



**MINUTES
CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
DECEMBER 20, 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 Wednesday, December 20, 2017.

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

BOARD ACTION: APPROVED NOVEMBER 22, 2017 MINUTES ON DECEMBER 20, 2017

AYE 8 NO 0 ABSTAIN 1 ABSENT 0

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

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



Administrative Business Election of Officers for 2018

Agenda
Item

1

Election of 2018 Chesapeake Bay Preservation Area Board Officers

A motion was made by Mr. McCoy, seconded by Mr. Smith to elect Mr. Jester as the Chairman, Mr. France as the Vice Chairman, and Mr. Poole as the Secretary. All voted for the motion.

AYE	9	NO	0	ABSTAIN	0	ABSENT	0
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FRANCE	AYE
JESTER	AYE
JONES	AYE
MARTIN	AYE
MCCOY	AYE
MCDANIELS	AYE
POOLE	AYE
SMITH	AYE
SOBOTA	AYE



Property Owner	AJ Potter Investments, LLC	Agenda Item 2
Applicant	Scott Oates	
Address	1539 McCullough Lane	
Public Hearing	December 20, 2017	
City Council District	Lynnhaven	

Description: GPIN: 2409-81-8242

AGENT: Robert Simon

BOARD ACTION: APPLICATION WITHDRAWN ON DECEMBER 20, 2017

Robert Simon appeared before the Board representing the applicant.

There was no opposition present.

A motion was made by Mr. McCoy, seconded by Mr. Martin to withdraw this application. 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**



Property Owner	Mildred Frazier Trust & Alice Godfrey Trust	Agenda Item 3
Applicant	Mildred Frazier Trust & Alice Godfrey Trust	
Address	1680 Godfrey Lane	
Public Hearing	December 20, 2017	
City Council District	Lynnhaven	

Description: GPIN: 2409-23-0703

AGENT: Robert Simon

BOARD ACTION: APPROVED WITH 19 CONDITIONS ON DECEMBER 20, 2017

Board's Findings:

- 1) The granting of this variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the proposal shows a proposed impervious cover of 12.7 percent, which is lower impervious cover than most variance applications.
- 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 the recordation of the property in 1959 and the buildable area out at the point, with the geometry thereto, is a restriction on this property that is precedes the Chesapeake Bay Preservation Area Ordinance.
- 3) The Board is of the opinion with the low amount of impervious cover and high amount of pervious surfaces which are being proposed, that this request is the minimum necessary to afford relief.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood and not a substantial detriment to water quality or otherwise detrimental to the public welfare, because of the required stormwater and sanitary sewer management measures which are being part of this application.
- 5) This project does show a means to manage erosion sediment pay towards a no net increase of non-source pollution load primarily with the capture of stormwater and the re-stabilization of the existing road and bank.
- 6) Finally, the Board recommends the following 19 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. Exclusive of the limits of grading for the Flexamat installation, the construction limits along the seaward portion of the proposed primary structure and associated accessory structures shall lie a maximum of 15 feet seaward of said improvements. **All areas outside limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact. Said condition shall be so noted on the site plan.**
6. 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. Exclusive of the proposed Italian Cypress presented on the CBPA Board exhibit, buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **22,412 square feet x 200 percent = 44,842 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: **28 canopy trees, 28 understory, 56 large shrubs and 84 small shrubs.**

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

13. **The pool shall be constructed prior to or concurrent with the residence.**
14. 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.
15. The proposed tennis court shall be rotated so that the northeast corner is landward of the 15 foot contour. Any redevelopment of the tennis court shall be of equal or greater permeability.
16. ****As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$5,136.08 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 5,603 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**
17. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
18. This variance and associated conditions **will supersede** the conditions of the Board variance granted February 25, 2008.
19. The conditions and approval associated with this variance are based on the exhibit plan dated November 5, 2017 and revised November 28, 2017, prepared by Chesapeake Bay Site Solutions, Inc., signed December 5, 2017 by Gregory Milstead. 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.

Robert Simon appeared before the Board representing the applicants.

Marshall Winslow, son-in-law of Alice Godfrey appeared before the Board to make commentary.

Dr. Keith Batts who lives at 2102 Turnstone Quay and Mehikiran Moayery who lives at 1625 Bay Breeze Drive appeared before the Board in opposition.

A motion was made by Mr. Martin, seconded by Mr. Poole to approve the variance with the 19 conditions as amended (Deleted Conditions 14 and 17 and amended Condition 16). All voted for the motion except Mr. France and Mrs. McDaniels.

AYE 7 NO 2 ABSTAIN 0 ABSENT 0

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



Property Owner	Jeffery Atherton	Agenda Item 4
Applicant	Jeffery Atherton	
Address	4408 General Gage Court	
Public Hearing	December 20, 2017	
City Council District	Lynnhaven	

Description: GPIN: 1477-68-8073

AGENT: Self Represented

BOARD ACTION: APPROVED WITH 9 CONDITIONS ON DECMEBER 20, 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 were development has occurred within the 100 foot 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 in 1960 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) It is the opinion of the Board with the amount of impervious cover proposed as to minor and the improvements are not significant within the 100 foot RPA buffer, and that this request is the minimum necessary to afford relief. Due to the minimal increase in the overall impervious cover for this site, we (the Board) are of the opinion that the variances in harmony with the purpose and intent of the ordinance, not injurious to the neighborhood, not a substantial detriment to water quality or otherwise detrimental to the public welfare. The use of underdeck treatment being conditioned demonstrates the means manage towards a no net increase in nonpoint source pollution loads, and the removal of invasive species go toward general water quality in buffer health.
- 4) Finally, the Board finds that the following 9 reasonable and appropriate conditions will go 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. Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.
4. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
5. Buffer restoration shall be installed equal to 400 square feet for the proposed new impervious cover within the RPA. Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **1 canopy trees, 2 understory trees, and 3 shrubs.**

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

6. Proposed wood deck shall be open-pile and not roofed or expanded by any other means.
7. Under deck treatment of sand and gravel shall be installed.
8. This variance and associated conditions **are in addition to** the improvements associated with the Board variance granted January 24, 1996.
9. 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.

Jeffery Atherton appeared before the Board.

There was no opposition present.

A motion was made by Mr. France, seconded by Mrs. McDaniels to approve the variance with the 9 conditions listed above. All voted for the motion.

AYE	9	NO	0	ABSTAIN	0	ABSENT	0
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FRANCE	AYE
JESTER	AYE
JONES	AYE
MARTIN	AYE
MCCOY	AYE
MCDANIELS	AYE
POOLE	AYE
SMITH	AYE
SOBOTA	AYE



Property Owner	David McClellan	Agenda Item 5
Applicant	David McClellan	
Address	553 Longleaf Road	
Public Hearing	December 20, 2017	
City Council District	Lynnhaven	

Description: GPIN: 1488-99-3113

AGENT: Billy Garrington, Governmental Permitting Consultants

BOARD ACTION: APPROVED WITH 18 CONDITIONS ON DECEMBER 20, 2017

Board's Findings:

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

- 6) Finally, the Board recommends the following 18 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. 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. 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.
8. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
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. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **403 square feet x 200 percent = 806 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: **3 canopy trees, 3 understory trees, 6 large shrubs, and 9 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.

11. Under deck treatment of sand and gravel shall be installed.
12. No perimeter fill is authorized outboard or seaward of the proposed improvements.
13. Eliminate the proposed concrete hot tub pad.
14. Gravel downspout intercepts and/or gravel dripline intercepts shall be provided as a means of erosion and sediment control for stormwater run-off from the proposed improvements.
15. ****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 \$91.66 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 100 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**
16. 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.
17. The conditions and approval associated with this variance are based on the exhibit plan dated November 1, 2017 prepared by WPL, signed November 3, 2017 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.
18. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.

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

There was no opposition present.

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

AYE	9	NO	0	ABSTAIN	0	ABSENT	0
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FRANCE	AYE
JESTER	AYE
JONES	AYE
MARTIN	AYE
MCCOY	AYE
MCDANIELS	AYE
POOLE	AYE
SMITH	AYE
SOBOTA	AYE



Property Owner	William Bryant	Agenda Item 6
Applicant	William Bryant	
Address	3194 Adam Keeling Road	
Public Hearing	December 20, 2017	
City Council District	Lynnhaven	

Description: GPIN: 1466-56-4672

AGENT: Billy Garrington, Governmental Permitting Consultants

BOARD ACTION: APPROVED WITH 17 CONDITIONS ON DECEMBER 20, 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 within the RPA.
- 3) The variance is the minimum necessary to afford relief given the amount of redevelopment proposed and encroachment of impervious cover within the upper limits of the 50 foot landward buffer of the RPA.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of the 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 Board is of the opinion that the applicant's investment in redeveloping the Resource Management Area (RMA) portion of the property and upper reach of the RPA buffer coupled with the integration of non-structural stormwater best management practices and buffer restoration will provide a means to manage towards a no net increase in nonpoint source pollution load.
- 6) Finally, the Board recommends the following 17 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. 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 conditions of the existing Chesapeake Bay Preservation Area (CBPA) variance, specifically the required buffer restoration and stormwater management facilities shall be documented on the revised site plan. Documentation shall describe the health and functionality of said requirements. Prior restoration requirements shall be installed if not present.
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. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **2,945 square feet x 200 percent = 5,890 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: **15 canopy trees, 15 understory trees, 30 large shrubs, and 45 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.

15. In addition to the required buffer restoration, 6 canopy trees shall be planted concurrent with the required buffer restoration as mitigation for the trees removed with the October 16, 2016, Preliminary Project Request associated with this parcel.
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 \$674.66 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 736 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 December 1, 2016, prepared by WP Large, signed November 3, 2017 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared

by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

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

There was no opposition present.

A motion was made by Mr. Martin, seconded by Mr. McCoy to approve the variance with the 17 conditions as amended (Deleted Condition 16). All voted for the motion except Mr. France who voted no.

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



Property Owner	Kurt and Joanne Nelson Living Trusts
Applicant	Kurt and Joanne Nelson Living Trusts
Address	5260 Locke Lane
Public Hearing	December 20, 2017
City Council District	Kempsville

Agenda
Item

7

Description: GPIN: 1466-56-4672

AGENT: Monty Anderson

BOARD ACTION: APPROVED WITH THE 9 CONDITIONS ON DECEMBER 20, 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 in 1972 and the residence constructed in 1973, 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 Board is of the opinion, with the amount of impervious cover proposed as redevelopment over existing improvements and the expansion of the accessory structures proposed within the upper reach of the 100 foot RPA buffer, that this request is the minimum necessary to afford relief.
- 4) Due to the minimal increase in overall impervious cover for the site, the Board is of the opinion that the variance is in harmony with the purpose and intent of the ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare.
- 5) The underdeck treatment being conditioned, demonstrates a means to manage erosion and sedimentation towards a no net increase in nonpoint source pollution load.
- 6) Finally, the Board recommends the following 9 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

CBPA Variance Conditions:

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. 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. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **152 square feet x 200 percent = 304 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: **1 canopy tree, 2 understory trees and 3 shrubs.**

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

7. Under deck treatment of sand and gravel shall be installed.
8. No perimeter fill is authorized outboard or seaward of the proposed improvements.

9. 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.

Monty Anderson appeared before the Board representing the applicants.

There was no opposition present.

As an item of the consent agenda, a motion was made by Mr. Martin, seconded by Mr. Poole to approve the variance request with the 9 conditions listed above. 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**



Property Owner	Wei Ting Zeng and Wang Ying	Agenda Item 8
Applicant	Wei Ting Zeng and Wang Ying	
Address	1303 Harris Road	
Public Hearing	December 20, 2017	
City Council District	Lynnhaven	

Description: GPIN: 1488-99-3113

AGENT: Scott Prunty

BOARD ACTION: DEFERRED ON DECEMBER 20, 2017 UNTIL THE FEBRUARY 26, 2018 PUBLIC HEARING

Scott Prunty appeared before the Board representing the applicants.

There was no opposition present.

A motion was made by Mr. Martin, seconded by Mr. Jones to defer the variance until the February 26, 2018 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**