

Chesapeake Bay Preservation Area Board Agenda

March 26, 2018

CHESAPEAKE BAY PRESERVATION AREA BOARD

NOTICE OF PUBLIC HEARING

The Virginia Beach Chesapeake Bay Preservation Area Board will hold a Public Hearing on **Monday, March 26, 2018, at 10:00 a.m. in the City Council Chamber**, Virginia Beach Municipal Center, Virginia Beach, Virginia.

An informal session is held at 9:00 a.m. in the City Council Chamber at which time staff briefs the Board on agenda items. All interested persons are invited to attend. There is no opportunity for citizenry to speak at the briefing session; however, the public is invited to speak at the formal Public Hearing held at 10:00 a.m. in the City Council Chamber.

The staff reviews all of the items on this agenda and offer recommendation for consideration by the Chesapeake Bay Preservation Area Board, in the event they should approve the application. However, it should not be assumed that those conditions constitute all of the conditions that will ultimately be attached to the project. Staff agencies may impose further conditions and requirements applicable to city ordinances.

Those members of the public interested in attending the public hearing should be advised that, for reasons the Board deems appropriate, certain items on the agenda may be heard out of order and that it should not be assumed that the order listed below will be exactly followed during the public hearing.

THE FOLLOWING DESCRIBES THE ORDER OF BUSINESS FOR THE PUBLIC HEARING

(IF YOU DO NOT UNDERSTAND, ASK A STAFF MEMBER SITTING AT THE DESK AT THE FRONT OF THE CHAMBER OR THE STAFF MEMBER AT THE DESK OUTSIDE THE CHAMBER).

1. **DEFERRALS:** The first order of business is the consideration of requests to defer an item. The Board will ask those in attendance at the hearing if there are any requests to defer an item that is on the agenda. PLEASE NOTE THE REQUESTS THAT ARE MADE, AS ONE OF THE ITEMS BEING DEFERRED MAY BE THE ITEM THAT YOU HAVE AN INTEREST IN.

If an item is deferred, a deferral date will be determined at the public hearing. Typically deferrals range from thirty (30) to sixty (60) days or may be deferred indefinitely. The Board will vote on all of the items deferred individually. It is important, therefore, if you have an objection to an item being deferred to note your objection as the Board goes through the items being considered for deferral.

2. **CONSENT AGENDA:** The second order of business is consideration of the "consent agenda." The consent agenda contains those items:
 - a. that the Board believes are unopposed and
 - b. which have a favorable Staff recommendation.

If an item is placed on the Consent Agenda, that item will be heard with other items on the agenda that appear to be unopposed and have a favorable staff recommendation. The Board will vote on all of the items at one time. Once the Board has approved the item as part of the Consent Agenda, the variance request is granted and will not be discussed any further. It is important, therefore, if you have an objection to an item being placed on the Consent Agenda to note your objection as the Board goes through the items being considered for the Consent Agenda.

Process for the Consent Agenda:

- The Board will announce the item number and item title being considered for inclusion on the Consent Agenda.
- The Board will ask if there is anyone in the audience representing the item, and if so, ask them to go up to the podium and state their name for the record.
- The Board will ask the representative of the item if they are aware of the conditions and if they agree to the conditions.
- The Board will then ask if there is anyone in the audience in opposition to the item. If you are opposed to the item, stand or raise your hand to let the Board know.
- If the item is opposed, it will be removed from the consent agenda and heard in its normal place on the agenda.
- After the Board has gone through all of the items that it believes should be on the Consent Agenda, it will vote at one time for all of the items, announcing the number of each item being voted on. Pay attention to the list of items being voted on.

3. **REGULAR AGENDA:** The Board will then proceed with the remaining items on the agenda, according to the following process:
- a. The applicant or applicant's representative will have 10 minutes to present its case.
 - b. Next, those who wish to speak in support to the application will have 3 minutes to present their case.
 - c. If there is a spokesperson for the opposition, he or she will have 10 minutes to present their case.
 - d. All other speakers not represented by the spokesperson in opposition will have 3 minutes.
 - e. The applicant or applicant's representative will then have 3 minutes for rebuttal of any comments from the opposition.
 - f. There is then discussion among the Board members. No further public comment will be heard at that point. The Board may, however, allow additional comments from the opposition if a member of the Board sponsors the opposition. Normally, you will be sponsored only if it appears that new information is available and the time will be limited to 3 minutes.
 - g. The Board does not allow slide or computer generated projections other than those prepared by the Planning Department Staff.

The Board asks that speakers not be repetitive or redundant in their comments. Do not repeat something that someone else has already stated. Petitions may be presented and are encouraged. If you are part of a group, the Board requests, in the interest of time, that you use a spokesperson, and the spokesperson is encouraged to have his or her supporters stand to indicate their support.

Those members of the public interested in speaking in support or in opposition to an agenda item shall be limited to 3 minutes in which to address the Board. At the discretion of the CBPA Board Chairman, this time may be increased to 5 minutes. Speakers will be electronically timed.

If you are **physically disabled** or **visually impaired** and need assistance at this meeting, please call the **Planning and Community Development** at **(757) 385-4621**.

9:00 AM

- **INFORMAL STAFF BRIEFINGS OF PUBLIC HEARING AGENDA ITEMS**

10:00 AM

- **FORMAL REVIEW OF PUBLIC HEARING AGENDA ITEMS**

NEW BUSINESS AGENDA ITEMS

1.

Scott Prunty

[Property Owner and Applicant]

2953 Breezy Road

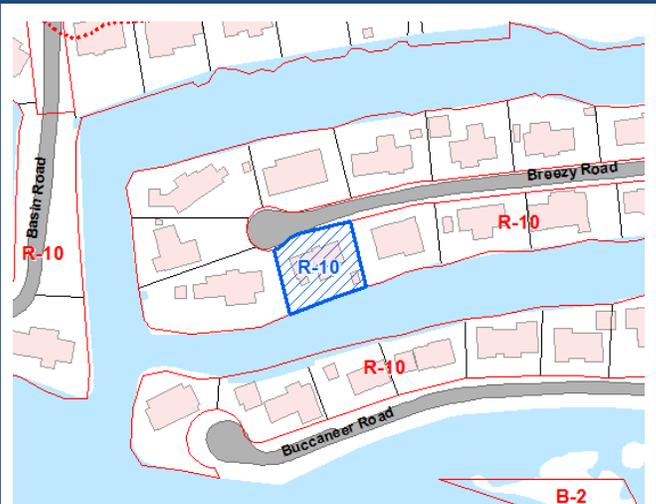
GPIN: 1499-18-5172

COUNCIL DISTRICT – Lynnhaven

Applicant's Agent – Self Represented

Staff Planner – PJ Scully

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2.

Vincent P. and Michelle D. Magnini

[Property Owners and Applicants]

421 Bay Colony Drive

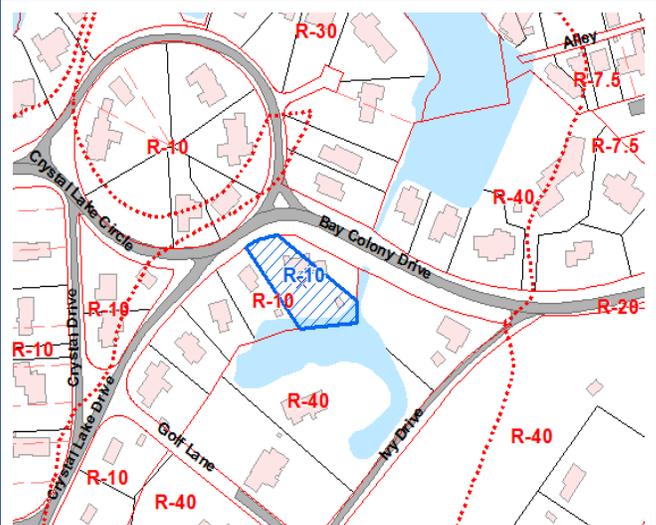
GPIN: 2418-77-1565

COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Self Represented

Staff Planner – PJ Scully

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3.

Hans E. and Holli H. Wachtmeister
[Property Owners and Applicants]

1421 Crystal Parkway
GPIN: 2419-40-0911
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Robert Simon

Staff Planner – PJ Scully
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4.

Kris Weaver
[Property Owner and Applicant]

2201 Windward Shore Drive
GPIN: 2409-28-0912
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully
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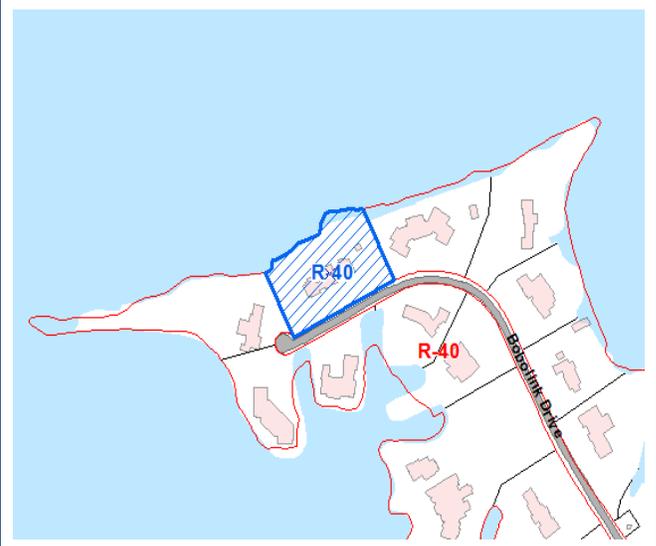
5.

Robert L. and Judith F. Marchetti
[Property Owners and Applicants]

1060 Bobolink Drive
GPIN: 2418-15-2571
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully
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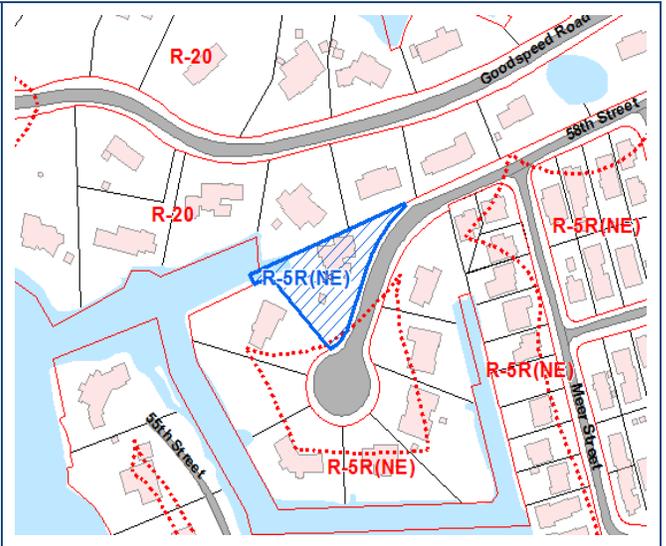
6.

Carla R. Stoner Trust
[Property Owner and Applicant]

500 58th Street
GPIN: 2419-60-3496
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Self Represented

Staff Planner – PJ Scully
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Variance Request

Encroachment into the Resource Protection Area (RPA) 50 foot seaward buffer with the construction of an accessory structure – swimming pool and elevated pool surround.

Applicant's Agent

Self-represented

Staff Planner

PJ Scully

Lot Recordation

1/5/1955
 Map Book 37, Page 47

Year Residential Structure Built

1960

GPIN

1499-18-5172

SITE AREA

10,894 square feet or 0.25 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

10,674 square feet or 0.245 acres

EXISTING IMPERVIOUS COVER OF SITE

4,368 square feet or 40.9 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

4,844 square feet or 45.4 percent of site

Area of Redevelopment in RPA

556 square feet

Area of New Development in RPA

632 square feet

Location of Proposed Impervious Cover

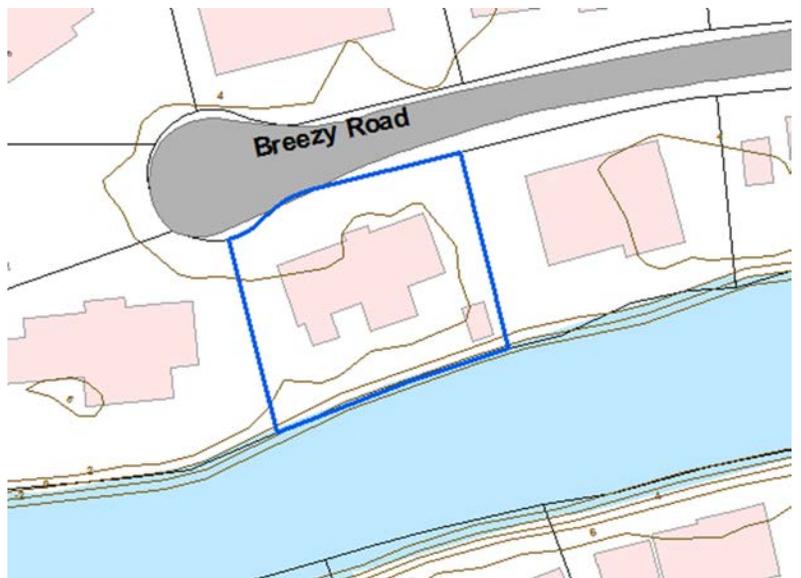
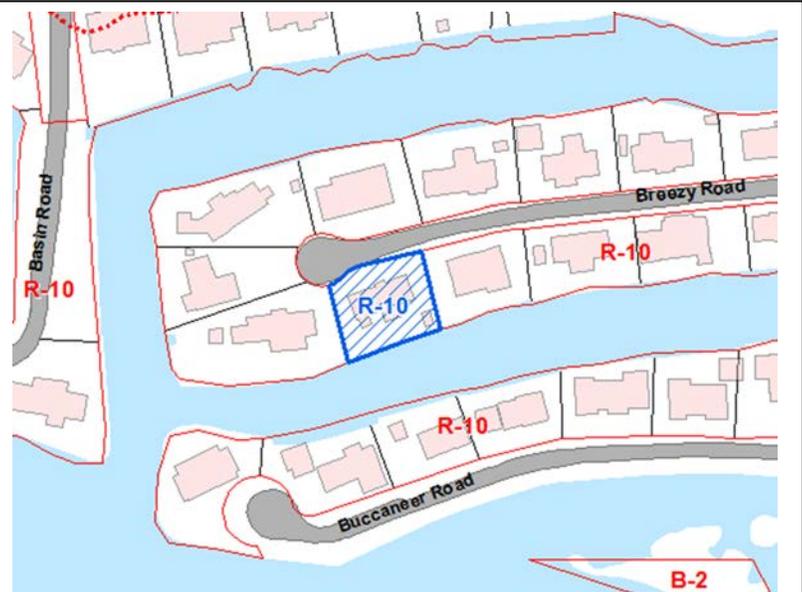
50 foot Seaward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Frame shed – located along the eastern property line
- Metal shed – located along the western side of the existing residential structure
- Concrete patio with pergola

Construction Details

- In-ground swimming pool
- Raised patio area with retaining wall
- Frame shed – 15 feet by 10 feet

CBPA Ordinance Variance History

No known Chesapeake Bay Preservation Area (CBPA) Board variance history to report.

Environmental Conditions

Flood Zone

AE – Base Flood Elevation (BFE): 7

Soil Type(s)

Psamments-Urban Series (moderately well-drained soils, disturbed from excavation)

Shoreline

Shoreline is hardened by a bulkhead with no signs of failure present during the site visit.

Riparian Buffer

Sparsely wooded.

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

This entire reach of Breezy Road and the adjacent Buccaneer Road are narrow manmade peninsulas with dimension widths varying from 150 feet to 200 feet. Therefore, the rear yards of these parcels are entirely within the 50 foot seaward buffer. Several of the parcels within this area also have overlapping 50 foot landward buffers due to these narrow peninsulas. Given the environmental constraints created by these peninsulas and the redevelopment and encroachments granted by prior Chesapeake Bay Preservation Area (CBPA) Boards throughout this neighborhood, Staff performed an analysis of the CBPA variances granted on Breezy Road in order to compare this request's existing and proposed impervious cover amounts to variances previously granted in the vicinity. Over the past 14 years, 11 known CBPA Ordinance variances have been granted on Breezy Road. Of those 11 variances, the average existing impervious cover was 37.43 percent, with an average post-development impervious cover of 40.03 percent. Post-development

impervious covers ranged from 33.6 percent to 49.6 percent. The CBPA Board did deny a request with a post-development impervious cover proposed at 46 percent.

The applicant's Engineer of Record has provided the following comments relative to the findings of the CBPA Ordinance specific to this variance request, and believes that the proposed improvements will be in harmony with the purpose and intent of the CBPA Ordinance.

- 1) *"Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated as the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels."* Staff concurs with this position, specific to the proposed improvements only.
- 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 or predecessor in title since there has not been any known variances granted for this property. In addition, the parcel has two concrete pads and two sheds that will be removed."* Staff offers for the Board's deliberation that this parcel was platted in 1955, prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance. Also, the residential structure was constructed in 1960, therefore, placing this property entirely within the RPA.
- 3) *"The variance is the minimum necessary to afford relief with the proposed improvement for a small pool, 12 feet by 24 feet with a patio that will be large enough for a table, associated chairs, grill area and fire pit. It is kept to this minimum size while accommodating these items."* While an argument can be made that the proposed improvements are similar to other parcels in the neighborhood, specifically those parcels that have redeveloped or developed within the 50 foot seaward buffer with swimming pools, wood deck and patios, Staff is of the opinion that the overall post-development impervious cover is not the minimum necessary to afford relief. Staff based this opinion off of post-development impervious cover pertaining to previous CBPA Board variances on Breezy Road (40.03 percent) against the proposed post-development impervious cover percent associated with this request (45.4 percent).
- 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 because the new impervious area, constructed of pavers is only an additional 160 square feet more than the existing concrete patio, the swimming pool is 288 square feet and offers an element of water harvesting to minimize impacts, and the existing soil composition of the parcel is primarily a sandy soil with a high infiltration rate."* Staff concurs with the observation that the existing soil profile, coupled with a relatively flat topography for this parcel offers the opportunity to infiltrate stormwater within this parcel.
- 5) *"The existing topography of the parcel will remain flat to allow water to infiltrate and the existing Bermuda grass will remain to stabilize the areas of soil not disturbed by construction as a means to manage towards a no net increase in nonpoint source pollution load."* In addition to Staff's above statement, there is a mutual agreement that the benefit of this parcel in relationship to the proposed improvements is its flat topography and high infiltration rates of the existing soil profile. Staff is of the opinion, that this parcel and several in this area are impacted more by abnormal tidal events that breach the existing bulkhead or infiltrate the existing stormwater drainage system more so than the parcels' impervious cover being injurious to the neighborhood.

While these findings provide merit towards this variance not being injurious to the neighborhood, and not of substantial detriment to water quality, Staff does not support the variance as proposed. With the proposed improvement being minimal in size, 632 square feet of new impervious cover, Staff remains of the opinion that collectively the overall post-

development impervious cover is not the minimum to afford relief. Staff has addressed this concern with the applicant and offers the recommended condition 11 below as a means not to confer upon the applicant any special privilege or convenience not accorded to other owners of property who are subject to the provisions of this ordinance and are similarly situated. In addition, Staff recommends the following 15 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality for the Board's deliberation.

Recommended 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. 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: **632 square feet x 200 percent = 1,264 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 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 not 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. The maximum impervious cover of the parcel shall not exceed 4,484 square feet or 42 percent post-development impervious cover.
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 \$144.83 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.
14. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
15. The conditions and approval associated with this variance are based on the exhibit plan dated January 30, 2018, prepared by WPL, signed February 2, 2018 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.

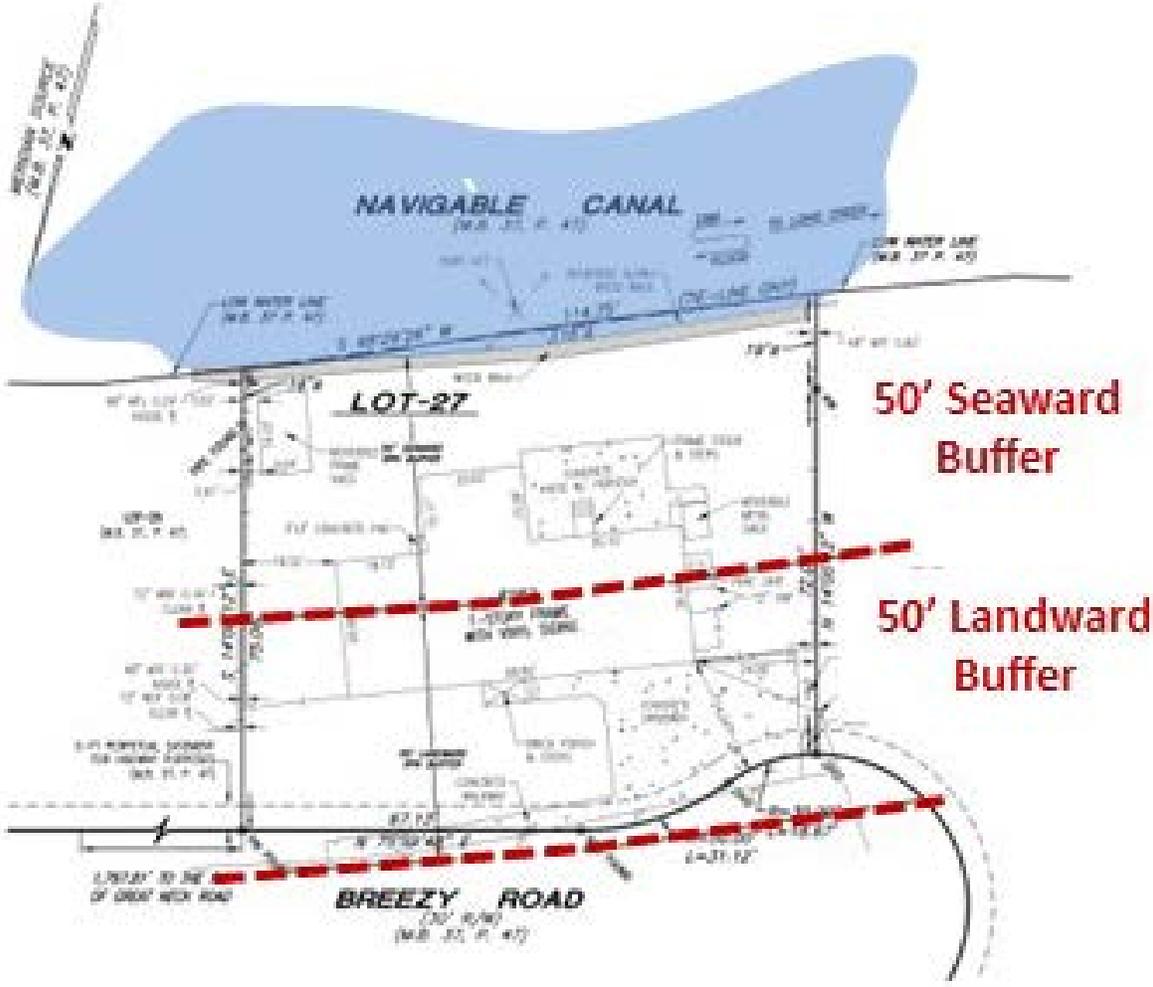
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

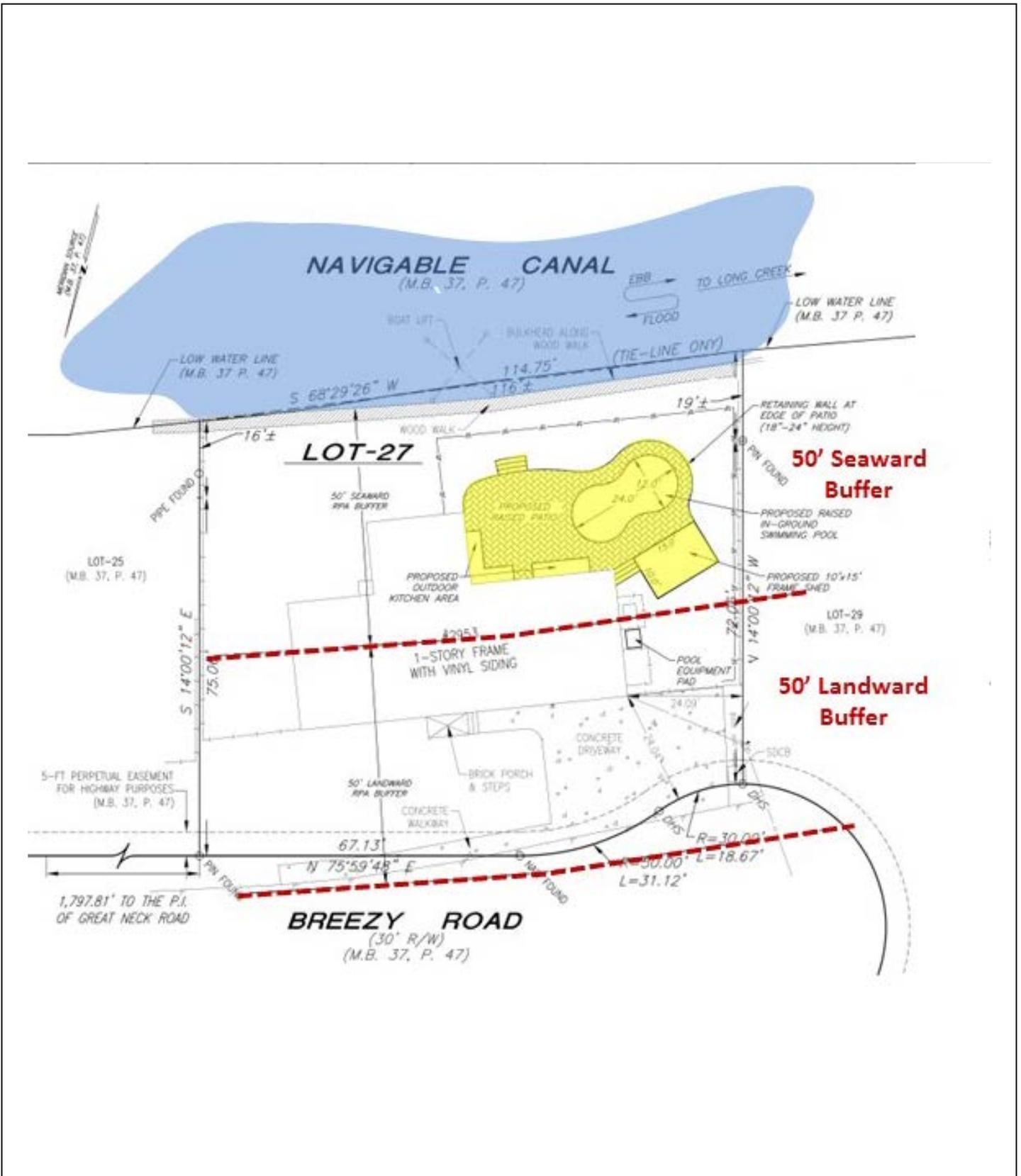
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Scott Prunty

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

Acquisition of Property by City	Disposition of City Property	Modification of Conditions or Proffers
Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).

Page 1 of 7

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	



Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Scott Prunty
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

N/A

(B) List the businesses that have a parent-subsiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: Scott Prunty
If an LLC, list the member's names:

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

N/A

- (B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

N/A

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	WPL
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	WPL
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	Dovemuehle Mortgage
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

N/A



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, **I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.**

<i>Scott Prunty</i>	Scott Prunty	1/17/18
APPLICANT'S SIGNATURE	PRINT NAME	DATE

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

AS NEEDED, PAGE LEFT BLANK

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer with the construction of an accessory structure – swimming pool and elevated pool surround.

Applicant's Agent

Self-represented

Staff Planner

PJ Scully

Lot Recordation

7/30/1926

Map Book 7, Page 166

Year Residential Structure Built

1940

GPINS

2418-77-1565, 2418-77-2548

SITE AREA

29,653 square feet or 0.68 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

29,653 square feet or 0.68 acres

EXISTING IMPERVIOUS COVER OF SITE

6,419 square feet or 21.6 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

7,046 square feet or 23.7 percent of site

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

627 square feet

Location of Proposed Impervious Cover

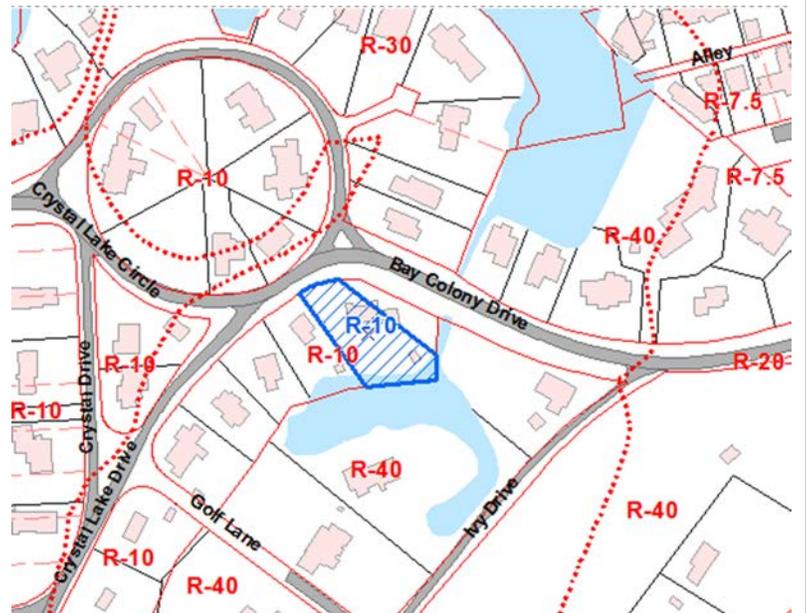
50 foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Construction Details

- Swimming pool with associated concrete deck

In addition to the proposed improvements associated with this request, the applicant is in the process of vacating the interior recorded parcel line.

CBPA Ordinance Variance History

No known Chesapeake Bay Preservation Area (CBPA) Board variance history to report.

Environmental Conditions

Flood Zone

Zone X

Soil Type(s)

State Series (deep, well-drained soils) located above the top of bank

Rumford Series (highly erodible soils) located below the top of bank

Shoreline

Shoreline is in a natural state. Moderate maintenance should be performed to limb up low hanging branches shading wetland flora.

Riparian Buffer

Sparsely to moderately wooded with the majority of the mature canopy cover on the parcel within the 50 foot seaward buffer.

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

Staff is of the opinion that the proposed improvements are in harmony with the purpose and intent of the CBPA Ordinance, not injurious to the neighborhood, and are the minimal necessary to afford relief for the following reasons.

- The seaward portion of the proposed swimming pool surround is 3 feet in width. Most similar variance requests propose a 4 foot wide swimming pool surround.
- The proposed improvement at situated adjacent to the existing deck to the greatest extent practicable to avoid encroachment into the 50 foot seaward buffer.
- The area of and access to the site is a stable slope with sufficient open space to minimize encroachment into existing canopy trees' critical root zones and impacts to existing stormwater sheetflow paths from upland improvements to the adjacent RPA feature.

The applicant has provided the following comments relative to the findings of the CBPA Ordinance specific to this variance request for the Board's deliberation.

- 1) *"Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated because the proposed improvements only increase the overall post-development impervious cover of the parcel to 23.7 percent therefore leaving 76.3 percent of pervious cover with an increase offer by the applicant to provide 1,600 square feet of buffer restoration – CBPA Ordinance requires 1,254 square feet of buffer restoration."* Staff concurs with the applicant's finding.
- 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 and the existing residential structure built in 1940, prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance therefore placing portions of this property is within the RPA."* Staff concurs with the applicant's finding.
- 3) *"The variance is the minimum necessary to afford relief given the location of the proposed improvements situated directly adjacent to the existing wood deck coupled with the overall post-development impervious cover being under 24 percent of the parcel's land area above water and wetlands."* Staff concurs with the applicant's finding.
- 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 due to the implementation of buffer restoration – consisting of 1,600 square feet of turf conversation to mulched planting beds integrating 12 trees and 12 shrubs with ample open space preservation."* Staff concurs with the applicant's finding.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, the proposed improvements are not located in the most sensitive portions of the parcel – 50 foot seaward buffer, additional buffer restoration is offered, and rain water harvesting is currently occurring on site with rain barrels collecting run-off from the existing garage roof.
- 6) Finally, Staff recommends the following 15 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended 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. 1,600 square feet of buffer restoration shall be installed 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: **4 canopy trees, 8 understory, and 12 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. 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 \$143.68 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for oyster shell plant within the Lynnhaven River Basin.**

15. The conditions and approval associated with this variance are based on the exhibit plan dated February 2, 2018, prepared by Hayden Frye and Associates, Inc. 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.

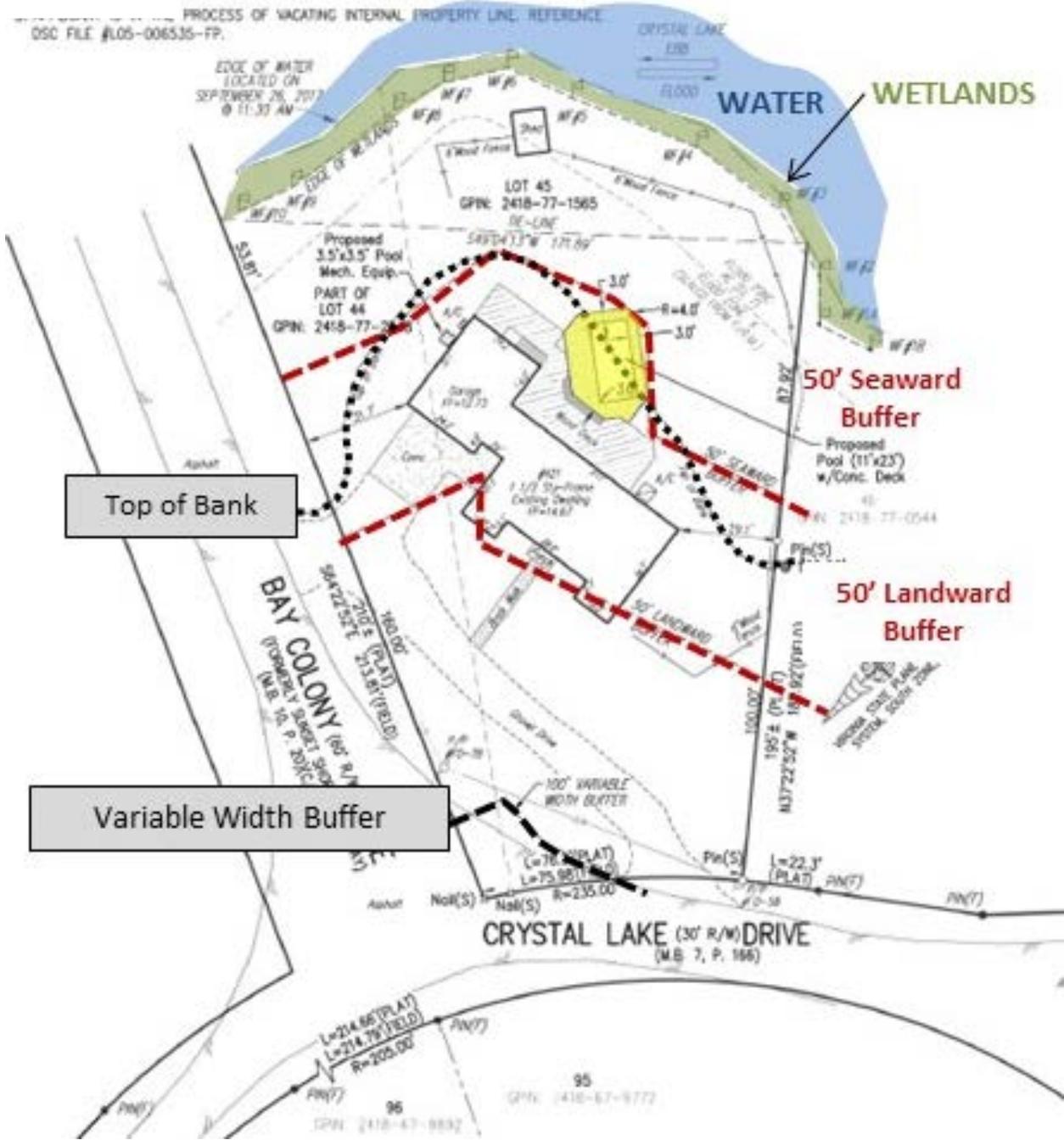
**** NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

*****NOTE:** The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

Site Aerial



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Vincent P. & Michelle D. Magnini

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

Acquisition of Property by City	Disposition of City Property	Modification of Conditions or Proffers
Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).		
<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE: _____
<input type="checkbox"/>	NO CHANGES AS OF	DATE: _____
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE: _____



- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: _____
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: _____
If an LLC, list the member's names:



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsidary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsidary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	James Wallen, CPA Newport News, VA
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	Not yet determined
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Hayden Frye
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	First Land Mortgage
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	Vincent P. Magnini	2-5-18
APPLICANT'S SIGNATURE	PRINT NAME	DATE

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

Variance Request

Modification of the April 25, 2011 Chesapeake Bay Preservation Area (CBPA) Board variance to delete condition 8.

Applicant's Agent

Robert Simon

Staff Planner

PJ Scully

Lot Recordation

8/13/1952

Map Book 32, Page 36

GPIN

2419-40-0911

SITE AREA

48,915 square feet or 1.12 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

40,230 square feet or 0.92 acres

EXISTING IMPERVIOUS COVER OF SITE

9,656 square feet or 24 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

9,656 square feet or 24 percent of site

Location of Proposed Impervious Cover

50 foot Seaward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Deny as submitted



Summary of Proposal

Demolition Details

- Wood bulkhead

Construction Details

- Wood bulkhead – 2 feet outboard of the existing bulkhead

CBPA Ordinance Variance History

April 25, 2011 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the subdivision of a single parcel into two residential lots with the following 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.*
3. *Wire re-enforced 36" erosion and sedimentation control measures (silt fences), 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. Said silt fence shall be installed 10 ft. from proposed improvements. Best management practices for erosion and sediment control shall be employed during restoration activities to protect adjacent wetlands and shorelines of waterbodies.*
4. *Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline (if possible) 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.*
5. *Prior to the issuance of any certificate of occupancy, or the final release of an permit authorizing a land disturbing activity, all disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations by such methods as, but not limited to, temporary seeding, permanent seeding, sodding or soil stabilization blankets and matting. The Building Code Official may authorize a temporary certificate of occupancy without the required soil stabilization if the failure to stabilize is due to circumstances **beyond the control** of the permit holder.*
6. *Construction limits shall lie a maximum of 10' outboard of improvements.*
7. *The construction access way shall be noted on the site plan, as well as the stockpile / staging area.*
8. *If and when the shoreline is re-hardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (vinyl, timber or steel bulkhead), exclusive of the boat basin. The toe of said revetment shall lie at or landward of mean high water or tidal vegetated wetlands, unless the Wetlands Board determines that site specific conditions warrant a more seaward alignment.*
9. *The pool shall be constructed prior to or concurrent with the residence.*

10. *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.*
11. *A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed. The landscape plan shall clearly delineate existing naturalized (trees, landscaping and mulched organic surfaces) areas, planting beds, and turf zones.*
12. *A revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.*
13. *The conditions and approval associated with this variance are based on the site plan sealed March 31, 2011 by William R. Pritchard, prepared by WPL.*
14. *The nearest intersection label is incorrect and shall be corrected on the revised plan. The nearest street is Bayshore Drive.*
15. *Stormwater runoff from existing and proposed impervious cover shall be conveyed to stormwater management facilities. Low maintenance best management practices shall be employed to the maximum extent practicable. Stormwater facilities shall be installed prior to the certificate of occupancy or release of the building permit.*
16. *The proposed walkways, exclusive of the eastern walkway/retaining wall leading to the front door, shall be mulched, a maximum of 4 feet in width, with stepping stones or pavers not to exceed 50% of the path area.*
17. ***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 \$621.00 and is based on 25% of the proposed impervious cover within the RPA, inclusive of the variable width portion of the buffer. Said payment shall provide for the equivalent of an approximate 678 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.*
18. *Buffer restoration shall be installed equal to 200% of the proposed new impervious cover within the RPA (2,710 x 200% = 5,420 sq. ft.) and 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 Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance. 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" – 6" 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 50% deciduous and 50% evergreen species and shall be evenly distributed within the RPA buffer. 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.*
19. *It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.*

The April 25, 2011 CBPA Board granted variance has been acted upon and the associated upland improvements constructed.

Environmental Conditions

Flood Zone

Zone x

Soil Type(s)

State Series (deep, well-drained soils) located above the top of bank

Shoreline

Shoreline is hardened by a wood bulkhead. The applicant's agent has stated in the Water Quality Impact Assessment (WQIA) that the existing timber bulkhead has exceeded its design life.

Riparian Buffer

Sparsely wooded.

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

The April 2011 CBPA Board variance has a condition that *"if and when the shoreline is re-hardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (vinyl, timber or steel bulkhead), exclusive of the boat basin. The toe of said revetment shall lie at or landward of mean high water or tidal vegetated wetlands, unless the Wetlands Board determines that site specific conditions warrant a more seaward alignment."* The applicant's agent has submitted this variance request to have condition 8 of the 2011 CBPA variance reconsidered by the Board allowing the applicant to bulkhead the property along the navigable canal.

To further justify this variance request, the applicant's agent has provided the following comments relative to the findings of the CBPA Ordinance specific to this variance request.

- 1) *"Granting the variance, to construct a wood bulkhead in-lieu of a riprap revetment 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 because if the applicant is required to install the riprap revetment said improvement would result in the conversion of 6,730 square feet of uplands to riprap."* Staff does not agree with this position entirely and has asked the applicant's agent to provide reasoning as to why the riprap revetment cannot be placed in front of the existing bulkhead or why the riprap revetment cannot be placed over subaqueous bottom and slope landward at a 1.5 to 1 ratio intersecting the existing bulkhead at the mean high water mark, therefore reducing the amount of uplands impacted.
- 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 because the shoreline has not been altered or changed by the applicant and the timber bulkhead has exceeded its design life."*
- 3) *"By permitting the wood bulkhead to be constructed the variance is the minimum necessary to afford relief by allowing the applicant to bulkhead his property along the navigable canal, similar to the adjoining properties without the additional cost and expense to excavate the yard and dispose of the spoils off site."*
While Staff understands the cost associated with rehardening a shoreline, the placement of riprap in front

Hans E. and Holli H. Wachtmeister

Agenda Item 3

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of the existing bulkhead would alleviate the cost to excavate and haul spoils off site. Moreover, if the construction of a wood bulkhead is granted, the applicant would then have the cost and expense of hauling material to the site to backfill the 2 foot separation between the existing bulkhead and the proposed bulkhead.

- 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 because granting the request would allow the applicant to improve the portion of the property along a navigable canal in the same manner as the adjacent properties.”* Staff is of the opinion that the rehardening of the existing shoreline does need to be addressed at this time so that potential future deterioration of the existing wood bulkhead does not contribute to the degradation of water quality. Staff however does not believe that rehardening the shoreline with a new wood bulkhead, 2 feet outboard of the existing is an appropriate solution given the typical life expectancy of marine treated wood to be approximately 25 years – prone to buckling and cracking during that time.
- 5) *“There is no new impervious associated with this variance request so there is no net increase in nonpoint source pollution load.”*

The applicant’s agent visited the site on March 13, 2018, during periods of abnormal high tides due to prolonged winds blowing from the north / northwest. At that time, the tidal water had topped the existing bulkhead. Given this condition, the applicant’s agent stated to Staff that the elevation of the proposed wood bulkhead would be approximately 8 inches higher than the existing bulkhead. As mentioned above, Staff supports the applicant’s desire to reharden the existing shoreline, however, does not support the variance request as submitted by the applicants agent depicting the loss of 6,730 square feet of upland, due to the specific wording of condition 8 of the April 25, 2011 CBPA variance. As such, should the Board desire to consider granting this variance request, Staff offers the following recommended condition for deliberation towards a more appropriate means of rehardening the existing shoreline.

Recommended Conditions

1. If and when the shoreline is re-hardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (vinyl, timber or steel bulkhead), exclusive of the boat basin. Said revetment shall lie landward of the existing bulkhead.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

Site Aerial





APPLICANT'S NAME Hans E. and Holli Wachtmeister

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Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

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<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	



- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Hans E. and Holli Wachtmeister
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidiary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: Hans E. Wachtmeister
If an LLC, list the member's names:

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Marshall Consulting Group, LLC
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	Project out for bid
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	WCI, Chesapeake Bay Site Solutions
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	Sun Trust Mortgage
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	Hans E. and Holli Wachtmeister	2/5/18
APPLICANT'S SIGNATURE	PRINT NAME	DATE

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

Hans E. and Holli H. Wachtmeister

Agenda Item 3

Page 44



Property Owner **Kris Weaver**
 Applicant **Kris Weaver**
 Address **2201 Windward Shore Drive**
 Public Hearing **March 26, 2018**
 City Council District **Lynnhaven**

Agenda Item

4

Variance Request

Encroachment into the Resource Protection Area (RPA) with the construction of a new primary structure with associated accessory structures.

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

9/3/1952

Map Book 45, Page 37

GPIN

2409-28-0912

SITE AREA

21,237.8 square feet or 0.49 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

20,796 square feet or 0.47 acres

EXISTING IMPERVIOUS COVER OF SITE

6,058.6 square feet or 29.1 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

6,312.1 square feet or 30.4 percent of site

Area of Redevelopment in RPA

4,419.0 square feet

Area of New Development in RPA

1,666.8 square feet

Location of Proposed Impervious Cover

50 foot Landward Buffer

100 foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Complete demolition - all upland improvements to be removed.

Construction Details

- Single family residence on raised slab
- Concrete driveway with associated walkways
- Swimming pool with concrete pool patio
- Detached garage with associated generator and equipment pad

CBPA Ordinance Variance History

No Chesapeake Bay Preservation Area (CBPA) Board variance history to report.

Environmental Conditions

Flood Zone

Zone X

Soil Type(s)

Fripp Series (deep, excessively drained sandy marine and eolian sediment soils)

Shoreline

Shoreline has been recently redeveloped with a wood bulkhead.

Riparian Buffer

Sparsely wooded parcel

- Number of existing canopy trees requested for removal within the RPA: 8
- Evaluation of existing tree removal request: Trees being requested for removal are within the delineated limits of construction.

Evaluation and Recommendation

Although the proposed accessory structures associated with this variance request encroaches further seaward, by approximately 7 feet, all of the proposed impervious cover remains landward of the 50 foot seaward buffer. In addition, the applicant has balanced the majority of the proposed improvements of this variance request with redevelopment over existing impervious cover. Given the location of the proposed improvements, Staff is of the opinion that the submitted application limits land disturbance to a minimum area necessary to provide for the proposed redevelopment and avoids the most sensitive portions of the parcel – the 50 foot seaward buffer and top of bank feature to the greatest extent practicable.

The applicant's agent has provided some of the following comments relative to the findings of the CBPA Ordinance specific to this variance request, and believes that the proposed improvements will be in harmony with the purpose and intent of the CBPA Ordinance.

- 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 been approved within the RPA."* Staff concurs and commends the applicant's for maintaining the front yard setback and existing impervious cover towards the redevelopment of this parcel.
- 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."* Staff concurs.
- 3) *"The variance is the minimum necessary to afford relief given the amount of redevelopment proposed and encroachment of impervious cover landward of the 50 foot seaward buffer of the RPA."* Staff concurs coupled with the overall increase in impervious cover being minimal, approximately 254 square feet.
- 4) Staff 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) Staff is off the opinion that the applicant's investment in redeveloping those portions of RPA already developed to the greatest extent practicable 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.

Finally, Staff recommends the following 16 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.

5. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
7. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,666 square feet x 200 percent = 3,332 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: **9 canopy trees, 9 understory, 18 large shrubs and 27 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. **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 \$381.33 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.
16. The conditions and approval associated with this variance are based on the exhibit plan dated October 26, 2017, prepared by Gallup Surveyors and Engineers, signed January 26, 2018 by Bruce Gallup. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

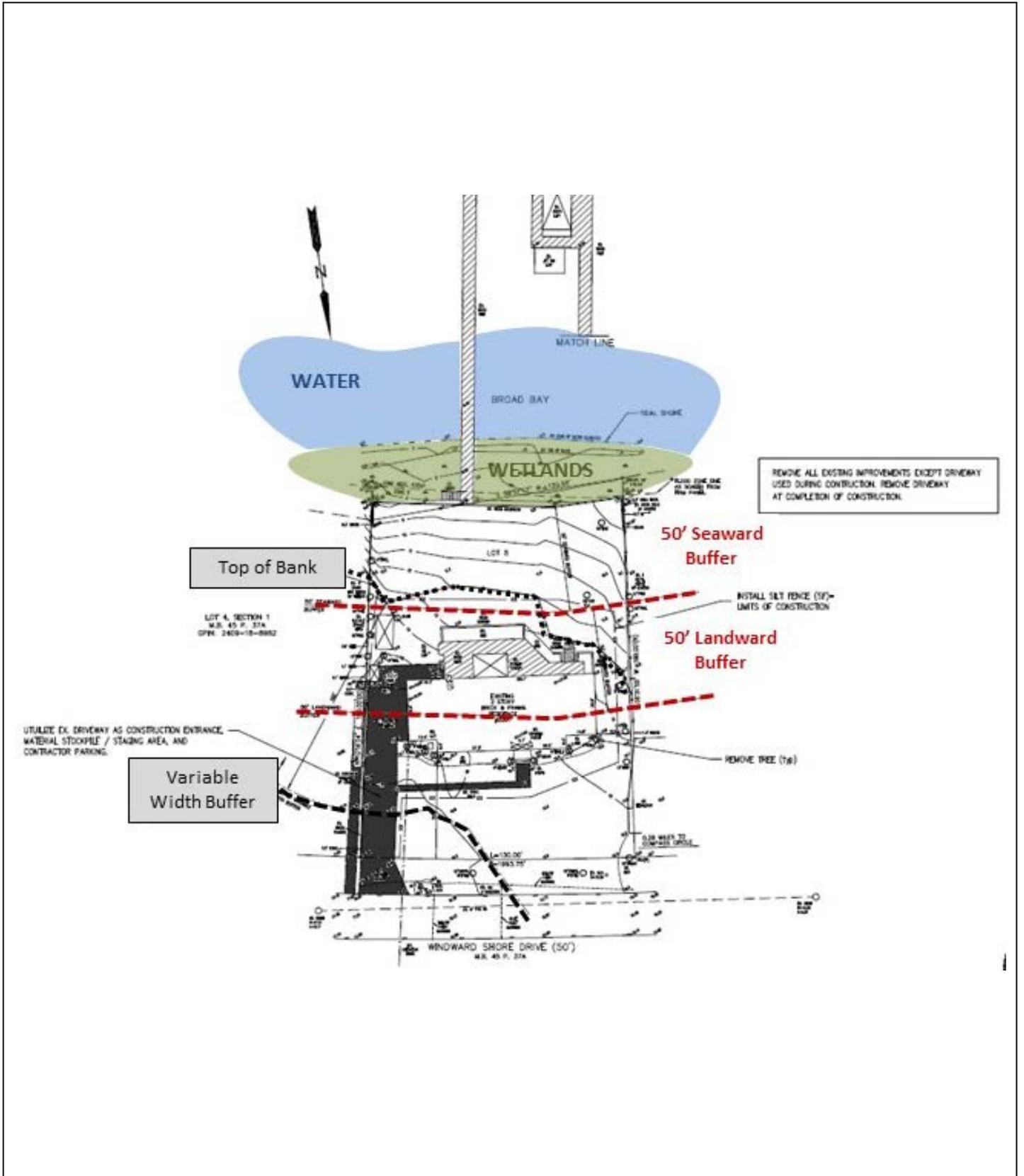
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

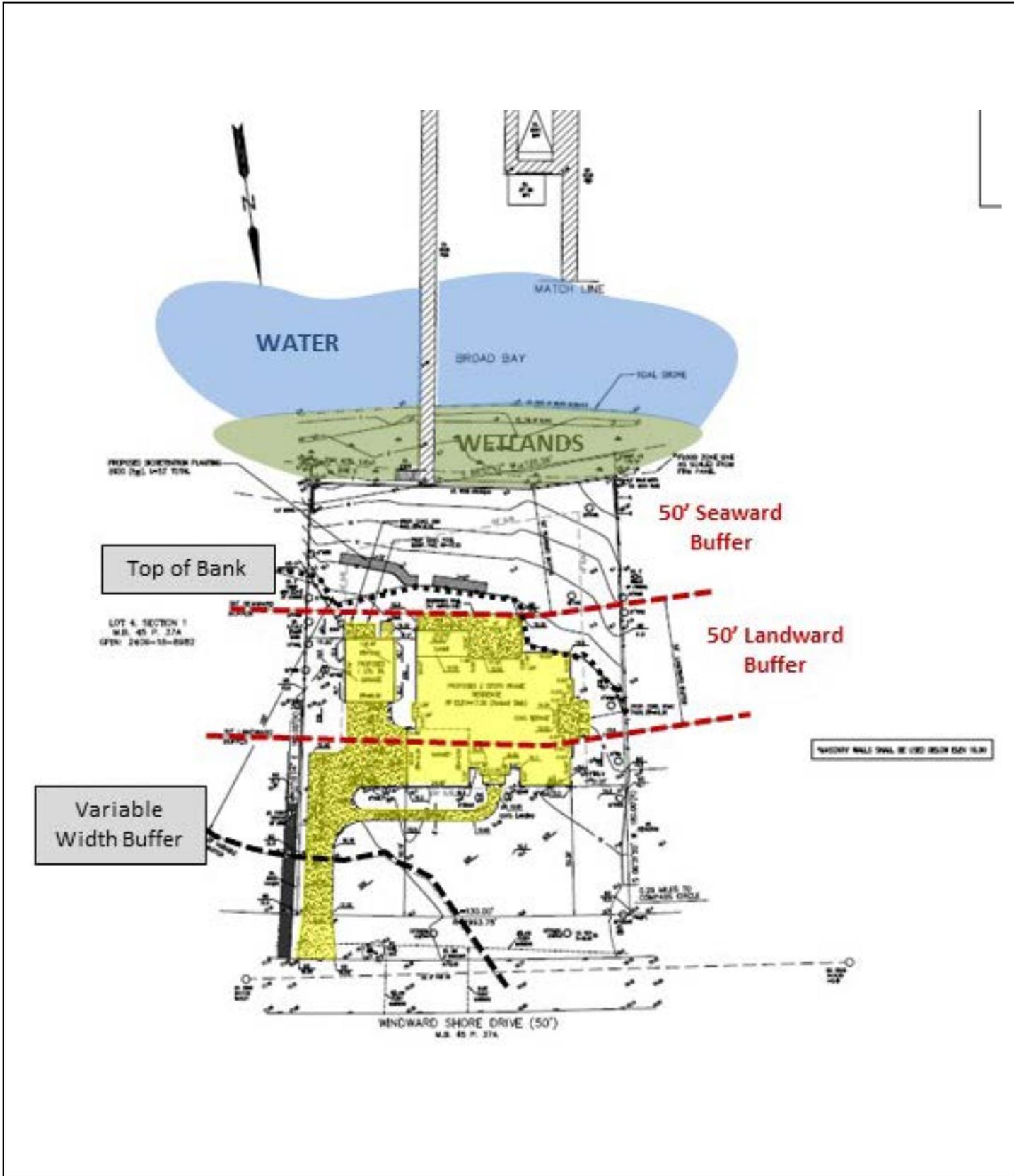
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Kris Weaver

DISCLOSURE STATEMENT FORM

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Acquisition of Property by City	Disposition of City Property	Modification of Conditions or Proffers
Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board ✓	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).

Page 1 of 7

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	



Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Kris Weaver
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: Kris Weaver
If an LLC, list the member's names:



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Kevin Stewart
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	IONIC DESIGNS
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	STEPHEN J. BOON & ASSOC. CIVIL SURVEYORS & ENGINEERS, LTD
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	ABNB
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	BILLY GARRINGTON (GFC)

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
---------------------------------	---	--

If yes, what is the name of the official or employee and what is the nature of the interest?



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	Kris Weaver	02/11/2016
APPLICANT'S SIGNATURE	PRINT NAME	DATE

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

AS NEEDED, PAGE LEFT BLANK



Property Owner **Robert L. and Judith F. Marchetti**
 Applicant **Robert L. and Judith F. Marchetti**
 Address **1060 Bobolink Drive**
 Public Hearing **March 26, 2018**
 City Council District **Lynnhaven**

Agenda Item
5

Variance Request

Encroachment into the Resource Protection Area (RPA) 50 foot seaward buffer - expansion of the primary and accessory structure.

Applicant's Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

12/7/1946
Map Book 18, Page 84

Year Residential Structure Built

1998

GPIN

2418-15-2571

SITE AREA

62,610 square feet or 1.437 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

62,610 square feet or 1.437 acres

EXISTING IMPERVIOUS COVER OF SITE

19,162 square feet or 30.6 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

23,501 square feet or 37.5 percent of site

Area of Redevelopment in RPA

4,954 square feet

Area of New Development in RPA

5,103 square feet

Location of Proposed Impervious Cover

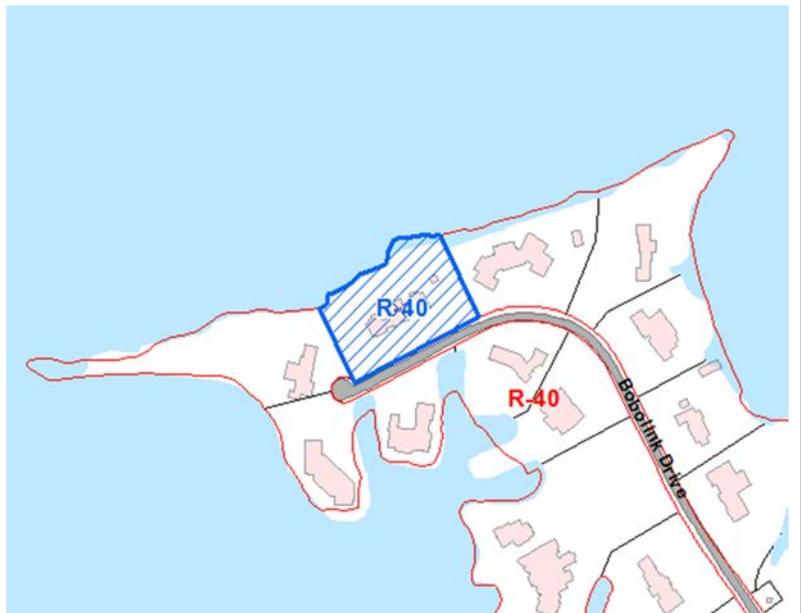
- 50 foot Seaward Buffer
- 50 foot Landward Buffer
- 100 foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- All accessory improvements in the rear yard – swimming pool, pool house, and all terraces

Construction Details

- Detached garage with associated driveway extension
- Building additions off of the rear of the primary structure
- Paver patio with hot tub fire pit and swimming pool
- Pool house
- Concrete parking area over existing gravel parking area

CBPA Ordinance Variance History

March 27, 1995 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the subdivision of a single parcel into two residential lots with the following conditions:

- 1. To compensate for the additional impervious cover on-site a buffer mitigation plan shall be developed by the applicant and submitted to the D. S. C. for review and approval. The plan shall include provisions for the planting of 9 trees (3:1 compensation) and planting bed(s) equal to the area of displaced tree canopy. The planting bed(s) shall be exclusive of the required BMP planting beds.*
- 2. A sequence of events schedule shall be included with the submittal of additional site plans to include, but not limited to, the retaining wall installation, (if applicable) demolition of the existing residence, limits of construction, defined staging areas, on-site access routes and tree protection; and appropriate erosion and sediment measures.*
- 3. A revised site plan shall be submitted to the Planning Department for a full plan of development review and approval prior to the issuance of a building permit.*

The March 27, 1995 Board granted variance has been acted upon, in part, with portions of the associated improvements constructed.

Environmental Conditions

Flood Zone

This parcel is unique in that the following flood zones are present – X, 0.2 percent chance, and AE – BFE 8. These zones are present at both the front and rear of the parcel.

Soil Type(s)

State Series (deep, well-drained soils) located above the top of bank
Rumford Series (highly erodible soils) located below the top of bank

Shoreline

Shoreline is hardened by a riprap revetment. The condition of the existing riprap revetment is failing and exhibiting signs of erosion along the top of the structure partially due to the existing stone being undersized. Given the fetch and wave energy along the shoreline, presence of erosion, and the underlying soil conditions (highly erodible Rumford soils along the existing bank), the applicant's agent has stated to Staff that the redevelopment of the shoreline will be addressed through the Joint Permit Application (JPA) process.

Riparian Buffer

Sparsely wooded parcel

- Number of existing canopy trees requested for removal within the RPA: 1
- Number of existing canopy trees requested for removal within the RPA: 9
- Evaluation of existing tree removal request: Trees being requested for removal are within the delineated limits of construction, except for the 1 tree located at the front of the residence. The trees requested for removal at the rear of the residence are primarily understory trees with confined planting areas. The dominant species is *Lagerstroemia indica*, Crapemyrtle.

Evaluation and Recommendation

Staff met with the applicant, who recently purchased the property to discuss the CBPA Board process and the March 27, 1995 Chesapeake Bay Preservation Area (CBPA) Board variance for this parcel with an intent to develop a project compatible with the 1995 variance exhibit.

A comparison of the 2018 variance exhibit to the 1995 variance exhibit shows areas of deviation occurring with the proposed detached garage and pool house represented on the 2018 variance exhibit. These proposed improvements are accessory structures that were not components of the 1995 variance request. Given this comparison of exhibits, Staff has the following two areas of concern.

- The increase in overall impervious cover. The increase in impervious cover is 390 square feet – 23,111 square feet of impervious cover was approved with the 1995 variance compared to 23,501 square feet proposed by the 2018 improvements. Staff has expressed this concern to the applicant and applicant's agent and has provided the recommended condition 14 below to address this item.
- The encroachment of the proposed pool house and adjacent patio area into the 50 foot seaward buffer.

The applicant has provided the following comments relative to the findings of the CBPA Ordinance specific to this variance request for the Board's deliberation.

- 1) *"The proposed improvements are in substantial compliance with the 1995 CBPA variance therefore, granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, to other properties within this neighborhood, which are subject to the provisions of the CBPA Ordinance and are similarly situated since the applicant is merely remodeling the existing structures."* Although the applicant has chosen to relocate portions of the approved impervious cover to a previously undeveloped portion of the parcel, Staff is of the opinion that the proposed request does not confer upon the applicant any special privilege since there is no further encroachment seaward.
- 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 this parcel entirely within the RPA".* Staff concurs.

- 3) *“The variance is the minimum necessary to afford relief given the amount of redevelopment proposed and the applicant merely staying in substantial compliance with the 1995 variance of which 97 percent of the proposed improvements for the redevelopment of this parcel being within the 50 landward and variable width buffers.”* With respect to the comments provided, Staff has provided a recommended condition, condition 14 below that requires the overall proposed impervious cover amount for this variance request not to exceed the overall impervious cover amount approved with the 1995 variance.
- 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 implementation of buffer restoration in areas currently devoted to turf, the implementation of stormwater management facilities to treat the existing and proposed impervious cover stormwater runoff, and corrective measures for the on-going shoreline erosion.”* Staff concurs.
- 5) *“Most pollution and sediment discharge from a parcel occurs during the construction phase. As a means to manage towards a no net increase in nonpoint source pollution load, adequate erosion and sedimentation measures will be installed and maintained, existing impervious cover utilized for stockpile and staging areas, and the on-going shoreline erosion addressed through the Joint Permit Application (JPA) process.”* Staff is of the opinion that the redevelopment of this parcel, without an increase in impervious cover coupled with buffer restoration, stormwater treatment, and the redevelopment of the shoreline would provide water quality maintenance and pollution control, as well as flood and shoreline erosion control.

With the applicant and applicant’s agent addressing the above mentioned concerns, Staff would support this variance request with the recommended conditions below, and is of the opinion that said improvements will not contribute to the degradation of water quality or prove detrimental to the Resource Protection Area. Therefore, the following 19 recommended conditions are offered for the Board’s deliberation relative to the findings of the CBPA Ordinance specific to this variance request.

Recommended 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. 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. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **5,103 square feet x 200 percent = 10,206 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: **13 canopy trees, 13 understory, 52 large shrubs, and 78 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.

14. The maximum impervious cover of the parcel shall not exceed 23,111 square feet.
15. The proposed concrete parking area over existing gravel shall be constructed of a permeable pavement system.

16. 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.
17. **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 \$1,168.74 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.
18. This variance and associated conditions will be **in addition to** the conditions of the Board variance granted March 27, 1995.
19. The conditions and approval associated with this variance are based on the exhibit plan dated January 15, 2018, prepared by John E. Sirine and Associates, signed October 3, 2017 by Jeffrey Williams and revised March 7, 2018. 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.

** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

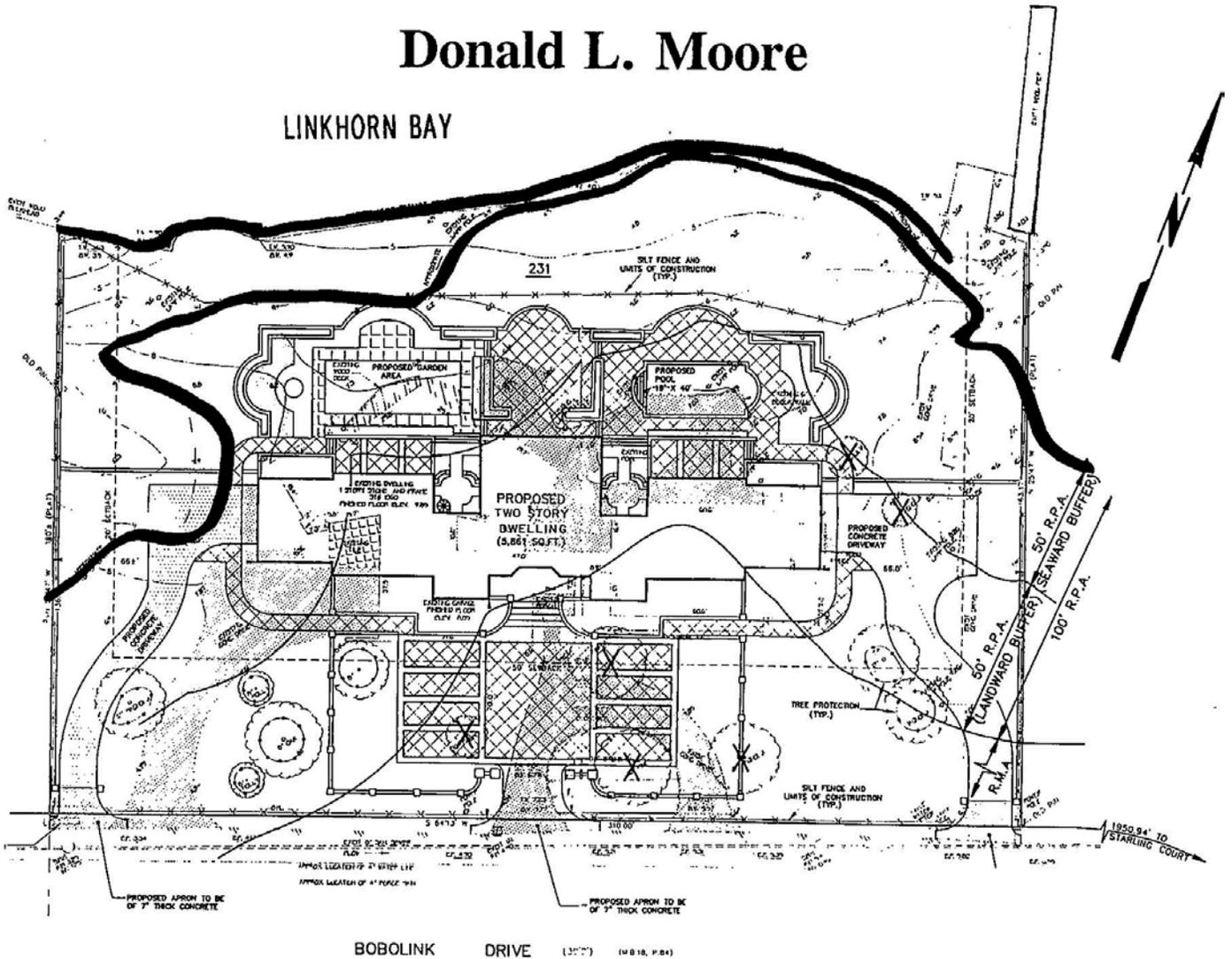
***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

Site Aerial



Donald L. Moore

LINKHORN BAY



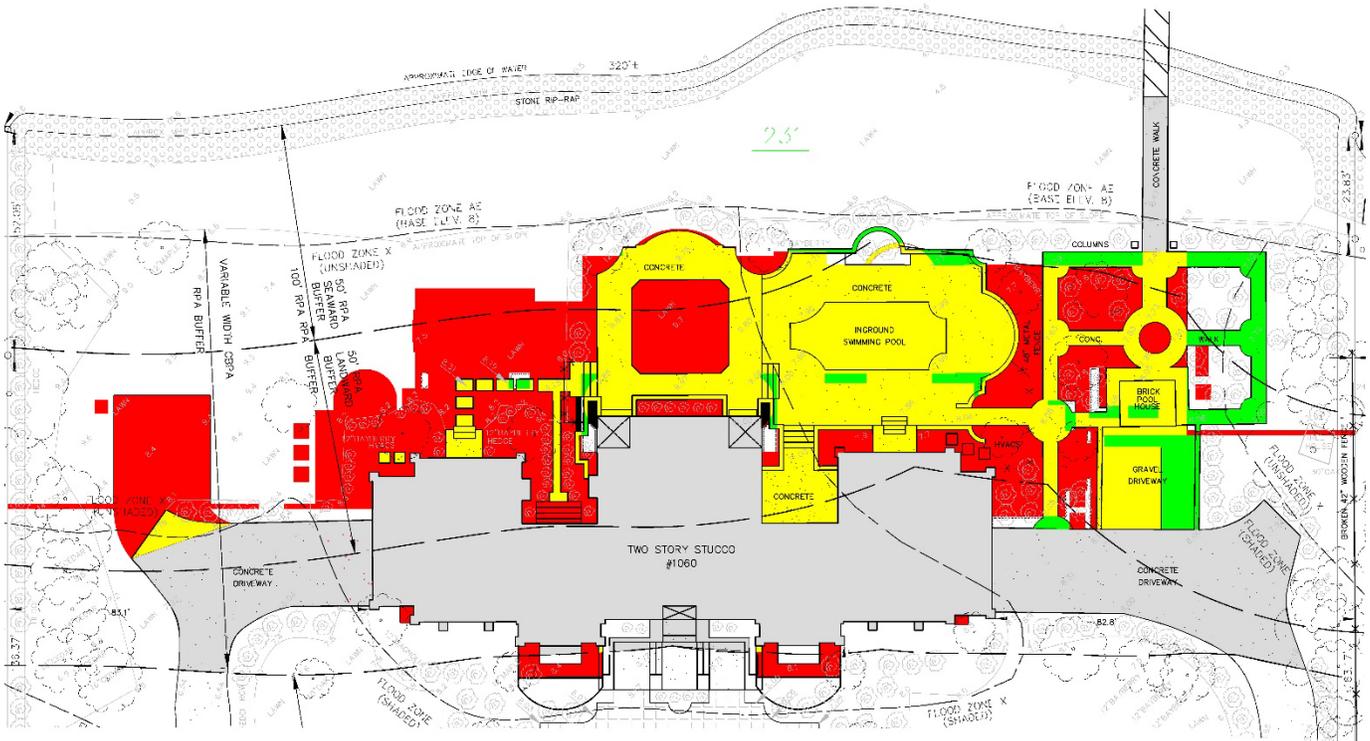
BOBOLINK DRIVE (20'7") (4818, P.84)

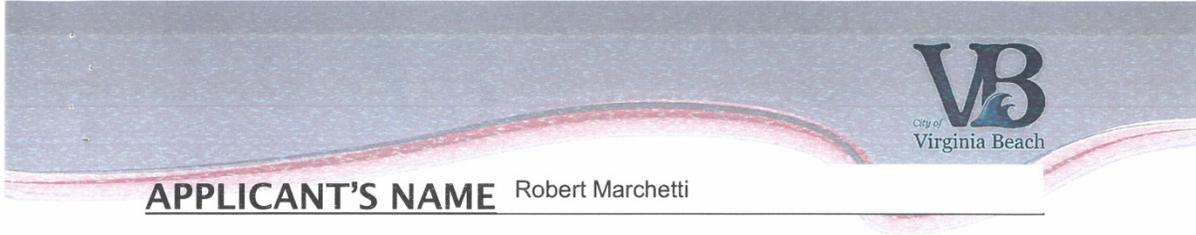
CBPA Exhibit – Color Analysis

ANALYSIS OF DEVELOPMENT
WITHIN THE CBPA RESOURCE PROTECTION AREA

	FLOOD ZONE X (UNSHADED)	FLOOD ZONE X (SHADED)	FLOOD ZONE AE (BASE ELEV. B)	FLOOD ZONE AE (BASE ELEV. B)	FLOOD ZONE X (SHADED)	FLOOD ZONE X (SHADED)
GRASS (PERMANENT)	14,340	16,250				
IMPERVIOUS COVER (PERMANENT)	5,274					
IMPERVIOUS COVER (TEMPORARY)	471					
PERVIOUS COVER (PERMANENT)	2,694	8,641				
TOTAL IMPERVIOUS COVER (PERMANENT)	8,277	5,277	0**	0**	0**	0**
TOTAL IMPERVIOUS COVER (TEMPORARY)		4,365	2,006	0.000	1,360	1,360

** STORMWATER FROM REDEVELOPMENT WILL COMPLY WITH THE NEW VPM METHOD AND WILL BE REVIEWED AT 200 DURING SITE PLAN REVIEW.





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Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).			
<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	



- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Robert Marchetti
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

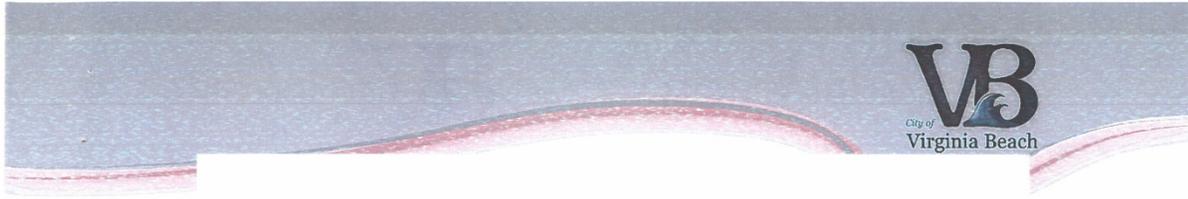
See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: Robert L. and Judith F. Marchetti
If an LLC, list the member's names:



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



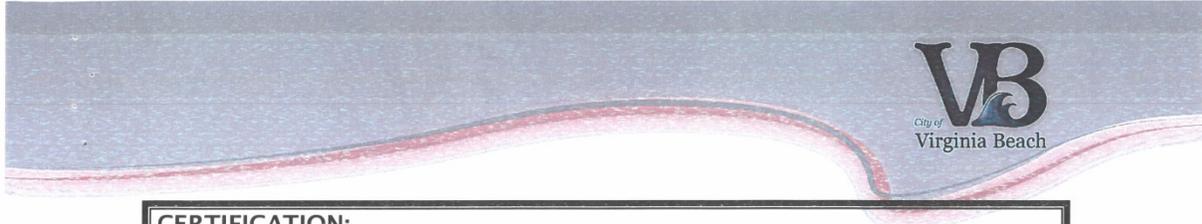
APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	HG Design Studio, Richmond VA
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	John E. Sirine and Associates, LTD
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Billy Garrington
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

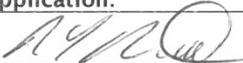
YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?



CERTIFICATION:
I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	Robert Marchetti	1/29/2018
APPLICANT'S SIGNATURE	PRINT NAME	DATE

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.
Robert L. and Judith F. Marchetti
Agenda Item 5
Page 74

Variance Request

Encroachment into the Resource Management Area (RMA) with the development of and expansion to the existing driveway.

Applicant's Agent

Self-Represented

Staff Planner

PJ Scully

Lot Recordation

10/15/1968

Map Book 77, Page 29

GPIN

2419-60-3496

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

855 square feet

Area of New Development in RPA

660 square feet

Location of Proposed Impervious Cover

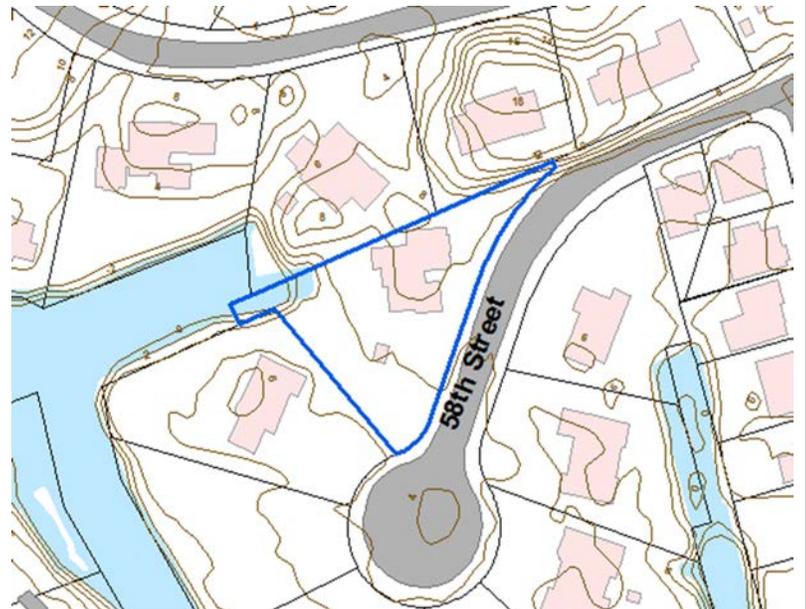
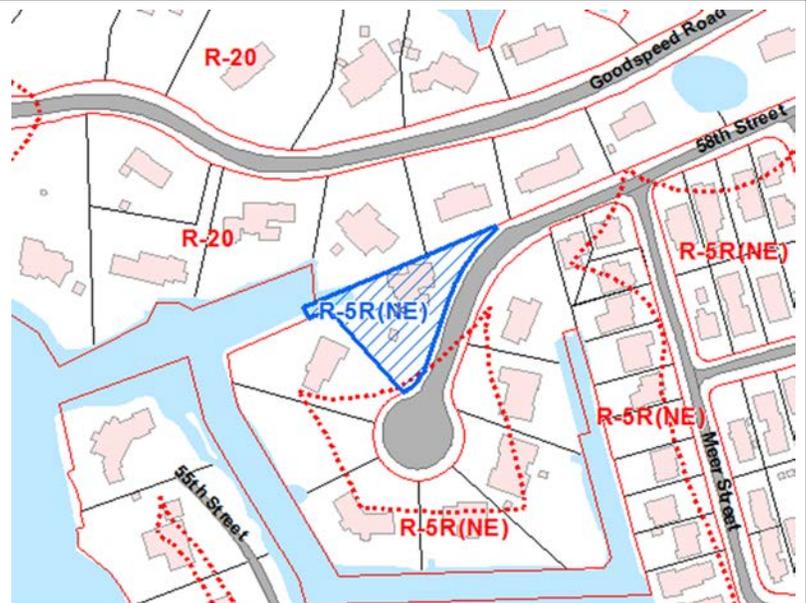
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as submitted



Summary of Proposal

Demolition Details

- Concrete driveway

Construction Details

- Permeable paver driveway

CBPA Ordinance Variance History

October 25, 2004 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of two room additions and a swimming pool with associated decking with the following conditions:

1. *A pre-construction meeting shall be convened with Civil Inspections prior to any land disturbance, inclusive of demolition.*
2. *Dual 36" erosion and sedimentation control measures (silt fences) shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established.*
3. *A heavy duty construction fence, acceptable to Civil Inspections, shall be installed along the aforementioned E & S controls and shall be maintained during all phases of construction.*
4. *Construction limits shall lie a maximum of 10' seaward of improvements.*
5. *The construction access way shall be noted on the site plan, as well as the stockpile staging area.*
6. *All stormwater from existing and proposed impervious cover shall be conveyed to structural stormwater management facilities*
7. *Pool decking shall be a maximum of 4'X4'X4'X8' (diving board end). In addition, the pool and associated decking shall lie a minimum of 30' from the existing timber bulkhead.*
8. *The pool shall be constructed prior to either room addition.*
9. ***As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program prior to or concurrent with site plan approval. Payment shall be in the amount of \$1,448.00 and is based on 50% of the proposed impervious cover. Said payment shall provide for the equivalent of an approximate 1,580 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.*
10. *All areas outside limits of construction currently devoted to a natural state 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.*
11. *Buffer restoration shall be installed equal to 100% (3,159 sq. ft.) of proposed additional impervious cover and shall utilize bayscape landscaping principles. The required restoration shall be in areas currently devoted to turf. Said restoration shall be installed prior to the issuance of the certificate of occupancy or final building inspection if no certificate of occupancy is required for the project. Said condition shall be so noted on the site plan.*

12. *A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed.*
13. *Tree compensation shall be at a 3:1 ratio (30 trees) and shall be comprised of 50% evergreen and 50% deciduous species.*
14. *Improvements shall be built into the slope with no perimeter fill. Note on the site plan.*
15. *The conditions and approval associated with this variance are based on the site plan sealed September 16, 2004, prepared by Bruce W. Gallup, P.E.*
16. *A revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.*

The October 25, 2004 Board granted variance has been acted upon, in part, with portions of the associated improvements constructed. The swimming pool was not constructed.

August 25, 2014 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the gazebo, at-grade patio area with seat wall, and fire pit area with the following 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" 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. Said silt fence shall be installed 10 feet from proposed improvements.*
5. *Construction limits shall lie a maximum of 10' 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 remove.*
6. *Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of 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 areas to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3:1 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, 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. *Buffer restoration shall be installed equal to 200% of the proposed new impervious cover within the RPA (1,446 sq. ft. x 200% = 2,892 sq. ft.) and 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 Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance. 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” – 6” 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 50% deciduous and 50% 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.*
14. *No perimeter fill is authorized outboard or seaward of 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 \$330.91 and is based on 25% of the proposed impervious cover. Said payment shall provide for the equivalent of an approximate 361 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.*
16. *It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.*
17. *This variance and associated conditions will supersede the conditions of the Board variance granted October 25, 2004.*
18. *The conditions and approval associated with this variance are based on the exhibit plan dated July 3, 2014, prepared by Siska Aurand Landscape Architects, signed July 3, 2014 by C. Douglas Aurand. Deviation from said exhibit plan may require re-submittal for Board consideration.*

The August 25, 2014 Board granted variance has been acted upon and the proposed improvements constructed.

Environmental Conditions

Flood Zone

AE – Base Flood Elevation (BFE): 7

Soil Type(s)

Psamments Series (well-drained and moderately well-drained soils, sandy material)

Shoreline

Shoreline is hardened by a wood bulkhead.

Riparian Buffer

Moderately to heavily wooded.

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

The variance request is for the redevelopment of the existing driveway consisting of a 660 square foot expansion in the RMA. The proposed improvements will be constructed of a permeable paver system. In 2014, the CBPA Board opined “*it was the opinion of the Board that the approval granted was the maximum impervious cover the site can support*”. Staff is of the opinion that the proposed improvements are in harmony with the purpose and intent of the CBPA Ordinance and support this variance request for the following reasons.

- The general performance standards for development and redevelopment within the RPA shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the use or development proposed through the incorporation of structural or nonstructural urban best management practices – utilization of modular grid pavers on private property and in low-traffic zones [Appendix F, Section 106 (A)(3)(c)].
- The use of permeable pavers for the redevelopment of the driveway is a best management practice approved for use in Virginia to control the quality and/or quantity of stormwater runoff.

In addition to Staff’s support of this variance request, the applicant has provided the following comments relative to the findings of the CBPA Ordinance specific to the proposed improvements.

- 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 given that the proposed improvements are located within the RMA.”* Staff concurs.
- 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 1968, 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.”* Staff concurs.

- 3) *“The variance is the minimum necessary to afford relief as the proposed improvements will be constructed out of an alternative material (permeable paver) that promotes infiltration.”* Staff concurs.
- 4) *“The proposed improvements are 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 because the use of permeable pavers are intend to minimize impervious cover through its porous design.”* Staff concurs.
- 5) *“The use of permeable paver complies with the performance standards of the CBPA Ordinance as a means to manage towards a no net increase in nonpoint source pollution load through the infiltration of stormwater into the ground.”* Staff concurs.

Staff recommends the following 3 reasonable and appropriate conditions for the Boards consideration.

Recommended Conditions

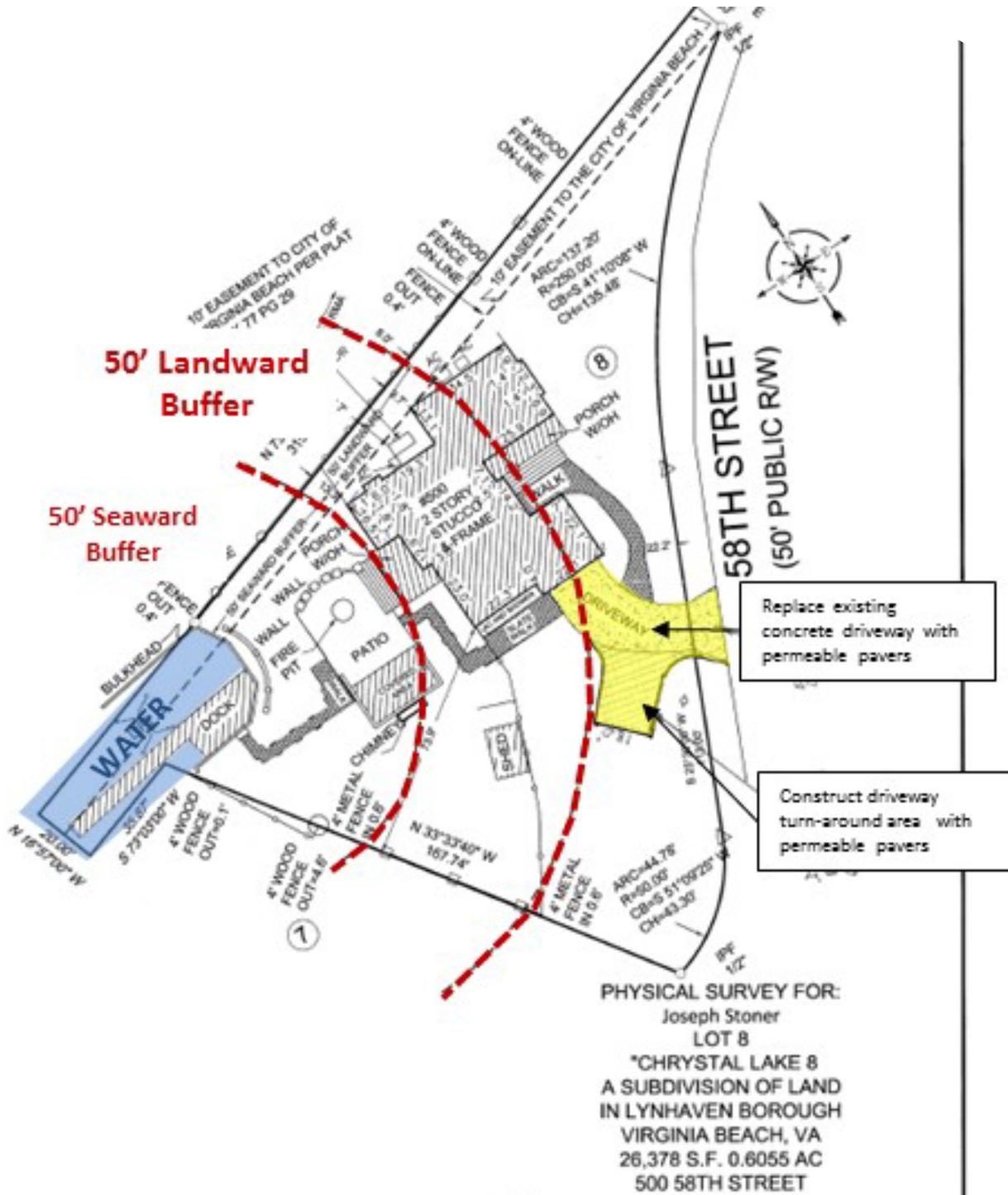
1. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
2. This variance and associated conditions **are in addition to** the conditions of the Board variance granted August 25, 2014.
3. 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.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

Site Aerial



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Joseph Stoner

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

Acquisition of Property by City	Disposition of City Property	Modification of Conditions or Proffers
Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
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- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: _____
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APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	KPMG
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
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<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	Dominion Pavers
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	John E. Lutz
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	Bank of America
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YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

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	Joseph A. Stoner	2/21/2018
APPLICANT'S SIGNATURE	PRINT NAME	DATE

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

Carla R. Stoner Trust

Agenda Item 6

Page 88