



**MINUTES  
CHESAPEAKE BAY PRESERVATION AREA BOARD  
VIRGINIA BEACH, VIRGINIA  
MARCH 26, 2018**

Chair Mr. Jester, called to order the **Chesapeake Bay Preservation Area Board** meeting in the City Council Chambers, City Hall Building, Virginia Beach Municipal Center, on Monday, March 26, 2018.

A motion was made by Mr. McCoy and seconded by Mr. Poole to approve the February 26, 2018 minutes. All voted for the motion except Mr. Sobota who was absent. This vote also serves as the official roll call for this meeting. All members were present except Mr. Sobota.

**BOARD ACTION: APPROVED FEBRUARY 26, 2018 MINUTES ON MARCH 26, 2018**

| <b>AYE</b>       | <b>8</b> | <b>NO</b>     | <b>0</b> | <b>ABSTAIN</b> | <b>0</b> | <b>ABSENT</b> | <b>1</b> |
|------------------|----------|---------------|----------|----------------|----------|---------------|----------|
| <b>FRANCE</b>    |          | <b>AYE</b>    |          |                |          |               |          |
| <b>JESTER</b>    |          | <b>AYE</b>    |          |                |          |               |          |
| <b>JONES</b>     |          | <b>AYE</b>    |          |                |          |               |          |
| <b>MCCOY</b>     |          | <b>AYE</b>    |          |                |          |               |          |
| <b>MCDANIELS</b> |          | <b>AYE</b>    |          |                |          |               |          |
| <b>POOLE</b>     |          | <b>AYE</b>    |          |                |          |               |          |
| <b>SMITH</b>     |          | <b>AYE</b>    |          |                |          |               |          |
| <b>SOBOTA</b>    |          | <b>ABSENT</b> |          |                |          |               |          |
| <b>STEIER</b>    |          | <b>AYE</b>    |          |                |          |               |          |

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



Applicant **Scott Prunty**  
Address **2953 Breezy Road**  
Public Hearing **March 26, 2018**  
City Council District **Lynnhaven**

Agenda  
Item  
**1**

**Description: GPIN: 1499-18-5172**

**AGENT: Scott Prunty**

**BOARD ACTION: APPROVED WITH 14 CONDITIONS ON MARCH 26, 2018**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated as the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels.
- 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.
- 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.
- 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.
- 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.

- 6) Finally, the Board recommends the following 17 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

**CPBA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed 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. 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.
12. **\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$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.**
13. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
14. 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.

**Scott Prunty appeared before the Board.**

**There was no opposition present.**

**A motion was made by Mr. Jones, seconded by Mr. Poole to approve the variance with the 14 conditions as amended (Deleted Condition 11 in the Staff's recommended conditions found in the Staff write up). All voted for the motion except Mr. McCoy who voted no.**

**AYE 7 NO 1 ABSTAIN 0 ABSENT 1**

|                  |               |
|------------------|---------------|
| <b>FRANCE</b>    | <b>AYE</b>    |
| <b>JESTER</b>    | <b>AYE</b>    |
| <b>JONES</b>     | <b>AYE</b>    |
| <b>MCCOY</b>     | <b>NO</b>     |
| <b>MCDANIELS</b> | <b>AYE</b>    |
| <b>POOLE</b>     | <b>AYE</b>    |
| <b>SMITH</b>     | <b>AYE</b>    |
| <b>SOBOTA</b>    | <b>ABSENT</b> |
| <b>STEIER</b>    | <b>AYE</b>    |



Applicant **Vincent and Michelle Magnini**

Address **421 Bay Colony Drive**

Public Hearing **March 26, 2018**

City Council District **Lynnhaven**

Agenda  
Item

**2**

**Description: GPIN: 2418-77-1565 and 2418-77-2548**

**AGENT: Vincent and Michelle Magnini**

**BOARD ACTION: APPROVED WITH 15 CONDITIONS ON MARCH 26, 2018**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated 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.
- 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.
- 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.
- 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.
- 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, the Board recommends the following 15 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

**CPBA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.
5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. 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.

**Vincent Magnini appeared before the Board.**

**There was no opposition present.**

**A motion was made by Mr. McCoy, seconded by Mrs. McDaniels to approve the variance with the 15 conditions listed above. All voted for the motion.**

|            |          |           |          |                |          |               |          |
|------------|----------|-----------|----------|----------------|----------|---------------|----------|
| <b>AYE</b> | <b>8</b> | <b>NO</b> | <b>0</b> | <b>ABSTAIN</b> | <b>0</b> | <b>ABSENT</b> | <b>1</b> |
|------------|----------|-----------|----------|----------------|----------|---------------|----------|

|                  |               |
|------------------|---------------|
| <b>FRANCE</b>    | <b>AYE</b>    |
| <b>JESTER</b>    | <b>AYE</b>    |
| <b>JONES</b>     | <b>AYE</b>    |
| <b>MCCOY</b>     | <b>AYE</b>    |
| <b>MCDANIELS</b> | <b>AYE</b>    |
| <b>POOLE</b>     | <b>AYE</b>    |
| <b>SMITH</b>     | <b>AYE</b>    |
| <b>SOBOTA</b>    | <b>ABSENT</b> |
| <b>STEIER</b>    | <b>AYE</b>    |



|   |                            |
|---|----------------------------|
| Applicant <b>Hans and Holli Wachtmesiter</b><br>Address <b>1421 Crystal Parkway</b><br>Public Hearing <b>March 26, 2018</b><br>City Council District <b>Lynnhaven</b> | Agenda<br>Item<br><b>3</b> |
|---|----------------------------|

**Description: GPIN: 2419-40-0911**

**AGENT: Robert Simon**

**BOARD ACTION: DEFERRED ON MARCH 26, 2018 UNTIL THE APRIL 23, 2018 PUBLIC HEARING**

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

**There was no opposition present.**

**A motion was made by Mr. McCoy, seconded by Mr. Jones to defer the variance until the April 23, 2018 public hearing. All voted for the motion.**

**AYE 8 NO 0 ABSTAIN 0 ABSENT 1**

|                  |               |
|------------------|---------------|
| <b>FRANCE</b>    | <b>AYE</b>    |
| <b>JESTER</b>    | <b>AYE</b>    |
| <b>JONES</b>     | <b>AYE</b>    |
| <b>MCCOY</b>     | <b>AYE</b>    |
| <b>MCDANIELS</b> | <b>AYE</b>    |
| <b>POOLE</b>     | <b>AYE</b>    |
| <b>SMITH</b>     | <b>AYE</b>    |
| <b>SOBOTA</b>    | <b>ABSENT</b> |
| <b>STEIER</b>    | <b>AYE</b>    |



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

Agenda  
Item

**4**

**Description: GPIN: 2409-28-0912**

**AGENT: Billy Garrington, Governmental Permitting Consultants**

**BOARD ACTION: APPROVED WITH THE 16 CONDITIONS ON MARCH 26, 2018**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the proposal conforms to other properties within this neighborhood, which are subject to the provisions of the CBPA Ordinance and are similarly situated where development has been approved within the RPA.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore placing the majority of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief given the amount of redevelopment proposed and encroachment of impervious cover landward of the 50 foot seaward buffer of the RPA.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of the ordinance and not injurious to the neighborhood, as the encroachment into the RPA is consistent with the location of improvements on other properties in the vicinity, and not of substantial detriment to water quality due to the access to and limits of expansion within the RPA, nor otherwise detrimental to the public welfare.
- 5) The Board 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.
- 6) Finally, the Board recommends the following 16 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

### CBPA Variance Conditions:

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

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

**There was no opposition present.**

As an item of the consent agenda, a motion was made by Mr. Poole, seconded by Mr. Jones to approve the variance request with the 16 conditions listed above. All voted for the motion except Mr. Steier who was abstained (did not state the reason).

|            |          |           |          |                |          |               |          |
|------------|----------|-----------|----------|----------------|----------|---------------|----------|
| <b>AYE</b> | <b>7</b> | <b>NO</b> | <b>0</b> | <b>ABSTAIN</b> | <b>1</b> | <b>ABSENT</b> | <b>1</b> |
|------------|----------|-----------|----------|----------------|----------|---------------|----------|

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|------------------|----------------|
| <b>FRANCE</b>    | <b>AYE</b>     |
| <b>JESTER</b>    | <b>AYE</b>     |
| <b>JONES</b>     | <b>AYE</b>     |
| <b>MCCOY</b>     | <b>AYE</b>     |
| <b>MCDANIELS</b> | <b>AYE</b>     |
| <b>POOLE</b>     | <b>AYE</b>     |
| <b>SMITH</b>     | <b>AYE</b>     |
| <b>SOBOTA</b>    | <b>ABSENT</b>  |
| <b>STEIER</b>    | <b>ABSTAIN</b> |



Applicant **Robert and Judith Marchetti**

Address **1060 Bobolink Drive**  
Public Hearing **March 26, 2018**  
City Council District **Lynnhaven**

Agenda  
Item

**5**

**Description: GPIN: 2418-15-2571**

**AGENT: Billy Garrington, Governmental Permitting Consultants**

**BOARD ACTION: APPROVED WITH 19 CONDITIONS ON MARCH 26, 2018**

**Board's Findings:**

- 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.
- 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.
- 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.
- 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.
- 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.

- 6) Finally, the Board recommends the following 19 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

**CPBA Variance Conditions:**

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

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

**There was no opposition present.**

**A motion was made by Mrs. McDaniels, seconded by Mr. McCoy to approve the variance with the 19 conditions listed above. All voted for the motion.**

|            |          |           |          |                |          |               |          |
|------------|----------|-----------|----------|----------------|----------|---------------|----------|
| <b>AYE</b> | <b>8</b> | <b>NO</b> | <b>0</b> | <b>ABSTAIN</b> | <b>0</b> | <b>ABSENT</b> | <b>1</b> |
|------------|----------|-----------|----------|----------------|----------|---------------|----------|

|                  |               |
|------------------|---------------|
| <b>FRANCE</b>    | <b>AYE</b>    |
| <b>JESTER</b>    | <b>AYE</b>    |
| <b>JONES</b>     | <b>AYE</b>    |
| <b>MCCOY</b>     | <b>AYE</b>    |
| <b>MCDANIELS</b> | <b>AYE</b>    |
| <b>POOLE</b>     | <b>AYE</b>    |
| <b>SMITH</b>     | <b>AYE</b>    |
| <b>SOBOTA</b>    | <b>ABSENT</b> |
| <b>STEIER</b>    | <b>AYE</b>    |



Applicant **Carla Stoner Trust**  
Address **500 58th Street**  
Public Hearing **March 26, 2018**  
City Council District **Lynnhaven**

Agenda  
Item

**6**

**Description: GPIN: 2419-60-3496**

**AGENT: Carla Stoner**

**BOARD ACTION: APPROVED WITH 3 CONDITIONS ON MARCH 26, 2018**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated given that the proposed improvements are located within the RMA.
- 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.
- 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.
- 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.
- 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.
- 6) Finally, the Board recommends the following 3 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

**CPBA Variance 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.

**Carla Stoner appeared before the Board.**

**Emily Dreyfus of 504 58<sup>th</sup> Street appeared before the Board to make commentary.**

**A motion was made by Mr. McCoy, seconded by Mrs. McDaniels to approve the variance with the 3 conditions as amended (Amended Condition 2). All voted for the motion.**

**AYE 8 NO 0 ABSTAIN 0 ABSENT 1**

|                  |               |
|------------------|---------------|
| <b>FRANCE</b>    | <b>AYE</b>    |
| <b>JESTER</b>    | <b>AYE</b>    |
| <b>JONES</b>     | <b>AYE</b>    |
| <b>MCCOY</b>     | <b>AYE</b>    |
| <b>MCDANIELS</b> | <b>AYE</b>    |
| <b>POOLE</b>     | <b>AYE</b>    |
| <b>SMITH</b>     | <b>AYE</b>    |
| <b>SOBOTA</b>    | <b>ABSENT</b> |
| <b>STEIER</b>    | <b>AYE</b>    |