



**MINUTES
CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
APRIL 23, 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, April 23, 2018.

A motion was made by Mr. McCoy and seconded by Mr. Poole to approve the March 26, 2018 minutes. All voted for the motion except Mr. Dreps who was abstained due to him being a new board member and was not at the March hearing. This vote also serves as the official roll call for this meeting. All members were present.

BOARD ACTION: APPROVED MARCH 26, 2018 MINUTES ON APRIL 23, 2018

AYE 8 NO 0 ABSTAIN 1 ABSENT 0

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

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



Applicant **Hans and Holli Wachtmeister**

Address **1421 Crystal Parkway**

Public Hearing **April 23, 2018**

City Council District **Lynnhaven**

Agenda
Item

1

Description: GPIN: 2419-40-0911

AGENT: Robert Simon

BOARD ACTION: APPROVED WITH THE 17 CONDITIONS ON APRIL 23, 2018

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.
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 a 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. The pool shall be constructed prior to or concurrent with the residence.
9. 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. 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.
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 \$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.
16. Buffer restoration shall be installed equal to 200% of the proposed new impervious cover within the RPA ($2,710 \times 200\% = 5,420$ 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.

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

Robert Simon appeared before the Board representing the applicants.

There was no opposition present.

As an item of the consent agenda, a motion was made by Mr. McCoy, seconded by Mrs. McDaniels to approve the variance request with the 17 conditions listed above. All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Applicant **Joseph Koen**
Address **1425 Blue Heron Road**
Public Hearing **April 23, 2018**
City Council District **Lynnhaven**

Agenda
Item

2

Description: GPIN: 1498-58-5133

AGENT: Billy Garrington, Governmental Permitting Consultants

BOARD ACTION: APPROVED WITH 19 CONDITIONS ON APRIL 23, 2018

Board's Findings:

- 1) The variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Area who are subject to the provisions of this Ordinance and are similarly situated because neighboring properties on this cul-de-sac are similarly situated and have constructed existing improvements – homes and pools – up to within 20’ and 35’ of the bulkheads. This project is requesting a lesser encroachment with the mitigating benefit of stormwater management.
- 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 recorded in 1976, prior to the CBPA Ordinance, with almost the entire lot within the RPA. The unique waterfront characteristics of the property, and the difficult geometry of a cul-de-sac lot forces the project behind the front yard setback line and subsequently into to CBPA buffer.
- 3) The variance is the minimum necessary to afford relief and the outdoor living space is reasonably sized, though into the 50’ seaward buffer, to allow for reasonable accessory uses.
- 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 existing development includes over 8,500 square feet of impervious cover which flows into the Bay without any stormwater management. The proposed redevelopment will improve on the existing situation with 100% stormwater management and 8,200 square feet of buffer restoration.
- 5) As a means to provide towards a no net increase in nonpoint source pollution load from this variance request, the entirety of the project’s impervious cover will be

routed to stormwater management systems, and the installation buffer restoration will address groundwater and erosion effects which would otherwise result in a detriment to the Bay. The result will be a reduction of pollutant load.

- 6) The following 19 conditions provided are reasonable and appropriate 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.
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 and shall be staked in the field by the Engineer of Record and reviewed with the Civil Inspector at the pre-construction meeting.**
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 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. **Said protective barriers shall be staked in the field by the Engineer of Record and reviewed with the Civil Inspector at the pre-construction meeting.**
7. No trees outboard of the silt fence / limits of disturbance as shown on the CBPA Exhibit shall be removed. Any additional requests for tree removal shall be reviewed and approved by the CBPA Board.

8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. The Engineer of Record shall provide stormwater management calculations to the Development Services Center for review and approval. All impervious cover shall be routed to stormwater management systems and provide the necessary treatment for 1 inch of run-off from all impervious area.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **4,213 square feet x 200 percent = 8,426 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **8 canopy trees, 23 understory trees, 56 large shrubs, and 84 small shrubs.**

The 50 foot seaward buffer shall be restored in its entirety to a functioning riparian buffer with the remaining required buffer restoration progressing landward. Buffer 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 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 proposed driveway shall be constructed of a permeable pavement system. A detail of the specific permeable paver system and subbase construction shall be provided site plan submitted to the Development Services Center for review and approval.
14. If a swimming pool is constructed, said improvement shall be constructed prior to or concurrent with the single family residence additions.
15. 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. There shall be no grading or fill material placed below or seaward of the CBPA Exhibit's delineated Top of Bank (TOB) feature.
16. If and when a stabilization of the shoreline is addressed, the preferred stabilization method shall be in harmony with the Center for Coastal Resources Management Preferred Shoreline BMP recommendations for this parcel. If an alternative is desired that encroaches into the existing tidal shoreline or alters the existing shoreline habitat, CBPA Board review will be required.
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 \$965.25 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. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
19. The conditions and approval associated with this variance are based on the exhibit plan dated March 29, 2018, prepared by American Engineering Associates, signed March 29, 2018 by Brad Martin. 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. In addition, the location of buffer restoration shall comply with condition 12.

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

There was no opposition present.

A motion was made by Mr. Poole, seconded by Mr. Jones to approve the variance with the 19 conditions as amended (Amended Condition 19). All voted for the motion except Mr. Jester who voted no.

AYE 8 NO 1 ABSTAIN 0 ABSENT 0

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



Applicant **Steven and Terri McSweeney**

Address **2352 Leeward Shore Drive**

Public Hearing **April 23, 2018**

City Council District **Lynnhaven**

Agenda
Item

3

Description: GPIN: 1590-90-6152

AGENT: Scott Crumley, Crumley Group Inc.

BOARD ACTION: APPROVED WITH 16 CONDITIONS ON APRIL 23, 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 with the majority of new impervious cover being proposed within the variable width 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) The 16 conditions provided are reasonable and appropriate towards preventing the variance from causing or contributing to a degradation of water quality.

CPBA Variance Conditions:

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.
5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
7. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
8. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.

9. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
10. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
11. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **2,307 square feet x 200 percent = 4,614 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 to the greatest extent practicable.

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

12. Under deck treatment of sand and gravel shall be installed.
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 \$527.99 and is based on 25 percent of the proposed impervious cover within the Resource**

Protection Area (RPA). Said payment shall provide for an oyster shell plant within the Lynnhaven River Basin.

15. The conditions and approval associated with this variance are based on the exhibit plan dated March 30, 2018 and revised April 4, 2018, prepared by Wermers Design & Architecture. 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.

16. The pool deck shall be constructed of impervious pavers.

Scott Crumley with Crumley Group Inc. appeared before the Board representing the applicants.

There was no opposition present.

A motion was made by Mr. Smith, seconded by Mr. McCoy to approve the variance with the 16 conditions as amended (Added Condition 16). All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

DREPS	AYE
FRANCE	AYE
JESTER	AYE
JONES	AYE
MCCOY	AYE
MCDANIELS	AYE
POOLE	AYE
SMITH	AYE
STEIER	AYE



Applicant **Sean and Robin Brickell**

Address **952 Oriole Drive**

Public Hearing **April 23, 2018**

City Council District **Lynnhaven**

Agenda
Item

4

Description: GPIN: 2418-33-9797

AGENT: Rick Ruiz

BOARD ACTION: APPROVED WITH THE 7 CONDITIONS ON APRIL 23, 2018

Board's Findings:

The applicant's contractor has provided 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 the Ordinance and are similarly situated because neighboring homes have constructed similar structures 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 in 1926, prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance.
- 3) Given the minimal scope of the project, the Board is of the opinion that the variance is the minimum necessary to afford relief.
- 4) The variance is in harmony with the purpose and intent of the Ordinance and will not be injurious to the neighborhood, nor will it be otherwise detrimental to the public welfare because the implementation of the proposed improvements will limit land disturbance with the use of wood construction matting for transporting construction materials through the buffer and relocate impervious cover out of the 50 foot seaward buffer.
- 5) The retention of existing vegetation and implementation of buffer restoration are proposed as a means to manage towards a no net increase in nonpoint source pollution load.

- 6) Finally, the Board recommends the following 7 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. 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.**
4. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **420 square feet x 200 percent = 840 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **2 canopy trees, 2 understory, 4 large shrubs and 6 small shrubs.**

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

5. No perimeter fill is authorized outboard or seaward of the proposed improvements.

6. This variance and associated conditions **are in addition to** the conditions of the Board variance granted May 24, 1993 and January 22, 2018.
7. 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.

Rick Ruiz appeared before the Board representing the applicants.

There was no opposition present.

As an item of the consent agenda, a motion was made by Mr. McCoy, seconded by Mrs. McDaniels to approve the variance request with the 7 conditions listed above. All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Applicant Victor Bakkar Address 1408 N Woodhouse Road Public Hearing April 23, 2018 City Council District Lynnhaven	Agenda Item 5
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Description: GPIN: 2408-89-1482

AGENT: Billy Garrington, Governmental Permitting Consultants

BOARD ACTION: DEFERRED ON APRIL 23, 2018 UNTIL THE MAY 24, 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 May 24, 2018 public hearing. All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Applicant **Mitchell and Linda Dunbar**

Address **3004 Island Lane**

Public Hearing **April 23, 2018**

City Council District **Lynnhaven**

Agenda
Item

6

Description: GPIN: 1499-17-4498

AGENT: Eddie Bourdon, Sykes Bourdon Ahern & Levy

BOARD ACTION: APPROVED WITH 13 CONDITIONS ON APRIL 23, 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 this lot was recorded in 1949, prior to the adoption of the Bay Act and as a result every waterfront home is significantly impacted by the Ordinance. Since the enactment in 1991, numerous homes have made similar variance requests and been granted so the approval of this request will in no way confer any special privilege to the current owners.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather the buffer zones were made a part of the Bay Act and this house was already in place when it was enacted and the hardship that is now on these properties will never go away.
- 3) Given the retreat of the existing conditions and the total of 639 square feet of impervious cover and a uniquely situated lot where the entire lot falls within the RPA, this is the minimum necessary to afford relief.
- 4) The purpose and intent of the Ordinance is simply water quality, to prevent pollution of the Bay as a result of non-point source pollution. Most of these homes currently have no stormwater treatment on site. As a result of this variance request the owner will install bioretention beds, buffer restoration in areas currently devoted to turf and even off-site treatment via the Lynnhaven Oyster Heritage Program all to benefit water quality.
- 5) The Board is in the opinion that the applicant's investment in redeveloping those portions of the RPA already developed to the greatest extent practical coupled with the integration of non-structural storm water best management practices, and

buffer restoration will provide a means to manage towards a no net increase in non-point source pollution.

- 6) Finally, the Board recommends the following 13 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

CPBA Variance Conditions:

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
5. 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.
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 buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. Said buffer restoration plan shall be in substantial compliance with the CBPA variance exhibit, Sheet L1, Buffer Restoration Plan prepared by Jessica Nelson, dated March 27, 2018 and signed March 27, 2018 by Jessica Nelson.

9. Stormwater management depicted on the plan shall be installed where shown, in addition to any requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
10. 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.
11. ****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 \$475.75 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.**
12. Upon granting of a variance, an encroachment request shall be submitted to Public Works Real Estate for review and processing. Should City Council grant the encroachment, a revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval within 30 days from the date of the Encroachment Agreement. Once the plans have been approved, a **CBPA / CIVIL permit** must be obtained within 30 days. All required restoration must be installed or in the process of installation within 45 days after issuance of the building permit. Failure to comply with this condition may result in a show cause hearing. Any improvements within the right-of-way that are not approved by City Council shall be removed and said area converted back to a natural state.
13. The conditions and approval associated with this variance are based on the exhibit plan dated February 20, 2018, prepared by Gallup Surveyors and Engineers, signed April 3, 2018 by David Butler. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

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

There was no opposition present.

A motion was made by Mr. Jones, seconded by Mrs. McDaniels to approve the variance with the 13 conditions as amended (Amended conditions 9 and 12). All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

**DREPS AYE
FRANCE AYE**

JESTER	AYE
JONES	AYE
MCCOY	AYE
MCDANIELS	AYE
POOLE	AYE
SMITH	AYE
STEIER	AYE



RESTORATION HEARING Applicant Mitchell Lee and Linda Dunbar Address 3004 Island Lane Public Hearing April 23, 2018 City Council District Lynnhaven	Agenda Item 7
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Description: GPIN: 1499-17-4498

AGENT: Eddie Bourdon, Sykes Bourdon Ahern & Levy

BOARD ACTION: REMOVED ON APRIL 23, 2018

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

There was no opposition present.

A motion was made by Mr. Jones, seconded by Mrs. McDaniels to remove this restoration application based on the approval of their after the fact permit (Case 6). All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

DREPS	AYE
FRANCE	AYE
JESTER	AYE
JONES	AYE
MCCOY	AYE
MCDANIELS	AYE
POOLE	AYE
SMITH	AYE
STEIER	AYE