpoint source pollution load.

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

**CPBA Variance Conditions:**

1. 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.
2. 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.
3. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **625 square feet x 200 percent = 1,250 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 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. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

4. **\*\*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 \$143.00 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 156 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**
5. This variance and associated conditions **are in addition to** the conditions of the Board variance granted May 21, 2015.

6. A Field Change shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC).
7. 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, Development Services Center and the existing building permit amended as needed. The Development Services Center and/or Permits and Inspections may require additional information that may affect the release of the current building permit.

**Susan Pender, homeowner and Billy Garrington of Governmental Permitting Consultants appeared before the Board.**

**There was no opposition present.**

**A motion was made by Mr. Smith, seconded by Mr. McCoy to approve the variance with the 7 conditions listed above. All voted for the motion.**

**AYE 6 NO 0 ABSTAIN 0 ABSENT 3**

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