



**MINUTES
CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
OCTOBER 23, 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, October 23, 2017.

A motion was made by Mr. Poole and seconded by Mr. Jones to approve the September 25, 2017 minutes. All voted for the motion. This vote also serves as the official roll call for this meeting. All members were present except Mr. Smith and Mr. Sobota.

BOARD ACTION: APPROVED SEPTEMBER 25, 2017 MINUTES ON OCTOBER 23, 2017

AYE 7 NO 0 ABSTAIN 0 ABSENT 2

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

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



Applicant **Wendy Earl Revocable Trust**
Address **1700 Stephens Road**
Public Hearing **October 23, 2017**
City Council District **Lynnhaven**

Agenda
Item

1

Description: GPIN: 2409-43-6752

AGENT: Self Represented

BOARD ACTION: APPROVED WITH 15 CONDITIONS ON OCTOBER 23, 2017

Board's Findings:

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 the property conforms to other properties within this neighborhood, which are subject to the provisions of this Ordinance and are similarly situated where development has occurred landward of the pronounced top of bank feature.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted and the residence constructed in 1950, prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance.
- 3) Limiting the amount of land disturbance associated with the redevelopment of this parcel to minimize impacts to existing vegetation along the bank feature, maintaining the contouring of the land to effectively preserve the integrity of the buffer area, and Staff's recommended reduction in impervious cover is consistent with the variance being the minimum necessary to afford relief.
- 4) Staff is of the opinion that the variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, as the encroachment into the RPA is consistent with the location of improvements on other properties in the vicinity minus the impactful approach within the buffer of terracing the existing bank feature – typical of adjacent properties, 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) As a means to manage towards a no net increase in nonpoint source pollution load, the proposed improvements offer a landward retreat within the Resource Protection Area (RPA), facilitates sheetflow of stormwater in-lieu of deck drains to manage rain water run-off from

impervious cover, and will introduce riparian buffer restoration to promote infiltration of stormwater into the ground.

- 6) Finally, Staff recommends the following 15 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 landward of the top of bank feature.
5. Construction limits along the seaward portion of the project shall lie landward of the top of bank feature. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
8. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.

9. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
10. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
11. The maximum impervious cover of the parcel shall not exceed 17,735 square feet or 29.6 percent of the site. Said limits of proposed impervious cover shall be landward of the 50 foot seaward buffer.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA, approximately: **3,224 square feet x 200 percent = 6,448 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. ****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 \$738.83 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 806 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**

14. This variance and associated conditions will supersede the conditions of the Board variance granted March 27, 2017.

15. The conditions and approval associated with this variance are based on the exhibit plan submitted by the applicant at the hearing, dated October 17, 2017, prepared by American Engineering. 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.

David Earl appeared before the Board.

There was no opposition present.

A motion was made by Mr. Jones, seconded by Mr. Poole to approve the variance with the 15 conditions as amended (Amended condition 11, 12, 13 and 15). All voted for the motion except Mr. McCoy and Mrs. McDaniels who voted no, and Mr. Martin who was abstained because his firm prepared the plans, has been good friends with Mr. Earl for 20 years, and his firm has done previous work on his property for a Board of Zoning Appeals variance.

AYE 4 NO 2 ABSTAIN 1 ABSENT 2

FRANCE	AYE
JESTER	AYE
JONES	AYE
MARTIN	ABSTAIN
MCCOY	NO
MCDANIELS	NO
POOLE	AYE
SMITH	ABSENT
SOBOTA	ABSENT



Applicant **Scott Oates**
Address **1539 McCullough Lane**
Public Hearing **October 23, 2017**
City Council District **Lynnhaven**

Agenda
Item

2

Description: GPIN: 2409-81-8242

AGENT: Robert Simon

BOARD ACTION: DEFERRED FOR 60 DAYS ON OCTOBER 23, 2017 UNTIL THE DECEMBER 20, 2017 PUBLIC HEARING

Robert Simon appeared before the Board representing the applicant.

There was no opposition present.

A motion was made by Mr. McCoy, seconded by Mr. Poole to defer the variance request for 60 days until the December 20, 2017 public hearing. All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 2

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