



**MINUTES
CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
JANUARY 22, 2018**

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, January 22, 2018.

A motion was made by Mr. McCoy and seconded by Mr. Poole to approve the December 20, 2017 minutes. All voted for the motion except Mr. Jones and Mr. Steier who were abstained due to them not being on the board on December 20, 2017. This vote also serves as the official roll call for this meeting. All members were present.

BOARD ACTION: APPROVED DECEMBER 20, 2017 MINUTES ON JANUARY 22, 2018

AYE 7 NO 0 ABSTAIN 2 ABSENT 0

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

Board Members Present: David France, David Jester, Casey Jones, Wayne McCoy, June McDaniels, Richard Poole, Reese Smith, Dennis Sobota, and Michael Steier.



Applicant **Louis and Stacie Caplan**
Address **3305 Hidden Pointe Cove**
Public Hearing **January 22, 2018**
City Council District **Lynnhaven**

Agenda
Item
1

Description: GPIN: 1488-79-7393

AGENT: Rick Scarper

BOARD ACTION: APPLICATION WITHDRAWN ON JANUARY 22, 2018

No one appeared before the Board.

There was no opposition present.

Staff received an e-mail from the applicant/agent requesting that the application be withdrawn. A motion was made by Mr. McCoy, seconded by Mr. Sobota to withdraw this application. All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Applicant **Joseph Koen**
Address **1425 Blue Heron Road**
Public Hearing **January 22, 2018**
City Council District **Lynnhaven**

Agenda
Item

2

Description: GPIN: 1498-58-5133

AGENT: Billy Garrington, Governmental Permitting Consultants

BOARD ACTION: DEFERRED ON JANUARY 22, 2018 UNTIL THE FEBRUARY 26, 2018 PUBLIC HEARING

Billy Garrington of Governmental Permitting Consultants 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 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
MCCOY AYE
MCDANIELS AYE
POOLE AYE
SMITH AYE
SOBOTA AYE
STEIER AYE**



Applicant **Kristin Leone and Samuel Cocke**
Address **601 26th Street**
Public Hearing **January 22, 2018**
City Council District **Beach**

Agenda
Item

3

Description: GPIN: 2418-90-0019

AGENT: Nathan Lahy

BOARD ACTION: APPROVED WITH 13 CONDITIONS ON JANUARY 22, 2018

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 Area who are subject to the provisions of this Ordinance and are similarly situated where development encroachments have occurred within this neighborhood, and within the 100 foot Resource Protection Area.
- 2) The encroachment into the RPA on this parcel 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 these parcels were platted in 1925, prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing portions of this parcel within the RPA.
- 3) Given the minimal scope of the project, the minimal limits of land disturbance, and the open-pile construction of the proposed improvements, the Board 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 will not be 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) The use of both a stone underdeck treatment and the installation of buffer restoration are proposed as a means to manage towards a no net increase in nonpoint source pollution load.
- 6) Finally, the Board recommends the following 13 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. 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. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **665 square feet x 200 percent = 1,330 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.

11. Under deck treatment of sand and gravel shall be installed under the open-pile art studio and associated porch area.
12. ****As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$152.16 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 166 square feet, 12 inch deep oyster shell plant within the Lynnhaven River Basin.**
13. The conditions and approval associated with this variance are based on the exhibit plan dated January 2, 2018, prepared by MSA, P.C., signed January 2, 2018 by Nathan Lahy. 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.

Nathan Lahy appeared before the Board representing the applicants.

There was no opposition present.

A motion was made by Mr. McCoy, seconded by Mr. Poole to approve the variance with the 13 conditions listed above. All voted for the motion except Mrs. McDaniels and Mr. Sobota who voted no.

AYE 7 NO 2 ABSTAIN 0 ABSENT 0

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



Applicant **Lance Goldner Revocable Trust**
Address **1400 Linlier Drive**
Public Hearing **January 22, 2018**
City Council District **Lynnhaven**

Agenda
Item

4

Description: GPIN: 2418-11-3117

AGENT: Eddie Bourdon, Sykes Bourdon Ahern & Levy

BOARD ACTION: APPROVED WITH 14 CONDITIONS ON JANUARY 22, 2018

Board's Findings:

- 1) Given the geometry of the site, the introduction of a retaining wall seaward of the proposed improvements, and utilizing the full redevelopment of the existing brick paver patio, the Board is of the opinion that granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Area who are subject to the provisions of this Ordinance and are similarly situated.
- 2) The encroachment into the RPA on this parcel is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing portions of this property within the RPA.
- 3) The Board is of the opinion that the proposed location of the in-ground pool, the limited dimensional size of the associated pool patio area, and proposed pool house situated directly adjacent to the existing residence that the variance is the minimum necessary to afford relief.
- 4) The variance is in harmony with the purpose and intent of the CBPA Ordinance and will not be injurious to the neighborhood, nor be of substantial detriment to water quality due to the introduction of buffer plantings within a sparsely wooded property, the minimal encroachment into the 100 foot RPA buffer, and the minimal site impact associated with the proposed improvements.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, the redevelopment of this parcel will be conditioned to comply with the performance standards of the CBPA Ordinance and criteria of the Stormwater

Ordinance for a property that currently has no treatment towards nonpoint source pollution reductions.

- 6) Finally, the Board recommends the following 14 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. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.

8. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
9. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
10. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
11. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,363 square feet x 200 percent = 2,726 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: **7 canopy trees, 7 understory, 14 large shrubs, and 21 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.

12. 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.
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 \$623.32**

and is based on the encroachment of proposed impervious cover within the Resource Protection Area (RPA).

14. The conditions and approval associated with this variance are based on the exhibit plan dated November 11, 2017, prepared by WP Large, signed December 5, 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.

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

There was no opposition present.

A motion was made by Mr. Jones, seconded by Mr. McCoy to approve the variance with the 14 conditions as amended (Amended Condition 13). All voted for the motion except Mrs. McDaniels and Mr. Sobota who voted no.

AYE 7 NO 2 ABSTAIN 0 ABSENT 0

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



Applicant **Mark Zeigler Revocable Trust**
Address **2612 Ridley Place**
Public Hearing **January 22, 2018**
City Council District **Lynnhaven**

Agenda
Item

5

Description: GPIN: 1498-35-9114

AGENT: Anthony Echea

BOARD ACTION: DEFERRED ON JANUARY 22, 2018 UNTIL THE FEBRUARY 26, 2018 PUBLIC HEARING

Anthony Echea appeared before the Board representing the applicant.

There was no opposition present.

A motion was made by Mr. Poole, seconded by Mr. Sobota 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
MCCOY AYE
MCDANIELS AYE
POOLE AYE
SMITH AYE
SOBOTA AYE
STEIER AYE**



Applicant **Jeffrey Reinhofer and Vivian Kirkendoll**
Address **1519 Duke of Windsor Road**
Public Hearing **January 22, 2018**
City Council District **Lynnhaven**

Agenda
Item

6

Description: GPIN: 2408-97-2804

AGENT: Billy Garrington, Governmental Permitting Consultants

BOARD ACTION: APPROVED WITH 15 CONDITIONS ON JANUARY 22, 2018

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 redevelopment has occurred landward of the 50 foot seaward buffer.
- 2) The encroachment into the RPA on this parcel 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 the retreat of impervious cover from the 50 foot seaward 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 will the project be detrimental to the public welfare.
- 5) The Board is of the opinion that the applicant's investment in redeveloping the majority of the property within the existing footprint of impervious cover with a retreat from the 50 foot seaward buffer, and the integration of non-structural stormwater best management practices with the proposed buffer restoration will all

provide a means to manage towards a no net increase in nonpoint source pollution load.

- 6) Finally, the Board 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 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: **4,110 square feet x 200 percent = 8,220 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **10 canopy trees, 21 understory, 42 large shrubs, and 63 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 conditions and approval associated with this variance are based on the exhibit plan dated December 11, 2017, prepared by WP Large, signed December 11, 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. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

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

There was no opposition present.

A motion was made by Mr. Sobota, seconded by Mr. Poole to approve the variance with the 15 conditions as amended (Deleted Condition 15 of Staff’s recommended conditions found in the Staff write up). All voted for the motion.

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



Applicant **Sean and Robin Brickell**
Address **952 Oriole Drive**
Public Hearing **January 22, 2018**
City Council District **Lynnhaven**

Agenda
Item

7

Description: GPIN: 2418-33-9797

AGENT: John Rizzo

BOARD ACTION: APPROVED WITH THE 9 CONDITIONS ON JANUARY 22, 2018

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 the Ordinance and are similarly situated where minor development encroachments have occurred along the tidal feature of the Lynnhaven River within the 100 foot Resource Protection Area.
- 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 1926, 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, the Board 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 the 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 erosion and sediment control measures through buffer restoration, nor will it be otherwise detrimental to the public welfare.
- 5) The use of both a flood barrier system and buffer restoration are proposed as a means to manage 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.
6. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **300 square feet x 200 percent = 600 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 tree, 2 understory trees, 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.

7. No perimeter fill is authorized outboard or seaward of the proposed improvements.
8. This variance and associated conditions **are in addition to** the conditions of the Board variance granted May 24, 1993.
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.

John Rizzo 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. Poole, seconded by Mr. McCoy 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
MCCOY AYE
MCDANIELS AYE
POOLE AYE
SMITH AYE
SOBOTA AYE
STEIER AYE**