



**MINUTES  
CHESAPEAKE BAY PRESERVATION AREA BOARD  
VIRGINIA BEACH, VIRGINIA  
SEPTEMBER 25, 2017**

Chair Mr. Jester, called to order the **Chesapeake Bay Preservation Area Board** meeting in the City Council Chambers, City Hall Building, Virginia Beach Municipal Center, on Monday, September 25, 2017.

A motion was made by Mr. McCoy and seconded by Mr. Poole to approve the August 28, 2017 minutes. All voted for the motion except Mr. Jones, Mr. Smith and Mr. Sobota who were abstained due to their absence from the August hearing. This vote also serves as the official roll call for this meeting. All members were present.

**BOARD ACTION: APPROVED AUGUST 28, 2017 MINUTES ON SEPTEMBER 25, 2017**

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

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

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



<b>Applicant Garry and Sandra Larossa</b> <b>Address 1820 Eden Way</b> <b>Public Hearing September 25, 2017</b> <b>City Council District Lynnhaven</b>	<b>Agenda Item</b>  <b>1</b>
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**Description: GPIN: 2408-86-1793**

**AGENT: Thomas Ross**

**BOARD ACTION: DENIED APPLICATION ON SEPTEMBER 25, 2017**

**Board's Findings:**

The Board 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) The Board 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 without reestablishing the riparian buffer area with vegetation.
- 3) The Board is of the opinion that the variance is not 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.

**Thomas Ross appeared before the Board.**

**There was no opposition present.**

**A motion was made by Mr. McCoy, seconded by Mr. France to deny the application. All voted for the motion except Mr. Martin who voted no.**

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

**FRANCE AYE  
JESTER AYE**

JONES	AYE
MARTIN	NO
MCCOY	AYE
MCDANIELS	AYE
POOLE	AYE
SMITH	AYE
SOBOTA	AYE



Applicant **Sagie and Amy Doron**  
Address **784 Oriole Drive**  
Public Hearing **September 25, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**2**

**Description: GPIN: 2418-51-1789**

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

**BOARD ACTION: APPROVED WITH 17 CONDITIONS ON SEPTEMBER 25, 2017**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated as the 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 the entire property is within the RPA.
- 3) 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 addresses the treatment of stormwater run-off from the subject parcel, adjacent parcels and public right-of-way. In addition, the proposed improvements will address the on-going migration of sediment into the adjacent waterway.
- 5) The Board is off the opinion, the applicant's investment in redeveloping the lowland portion of the property with associated buffer restoration coupled with the upland

integration of structural and non-structural stormwater best management practices will provided a means to manage towards a no net increase in nonpoint source pollution load

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

**CPBA Variance Conditions:**

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

8. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
9. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
10. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
11. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **2,704 square feet x 200 percent = 5,408 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: **14 canopy trees, 14 understory trees, 28 large shrubs, and 42 small shrubs** to the greatest extent practicable.

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

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

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 \$619.66 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 676 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**
15. This variance and associated conditions **will supersede** the conditions of the Board variance granted January 27, 1997.
16. The conditions and approval associated with this variance are based on the exhibit plan dated July 20, 2017, prepared by Gallup Surveyors and Engineers, signed July 20, 2017 by David R. Butler. 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.
17. The proposed swimming pool and associated pool deck construction shall be moved 10 feet to the east.

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

**There was no opposition present.**

**A motion was made by Mr. Sobota, seconded by Mr. Martin to approve the variance with the 17 conditions as amended (Added Condition 17). All voted for the motion except Mr. France and Mrs. McDaniels who voted no.**

<b>AYE</b>	<b>7</b>	<b>NO</b>	<b>2</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>0</b>
<b>FRANCE</b>		<b>NO</b>					
<b>JESTER</b>		<b>AYE</b>					
<b>JONES</b>		<b>AYE</b>					
<b>MARTIN</b>		<b>AYE</b>					
<b>MCCOY</b>		<b>AYE</b>					
<b>MCDANIELS</b>		<b>NO</b>					
<b>POOLE</b>		<b>AYE</b>					
<b>SMITH</b>		<b>AYE</b>					
<b>SOBOTA</b>		<b>AYE</b>					



Applicant **Susan Barco**  
Address **869 South Spigel Drive**  
Public Hearing **September 25, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**3**

**Description: GPIN: 1498-52-6251**

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

**BOARD ACTION: APPROVED WITH THE 16 CONDITIONS ON SEPTEMBER 25, 2017**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the proposal conforms to other properties within this neighborhood, which are subject to the provisions of the CBPA Ordinance and are similarly situated where development has occurred landward of the 50 foot seaward buffer.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance therefore placing the majority of this property is within the RPA.
- 3) The variance is the minimum necessary to afford relief given the limited encroachment of impervious cover within the 50 foot landward buffer of the RPA and the redevelopment of this parcel providing for an overall reduction in impervious cover.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, as the encroachment into the RPA is consistent with the location of improvements on other properties in the vicinity, and not of substantial detriment to water quality due to the access to and limits of expansion within the RPA, nor otherwise detrimental to the public welfare.
- 5) The reduction in impervious cover meets pollutant load reductions as a means to manage towards a no net increase in nonpoint source pollution load.



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

**CBPA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed 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: **1,566 square feet x 200 percent = 3,132 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: **8 canopy trees, 8 understory, 16 large shrubs and 24 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. The existing shed within the 50 foot seaward buffer and winch house shall be removed.

15. **\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$717.75 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 783 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**
  
16. The conditions and approval associated with this variance are based on the exhibit plan dated July 20, 2017, prepared by Gallup Surveyors and Engineers, signed July 20, 2017 by Bruce W. Gallup. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

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

**There was no opposition present.**

**As an item of the consent agenda, a motion was made by Mr. McCoy, seconded by Mr. Poole to approve the variance request with the 16 conditions as amended (Deleted Condition #14). All voted for the motion.**

<b>AYE</b>	<b>9</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>0</b>
<b>FRANCE</b>		<b>AYE</b>					
<b>JESTER</b>		<b>AYE</b>					
<b>JONES</b>		<b>AYE</b>					
<b>MARTIN</b>		<b>AYE</b>					
<b>MCCOY</b>		<b>AYE</b>					
<b>MCDANIELS</b>		<b>AYE</b>					
<b>POOLE</b>		<b>AYE</b>					
<b>SMITH</b>		<b>AYE</b>					
<b>SOBOTA</b>		<b>AYE</b>					



Applicant **Katie Taylor**  
Address **828 Linbay Drive**  
Public Hearing **September 25, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**4**

**Description: GPIN: 2418-10-9159**

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

**BOARD ACTION: APPROVED WITH 17 CONDITIONS ON SEPTEMBER 25, 2017**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated as the applicant has provided a CBPA exhibit that utilizes the geometry of the platted parcel in conjunction with the existing shorelines and environmental features of the property to the greatest extent practicable.
- 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) 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.
- 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 use of buffer restoration towards the restoration of a riparian shoreline, and the introduction of stormwater management.
- 5) The Board is of the opinion, the applicant's investment in redeveloping the uplands portion of the property with required buffer restoration for the proposed impervious cover within the RPA coupled with the infiltration of stormwater will provided a means to manage towards a no net increase in nonpoint source pollution load.

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

**CPBA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
5. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. 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: **8,054 square feet x 200 percent = 16,108 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.

13. The proposed walkways shall be a maximum width of 4 feet. All walkways shall be constructed of organic material (mulch) with stepping stones within the 50 foot buffer.
14. **The pool shall be constructed prior to or concurrent with the residence.**

15. 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.
16. **\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$1,845.25 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 2,013 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**
17. The conditions and approval associated with this variance are based on the exhibit plan dated August 7, 2017 prepared by American Engineering, signed August 7, 2017 by J. A. Michael Nichols. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

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

**There was no opposition present.**

**A motion was made by Mr. Sobota, seconded by Mr. Poole to approve the variance with the 17 conditions as amended (Deleted Condition 13 and amended Condition 14). All voted for the motion except Mr. France, Mr. McCoy, and Mrs. McDaniels who voted no, and Mr. Martin who was abstained because his office American Engineering worked on this application and he has a personal relationship with the applicant.**

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

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



Applicant **Louis and Stacie Caplan**  
Address **3305 Hidden Pointe Cove**  
Public Hearing **September 25, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**5**

**Description: GPIN: 1488-79-7393**

**AGENT: Rick Scarper**

**BOARD ACTION: DEFERRED FOR 60 DAYS ON SEPTEMBER 25, 2017 UNTIL THE NOVEMBER 22, 2017 PUBLIC HEARING**

**Rick Scarper appeared before the Board representing the applicants.**

**There was no opposition present.**

**A motion was made by Mr. McCoy, seconded by Mr. Martin to defer the variance request for 60 days until the November 22, 2017 public hearing. All voted for the motion.**

**AYE 9 NO 0 ABSTAIN 0 ABSENT 0**

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





Applicant **Grayson and Darien Pearce**  
Address **2124 West Kendall Circle**  
Public Hearing **September 25, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**6**

**Description: GPIN: 1590-70-1134**

**AGENT: Grayson Pearce**

**BOARD ACTION: APPROVED WITH 13 CONDITIONS ON SEPTEMBER 25, 2017**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the proposal conforms to other properties within this neighborhood, which are subject to the provisions of the CBPA Ordinance and are similarly situated where development has occurred within the 100 foot RPA buffer.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing the majority of this property within the RPA.
- 3) The Board is of the opinion, with the reductions in proposed impervious cover conditioned that the variance is the minimum necessary to afford relief, given the expansion of an accessory structure within the upper reach of the 50 foot seaward buffer in an area currently devoted to turf.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, as the encroachment into the RPA is consistent with the location of improvements on other properties in the vicinity, and not of substantial detriment to water quality due to the access to and limits of expansion within the RPA in areas currently devoted to turf, nor otherwise detrimental to the public welfare.
- 5) The Board is of the opinion with the proposed improvements situated within an area of flat topography, coupled with the installation of buffer restoration as a means to manage erosion and sedimentation that the proposed improvements should provide for a no net increase in nonpoint source pollution load.

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

**CPBA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. 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. The proposed paver patio areas shall be a minimum of 30 feet landward of the existing bulkhead.
8. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **750 square feet x 200 percent = 1,500 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: **4 canopy trees, 4 understory, 8 large shrubs, and 12 small shrubs.**

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

9. Proposed walkways, exclusive of the walkway to the front door shall be a maximum of 4 feet in width and constructed of an organic material (mulch with stepping stones not to exceed 75 percent of the path area or non-compacted gravel).
10. No perimeter fill is authorized outboard or seaward of the proposed improvements.
11. **The shed shall be reduced in area to be 150 square feet or less.** For the proposed shed, upon granting of a variance, a revised site plan shall be submitted to the Department of Planning, Zoning Division for review and approval within 30 days from the date of this hearing. Once the plans have been approved, a **CBPA / CIVIL permit** must be obtained within 15 days. Failure to comply with this condition may result in a show cause hearing. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.
12. **For the proposed paver patio area and associated walkways,** 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.
13. **\*\*For the proposed paver patio areas and associated walkways,** 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 \$117.33 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 128 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.

**Grayson Pearce appeared before the Board.**

**There was no opposition present.**

**A motion was made by Mr. Martin, seconded by Mr. McCoy to approve the variance with the 13 conditions as amended (Amended Conditions 7, 8 and 11). All voted for the motion.**

<b>AYE</b>	<b>9</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>0</b>
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<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>AYE</b>
<b>MARTIN</b>	<b>AYE</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>AYE</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>SOBOTA</b>	<b>AYE</b>



Applicant **Joseph and Karen Karcher**  
Address **3021 Lynnhaven Drive**  
Public Hearing **September 25, 2017**  
City Council District **Lynnhaven**

Agenda  
Item

**7**

**Description: GPIN: 1499-18-3463**

**AGENT: Self Represented**

**BOARD ACTION: APPROVED WITH 8 CONDITIONS ON SEPTEMBER 25, 2017**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated where minor development encroachments have occurred along this reach of the Lynnhaven River within the 50 seaward RPA.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that the parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore placing portions of this property within the RPA.
- 3) Given the minimal scope of the project, Staff is of the opinion that the variance is 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, as the request is reasonable in scope, and not of substantial detriment to water quality due to the use of underdeck treatment as a means of permanent erosion and sediment control measures, nor will it be otherwise detrimental to the public welfare.
- 5) Given the underlining soil permeability and the use of both a stone underdeck treatment and buffer restoration, the Board is of the opinion that these measure will contribute to the means for managing towards a no net increase in nonpoint source pollution load.
- 6) Finally, the Board recommends the following eight reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

**CPBA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. 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.**
4. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **248 square feet x 200 percent = 496 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: **2 canopy trees, 2 understory, 4 large shrubs, and 6 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.

5. Under deck treatment of sand and gravel shall be installed.
6. The proposed steps to grade for the wood deck shall be constructed within the 248 square foot footprint.

7. Upon granting of a variance, a revised site plan shall be submitted to the Department of Planning, Zoning Division for review and approval within 30 days from the date of this hearing. Once the plans have been approved, a **CBPA / CIVIL permit** must be obtained within 15 days. All required restoration must be installed or in the process of installation within 30 days after issuance of the building permit. Failure to comply with this condition may result in a show cause hearing.
  
8. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.

**No one appeared before the Board.**

**There was no opposition present.**

**A motion was made by Mr. Sobota, seconded by Mr. Poole to approve the variance with the 8 conditions as amended (Amended Condition 6). All voted for the motion.**

<b>AYE</b>	<b>9</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>0</b>
<b>FRANCE</b>	<b>AYE</b>						
<b>JESTER</b>	<b>AYE</b>						
<b>JONES</b>	<b>AYE</b>						
<b>MARTIN</b>	<b>AYE</b>						
<b>MCCOY</b>	<b>AYE</b>						
<b>MCDANIELS</b>	<b>AYE</b>						
<b>POOLE</b>	<b>AYE</b>						
<b>SMITH</b>	<b>AYE</b>						
<b>SOBOTA</b>	<b>AYE</b>						