



**MINUTES
CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
FEBRUARY 26, 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, February 26, 2018.

A motion was made by Mr. McCoy and seconded by Mr. Poole to approve the January 22, 2018 minutes. All voted for the motion except Mrs. McDaniels (no reason stated) and Mr. Sobota due to him being out of the Council Chamber at the time of the vote. This vote also serves as the official roll call for this meeting. All members were present.

BOARD ACTION: APPROVED JANUARY 22, 2018 MINUTES ON FEBRUARY 26, 2018

AYE	7	NO	0	ABSTAIN	1	ABSENT	1
FRANCE		AYE					
JESTER		AYE					
JONES		AYE					
MCCOY		AYE					
MCDANIELS		ABSTAIN					
POOLE		AYE					
SMITH		AYE					
SOBOTA		ABSENT (Was out of the Council Chamber when vote was made)					
STEIER		AYE					

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



Applicant **Wei Ting Zeng and Wang Ying**

Address **1303 Harris Road**

Public Hearing **February 26, 2018**

City Council District **Lynnhaven**

Agenda
Item

1

Description: GPIN: 1488-99-3113

AGENT: Scott Prunty

BOARD ACTION: APPROVED WITH 17 CONDITIONS ON FEBRUARY 26, 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, 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 based upon circumstances that have been created and imposed by the applicant's predecessor in title, given the fact that the parcel was platted after the adoption of the Chesapeake Bay Preservation Act and the City's adoption of the CBPA Ordinance however, when the lots were created the building envelopes did not account for any specific improvements but rather was arbitrarily drawn from the RPA features of the lot.
- 3) The variance is the minimum necessary to afford relief as the proposed improvements are situated within the least sensitive portions of the property, landward of the 50 foot seaward buffer, and situated adjacent to the primary structure as a means to minimize land disturbance and preserve the existing topography to the greatest extent practicable within the 100 foot RPA.
- 4) The Board is of the opinion that maintaining the overall impervious cover of the site under 25 percent, coupled with the preservation of the riparian buffer ecosystem, ensures that this variance request 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.
- 5) The Board is of the opinion, when properly coordinated, the applicant's investment in redeveloping the uplands portion of the property, currently devoted to turf, with required buffer restoration and maintaining previously conditioned stormwater management facilities will provided 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. 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 conditions of the existing Chesapeake Bay Preservation Area (CBPA) variance, specifically the required 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.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,635 square feet x 200 percent = 3,270 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, 16 large shrubs and 24 small shrubs.**

The required restoration shall be located in areas currently devoted to turf or where impervious cover is removed. The restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

13. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
14. ****As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$374.68 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for an oyster shell plant within the Lynnhaven River Basin.**
15. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
16. This variance and associated conditions **are in addition to** the conditions of the Board variance granted December 22, 2003.
17. The conditions and approval associated with this variance are based on the exhibit plan prepared by MSA P.C., signed February 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.

Scott Prunty, contractor appeared before the Board representing the applicants.

There was no opposition present.

A motion was made by Mr. Poole, seconded by Mr. Smith to approve the variance with the 17 conditions listed above. All voted for the motion except Mrs. McDaniels who voted no.

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



Applicant Joseph Koen Address 1425 Blue Heron Road Public Hearing February 26, 2018 City Council District Lynnhaven	Agenda Item 2
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Description: GPIN: 1498-58-5133

AGENT: Billy Garrington, Governmental Permitting Consultants

BOARD ACTION: DENIED APPLICATION ON FEBRUARY 26, 2018

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 Mrs. McDaniels to deny the application. All voted for the motion.

AYE	9	NO	0	ABSTAIN	0	ABSENT	0
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FRANCE	AYE
JESTER	AYE
JONES	AYE
MCCOY	AYE
MCDANIELS	AYE
POOLE	AYE
SMITH	AYE
SOBOTA	AYE
STEIER	AYE (Mr. Steier informed staff that he hit the wrong button)



Applicant **Mark Zeigler Revocable Trust**

Address **2612 Ridley Place**

Public Hearing **February 26, 2018**

City Council District **Lynnhaven**

Agenda
Item

3

Description: GPIN: 1498-35-9114

AGENT: Tony Echea

BOARD ACTION: APPLICATION WITHDRAWN ON FEBRUARY 26, 2018

No one appeared before the Board.

There was no opposition present.

Staff received correspondence from the applicant's agent requesting that the application be withdrawn. A motion was made by Mr. McCoy, seconded by Mr. Poole 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 **Brian and Cheryl Twiddy**

Address **2213 Leeward Shore Drive**

Public Hearing **February 26, 2018**

City Council District **Lynnhaven**

Agenda
Item

4

Description: GPIN: 2409-29-0308

AGENT: Billy Garrington, Governmental Permitting Consultants

BOARD ACTION: APPROVED WITH THE 13 CONDITIONS ON FEBRUARY 26, 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 development 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 portions of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief, given the expansions of both the primary and accessory structures within the 50 foot landward 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, not injurious to the neighborhood nor otherwise detrimental to the public welfare, 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, the underlying soil type, and the installation of buffer restoration all contribute as a means to manage erosion and sedimentation and ensure that the proposed improvements provide 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.

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. 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.
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. 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.
9. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
10. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,815 square feet x 200 percent = 3,630 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of **10 canopy trees, 10 understory, 20 large shrubs, and 30 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.
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 \$831.87 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for an oyster shell plant within the Lynnhaven River Basin.**
13. The conditions and approval associated with this variance are based on the exhibit plan dated February 6, 2018, prepared by WP Large. 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 applicants.

There was no opposition present.

As an item of the consent agenda, a motion was made by Mr. Poole, seconded by Mr. Sobota to approve the variance request with the 13 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					



Applicant **932 Laskin Road, LLC**
 Address **932 Laskin Road**
 Public Hearing **February 26, 2018**
 City Council District **Lynnhaven**

Agenda
Item
5

Description: GPIN: 2418-71-7611

AGENT: Stephen Romine

BOARD ACTION: DENIED APPLICATION ON FEBRUARY 26, 2018

Stephen Romine, Attorney appeared before the Board.

Huey Dusova, the zoning manager for Verizon who worked on the site appeared before the Board to make commentary.

There was no opposition present.

A motion was made by Mrs. McDaniels, seconded by Mr. Poole to deny the application. All voted for the motion except Mr. McCoy and Mr. Smith who voted no.

AYE 7 NO 2 ABSTAIN 0 ABSENT 0

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



Applicant **Ronald and Deborah Holt**

Address **1212 Curlew Place**
Public Hearing **February 26, 2018**
City Council District **Lynnhaven**

Agenda
Item

6

Description: GPIN: 2418-34-6186

AGENT: Billy Garrington, Governmental Permitting Consultants

BOARD ACTION: APPROVED WITH 20 CONDITIONS ON FEBRUARY 26, 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 this ordinance and are similarly situated as the proposed improvements conform to numerous other parcels within this neighbor that have been redeveloped and the unique hardship specific to this parcel which draws the 100 foot RPA buffer from both the rear and the front of the parcel.
- 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 and the existing improvements constructed during the 1960's therefore placing this parcel within the RPA.
- 3) The variance is the minimum necessary to afford relief in that the proposed improvements utilize the existing footprint of the residence as redevelopment to the greatest extent practicable."
- 4) The variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, or otherwise detrimental to the public welfare as the redevelopment of the parcel will comply with other single family redevelopments in the neighborhood, minimal encroachments will occur within the most sensitive portions of the property, and a Joint Permit Application (JPA) will be pursued to abate the ongoing shoreline erosion and further prevent the redevelopment of this parcel from contributing to the detriment of water quality within the Lynnhaven River.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, the existing forest floor will be preserved to the greatest extent practicable, areas of turf will be removed and buffer restoration installed within the RPA – both rear and front yards, the eroding shoreline will be abated, and best management practices (BMPs) will be installed for stormwater treatment of impervious cover on site.

- 6) Finally, the Board recommends the following 20 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 as the "Limits of Construction".
5. Construction limits shall be contained within the limits delineated per the CBPA Variance Exhibit.
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. No trees outboard of the silt fence / limits of disturbance as shown on the CBPA Exhibit shall be removed. Any additional requests for tree removal shall be reviewed and approved by the CBPA Board.
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: **5,174 square feet x 200 percent = 10,348 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, 32 large shrubs, and 48 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. A Joint Permit Application (JPA) will be required to address and abate the ongoing shoreline erosion.
14. The maximum impervious cover of the parcel shall not exceed 10,020 square feet or 33.25 percent of the site outside of water and wetlands.
15. No portion of the swimming pool or associated pool deck shall be within the 50 foot seaward buffer, and construction of the pool shall to be done prior consistent with the residence.
16. The proposed driveway shall be constructed of a permeable pavement system. A detail of the specific permeable paver system and subbase construction shall be provided site plan submitted to the Development Services Center for review and approval.
17. 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.
18. ****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 \$1,185.70 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for an oyster shell plant within the Lynnhaven River Basin.**

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

20. The conditions and approval associated with this variance are based on the exhibit plan 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.

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

There was no opposition present.

A motion was made by Mr. Smith, seconded by Mr. Poole to approve the variance with the 20 conditions as amended (Amended Condition 13 and 15). All voted for the motion.

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



Applicant **Todd Lee and Blair Hollowell**

Address **2329 Leeward Shore Drive**

Public Hearing **February 26, 2018**

City Council District **Lynnhaven**

Agenda
Item

7

Description: GPIN: 2409-09-3968

AGENT: Billy Garrington, Governmental Permitting Consultants

BOARD ACTION: APPROVED WITH 15 CONDITIONS ON FEBRUARY 26, 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 this ordinance and are similarly situated as many single family residences within the immediate vicinity of this parcel have swimming pool in similar locations.
- 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 parcel within the RPA.
- 3) The variance is the minimum necessary to afford relief given that the proposed improvements have been located landward of the 50 foot seaward buffer and the overall impervious cover maintained under 33 percent of the overall parcel outside of water and wetlands.
- 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 given the overall size of the proposed improvements being the minimum necessary to afford relief and situating the proposed improvements as such so that the most sensitive portion of the 100 foot riparian buffer is avoided.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load buffer, restoration will be installed at 200 percent of the proposed impervious cover within the RPA as shown on the CBPA exhibit and all previous best management practices (BMPs) installed with the construction of the existing residence verified to be functioning as intended and replaced if not.
- 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 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. 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.

11. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **890 square feet x 200 percent = 1,780 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **5 canopy trees, 5 understory, 10 large shrubs, and 15 small shrubs.**

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

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 \$203.95 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for a shell plant within the Lynnhaven River Basin.**
14. This variance and associated conditions **are in addition to** the conditions of the Board variance granted March 26, 2012.
15. The conditions and approval associated with this variance are based on the exhibit plan prepared by Gaddy Engineering Services, LLC. 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 applicants.

There was no opposition present.

A motion was made by Mr. Jones, seconded by Mr. McCoy to approve the variance with the 15 conditions listed above. All voted for the motion except Mrs. McDaniels who voted no.

AYE 8 NO 1 ABSTAIN 0 ABSENT 0

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



Address of Non-compliance 3004 Island Lane Property Owner Mitchell Lee and Linda Dunbar Public Hearing February 26, 2018 City Council District Lynnhaven	Agenda Item 8
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Description: GPIN: 1499-17-4498

AGENT: Eddie Bourdon, Sykes Bourdon Ahern & Levy

**BOARD ACTION: SHOW CAUSE HEARING HELD ON FEBRUARY 26, 2018
 VIOLATION FOUND, IMPOSED A CIVIL CHARGE OF \$500, RESTORATION HEARING ORDER SCHEDULED FOR APRIL 23, 2018**

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. McCoy, seconded by Mr. France to find a violation with the degree of deviation or noncompliance being high and the environmental impact being low. A Civil Charge of \$500 was imposed and ordered a restoration hearing for April 23, 2018. A substitute motion was made by Mr. Poole, seconded by Mr. Sobota to change the Civil Charge to \$1,000. The substitute motion failed with a 4 to 5 vote, therefore, the original motion was voted on. All voted for the original motion except Mr. Jester, Mrs. McDaniels, Mr. Poole, and Mr. Sobota who voted no.

AYE 5 NO 4 ABSTAIN 0 ABSENT 0

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



Address of Non-compliance 3004 Island Lane	Agenda Item
Contractor Louis Mosier, J.L. Mosier Construction Company	9
Public Hearing February 26, 2018	
City Council District Lynnhaven	

Description: GPIN: 1499-17-4498

**BOARD ACTION: SHOW CAUSE HEARING HELD ON FEBRUARY 26, 2018
VIOLATION FOUND, IMPOSED A CIVIL CHARGE OF \$4,500**

Louis Mosier of JL Mosier Construction Company appeared before the Board.

There was no opposition present.

A motion was made by Mr. Sobota, seconded by Mrs. McDaniels to find a violation with the degree of deviation or noncompliance being high and the environmental impact being low. Was imposed a civil charge of \$3,000. A substitute motion was made by Mr. Poole, seconded by Mr. McCoy to change the civil charge to \$4,500. All voted for the substitute motion except for Mr. Jester, Mr. Smith and Mr. Steier who voted no.

AYE 6 NO 3 ABSTAIN 0 ABSENT 0

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