The Virginia Beach Chesapeake Bay Preservation Area Board will hold a Public Hearing on Monday, August 28, 2017, at 10:00 a.m. in the City Council Chamber, Virginia Beach Municipal Center, Virginia Beach, Virginia.

An informal session is held at 9:00 a.m. in the City Council Chamber at which time staff briefs the Board on agenda items. All interested persons are invited to attend. There is no opportunity for citizenry to speak at the briefing session; however, the public is invited to speak at the formal Public Hearing held at 10:00 a.m. in the City Council Chamber.

The staff reviews all of the items on this agenda and offer recommendation for consideration by the Chesapeake Bay Preservation Area Board, in the event they should approve the application. However, it should not be assumed that those conditions constitute all of the conditions that will ultimately be attached to the project. Staff agencies may impose further conditions and requirements applicable to city ordinances.

Those members of the public interested in attending the public hearing should be advised that, for reasons the Board deems appropriate, certain items on the agenda may be heard out of order and that it should not be assumed that the order listed below will be exactly followed during the public hearing.

THE FOLLOWING DESCRIBES THE ORDER OF BUSINESS FOR THE PUBLIC HEARING

1. **DEFERRALS:** The first order of business is the consideration of requests to defer an item. The Board will ask those in attendance at the hearing if there are any requests to defer an item that is on the agenda. PLEASE NOTE THE REQUESTS THAT ARE MADE, AS ONE OF THE ITEMS BEING DEFERRED MAY BE THE ITEM THAT YOU HAVE AN INTEREST IN.

   If an item is deferred, a deferral date will be determined at the public hearing. Typically deferrals range from thirty (30) to sixty (60) days or may be deferred indefinitely. The Board will vote on all of the items deferred individually. It is important, therefore, if you have an objection to an item being deferred to note your objection as the Board goes through the items being considered for deferral.

2. **CONSENT AGENDA:** The second order of business is consideration of the “consent agenda.” The consent agenda contains those items:

   a. that the Board believes are unopposed and
   b. which have a favorable Staff recommendation.

   If an item is placed on the Consent Agenda, that item will be heard with other items on the agenda that appear to be unopposed and have a favorable staff recommendation. The Board will vote on all of the items at one time. Once the Board has approved the item as part of the Consent Agenda, the variance request is granted and will not be discussed any further. It is important, therefore, if you have an objection to an item being placed on the Consent Agenda to note your objection as the Board goes through the items being considered for the Consent Agenda.
Process for the Consent Agenda:

- The Board will announce the item number and item title being considered for inclusion on the Consent Agenda.
- The Board will ask if there is anyone in the audience representing the item, and if so, ask them to go up to the podium and state their name for the record.
- The Board will ask the representative of the item if they are aware of the conditions and if they agree to the conditions.
- The Board will then ask if there is anyone in the audience in opposition to the item. If you are opposed to the item, stand or raise your hand to let the Board know.
- If the item is opposed, it will be removed from the consent agenda and heard in its normal place on the agenda.
- After the Board has gone through all of the items that it believes should be on the Consent Agenda, it will vote at one time for all of the items, announcing the number of each item being voted on. Pay attention to the list of items being voted on.

3. **REGULAR AGENDA:** The Board will then proceed with the remaining items on the agenda, according to the following process:

   a. The applicant or applicant’s representative will have 10 minutes to present its case.
   b. Next, those who wish to speak in support to the application will have 3 minutes to present their case.
   c. If there is a spokesperson for the opposition, he or she will have 10 minutes to present their case.
   d. All other speakers not represented by the spokesperson in opposition will have 3 minutes.
   e. The applicant or applicant’s representative will then have 3 minutes for rebuttal of any comments from the opposition.
   f. There is then discussion among the Board members. No further public comment will be heard at that point. The Board may, however, allow additional comments from the opposition if a member of the Board sponsors the opposition. Normally, you will be sponsored only if it appears that new information is available and the time will be limited to 3 minutes.
   g. The Board does not allow slide or computer generated projections other than those prepared by the Planning Department Staff.

The Board asks that speakers not be repetitive or redundant in their comments. Do not repeat something that someone else has already stated. Petitions may be presented and are encouraged. If you are part of a group, the Board requests, in the interest of time, that you use a spokesperson, and the spokesperson is encouraged to have his or her supporters stand to indicate their support.

Those members of the public interested in speaking in support or in opposition to an agenda item shall be limited to 3 minutes in which to address the Board. At the discretion of the CBPA Board Chairman, this time may be increased to 5 minutes. Speakers will be electronically timed.

If you are physically disabled or visually impaired and need assistance at this meeting, please call the Planning and Community Development at (757) 385-4621.
9:00 AM
INFORMAL STAFF BRIEFINGS OF PUBLIC HEARING AGENDA ITEMS

10:00 AM
FORMAL REVIEW OF PUBLIC HEARING AGENDA ITEMS

OLD BUSINESS AGENDA ITEMS

1.
Thomas V. and Barbara W. Joynt
[Applicant & Property Owner]

1332 Kingfisher Court
GPIN: 2418-12-4863
COUNCIL DISTRICT - Lynnhaven

Applicant’s Agent – Robert Simon
Staff Planner – PJ Scully
Page 7

2.
Martin J. and Susan C. Schildwachter
[Applicants & Property Owners]

3113 Blair Circle
GPIN: 1498-12-0614
COUNCIL DISTRICT - Lynnhaven

Applicant’s Agent – Self represented
Staff Planner – PJ Scully
Page 23
### NEW BUSINESS AGENDA ITEMS

#### 3.

**Jon S. Wheeler**  
[Applicant & Property Owner]

_1201 Yancey Circle_  
GPIN: 2408-87-6841  
COUNCIL DISTRICT - Lynnhaven

Applicant’s Agent – R.J. Nutter

Staff Planner – PJ Scully  
Page 37

#### 4.

**Carson E. and Frances C. Wiedeman**  
[Property Owners]

**Barry and Virginia Sancilio Cross**  
[Applicants]

_1420 N. Woodhouse Road_  
GPIN: 2408-89-9343  
COUNCIL DISTRICT - Lynnhaven

Applicant’s Agent – Robert Simon

Staff Planner – PJ Scully  
Page 51

#### 5.

**Sanjay and Sonia Kapoor**  
[Applicants & Property Owner]

_421 Wolfs Neck Trail_  
GPIN: 1497-67-3025  
COUNCIL DISTRICT - Beach

Applicant’s Agent – Ashton F. Otey

Staff Planner – PJ Scully  
Page 69
6.
Lonnie and Karen Minson  
[Applicants & Property Owners]
2700 Chester Forest Court  
GPIN: 1497-56-7833  
COUNCIL DISTRICT - Beach
Applicant’s Agent – Billy Garrington
Staff Planner – PJ Scully  
Page 83

7.
Anthony and Sandra Gentile  
[Applicants & Property Owners]
2716 Spigel Drive  
GPIN: 1498-52-3820  
COUNCIL DISTRICT - Lynnhaven
Applicant’s Agent – Billy Garrington
Staff Planner – PJ Scully  
Page 97

8.
Garry and Sandra Larossa  
[Applicants & Property Owner]
1820 Eden Way  
GPIN: 2408-86-1793  
COUNCIL DISTRICT - Lynnhaven
Applicant’s Agent – Thomas Ross
Staff Planner – PJ Scully  
Page 113
Variance Request
Modification of the February 28, 2011 After-The-Fact Chesapeake Bay Preservation Area (CBPA) Board variance to delete condition 5.

CBPA Variance Request History
March 27, 2017 – deferred for 60 days
May 22, 2017 – deferred for 90 days

Applicant’s Agent
Robert Simon

Staff Planner
PJ Scully

Lot Recordation
10/13/1926
Map Book 4, Page 193

GPIN
2418-12-4863

SITE AREA
32,703 square feet or 0.751 acres

SITE AREA OUTSIDE OF WATER/WETLANDS
32,703 square feet or 0.751 acres

EXISTING IMPERVIOUS COVER OF SITE
7,976 square feet or 24.4 percent of site

Location of Proposed Impervious Cover
50 foot Seaward Buffer

AMOUNT OF LAND DISTURBANCE
Greater than 2,500 square feet

Staff Recommendation
Approval as conditioned
Summary of Proposal

Construction Details

- Timber bulkhead, 2 feet channelward of failing bulkhead

Applicant requests to remove condition 5 from the February 28, 2011 After-The-Fact Chesapeake Bay Preservation Area (CBPA) Board variance.

“If and when the shoreline is hardened / rehardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (vinyl, timber or steel bulkhead). The toe of said revetment shall lie at or landward of mean high water or tidal vegetated wetlands, unless the Wetlands Board determines that site specific conditions warrant a more seaward alignment.”

CBPA Ordinance Variance History

October 28, 1996 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a single family residence with the following conditions:

1. The construction sequence schedule shall be revised to include all phases of construction including the demolition and removal of materials associated with the demolition.

2. A cross section of the retaining wall must be provided at the time of detailed site plan review. The retaining wall should be designed by a professional engineer.

3. Construction limits shall be held to within ten feet (10’) of the project.

4. A doubling of erosion and sedimentation control measures shall be required downslope of the project.

5. The deck around the pool shall be a maximum of 4’ x 4’ x 4’ x 8’ (diving board area).

6. A revised site plan shall be submitted to the Department of Planning, Development Services Center for a full plan of development review prior to the issuance of a building permit.

The improvements associated with the October 28, 1996 CBPA Board variance have been constructed.

February 28, 2011 a Chesapeake Bay Preservation Area (CBPA) Board After-The-Fact variance and restoration plan was granted for the construction of a covered deck walkways and driveway expansion with the following 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 re-enforced 36” erosion and sedimentation control measures (silt fences), 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 10 ft. from proposed improvements. Best
management practices for erosion and sediment control shall be employed during restoration activities to protect adjacent wetlands and shorelines of water bodies.

4. Prior to the final release of any permit authorizing a land disturbing activity, all disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations by such methods as, but not limited to, temporary seeding, permanent seeding, sodding or soil stabilization blankets and matting. The Building Code Official may authorize a temporary certificate of occupancy without the required soil stabilization if the failure to stabilize is due to circumstances beyond the control of the permit holder.

5. If and when the shoreline is hardened/rehardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (vinyl, timber or steel bulkhead). The toe of said revetment shall lie at or landward of mean high water or tidal vegetated wetlands, unless the Wetlands Board determines that site specific conditions warrant a more seaward alignment.

6. Within the RPA, 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.

7. A separate landscape/buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed. The landscape plan shall clearly delineate existing naturalized (trees, landscaping and mulched organic surfaces) areas, planting beds, and turf zones.

8. The conditions and approval associated with this variance are based on the site plan sealed January 13, 2011 by Bruce W. Gallup, prepared by Gallup Surveyors and Engineers Ltd.

9. The unauthorized deck enclosure to room addition on the western end of the residence shall be shown on the revised site plan and included in restoration requirements.

10. Stormwater runoff from existing impervious cover shall be conveyed to stormwater management facilities. Low maintenance best management practices shall be employed to the maximum extent practicable. Stormwater facilities shall be installed prior to the release of the building permit.

11. **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 $484.00 and is based on 25% of the proposed impervious cover within the RPA, inclusive of the variable width portion of the buffer. Said payment shall provide for the equivalent of an approximate 528 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.

12. Buffer restoration shall be installed equal to 200% of the unauthorized impervious cover within the RPA \((2,112.7 \times 200\% = 4,225.4\) sq. ft.) and 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 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 in the seaward portion of the buffer to the greatest extent practicable and progressing landward and shall have a mulch layer of organic material 4” – 6” 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 50% deciduous and 50% 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.
13. Buffer restoration shall be installed equal to 100% of the proposed area of redevelopment within the RPA (unknown sq. ft. for the enclosed deck into room addition on the western end of the residence) and 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 required restoration shall be located within the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed in the seaward portion of the buffer to the greatest extent practicable and progressing landward and shall have a mulch layer of organic material 4” – 6” 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 50% deciduous and 50% 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. In lieu of 100% restoration for redevelopment areas, a 10% reduction in pollutant removal load is acceptable via a structural BMP.

14. Upon granting of a variance, a revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval within 60 days from the date of this hearing. Once the plans have been approved, CBPA / CIVIL permit must be obtained within 30 days. All required restoration must be installed within 45 days after issuance of the building permit. Failure to comply with this condition may result in an additional show cause hearing.

A revised site plan, per condition 14, was submitted to the Development Services Center and approved on June 13, 2011. A CBPA / Civil permit was never obtained and conditions 12 and 13 associated with the February 28, 2011 CBPA Board variance have not been satisfied.

Environmental Conditions

Flood Zone
0.2% Annual Chance of Flooding

Soil Type(s)
Yeopim Series (deep and moderately well-drained soils)

Shoreline
Shoreline is hardened by a wood bulkhead.

The Center for Coastal Resources Management, City of Virginia Beach Comprehensive Map Viewer provided the following shoreline analysis for the subject property.

- **Maintain/Enhance/Restore Riparian Buffer** - Provide stabilization through maintaining, enhancing, or restoring the vegetation in the riparian buffer. The target area for riparian buffer should extend 100 feet back from the top of bank. Preferred approaches for riparian buffer management may include one or a combination of the following: Preserve existing riparian vegetation in the buffer area; manage vegetative cover by selectively removing and/or pruning dead, dying, and severely leaning trees as necessary; enhance the riparian area by planting appropriate vegetation or allowing for natural regeneration of small native trees and shrubs; replace waterfront lawns with a variety of native deep-rooted grasses, shrubs, and small trees and; remove invasive species, if present, and replace with native vegetation.

- **Plant Marsh with Sill** – Plant tidal marsh (or maintain/widen existing marsh) and construct a rock sill placed offshore from the marsh. The site-specific suitability for a sill must be determined, including bottom hardness,
navigation conflicts, construction access limitations, orientation and available sunlight for marsh plants. If existing marsh is greater than 15 feet wide, consider placing sill just offshore from marsh edge. If existing marsh is less than 15 feet wide or absent, consider widening marsh by grading bank landward to accommodate sea level rise and/or providing sand fill channelward to increase marsh width and/or elevation and placing sill just offshore new marsh edge.

**Riparian Buffer**

Moderate to sparsely wooded with majority of the 100 foot RPA devoted to turf.

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

**Evaluation and Recommendation**

Two items of compliance need to be addressed with the application’s request to modify the February 28, 2011 after-the-fact CBPA Board variance. First item, and the basis of this request, is to delete condition 5 of the 2011 variance. Construction of a riprap shoreline, as conditioned for the entire length of the property would require over 2,500 square feet of land disturbance, involve excavation landward from the existing bulkhead of approximately 5 to 15 feet, and impact portions of the existing canopy cover. Staff conferred with the Virginia Marine Resource Commission (VMRC) and the City’s Waterfront Operations Division and neither agency has concern with encroachment channelward of mean high water (MHW) with a riprap revetment. Therefore, Staff supports the request to have the condition 5 deleted from the 2011 variance to avoid extensive upland disturbance on this property. Staff has brought to the attention of the applicant’s agent the discussion with VMRC and reiterated that the natural progression of evaluating methods for rehardening the shoreline still applies towards preparing a comprehensive Joint Permit Process (JPA) if condition 5 is deleted from the 2011 variance.

Second item of compliance with the February 28, 2011 after-the-fact CBPA Board variance is the failure to install the required buffer restoration. The applicant did receive Development Service Center (DSC) site plan approval required by the 2011 variance, but stated to Staff that a CBPA / Civil permit was never obtained and restoration requirements were not satisfied due to cost. After the last deferral of this request, Staff met with the applicant and applicant’s agent to discuss the issue of non-compliance and performed a site comparison of the 2011 CBPA Board exhibit against the as-built survey, provided by the applicant. The result of the comparison exercise revealed a discrepancy in the unauthorized impervious square footages of the 2011 CBPA exhibit at 2,112 square feet of unauthorized impervious cover to the as-built survey documenting approximately 1,516 square feet of unauthorized impervious cover. At this time, the applicant has provided a buffer restoration plan to address the issue of non-compliance with the 2011 variance and date specific conditions pertaining to the installation of the restoration plan have been conditioned by Staff below.

Should the Board desire to hear testimony from the applicant and the applicant’s agent at the Public Hearing, Staff offers the following comments relative the findings of the CBPA Ordinance specific to this variance request for the Board’s deliberation:

1) Granting the variance to provide for an alternative method of rehardening the shoreline other than the use of riprap for the entirety of the property’s shoreline 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 given the existing environmental conditions – mean low water (MLW) and mean high water (MHW) elevations, and absence of vegetated and non-vegetated wetlands channelward of the existing bulkhead.
2) The encroachment into the RPA on this lot is based upon both conditions and circumstances that have been created by the applicant and imposed by the conditions of the February 28, 2011 CBPA variance, therefore creating a condition to further encroach into the Resource Protection Area (RPA) with the construction of a riprap shoreline and unnecessary amounts of land disturbance given the existing environmental conditions.

3) An evaluation of existing environmental conditions, topography, and alternative methods for hardening the shoreline to preserve upland conditions warrants a justification that the variance is the minimum necessary to afford relief.

4) Deleting the February 28, 2011 CBPA variance, condition 5 – which will reduce the amount of land disturbance and upland impacts to the RPA more aligns this variance request in harmony with the purpose and intent of this ordinance and will ensure that it will not be injurious to the neighborhood, will not be of substantial detriment to water quality, nor otherwise detrimental to the public welfare.

5) Limiting upland impacts associated with the conditions of the 2011 CBPA variance to address sediment loss with the rehardening of the shoreline and the installation of the required buffer restoration to restore the absence of a riparian system on the property will offer 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.

**Recommended Conditions**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.

2. A Landscape/Buffer Restoration 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. Said plan shall detail the specific location, number, and species of vegetation to be installed and all stormwater management facilities that were documented on the approved June 13, 2011 DSC Site Plan.

3. 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 for review and approval prior to the issuance of a building permit for the shoreline hardening activities. The Development Services Center and/or Permits and Inspections may require additional information that may affect the release of a building permit.

4. Upon granting of a variance, a revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval within 30 days from the date of this hearing. Once the plans have been approved, **CBPA / CIVIL permit** must be obtained within 30 days. All required restoration must be installed within 45 days after issuance of the building permit. Failure to comply with this condition will result in an additional show cause hearing.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.***

Thomas V. and Barbara W. Joynt
Agenda Item 1
Page 12
APPLICANT'S NAME  Thomas V. and Barbara W. Joynt

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

- Acquisition of Property by City
- Alternative Compliance, Special Exception for
- Board of Zoning Appeals
- Certificate of Appropriateness (Historic Review Board)
- Chesapeake Bay Preservation Area Board
- Conditional Use Permit
- Disposition of City Property
- Economic Development Investment Program (EDIP)
- Encroachment Request
- Floodplain Variance
- Franchise Agreement
- Lease of City Property
- License Agreement
- Modification of Conditions or Proffers
- Nonconforming Use Changes
- Rezoning
- Street Closure
- Subdivision Variance
- Wetlands Board

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).
Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant’s name: **Thomas V. and Barbara W. Joynt**
If an LLC, list all member’s names:

If a CORPORATION, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes ¹ and ²

---

**SECTION 2 / PROPERTY OWNER DISCLOSURE**

*Complete Section 2 only if property owner is different from Applicant.*

☑ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner’s name: ______________________________________
If an LLC, list the member’s names:

________________________________________

Page 2 of 7
If a Corporation, list the names of all officers, directors, members, trustees, etc. below. *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidiary or affiliated business entity relationship with the Property Owner. *(Attach list if necessary)*

1. “Parent-subsidiary relationship” means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

2. “Affiliated business entity relationship” means "a relationship, other than parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

**SECTION 3. SERVICES DISCLOSURE**

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPARATELY.
### Applicant

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

**Service**
- Accounting and/or preparer of your tax return
- Architect / Landscape Architect / Land Planner
- Contract Purchaser (if other than the Applicant) – Identify purchaser and purchaser’s service providers
- Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser’s service providers)
- Construction Contractors
- Engineers / Surveyors / Agents
- Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)
- Legal Services
- Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property

**Provider** (Use additional sheets if needed)
- Jones, Madden and Council, PLC
- Project out for bid.
  - WCI, Chesapeake Bay Site Solutions

### Section 4. Known Interest by Public Official or Employee

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?

If yes, what is the name of the official or employee and what is the nature of the interest?
**CERTIFICATION:**
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein–two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

<table>
<thead>
<tr>
<th>Applicant's Signature</th>
<th>Thomas V. and Barbara W. Joynt</th>
</tr>
</thead>
<tbody>
<tr>
<td>PRINT NAME</td>
<td>DATE</td>
</tr>
<tr>
<td></td>
<td>1/24/17</td>
</tr>
</tbody>
</table>

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.*

Thomas V. and Barbara W. Joynt
Agenda Item 1
Page 22
Variance Request
Encroachment into the 100 foot Resource Protection Area (RPA) with the expansion of an existing accessory structure – screened porch addition

CBPA Variance Request History
July 24, 2017 – deferred for 30 days

Applicant’s Agent
Self

Staff Planner
PJ Scully

Lot Recordation
3/13/1980
Map Book 139, Page 25

GPIN
1498-12-0614

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

- Area of Redevelopment in RPA
  0 square feet

- Area of New Development in RPA
  107 square feet

- Location of Proposed Impervious Cover
  50 foot Landward Buffer

AMOUNT OF LAND DISTURBANCE
Less than 2,500 square feet

Staff Recommendation
Approval as conditioned
May 22, 2000, a Chesapeake Bay Preservation Area (CBPA) Board variance was granted to demolish the existing single-family residence and construct a new single-family residence with the following conditions:

1. **Dual erosion and sedimentation control measures are to be installed prior to the demolition of the existing dwelling or other land disturbance; the silt fences shall be maintained, and shall remain in place until vegetative cover is established.**

2. **Construction limits shall lie a maximum of 15' channelward of the existing residence and shall be so delineated by the silt fence.**

3. **All areas outside the limits of construction shall remain in a natural state, including the forest floor to be left intact and shall be so noted on the site plan.**

4. **The residence shall be relocated 15' from the top of bank on the eastern side of the project.**

5. **All stormwater associated with the development of this property shall be conveyed to a structural stormwater management facility.**

6. **A revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.**

The May 22, 2000 variance has been acted upon and the associated improvements constructed.

### Environmental Conditions

**Flood Zone**

X

**Soil Type(s)**

Tetotum Series (deep, moderately well-drained soils)

Rumford Series (highly erodible soils) located below the top of bank

**Shoreline**

Shoreline is in a natural state with an established marsh along the length of the peninsula. Moderate maintenance should be performed to limb up low hanging branches shading existing tidal marsh. Given the extent of mature canopy and established riparian buffer, Staff is of the opinion that areas of existing denuded shorelines should be reestablished with marsh grass.
Riparian Buffer
Heavily wooded

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

The applicant has provided a physical survey from 2001, when the applicant completed construction of the improvements associated with the May 22, 2000 CBPA variance. During the site visit for this CBPA variance request, Staff discovered a small concrete patio area – approximately 337 square feet within the rear yard, 50 foot landward buffer that was not represented with or authorized by the 2000 CBPA variance. The applicant has acknowledged to Staff that the concrete patio was constructed around 2002. An evaluation of the site indicates that the construction of the concrete patio has not been injurious to the neighborhood, nor of substantial detriment to water quality, or created an increase in nonpoint pollution load given the applicant’s preservation of the existing riparian forest ecosystem, maintenance of the existing shoreline vegetation, and the presence of a mature forest floor. To further address the patio, Staff has conditioned additional vegetative restoration requirements, through the means of upland marsh plantings within the recommended conditions below, to ensure compliance, should the Board desire to grant this variance request.

Staff supports the application as submitted and is of the opinion that the proposed improvements, given the location within the RPA and the minimal impact associated with the proposed improvements, will not contribute to the degradation of water quality or prove detrimental to the resource protection area features.

Staff offers the following comments relative to the findings of the CBPA Ordinance specific to this variance request for the Board’s deliberation:

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 which 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 prior to the adoption of the Chesapeake Bay Preservation Act and the City’s CBPA Ordinance, therefore, placing this property within the RPA.

3) The variance is the minimum necessary to afford relief, given the extent of riparian buffer vegetation preservation and the 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, 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, 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, demonstrate a means to manage erosion and sedimentation towards a no net increase in nonpoint source pollution load.

Martin J. and Susan C. Schildwachter
Agenda Item 2
Page 25
6) Finally, Staff recommends the following reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

**Recommended 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. 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.

4. 888 square feet of vegetative restoration shall occur within the RPA. As a component of the required restoration, areas of denuded marsh may be sprigged once lower tree limbs are removed associated with condition three (3). The suitable areas sprigged shall be counted towards the vegetative restoration requirements.

If riparian buffer restoration is provided, consisting of upland woody plant materials, said 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 Department of Conservation & Recreation, Chesapeake Bay Local Assistance: 1 canopy trees, 2 understory, and 3 shrubs.

Upland riparian buffer 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.

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

6. This variance and associated conditions are in addition to the conditions of the Board variance granted May 22, 2000.

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.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.***

Martin J. and Susan C. Schildwahter
Agenda Item 2
Page 26
Concrete patio area
Screened porch
Disclosure Statement

APPLICANT'S NAME: MARTIN J. SCHILTWACHTER

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

- Acquisition of Property by City
- Alternative Compliance, Special Exception for
- Board of Zoning Appeals
- Certificate of Appropriateness (Historic Review Board)
- Chesapeake Bay Preservation Area Board
- Conditional Use Permit
- Disposition of City Property
- Economic Development Investment Program (EDIP)
- Encroachment Request
- Floodplain Variance
- Franchise Agreement
- Lease of City Property
- License Agreement
- Modification of Conditions or Proffers
- Nonconforming Use Changes
- Rezoning
- Street Closure
- Subdivision Variance
- Wetlands Board

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s):

- APPLICANT NOTIFIED OF HEARING: DATE
- NO CHANGES AS OF DATE
- REVISIONS SUBMITTED: DATE
Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant’s name: ________________________________
   If an LLC, list all member’s names:

   If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: (*Attach list if necessary*)

(B) List the businesses that have a parent-subsidiary \(^1\) or affiliated business entity \(^2\) relationship with the Applicant: (*Attach list if necessary*)

See next page for information pertaining to footnotes \(^1\) and \(^2\)

**SECTION 2 / PROPERTY OWNER DISCLOSURE**

*Complete Section 2 only if property owner is different from Applicant.*

Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner’s name: ________________________________
   If an LLC, list the member’s names:

---

Page 2 of 7
If a Corporation, list the names of all officers, directors, members, trustees, etc. below. *(Attach list if necessary)*

**(B)** List the businesses that have a parent-subsidiary\(^1\) or affiliated business entity\(^2\) relationship with the Property Owner: *(Attach list if necessary)*

---

\(^1\) "Parent-subsidiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

\(^2\) "Affiliated business entity relationship" means "a relationship, other than parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

---

**SECTION 3. SERVICES DISCLOSURE**

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPARATELY.
### Application Form

**Applicant**

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>Service</th>
<th>Provider (use additional sheets if needed)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>✅</td>
<td>Accounting and/or preparer of your tax return</td>
<td></td>
</tr>
<tr>
<td></td>
<td>✅</td>
<td>Architect / Landscape Architect / Land Planner</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser’s service providers</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser’s service providers)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>✅</td>
<td>Construction Contractors</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Engineers / Surveyors / Agents</td>
<td>BENCHMARK INC.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)</td>
<td>NAVY FEDERAL</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Legal Services</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property</td>
<td></td>
</tr>
</tbody>
</table>

---

**Section 4. Known Interest by Public Official or Employee**

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>Question</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?</td>
</tr>
</tbody>
</table>

If yes, what is the name of the official or employee and what is the nature of the interest?
CERTIFICATION:
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

APPLICANT'S SIGNATURE

PRINT NAME

DATE

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

Martin J. and Susan C. Schildwachter

Agenda Item 2

Page 35
Variance Request
Encroachment into the 100 foot Resource Protection Area (RPA) with a expansion to the existing single family residence and proposed accessory structures

Applicant’s Agent
R.J. Nutter

Staff Planner
PJ Scully

Lot Recordation
12/16/1953
Map Book 36, Page 26

GPIN
2408-87-6841

SITE AREA
33,758 square feet or 1.143 acres

SITE AREA OUTSIDE OF WATER/WETLANDS
31,191.3 square feet or 0.716 acres

EXISTING IMPERVIOUS COVER OF SITE
9,378.3 square feet or 30.1 percent of site

PROPOSED IMPERVIOUS COVER OF SITE
10,773.7 square feet or 34.5 percent of site

Area of Redevelopment in RPA
6,831.6 square feet

Area of New Development in RPA
3,795.8 square feet

Location of Proposed Impervious Cover
50 foot Seaward Buffer
50 foot Landward Buffer
100 foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE
Greater than 2,500 square feet

Staff Recommendation
Approval as conditioned
Summary of Proposal

Demolition Details
- All walkways and porches
- Concrete boat ramp
- Outbuildings with associated walks

Construction Details
- 2nd story addition with an expansion of the primary structure
- Entry porch with associated front walk and parking area
- Swimming pool with associated hot tub and pool deck
- Step pad patio area
- Expansion of existing patio area

CBPA Ordinance Variance History
No known Chesapeake Bay Preservation Area (CBPA) Board variance history to report.

Environmental Conditions

Flood Zone
X

Soil Type(s)
State Series (deep, well-drained soils) located above the top of bank
Rumford Series (highly erodible soils) located below the top of bank

Shoreline
Shoreline is hardened by a wood bulkhead and there is a small concrete boat ramp. The applicant is removing the concrete boat ramp and redeveloping the area with a living shoreline.

Riparian Buffer
Sparsely to moderately wooded

- Number of existing canopy trees requested for removal within the RPA: 3
- Evaluation of existing tree removal request: Trees requested for removal are within the delineated limits of proposed improvements, with all trees outboard of the proposed improvements remaining.

Evaluation and Recommendation

The variance request proposes to redevelop the majority of this property, which was platted in 1953, prior to the adoption of the CBPA Ordinance. Proposed improvements utilize the existing footprint of the primary structure with minimal expansions proposed along the rear of structure, portions of which are over existing impervious cover. The variance request does encroach further into the RPA with proposed accessory structures – swimming pool and patio.
area however, these improvements are situated in an area that Staff is of the opinion is the least sensitive portion of the property. The applicant’s agent and Landscape Architect met with Staff to discuss the variance request and has modified the initial CBPA exhibit as follows.

- Reduction to the overall proposed impervious cover of the site from 36.4 percent to 34.5 percent.
- Developed a CBPA exhibit that provides a substantial retreat of impervious cover within the 50 foot seaward buffer – approximately a 1,662 square foot reduction.
- Given the existing right-of-way conditions, developed a means for additional area on site for parking that utilizes the existing driveway, as an approach to be the minimum necessary to afford relief.
- Developed a buffer restoration plan with the intent to restore the riparian ecosystem along the existing shoreline with a proposed living shoreline in the area were the concrete boat ramp is being removed in-lieu of other hardening practices.

Given the applicant’s awareness and respect towards redeveloping this property with the intent to preserve and restore environmental conditions, coupled with the extent of site analysis performed associated with this variance request, Staff supports this request and offers the following comments relative to the findings of the CBPA Ordinance specific to this variance request for the Board’s deliberation.

1) The reduction of existing impervious cover and the restoration methods proposed to improve the existing environmental conditions of the property, Staff is of the opinion that 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.

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 applicant has developed a CBPA exhibit that provides a substantial retreat of impervious cover within the 50 foot seaward buffer – approximately a 1,662 square foot reduction and given the existing right-of-way conditions, developed a means for additional, yet minimally sized, onsite parking that utilizes the existing driveway, as an additional approach to be the minimum necessary to afford relief.

4) The variance is in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood, nor of substantial detriment to water quality, or otherwise detrimental to the public welfare. This is based on the impervious cover retreat from the 50 foot seaward buffer and a buffer restoration plan that includes the introduction of a living shoreline into the riparian ecosystem in the area were the existing concrete boat ramp is being removed as a means to further manage this property towards a no net increase in nonpoint source pollution load.

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

**Recommended 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. 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. 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.

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.


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 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, other than the minimum necessary to facilitate positive drainage away from the proposed improvements 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 $868.99 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 948 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.

15. The conditions and approval associated with this variance are based on the exhibit plan dated June 28, 2017 prepared by Gallup Surveyors and Engineers, signed June 28, 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.

** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.
Disclosure Statement

 Applicant's Name: Jon S. Wheeler

Disclosure Statement Form

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

<table>
<thead>
<tr>
<th>Acquisition of Property by City</th>
<th>Disposition of City Property</th>
<th>Modification of Conditions or Proffers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alternative Compliance, Special Exception for</td>
<td>Economic Development Investment Program (EDIP)</td>
<td>Nonconforming Use Changes</td>
</tr>
<tr>
<td>Board of Zoning Appeals</td>
<td>Encroachment Request</td>
<td>Rezoning</td>
</tr>
<tr>
<td>Certificate of Appropriateness (Historic Review Board)</td>
<td>Floodplain Variance</td>
<td>Street Closure</td>
</tr>
<tr>
<td>Chesapeake Bay Preservation Area Board</td>
<td>Franchise Agreement</td>
<td>Subdivision Variance</td>
</tr>
<tr>
<td>Conditional Use Permit</td>
<td>Lease of City Property</td>
<td>Wetlands Board</td>
</tr>
<tr>
<td>License Agreement</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

Section 1 / Applicant Disclosure

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s):

- Applicant Notified of Hearing: [Date]
- No Changes as of: [Date]
- Revisions Submitted: [Date]

Page 1 of 7
Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

**(A)** List the Applicant’s name: Jon S. Wheeler

If an LLC, list all member’s names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

**(B)** List the businesses that have a parent-subsidiary \(^{1}\) or affiliated business entity \(^{2}\) relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes \(^{1}\) and \(^{2}\)

---

**SECTION 2 / PROPERTY OWNER DISCLOSURE**

*Complete Section 2 only if property owner is different from Applicant.*

☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

**(A)** List the Property Owner’s name: Jon S. Wheeler

If an LLC, list the member’s names:
If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidiary ¹ or affiliated business entity ² relationship with the Property Owner: *(Attach list if necessary)*

¹ “Parent-subsidiary relationship” means “a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.” See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² “Affiliated business entity relationship” means “a relationship, other than parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities.” See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

---

**SECTION 3. SERVICES DISCLOSURE**

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property? If the answer to any item is YES, please identify the firm or individual providing the service. IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY.
# Applicant

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>SERVICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>☒</td>
<td></td>
<td>Accounting and/or preparer of your tax return</td>
</tr>
<tr>
<td>☒</td>
<td></td>
<td>Architect / Landscape Architect / Land Planner</td>
</tr>
<tr>
<td>☒</td>
<td></td>
<td>Contract Purchaser (if other than the Applicant) – identify purchaser and purchaser’s service providers</td>
</tr>
<tr>
<td>☒</td>
<td></td>
<td>Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser’s service providers)</td>
</tr>
<tr>
<td>☐</td>
<td>✗</td>
<td>Construction Contractors</td>
</tr>
<tr>
<td>☐</td>
<td>✗</td>
<td>Engineers / Surveyors/ Agents</td>
</tr>
<tr>
<td>☐</td>
<td>✗</td>
<td>Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)</td>
</tr>
<tr>
<td>☒</td>
<td></td>
<td>Legal Services</td>
</tr>
<tr>
<td>☒</td>
<td></td>
<td>Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property</td>
</tr>
<tr>
<td>☐</td>
<td>✗</td>
<td>(use additional sheets if needed)</td>
</tr>
</tbody>
</table>

**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>☒</td>
</tr>
</tbody>
</table>

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?

If yes, what is the name of the official or employee and what is the nature of the interest?
CERTIFICATION:
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

[Signature]  Jon S. Wheeler  6/29/17

APPLICANT'S SIGNATURE  PRINT NAME  DATE

Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.
Jon S. Wheeler
Agenda Item 3
Page 50
**Variance Request**
Encroachment into the 100 foot Resource Protection Area (RPA) with the construction of a single family residence and associated accessory structures

**Applicant’s Agent**
Eddie Bourdon

**Staff Planner**
PJ Scully

**Lot Recordation**
6/4/1925
Map Book 7, Page 81

**GPIN**
2408-89-9343

**SITE AREA**
42,600.3 square feet or 0.978 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**
39,111 square feet or 0.898 acres

**EXISTING IMPERVIOUS COVER OF SITE**
8,119 square feet or 20.8 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**
15,095 square feet or 38.59 percent of site

- **Area of Redevelopment in RPA**
  3,042 square feet

- **Area of New Development in RPA**
  5,915 square feet

- **Location of Proposed Impervious Cover**
  50 foot Seaward Buffer
  50 foot Landward Buffer
  100 foot Variable Width Buffer
  Resource Management Area (RMA)

**AMOUNT OF LAND DISTURBANCE**
Greater than 2,500 square feet

**Staff Recommendation**
Approval as conditioned
Summary of Proposal

Demolition Details
- Complete demolition – all primary and accessory structures

Construction Details
- Single family residence with associated walkways
- Concrete driveway with circular entry court
- Swimming pool with associated pool patio and block retaining walls
- Outdoor kitchen area
- Walkways – all 6 foot in width around residence and access to water

CBPA Ordinance Variance History

No Chesapeake Bay Preservation Area (CBPA) Board variance history to report.

Environmental Conditions

Flood Zone
X

Soil Type(s)
State Series (deep, well-drained soils) located above the top of bank
Rumford Series (highly erodible soils) located below the top of bank

Shoreline
Shoreline is partially hardened with a wood bulkhead then transitions into a natural state. A Joint Permit Application (JPA) has been submitted to the Virginia Marine Resource Commission (VMRC) for review. The JPA addresses existing shoreline conditions and proposes the following shoreline treatments.
- Replace the existing bulkhead shoreline with a proposed bulkhead 2 feet channelward of the existing bulkhead. The elevation of the existing bulkhead is 4.0 feet with the proposed bulkhead elevation proposed at 5.5 feet. Clean sand fill is proposed within the fill limits, proposed to the 6 foot contour elevation.
- Flexamat is proposed along the southern portion of the shoreline that is currently in a natural state. An section-elevation provided with the JPA depicts grading of the existing bank along this portion of the shoreline. Grading information provided specifies the existing bank to be sloped at a 1.5:1 or 2:1 ratio.

Riparian Buffer
Sparsely wooded

- Number of existing canopy trees requested for removal within the RPA: 16
- Number of existing understory trees requested for removal within the RPA: 1
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 2
- Evaluation of existing tree removal request: Trees being requested for removal are either within the limits of construction associated with the CBPA variance request or located along the shoreline and impacted by the activities associated with the JPA. Staff did discuss the potential preservation of the 2 Quercus virginiana, Live
Oaks, adjacent to the bulkhead. With the use of the Flexamat product as described with the applicant’s JPA to stabilize the existing bank, Staff is concerned that the impacts to the existing canopy cover may exceed that which is represented on the CBPA exhibit, specifically those trees indicated to be preserved within the existing bank area adjacent to the natural shoreline.

**Evaluation and Recommendation**

Several existing conditions – geometry of the platted parcel, existing shoreline, and topography of the property pose challenges to the redevelopment of this property. Adding to those challenges are Staff’s concerns with the amount of impervious cover proposed, coordination between the CBPA variance application and Joint Permit Application (JPA) to redevelop the existing shoreline and natural beach area by the applicant’s Engineer of Record, and the impacts to the property during construction associated with site access and construction staging. Staff discussed these concerns with the applicant and the applicant’s agent, and requested the following revisions and/or additional information.

- Reduce the amount of impervious cover by eliminating the amount of walkways proposed, analyze the width of the proposed driveway and circular entry towards being the minimum necessary to afford relief, and given the size of the property coupled with the increase in impervious cover, explore the use of alternative materials – specifically permeable pavers for said areas as a means to manage towards a no net increase in nonpoint source pollution load.
- Depict on the CBPA exhibit the existing topography along the shoreline and the area of disturbance associated with the Flexamat product, to match what is shown by the Engineer of Record on the JPA. In addition, provide verification that the vegetation within the existing bank feature will be preserved as shown on the CBPA exhibit and not removed with the grading of the bank as documented by the JPA.
- Engage conversation with the adjacent property owner to utilize an area of existing turf along the access drive and out of the RPA as an area to park workers during the construction of proposed improvements.
- Provide an analysis of the proposed improvements to the amount of required buffer restoration with respect to the applicant’s preferred location and provide to Staff verification that the minimum performance standards of the CBPA Ordinance will be met by this variance request in regards to required buffer restoration quantities.

With the submitted CBPA exhibits, the applicant’s agent has not provided a limits of disturbance, nor is it a requirement of a CBPA variance application. However, Staff is concerned that a lack of coordination exists between the site impacts associated with the CBPA exhibit’s proposed improvements and the site impacts associated with the JPA’s proposed improvements. Staff is of the opinion that the two requests, with associated land disturbances, will impact all of the existing RPA vegetation. Given these concerns, Staff offers the comments below relative to the findings of the CBPA Ordinance specific to this variance request for the Board’s deliberation and the recommended conditions that follow.

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 applicant has provided a CBPA exhibit that utilizes the zoning criteria of the property to the greatest extent practicable without forcing a Board of Zoning Appeals request in addition to this CBPA variance request.

2) Given the geometry of the recorded parcel, 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 parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City’s CBPA Ordinance, therefore placing the majority of the buildable portions of this property within the RPA.

3) Working within the unique restraints of the property – geometry of the platted parcel, existing shoreline, and topography of the property – the variance is the minimum necessary to afford relief with the
applicants use of alternative materials as a means to comply with the performance standards of the CBPA Ordinance towards the promotion of infiltrating stormwater into the ground consistent with the use of structural urban best management practices [City Code, Appendix F, Section 106 (A)(3)(a)(3)].

4) The variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare; as the applicant’s desire to redevelop the property does address the current property’s dilapidated conditions and shoreline conditions that are contributing to the degradation of water quality and minimal migration of sediment into the adjacent tidal waters.

5) Staff is of the opinion, when properly coordinated, the applicant’s investment in redeveloping the uplands portion of the property with associated buffer restoration and stormwater management coupled the JPA correcting the on-going shoreline erosion, will provided 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.

**Recommended 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. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.

5. Construction limits along the seaward portion of the project 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. 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. 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.
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. The location and limits of grading associated with the Flexamat bank stabilization, as described within the Joint Permit Application (JPA) along the southern portion of the site shall be shown on the revised site plan submitted to the Department of Planning and Community Development, Development Services Center (DSC).

13. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: 5,915 square feet x 200 percent = 11,830 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 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.

14. No impervious cover, exclusive of the proposed paver path to the pier shall be within the seaward 50 foot buffer.

15. The proposed driveway shall be constructed of a permeable pavement system.

16. Reduce the circular portion of the driveway to a maximum width of 16 feet.

17. The proposed walkways, exclusive of the walkway to the front door shall be constructed of a permeable pavement system.

18. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
19. **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 $1,354.83 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 1,478 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.

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

21. The conditions and approval associated with this variance are based on the exhibit plan prepared by Align Surveying & Design P.C., signed August 15, 2017 by William S. Grant. 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.

** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.
APPLICANT’S NAME: Barry & Virginia Sancilio Cross

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

<table>
<thead>
<tr>
<th>Acquisition of Property by City</th>
<th>Disposition of City Property</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alternative Compliance, Special Exception for</td>
<td>Economic Development Investment Program (EDIP)</td>
</tr>
<tr>
<td>Board of Zoning Appeals</td>
<td>Encroachment Request</td>
</tr>
<tr>
<td>Certificate of Appropriateness (Historic Review Board)</td>
<td>Floodplain Variance</td>
</tr>
<tr>
<td>Chesapeake Bay Preservation Area Board</td>
<td>Franchise Agreement</td>
</tr>
<tr>
<td>Conditional Use Permit</td>
<td>Lease of City Property</td>
</tr>
<tr>
<td></td>
<td>License Agreement</td>
</tr>
</tbody>
</table>

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

For City Use Only / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).

- [ ] Applicant notified of hearing: [Date]
- [ ] No changes as of: [Date]
- [ ] Revisions submitted: [Date]
Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant’s name: Barry & Virginia Sancilio Cross

If an LLC, list all member’s names:

If a CORPORATION, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidiary\(^1\) or affiliated business entity\(^2\) relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes\(^1\) and \(^2\)

---

**SECTION 2 / PROPERTY OWNER DISCLOSURE**

*Complete Section 2 only if property owner is different from Applicant.*

☐ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner’s name: Frances Wiedeman

If an LLC, list the member’s names:
If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidiary or affiliated business entity relationship with the Property Owner: *(Attach list if necessary)*

1 “Parent-subsidiary relationship” means “a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.” See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

2 “Affiliated business entity relationship” means “a relationship, other than parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities.” See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY
## APPLICANT

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>SERVICE</th>
<th>PROVIDER (use additional sheets if needed)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Accounting and/or preparer of your tax return</td>
<td>To be determined</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Architect / Landscape Architect / Land Planner</td>
<td>To Be determined</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Contract Purchaser (if other than the Applicant) – identify purchaser and purchaser’s service providers</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser’s service providers)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Construction Contractors</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Engineers / Surveyors/ Agents</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)</td>
<td>Project out for bid</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Legal Services</td>
<td>WCI, Align Surveying</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property</td>
<td>To be determined</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Sykes, Bourdon</td>
</tr>
</tbody>
</table>

## SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>If yes, what is the name of the official or employee and what is the nature of the interest?</td>
</tr>
</tbody>
</table>

Page 4 of 7
**CERTIFICATION:**
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

<table>
<thead>
<tr>
<th><strong>APPLICANT’S SIGNATURE</strong></th>
<th><strong>PRINT NAME</strong></th>
<th><strong>DATE</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Virginia Sancilio Cross</td>
<td></td>
<td>2-5-17</td>
</tr>
</tbody>
</table>
**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

**YES** ☒   **NO** ☐

Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?

If yes, what is the name of the official or employee and what is the nature of the interest?
CERTIFICATION:
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

<table>
<thead>
<tr>
<th>Property Owner’s Signature</th>
<th>Print Name</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frances Wiedeman</td>
<td>Frances Wiedeman</td>
<td>07/05/2017</td>
</tr>
</tbody>
</table>
Variance Request
Encroachment into the 100 foot Resource Protection Area (RPA) with a expansion to the existing single family residence and proposed accessory structure – swimming pool.

Applicant’s Agent
Ashton Otey

Staff Planner
PJ Scully

Lot Recordation
12/3/1953
Map Book 46, Page 4

GPIN
1497-67-3025

SITE AREA
42,129 square feet or 0.967 acres

SITE AREA OUTSIDE OF WATER/WETLANDS
33,423 square feet or 0.767 acres

EXISTING IMPERVIOUS COVER OF SITE
4,907 square feet or 14.7 percent of site

PROPOSED IMPERVIOUS COVER OF SITE
6,848 square feet or 20.5 percent of site

Area of Redevelopment in RPA
3,187 square feet

Area of New Development in RPA
2,083 square feet

Location of Proposed Impervious Cover
50 foot Seaward Buffer
50 foot Landward Buffer
100 foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE
Greater than 2,500 square feet

Staff Recommendation
Approval as conditioned
Summary of Proposal

Demolition Details
- Portions of existing roof and associated framing
- Front and rear porch

Construction Details
- 2nd story addition over portions of existing residence
- Front entrance
- Rear porch
- Swimming pool with associated pool surround
- Retaining wall

CBPA Ordinance Variance History

October 28, 2013 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a concrete walkway expansion with the following 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. If necessary, wire re-enforced 36” erosion and sedimentation control measures (silt fences), 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 10 ft. from proposed improvements. Best management practices for erosion and sediment control shall be employed during restoration activities to protect adjacent wetlands and shorelines of water bodies.

4. If necessary, 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.

5. Prior to the issuance of any certificate of occupancy, or the final release of any permit authorizing a land disturbing activity, all disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations by such methods as, but not limited to, temporary seeding, permanent seeding, sodding or soil stabilization blankets and matting. The Building Code Official may authorize a temporary certificate of occupancy without the required soil stabilization if the failure to stabilize is due to circumstances beyond the control of the permit holder.

6. Construction limits shall lie a maximum of 10' outboard of improvements.

7. 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.
8. The conditions and approval associated with this variance are based on the site plan prepared by Professional Construction Consultants dated September 5, 2013 and sealed September 5, 2013 by Richard Bartlett.

9. Buffer restoration shall be installed equal to 200% of the proposed new impervious cover within the RPA (160 sq. ft. x 200% = 320 sq. ft.) and 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 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” – 6” 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 50% deciduous and 50% 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. Said buffer restoration shall be noted on the approved site plan and will be verified in the field by Civil Inspections.

10. Buffer restoration shall be installed equal to 100% of the proposed area of redevelopment within the RPA (25 sq. ft. x 100% = 25 sq. ft.) and 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 required restoration shall be located within 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” – 6” 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 50% deciduous and 50% 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. In lieu of 100% restoration for redevelopment areas, a 10% reduction in pollutant removal load is acceptable via a structural BMP. Said buffer restoration shall be noted on the approved site plan and will be verified in the field by Civil Inspections.

The improvements associated with the October 28, 2013 CBPA Board variance have been constructed.

**Environmental Conditions**

**Flood Zone**

X

**Soil Type(s)**

Tetotum Series (deep, moderately well-drained soils)

**Shoreline**

Shoreline is in a natural state with filter cloth covering the entire length of the bank. The previous property owner’s Joint Permit Application (JPA), VB13-046, was approved at the August 22, 2013, City of Virginia Beach Wetlands Board Hearing for proposed rip rap and a wharf. However, the JPA has expired. The applicant’s agent has informed Staff that the current property owner is in the process of preparing a new JPA to address the shoreline’s condition.

In addition, this cove is a transfer location for the Chesopeian Dredging Special Service District (SSD). Dredging transfer access will occur along the southern property line of this property with a platform erected for excavator staging.
**Riparian Buffer**
Sparsely wooded

- Number of existing canopy trees requested for removal within the RPA: 10
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing tree removal request: Trees being requested for removal associated with this request are within the delineated limits of construction. Several trees along the southern portion of the property will be removed as a result of land disturbance associated with the Chesopeian Dredging SSD transfer access.

**Evaluation and Recommendation**

The variance request proposes to redevelop portions of the existing primary structure on this property, which was constructed prior to the adoption of the CBPA Ordinance, with minimal expansions along the rear and front of the structure. The variance request does encroach further into the RPA with proposed accessory structures – swimming pool and patio area – however, these improvements are situated in the least sensitive portion of the property as well as landward of the 50 foot seaward buffer. The applicant’s agent has proposed the use of a retaining wall to assist with minimizing impacts and transition between existing and proposed topographic grade elevations.

Staff spoke with the applicant’s agent with regards to the existing shoreline condition – deteriorating filter cloth and lack of riprap. The prior applicant began the process of hardening the shoreline, however, sold the property to the current owner before completion of the shoreline rehardening. As stated by the applicant’s agent, the process of renewing the JPA is underway and is being coordinated with the City pertaining to the use of the property for the Chesopian Dredging SSD. Given the applicant’s desire to redevelop the site and commitment to completing the hardening of the shoreline, Staff supports this request and offers the following comments relative to the findings of the CBPA Ordinance specific to this variance request for the Board’s deliberation.

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 proposed improvements are consistent with other properties situated in the neighborhood that have proposed improvements within the RPA post adoption of the CBPA Ordinance.

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 as the proposed improvements are situated within the least sensitive portions of the property, landward of the 50 foot seaward buffer, and situated adjacent to the primary structure with the use of a retaining wall as a means to preserve the existing topography to the greatest extent practicable within the 100 foot RPA.

4) Staff is of the opinion that maintaining the overall impervious cover of the site under 21 percent, coupled with the restoration of the riparian buffer ecosystem and the applicant’s commitment to complete the hardening of the shoreline, ensures that this variance request in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare.
5) As a means to manage towards a no net increase in nonpoint source pollution load the redevelopment of this property will be conditioned to comply with the performance standards of the CBPA Ordinance and criteria of the Stormwater Ordinance for a property that currently has no treatment towards nonpoint source pollution reductions.

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

**Recommended 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. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.

5. Construction limits along the seaward portion of the project 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. 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. 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.

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: 
\[ 2,083 \text{ square feet} \times 200 \text{ percent} = 4,166 \text{ square feet}. \]

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: **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 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. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements 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 $476.66 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 520 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**

15. The conditions and approval associated with this variance are based on the exhibit plan dated July 8, 2017 and revised August 11, 2017 prepared by Fox Land Surveying, signed August 11, 2017 by Travis Fox. 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.

** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.**
Disclosure Statement

APPLICANT’S NAME  Sanjay & Sonia Kapoor

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

<table>
<thead>
<tr>
<th>Acquisition of Property by City</th>
<th>Disposition of City Property</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alternative Compliance, Special Exception for Board of Zoning Appeals</td>
<td>Economic Development Investment Program (EDIP)</td>
</tr>
<tr>
<td>Certificate of Appropriateness (Historic Review Board)</td>
<td>Encroachment Request</td>
</tr>
<tr>
<td>Chesapeake Bay Preservation Area Board</td>
<td>Floodplain Variance</td>
</tr>
<tr>
<td>Conditional Use Permit</td>
<td>Franchise Agreement</td>
</tr>
<tr>
<td></td>
<td>Lease of City Property</td>
</tr>
<tr>
<td></td>
<td>License Agreement</td>
</tr>
<tr>
<td></td>
<td>Modification of Conditions or Proffers</td>
</tr>
<tr>
<td></td>
<td>Nonconforming Use Changes</td>
</tr>
<tr>
<td></td>
<td>Rezoning</td>
</tr>
<tr>
<td></td>
<td>Street Closure</td>
</tr>
<tr>
<td></td>
<td>Subdivision Variance</td>
</tr>
<tr>
<td></td>
<td>Wetlands Board</td>
</tr>
</tbody>
</table>

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meetings that pertain to the application:

☐ APPLICANT NOTIFIED OF HEARING  DATE
☐ NO CHANGES AS OF  DATE
☐ REVISIONS SUBMITTED  DATE
Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: **Sanjay & Sonia Kapoor**

If an LLC, list all member's names:

If a CORPORATION, list the names of all officers, directors, members, trustees, etc. below: (*Attach list if necessary*)

(B) List the businesses that have a parent-subsidiary\(^1\) or affiliated business entity\(^2\) relationship with the Applicant: (*Attach list if necessary*)

Ashston F. Otey CEO, Omni Building Group 504 Viking Drive, Virginia Beach, VA 23452 757-439-6839

See next page for information pertaining to footnotes\(^1\) and\(^2\)

---

**SECTION 2 / PROPERTY OWNER DISCLOSURE**

*Complete Section 2 only if property owner is different from Applicant.*

☑ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: ____________________________

If an LLC, list the member's names:
If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidiary ¹ or affiliated business entity ² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsidiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

---

**SECTION 3. SERVICES DISCLOSURE**

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPARATELY

---

Page 3 of 7
### APPLICANT

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>SERVICE</th>
<th>PROVIDER (use additional sheets if needed)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Accounting and/or preparer of your tax return</td>
<td></td>
</tr>
<tr>
<td>×</td>
<td></td>
<td>Architect / Landscape Architect / Land Planner</td>
<td>Fox Land Surveying LLC.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)</td>
<td>OMNI Building Group Inc.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Construction Contractors</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Engineers / Surveyors/ Agents</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Legal Services</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property</td>
<td></td>
</tr>
</tbody>
</table>

### SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>If yes, what is the name of the official or employee and what is the nature of the interest?</td>
</tr>
</tbody>
</table>

---

Sanjay and Sonia Kapoor
Agenda Item 5
Page 80
CERTIFICATION:
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

Sonjay & Sonia Kapoor 7-12-17
APPLICANT'S SIGNATURE PRINT NAME DATE

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.*
Variance Request
Encroachment into the 100 foot Resource Protection Area (RPA) with a expansion to the existing single family residence and proposed accessory structures – swimming pool.

Applicant’s Agent
Billy Garrington

Staff Planner
PJ Scully

Lot Recoradation
3/18/1960
Map Book 49, Page 20

GPIN
1497-56-7833

SITE AREA
21,843 square feet or 0.501 acres

SITE AREA OUTSIDE OF WATER/WETLANDS
19,768 square feet or 0.454 acres

EXISTING IMPERVIOUS COVER OF SITE
5,625 square feet or 28.5 percent of site

PROPOSED IMPERVIOUS COVER OF SITE
6,214 square feet or 31.4 percent of site

Area of Redevelopment in RPA
1,898 square feet

Area of New Development in RPA
1,000 square feet

Location of Proposed Impervious Cover
50 foot Seaward Buffer
50 foot Landward Buffer
100 foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE
Greater than 2,500 square feet

Staff Recommendation
Approval as conditioned
Summary of Proposal

Demolition Details
- Paver patio
- Concrete driveway and associated front walk

Construction Details
- Addition to the primary structure
- Swimming pool with associated pool deck and retaining wall
- Driveway and front walk

CBPA Ordinance Variance History

No Chesapeake Bay Preservation Area (CBPA) Board variance history to report.

Environmental Conditions

Flood Zone
0.2% Annual Chance of Flooding

Soil Type(s)
Chapanoke Series (deep, poorly drained soils)

Shoreline
Shoreline is hardened by a wood bulkhead with a riprap revetment channelward of the northern portion.

Riparian Buffer
Sparsely wooded

- Number of existing canopy trees requested for removal within the RPA: 4
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing tree removal request: Trees being requested for removal are within the delineated limits of construction, shown as approximately 10 feet outboard of the proposed improvements or situated adjacent to the existing structure impacting the structural integrity of the residence.

Evaluation and Recommendation

The variance request proposes encroachment of an accessory structure within the 50 foot seaward and the 50 foot landward buffers of the RPA of this property, which was platted in 1960, prior to the adoption of the CBPA Ordinance. The proposed improvements introduce a retaining wall to help minimize limits of impervious cover and to limit fill material within the RPA.

Staff spoke with the applicant’s Landscape Architect with regards to further encroaching into the 50 foot seaward buffer with the proposed pool patio. Given the unique geometry of the platted parcel and existing conditions of the property –
topography and location of the 100 foot RPA buffers – Staff recommended that the CBPA exhibit remain as shown. As such, Staff supports the application as submitted with the recommended conditions below and is of the opinion that said improvements will not contribute to the degradation of water quality or prove detrimental to resource protection area features.

The following comments are offered for the Board’s deliberation relative to the findings of the CBPA Ordinance specific to this variance request:

1) Limiting the proposed improvements with the introduction of a retaining wall and primarily focusing those improvements within the 50 foot landward buffer, and given the unique geometry of the site, Staff is of the opinion that 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.

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) Staff is of the opinion, given the proposed location of the swimming pool, and the limited dimensional size of the pool and associated pool patio area primarily situated within the 50 foot landward buffer that the variance is the minimum necessary to afford relief.

4) 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 introduction of buffer plantings within a sparsely wooded property, the proposed improvements minimal encroachment into the 100 foot RPA buffer, and the minimal site impact associated with the proposed improvements.

5) As a means to manage towards a no net increase in nonpoint source pollution load, the redevelopment of this property will be conditioned to comply with the performance standards of the CBPA Ordinance and criteria of the Stormwater Ordinance for a property that currently has no treatment towards nonpoint source pollution reductions.

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

**Recommended 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. 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. 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.

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: 

\[
1,000 \text{ square feet} \times 200 \text{ percent} = 2,000 \text{ square feet}
\]

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: **5 canopy trees**, **5 understory**, **10 large shrubs**, and **15 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. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements 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 $229.16 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 250 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.

15. The conditions and approval associated with this variance are based on the exhibit plan dated June 13, 2017, prepared by WPL, signed July 10, 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.

** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.
APPLICANT'S NAME  Lonnie C. Minson and Karen D. Minson

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

<table>
<thead>
<tr>
<th>Acquisition of Property by City</th>
<th>Disposition of City Property</th>
<th>Modification of Conditions or Proffers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alternative Compliance, Special Exception for Board of Zoning Appeals</td>
<td>Economic Development Investment Program (EDIP)</td>
<td>Nonconforming Use Changes</td>
</tr>
<tr>
<td>Certificate of Appropriateness (Historic Review Board)</td>
<td>Encroachment Request</td>
<td>Rezoning</td>
</tr>
<tr>
<td>Chesapeake Bay Preservation Area Board</td>
<td>Floodplain Variance</td>
<td>Street Closure</td>
</tr>
<tr>
<td>Conditional Use Permit</td>
<td>Franchise Agreement</td>
<td>Subdivision Variance</td>
</tr>
<tr>
<td></td>
<td>Lease of City Property</td>
<td>Wetlands Board</td>
</tr>
<tr>
<td></td>
<td>License Agreement</td>
<td></td>
</tr>
</tbody>
</table>

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertain to the application(s).

<table>
<thead>
<tr>
<th>Disclosures</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>APPLICANT NOTIFIED OF HEARING</td>
<td></td>
</tr>
<tr>
<td>NO CHANGES AS OF</td>
<td></td>
</tr>
<tr>
<td>REVISIONS SUBMITTED</td>
<td></td>
</tr>
</tbody>
</table>

Lonnie and Karen Minson
Agenda Item 6
Page 91
Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant’s name: Lonnie C. and Karen D. Minson
If an LLC, list all member’s names:

If a CORPORATION, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

N/A

(B) List the businesses that have a parent-subsidiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes ¹ and ²

---

**SECTION 2 / PROPERTY OWNER DISCLOSURE**

*Complete Section 2 only if property owner is different from Applicant.*

☒ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner’s name: Lonnie C. and Karen D. Minson
If an LLC, list the member’s names:
If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

N/A

**(B)** List the businesses that have a parent-subsidiary ¹ or affiliated business entity ² relationship with the Property Owner: *(Attach list if necessary)*

N/A

¹ "Parent-subsidiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidiary relationship, that exists when (I) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

---

**SECTION 3. SERVICES DISCLOSURE**

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY

---

Page 3 of 7
## Known Interest by Public Official or Employee

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>![Checkbox]</td>
<td>![Checkbox]</td>
</tr>
</tbody>
</table>

**Question:** Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?

If yes, what is the name of the official or employee and what is the nature of the interest?

N/A
CERTIFICATION:
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

Lonnie Minson

APPLICATION'S SIGNATURE PRINT NAME DATE

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.
**Variance Request**
Encroachment into the 100 foot Resource Protection Area (RPA) with the expansion of an accessory structure – swimming pool surround and driveway.

**Applicant’s Agent**
Billy Garrington

**Staff Planner**
PJ Scully

**Lot Recordation**
1/23/1980
Map Book 138, Page 31

**GPIN**
1498-52-3820

**SITE AREA**
35,330 square feet or 0.816 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**
31,266 square feet or 0.718 acres

**EXISTING IMPERVIOUS COVER OF SITE**
11,194 square feet or 35.8 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**
12,546 square feet or 40.1 percent of site

- **Area of Redevelopment in RPA**
  813 square feet

- **Area of New Development in RPA**
  1,184 square feet

- **Location of Proposed Impervious Cover**
  50 foot Seaward Buffer
  50 foot Landward Buffer
  100 foot Variable Width Buffer
  Resource Management Area (RMA)

**AMOUNT OF LAND DISTURBANCE**
Greater than 2,500 square feet

**Staff Recommendation**
Approval as conditioned
Summary of Proposal

Demolition Details
- Driveway with associated front walk
- Riprap retaining wall
- Paver patio area
- Rock planting beds

Construction Details
- Circular concrete driveway with associated front entry parking and walk
- Retaining wall
- Concrete paver pool deck expansion

CBPA Ordinance Variance History

September 28, 1998 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a single family residence with the following conditions:

1. All area below the top-of-bank shall be left in a natural state and be so noted on the site plan. This shall include maintaining the forest floor intact.

2. Tree compensation shall be at a 1:1 ratio. The number of trees to be removed shall be noted on the site plan.

3. The gazebo shall be relocated above the top-of-bank.

4. A revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.

5. Clearing of site vistas shall be coordinated with Planning staff prior to occupancy.

6. The driveway shall be reduced by 50 percent or shall be 50 percent pervious material.

The improvements associated with the September 28, 1998 CBPA Board variance have been constructed. Noted in the CBPA file was a revised site plan marked as been presented to the Board May 24, 1999 that represented modifications to the proposed improvements, which was deemed consistent with the conditions above.

Environmental Conditions

Flood Zone
X

Soil Type(s)
Tetotum Series (deep, moderately well-drained soils)
Rumford Series (highly erodible soils) located below the top of bank
Shoreline
Shoreline is in a natural state. Moderate maintenance should be performed to limb up low hanging branches shading existing tidal marsh.

Riparian Buffer
Sparsely to moderately wooded

- Number of existing canopy trees requested for removal within the RPA: 14
- Number of existing understory trees requested for removal within the RPA: 7
- Number of existing trees requested for removal within the Resource Management Area (RMA): 2
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing tree removal request: The proposed trees to be removed have been evaluated by an Arborist and documented on the CBPA exhibit. Trees delineated for removal are either within the limits of construction for the proposed request or are dead, diseased or dying, as determined by the Arborist. Given the site evaluation performed by the Arborist, the existing vegetative condition of the site, and the proposed buffer restoration proposed with this variance, Staff supports this request.

Evaluation and Recommendation

The variance request proposes to reconfigure the existing driveway, a majority of which is located in the Resource Management Area (RMA) and to expand the existing accessory structure – swimming pool within the 50 foot seaward and 50 foot landward buffers of the RPA. Although this property was platted in 1980, prior to the adoption of the CBPA Ordinance, it remained undeveloped until the existing improvements were presented to the CBPA Board on September 28, 1998.

Staff met with the applicant and the applicant’s Landscape Architect to discuss the September 28, 1998 Chesapeake Bay Preservation Area (CBPA) Board variance. The content of the meeting included the intent of the CBPA Ordinance for the new property owners, analysis performed by the consultant regarding existing topography, soils, vegetation along the shoreline, and the differences between the 1998 CBPA exhibit and the current improvements. Staff discovered post meeting that the depicted property lines presented with the 1998 CBPA exhibit (page 102 of this report) differed from the January 23, 1980 recorded plat, but were correctly depicted on the May 24, 1999 CBPA exhibit (page 103 of this report). Although the 1999 CBPA exhibit is on file, Staff could not find any recordation of a formal submittal to the CBPA Board. As a result of the on-going discussions, the proposed improvements deviate from the conditions of the 1998 variance, specifically:

- “All area below the top-of-bank shall be left in a natural state and be so noted on the site plan. This shall include maintaining the forest floor intact”. The variance request expands the existing pool deck seaward of the top of bank feature.
- “The driveway shall be reduced by 50 percent or shall be 50 percent pervious material”. The variance request alters the geometry of the circular drive and proposes a non-permeable material with the intent to devote the interior area of the circular driveway to bioretention planting beds for stormwater management and infiltration.

In regards to the impervious cover of the site, the proposed improvements total 12,546 square feet – an increase in impervious cover of approximately 900 square feet from 1998 CBPA. Staff has expressed concerned regarding the amount of impervious cover and the impacts of the improvements encroaching seaward of the top of bank feature. Given these concerns, Staff offers the below comments relative to the findings of the CBPA Ordinance specific to this variance request with the recommended conditions that follow for the Board’s deliberation.
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 this ordinance and are similarly situated with relatively confined properties where development has occurred within both the Resource Protection Area (RPA) and Resource Management Areas (RMA).

2) The encroachment into the RPA on this lot is based upon conditions or circumstances that have been created and imposed by the applicant’s predecessor in title, given the fact that the parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City’s CBPA Ordinance, but was then further subdivided for the benefit of the adjacent parcel (Lot D), and improvements constructed under the conditions of a CBPA variance.

3) Given the conditions provided below, Staff is of the opinion the variance is the minimum necessary to afford relief by reducing the amount of proposed impervious cover within the RPA, the use of alternative materials and stormwater management practices within the RMA as a means to comply with the performance standards of the CBPA Ordinance towards the promotion of infiltrating stormwater into the ground consistent with the use of structural urban best management practices [City Code, Appendix F, Section 106 (A)(3)(a)(3)].

4) The variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare; based on the restoration of the naturalized shoreline conditions that are contributing to the degradation of water quality, introduction of stormwater management, and use of alternative materials for the benefit of stormwater infiltration associated with proposed impervious cover.

5) Staff is of the opinion that the applicant’s investment in redeveloping the uplands portion of the property with associated buffer restoration, integration of stormwater management coupled with the restoration of the existing shoreline and upland riparian ecosystem, will aid in 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.

**Recommended 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. 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. 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.

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. The required stormwater management facilities, as shown on the May 24, 1999 Chesapeake Bay Preservation Area (CBPA) exhibit 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.

13. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: 1,184 square feet x 200 percent = 2,348 square feet with all areas below the top of bank restored to a natural state.

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: 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

Anthony and Sandra Gentile
Agenda Item 7
Page 101
survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

14. The maximum impervious cover of the parcel shall not exceed 12,037 square feet or 38.5 percent of the site outside of water or wetlands. Said limits of impervious cover shall not be seaward of the delineated top of bank feature.

15. The proposed circular driveway shall be constructed of a permeable pavement system.

16. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.

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 $271.33 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 296 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.

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

19. This variance and associated conditions will supersede the conditions of the September 28, 1998 Board variance.

20. The conditions and approval associated with this variance are based on the exhibit plan dated April 28, 2017, prepared by WPL, signed August 15, 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.

** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.
**Disclosure Statement**

**APPLICANT’S NAME** Anthony and Sandra Gentile

**DISCLOSURE STATEMENT FORM**

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

<table>
<thead>
<tr>
<th>Acquisition of Property by City</th>
<th>Disposition of City Property</th>
<th>Modification of Conditions or Proffers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alternative Compliance, Special Exception for Board of Zoning Appeals</td>
<td>Economic Development Investment Program (EDIP)</td>
<td>Nonconforming Use Changes</td>
</tr>
<tr>
<td>Certificate of Appropriateness (Historic Review Board)</td>
<td>Encroachment Request</td>
<td>Rezoning</td>
</tr>
<tr>
<td>Chesapeake Bay Preservation Area Board</td>
<td>Floodplain Variance</td>
<td>Street Closure</td>
</tr>
<tr>
<td>Conditional Use Permit</td>
<td>Franchise Agreement</td>
<td>Subdivision Variance</td>
</tr>
<tr>
<td>License Agreement</td>
<td>Lease of City Property</td>
<td>Wetlands Board</td>
</tr>
</tbody>
</table>

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

**SECTION 1 / APPLICANT DISCLOSURE**

---

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).  

<table>
<thead>
<tr>
<th></th>
<th>DATE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ APPLICANT NOTIFIED OF HEARING</td>
<td></td>
</tr>
<tr>
<td>☐ NO CHANGES AS OF</td>
<td></td>
</tr>
<tr>
<td>☐ REVISIONS SUBMITTED</td>
<td></td>
</tr>
</tbody>
</table>
Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name. **Anthony and Sandra Gentile**
If an LLC, list all member's names:

If a CORPORATION, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

N/A

(B) List the businesses that have a parent-subsidiary \(^1\) or affiliated business entity \(^2\) relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes \(^1\) and \(^2\)

**SECTION 2 / PROPERTY OWNER DISCLOSURE**

*Complete Section 2 only if property owner is different from Applicant.*

☒ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, AND THEN, complete the following.

(A) List the Property Owner's name. **Anthony and Sandra Gentile**
If an LLC, list the member's names:
If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

N/A

(B) List the businesses that have a parent-subsidiary \(^1\) or affiliated business entity \(^2\) relationship with the Property Owner: *(Attach list if necessary)*

N/A

\(^1\) "Parent-subsidiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2:3101.

\(^2\) "Affiliated business entity relationship" means "a relationship, other than parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2:3101.

**SECTION 3. SERVICES DISCLOSURE**

Are any of the following services being provided in connection with the *subject of the application* or *any business operating or to be operated on the Property*. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPARATELY
### APPLICANT

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>SERVICE</th>
<th>PROVIDER (use additional sheets if needed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td></td>
<td>Accounting and/or preparer of your tax return</td>
<td>D'Ambrosio Newman &amp; Co. LLP</td>
</tr>
<tr>
<td>X</td>
<td></td>
<td>Architect / Landscape Architect / Land Planner</td>
<td>WPL</td>
</tr>
<tr>
<td></td>
<td>X</td>
<td>Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers</td>
<td></td>
</tr>
<tr>
<td></td>
<td>X</td>
<td>Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>X</td>
<td>Construction Contractors</td>
<td></td>
</tr>
<tr>
<td></td>
<td>X</td>
<td>Engineers / Surveyors/ Agents</td>
<td>WPL</td>
</tr>
<tr>
<td>X</td>
<td></td>
<td>Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)</td>
<td>Governmental Services, Inc</td>
</tr>
<tr>
<td>X</td>
<td></td>
<td>Legal Services</td>
<td></td>
</tr>
<tr>
<td></td>
<td>X</td>
<td>Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property</td>
<td></td>
</tr>
</tbody>
</table>

### SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

If yes, what is the name of the official or employee and what is the nature of the interest?

N/A
CERTIFICATION:
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

<table>
<thead>
<tr>
<th>Applicant's Signature</th>
<th>Print Name</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anthony Gentile</td>
<td></td>
<td>7-5-17</td>
</tr>
</tbody>
</table>

* Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

Anthony and Sandra Gentile
Agenda Item 7
Page 112
Variance Request
Installation of 1,500 square feet of artificial turf within the 50 foot seaward buffer of the Resource Protection Area (RPA).

Applicant’s Agent
Thomas Ross

Staff Planner
PJ Scully

Lot Recordation
8/12/2012
Deed Book 2573, Page 2163 and 2164

GPIN
2408-86-1793

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA
0 square feet

Area of New Development in RPA
1,500 square feet

Location of Proposed Impervious Cover
50 foot Seaward Buffer

AMOUNT OF LAND DISTURBANCE
Less than 2,500 square feet

Staff Recommendation
Denial
Summary of Proposal

Construction Details
- Artificial turf – 1,500 square feet

CBPA Ordinance Variance History

No Chesapeake Bay Preservation Area (CBPA) Board variance history to report.

Environmental Conditions

Flood Zone
AE – Base Flood Elevation (BFE): 7

Soil Type(s)
Yeopim Series (deep and moderately well-drained soils)
Rumford Series (highly erodible soils)
Rappahannock Series (deep and poorly drained soils)

Shoreline
A portion of the shoreline is hardened by a wood bulkhead with tidal marsh present along both sides of the property. Moderate maintenance should be performed to limb up low hanging branches shading existing tidal marsh.

Riparian Buffer
Heavily wooded

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

The purpose and intent of the CBPA Ordinance is to protect existing high quality state waters, prevent any increase in pollution, and restore state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life including game fish, which might be expected to inhabit them [City Code, Appendix F, Sec. 102]. Staff is of the opinion that this application, to remove all existing natural turf grass in the rear yard and replace with artificial turf within the RPA will interrupt the ecological and biological processes that the CBPA Ordinance promotes and protects. Staff is of the opinion that the request is not in harmony with the purpose and intent of the CBPA Ordinance based on the following findings.

1) Granting the variance will confer upon the applicant a 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 since the request does not preserve the ecological and biological processes of the natural riparian ecosystem.
2) Staff is of the opinion that the variance is not the minimum necessary to afford relief as the variance request proposes to remove all existing natural turf grass within the RPA.

3) Staff is of the opinion that the variance is not in harmony with the purpose and intent of this ordinance given the proposed disturbance to the ecological and biological processes of the natural riparian ecosystem with the introduction of artificial turf.

4) As a means to manage towards a no net increase in nonpoint source pollution load, the applicant is suggesting that the use of artificial turf with a prepared aggregate subgrade will store and infiltrate stormwater runoff from the property as a means prevent any increase in pollution affecting water bodies downstream.

Should the Board desire to hear testimony from the applicant and the applicant’s agent at the Public Hearing, Staff offers the following conditions specific to this variance request for the Board’s deliberation:

**Recommended 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 prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed along the entire length of the bulkhead, adjacent to the existing turf.

4. 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. 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 for review and approval prior to the issuance of a building permit. The Development Services Center and/or Permits and Inspections may require additional information that may affect the release of a building permit.

**NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE:** The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.
CBPA Exhibit – Proposed Improvements
Disclosure Statement

APPLICANT’S NAME GARRY & SANDRA LAROSSA

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

<table>
<thead>
<tr>
<th>Acquisition of Property by City</th>
<th>Disposition of City Property</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alternative Compliance, Special</td>
<td>Economic Development</td>
</tr>
<tr>
<td>Exception for</td>
<td>Investment Program (EDIP)</td>
</tr>
<tr>
<td>Board of Zoning Appeals</td>
<td></td>
</tr>
<tr>
<td>Certificate of Appropriateness</td>
<td>Encroachment Request</td>
</tr>
<tr>
<td>(Historic Review Board)</td>
<td>Floodplain Variance</td>
</tr>
<tr>
<td>Chesapeake Bay Preservation</td>
<td>Franchise Agreement</td>
</tr>
<tr>
<td>Area Board</td>
<td>Lease of City Property</td>
</tr>
<tr>
<td>Conditional Use Permit</td>
<td>License Agreement</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).

- □ APPLICANT NOTIFIED OF HEARING
- □ NO CHANGES AS OF
- □ REVISIONS SUBMITTED
Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant’s name: **GARRY LAROSSA**
If an LLC, list all member’s names:

If a CORPORATION, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidiary \(^1\) or affiliated business entity \(^2\) relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes \(^1\) and \(^2\)

---

**SECTION 2 / PROPERTY OWNER DISCLOSURE**

*Complete Section 2 only if property owner is different from Applicant.*

☒ Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

☐ Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner’s name: ____________________________
If an LLC, list the member’s names:

______________________________
If a Corporation, list the names of all officers, directors, members, trustees, etc. below:  *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidiary \(^1\) or affiliated business entity \(^2\) relationship with the Property Owner: *(Attach list if necessary)*

\(^1\) "Parent-subsidiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

\(^2\) "Affiliated business entity relationship" means "a relationship, other than parent-subsidiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

**SECTION 3. SERVICES DISCLOSURE**

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY
<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>SERVICE</th>
<th>PROVIDER (use additional sheets if needed)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Accounting and/or preparer of your tax return</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Architect / Landscape Architect / Land Planner</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Contract Purchaser (if other than the Applicant) – identify purchaser and purchaser’s service providers</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser’s service providers)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Construction Contractors</td>
<td>Thomas Ross</td>
</tr>
<tr>
<td>x</td>
<td></td>
<td>Engineers / Surveyors/ Agents</td>
<td>Thomas Ross, Narr Turvey</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Legal Services</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property</td>
<td></td>
</tr>
</tbody>
</table>

**SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE**

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
<th>Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>If yes, what is the name of the official or employee and what is the nature of the interest?</td>
</tr>
</tbody>
</table>
CERTIFICATION:
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

Signature: [Signature]
Print Name: GARRY LAROSSA
Date: [Date]