

Chesapeake Bay Preservation Area Board Agenda

June 25, 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, June 25, 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.

Constance C. Saunders

[Property Owner and Applicant]

**Saw Pen Point, Sec 2, Pt 2, Lot 13,
Tree Chop Circle**

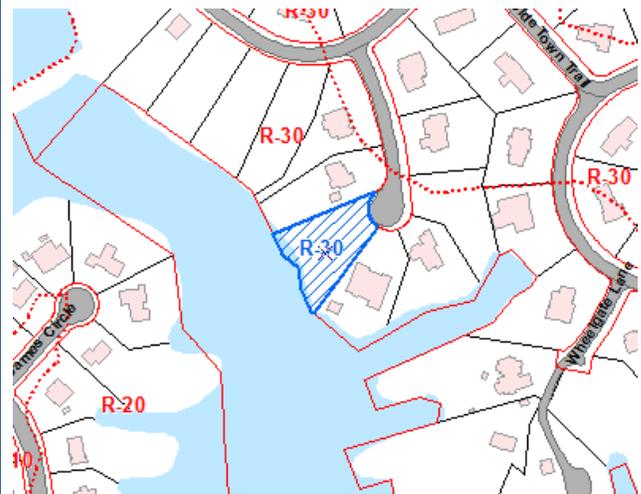
GPIN: 1478-94-3040

COUNCIL DISTRICT - Bayside

Applicant's Agent – Robert Kellam

Staff Planner – PJ Scully

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2.

**Michael V. and Richard E. Olivieri
Revocable Trust**

[Property Owners and Applicants]

1337 Starling Court

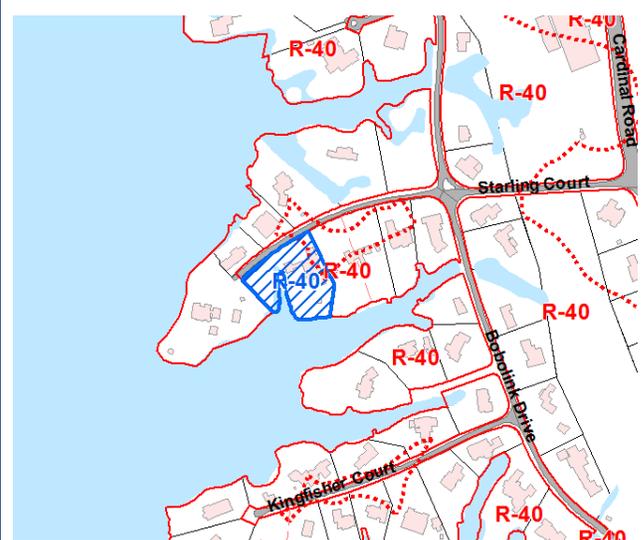
GPIN: 2418-13-7671

COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – David Kledzik

Staff Planner – PJ Scully

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3.

Cornerstone Equity, LLC

[Property Owner]

Kiran Dhillon and Mandip Rawla

[Applicants]

1301 Harris Road

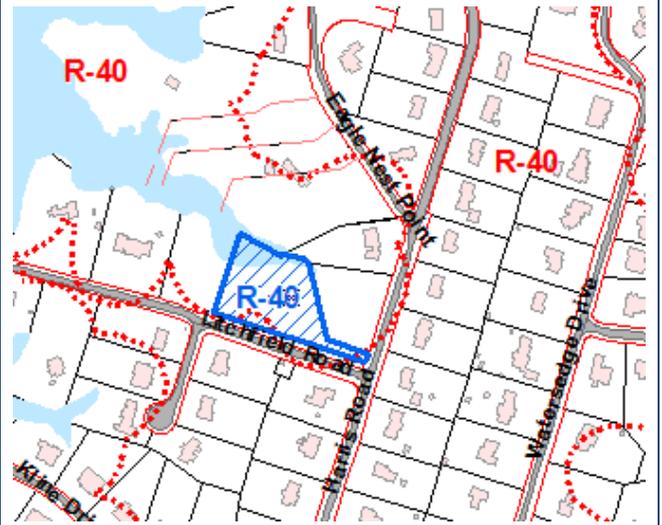
GPIN: 1488-99-0159

COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully

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4.

Louis R. and Ellen B. Jones

[Property Owners and Applicants]

3902 Richardson Road

GPIN: 1488-25-1889

COUNCIL DISTRICT - Bayside

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully

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5.

NLSM Conservation, LLC

[Property Owner and Applicant]

4152 Ewell Road

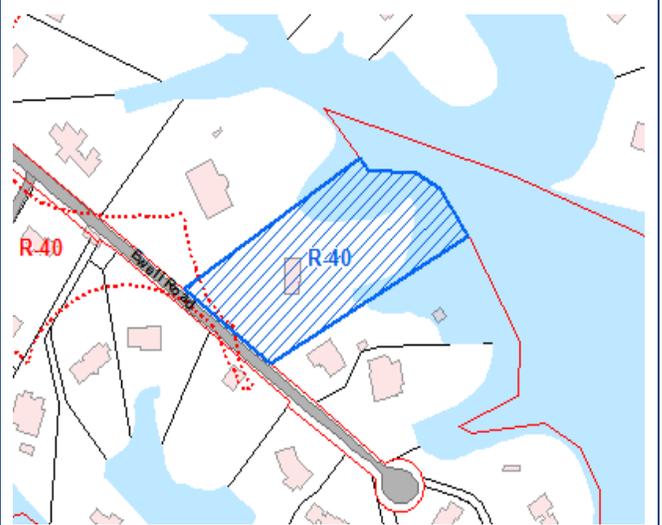
GPIN: 1479-90-3329

COUNCIL DISTRICT - Bayside

Applicant's Agent – Brian Ferguson

Staff Planner – PJ Scully

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6.

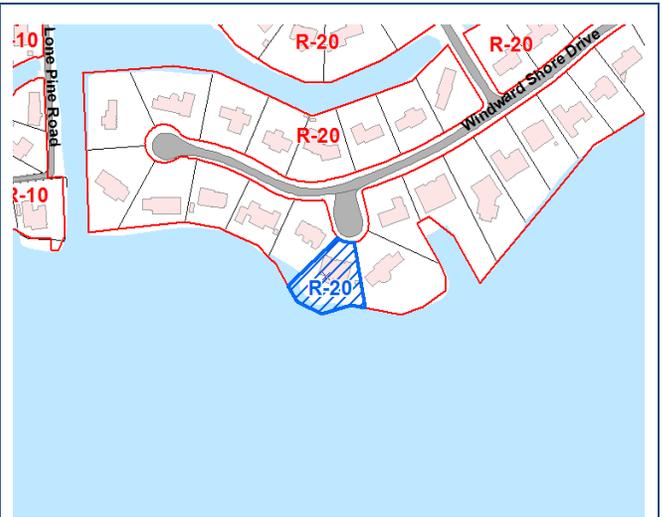
Patrick L. and Sheryl H. Reynolds
[Property Owners and Applicants]

2421 Windward Shore Circle
GPIN: 1499-98-3029
COUNCIL DISTRICT - Lynnhaven

Applicant's Agent – Billy Garrington

Staff Planner – PJ Scully

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Property Owner and Applicant **Constance C. Saunders**

Agenda Item

Address **Saw Pen Point, Sec 2, Pt 2, Lot 13, Tree Chop Circle**

Public Hearing **June 25, 2018**

City Council District **Bayside**

1

Variance Request

Encroachment into the Resource Protection Area (RPA) with the construction of a single family residence and associated accessory structures.

Applicant's Agent

Robert Kellam

Staff Planner

PJ Scully

Lot Recordation

5/9/1979

Map Book 133, Page 43

GPIN

1478-94-3040

SITE AREA

30,419 square feet or 0.698 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

26,089 square feet or 0.599 acres

EXISTING IMPERVIOUS COVER OF SITE

1,204 square feet or 4.61 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

8,431 square feet or 32.3 percent of site

Area of Redevelopment in RPA

318 square feet

Area of New Development in RPA

6,655 square feet

Location of Proposed Impervious Cover

50 foot Seaward Buffer

50 foot Landward Buffer

100 foot Variable Width Buffer

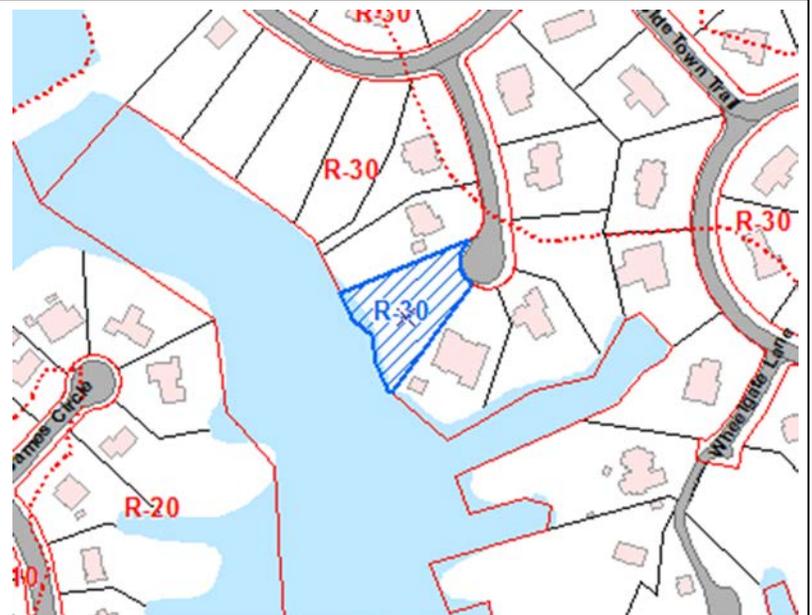
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Vacant parcel

Construction Details

- Single family residence with associated driveway and walkways
- Wood decks – 2 total located off of the rear of the residence

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Multiple Zones – X and AE, Base Flood Elevation (BFE): 8

Soil Type(s)

Udorthents Series (well-drained and moderately well-drained soils)
Rumford Series (highly erodible soils) located below the top of bank

Shoreline

A Joint Permit Application (JPA) was submitted and a Wetlands Board permit issued in 2015 for a marsh sill with a riprap toe. The shoreline redevelopment improvements have been installed and the Engineer's final inspection form has been submitted to Waterfront Operations. Waterfront Operations has not closed out the building permit for these improvements as CBPA Staff is of the opinion that the current conditions are not to an acceptable standard of completion. Staff has addressed this concern below within the Recommended Conditions section of this report, specifically condition 12, for the Board's deliberation.

Riparian Buffer

Sparsely wooded, undeveloped parcel.

- 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 applicant for this variance request is the current property owner of the adjacent parcel to the east. The proposed improvements are based off of the applicant's need to construct a single level residence to accommodate current health conditions associated with limited mobility. Staff has discussed these needs and the layout of the proposed improvements with the applicant's Engineer of Record. Staff has identified two areas of concern – the condition of the existing shoreline and the overall amount of impervious cover of the parcel. The recommended conditions, specifically conditions 12 and 13, were crafted to address these concerns. The following comments are offered, relative to the findings of the CBPA Ordinance specific to this variance request for the Board's deliberation. These comments are in

Constance C. Saunders

Agenda Item 1

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addition to the responses provided by the applicant's Engineer of Record within the Water Quality Impact Assessment (WQIA).

- 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 *"This application is for the construction of a single family residence on an in-fill lot. The proposed single family residence is of average size for this neighborhood and the applicant is not proposing additional accessory structures, within the RPA such as a swimming pool with patio, which are typical for this subdivision."* Staff concurs that the proposed size of the residence is in harmony with the development style of the neighborhood, that the proposed improvements are situated in the least sensitive portion of the RPA feature, and that the dwelling is located at the front yard setback. Staff also acknowledges the need for the applicant to construct a single level residence in order to accommodate current health conditions associated with limited mobility.
- 2) Staff offers that 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 portions of this property is within the RPA.
- 3) The applicant has provided that the variance is the minimum necessary to afford relief given the modest size of the primary structure with a minimal request for an accessory structure – wood deck located off of the rear of the proposed primary structure. Staff is of the opinion, given the triangular shape of the parcel and the applicant's need for a specific layout of the proposed single residence, that this variance request provides merit towards being the minimum necessary to afford relief. However, in the absence of consideration to minimize impervious cover during the design phase with the incorporation of structural best management practices, such as a permeable pavement system, a reduction in overall impervious cover is recommended.
- 4) The applicant has provided that the variance is in harmony with the purpose and intent of the Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"The intent of the CBPA Ordinance is to protect the seaward 50 foot buffer and not to render existing lots un-buildable."* Staff is of the opinion that the variance request, as submitted, is a detriment to water quality without addressing the current condition of the shoreline concurrent with the development of the proposed upland improvements. Staff only supports this request with the recommended conditions below and specifically condition 12 as it relates to this finding of the CBPA Ordinance.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load and towards preventing the variance from causing or contributing to a degradation of water quality, Staff recommends the following 17 reasonable and appropriate conditions that address the need to correct the current shoreline condition, the management of stormwater run-off from proposed impervious cover through the means of infiltration, and the restoration of the 100 foot riparian buffer to a vegetated condition of forested trophic layers consistent with those conditions that existed prior to the redevelopment of the shoreline.

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.
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
8. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
9. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
10. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
11. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **6,655 square feet x 200 percent = 13,310 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: **11 canopy trees, 11 understory trees, 33 large shrubs and 45 small shrubs.**

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

12. The shoreline shall be repaired and stabilized in accordance with the active Waterfront Construction Permit, authorizing the construction of a riprap revetment and marsh sill for the creation of a living shoreline prior to the release of an approved CBPA Site Plan from the DSC for the upland improvements (single family residence with associated accessory structures).
13. The maximum impervious cover of the parcel shall not exceed 7,700 square feet, or 29.5 percent of the parcel outside of water and wetlands.
14. Under deck treatment of sand and gravel shall be installed.
15. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized seaward of the proposed improvements.
16. **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 \$1,525.10 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.
17. The conditions and approval associated with this variance are based on the exhibit plan dated April 4, 2018, prepared by Kellam Gerwitz, signed June 7, 2018 by Robert Kellam. 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.

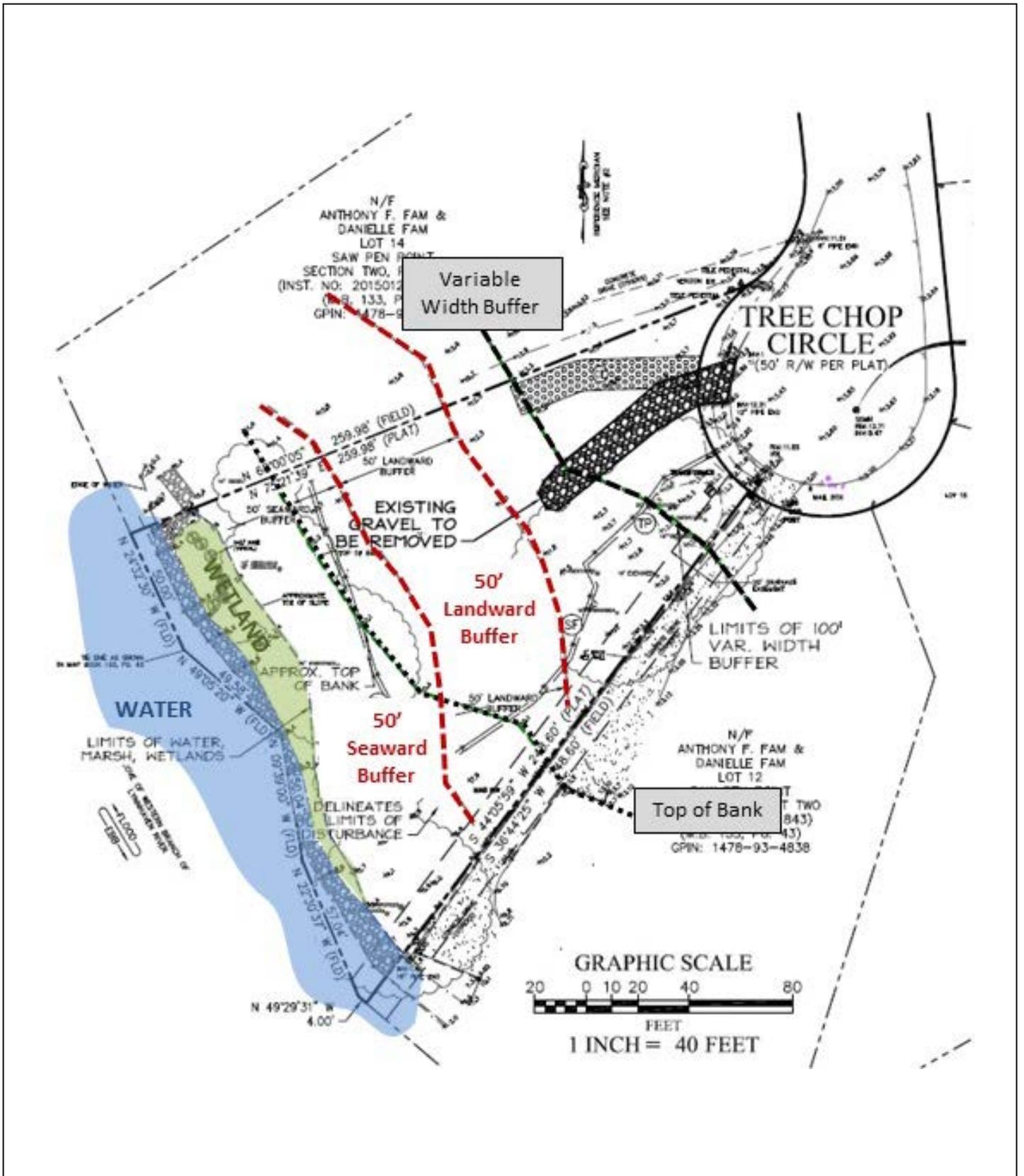
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***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.

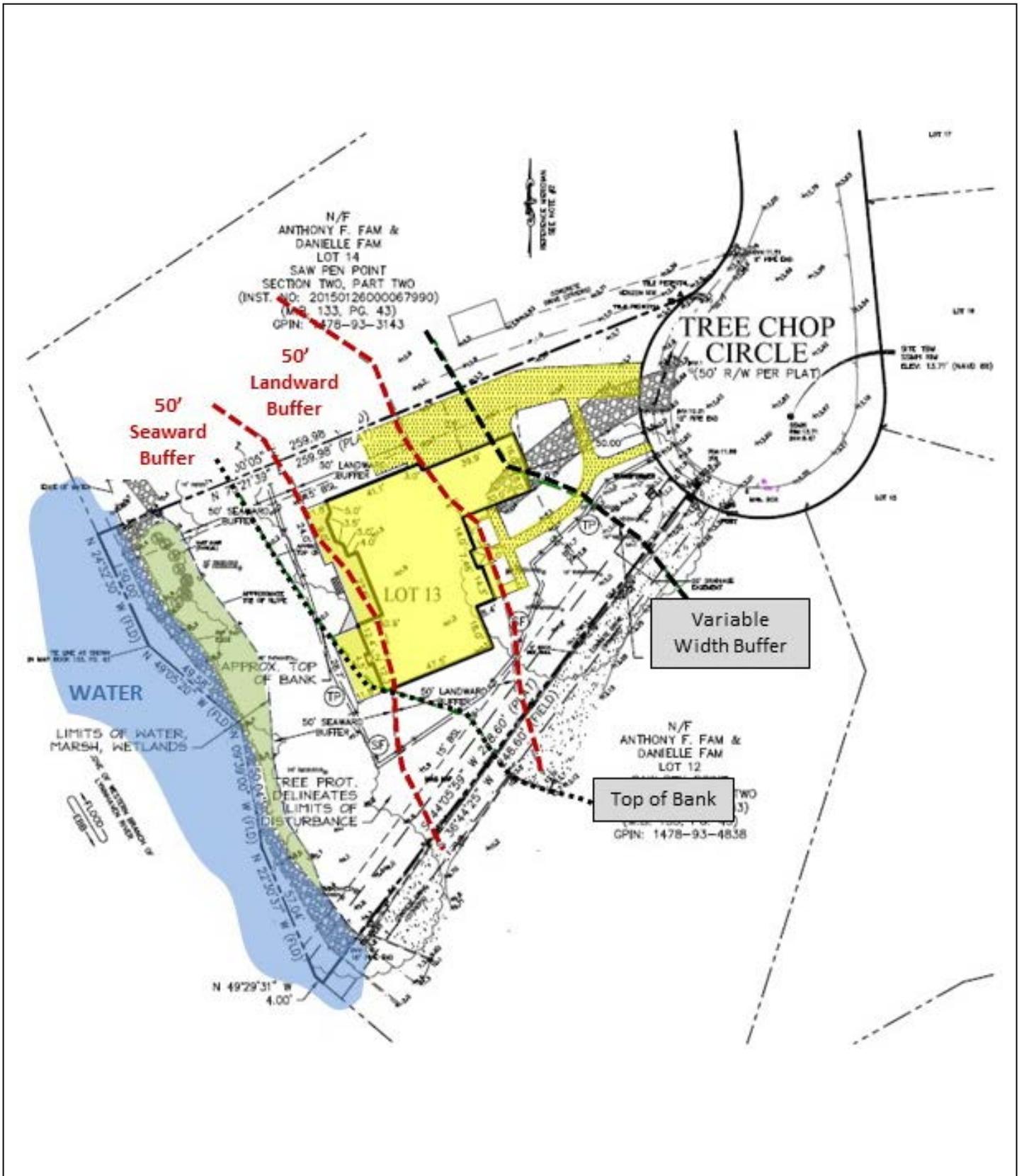
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Constance C. Saunders

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: Ms. Connie Saunders
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 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: Ms. Connie Saunders
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 type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Kellam Gerwitz, Inc.
<input 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)	
<input type="checkbox"/>	<input type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input 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.

		5-3-18
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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

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Variance Request

Encroachment into the Resource Protection Area (RPA) 100 foot buffer with the expansion of/modification to previous approved accessory structures – wood deck and walkways.

Applicant’s Agent

David Kledzik

Staff Planner

PJ Scully

Lot Recordation

10/13/1926
Map Book 7, Page 193

GPIN

2418-13-7671

SITE AREA

57,364 square feet or 1.32 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

48,945 square feet or 1.12 acres

EXISTING IMPERVIOUS COVER OF SITE

15,285 square feet or 31.2 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

15,209 square feet or 31.1 percent of site

Area of Redevelopment in RPA

468 square feet

Area of New Development in RPA

343 square feet

Location of Proposed Impervious Cover

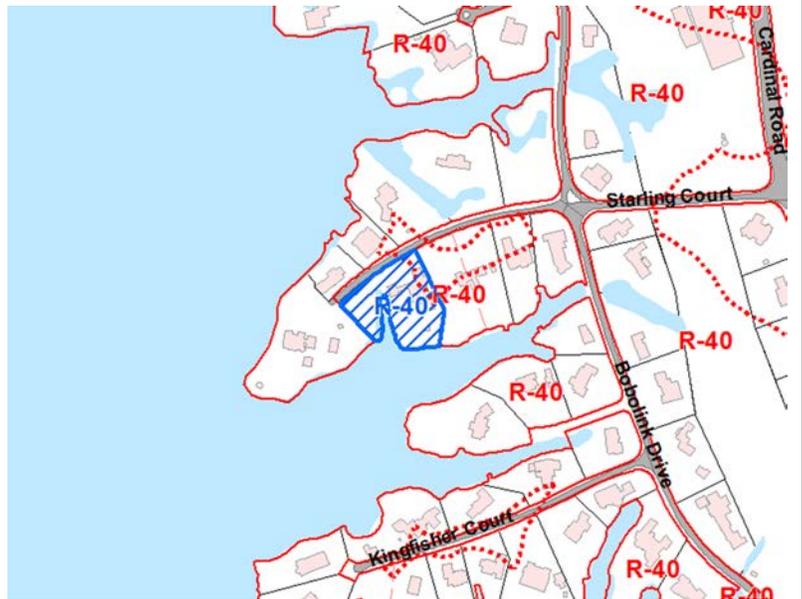
50 foot Seaward Buffer
50 foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Construction Details

- Wood deck / porch area
- Concrete pool patio – revised layout
- Stepping stone walkways

CBPA Ordinance Variance History

October 24, 2016 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a new single family residence 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 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. *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 3:1 ratio for all unauthorized (damaged or removed) vegetation impacts.*
7. *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.*
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: **2,083 square feet x 200% = 4,166 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 Dept. 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” – 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 approximately 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. *Under deck treatment of sand and gravel shall be installed.*
15. *The existing drain collecting the driveway run-off and PVC pipe discharging through the existing seawall shall be abandoned.*
16. *No perimeter fill 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 \$477.35 and is based on 25% of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an approximate 520 square foot, 12-inch deep 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. *This variance and associated conditions **will supersede** the conditions of the Board variance granted June 22, 1998.*
20. *The conditions and approval associated with this variance are based on the exhibit plan dated October 6, 2016, prepared by Marine Engineering, signed October 6, 2016 by David Kledzik. 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.

The October 24, 2016 Board granted variance has been acted upon and the associated improvements are currently under construction.

Environmental Conditions

Flood Zone

Multiple Zones – 0.2 % annual chance and AE, Base Flood Elevation (BFE): 7

Soil Type(s)

Yeopim Series (deep and moderately well-drained soils)

Shoreline

Shoreline is partially hardened by an existing concrete seawall and a marsh sill with a riprap revetment toe.

Riparian Buffer

Moderately wooded with the majority of the riparian buffer consisting of mature canopy trees.

- Number of existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

The proposed improvements represent a design modification to the October 24, 2016 CBPA Board variance. At that time, the overall impervious cover of the site was 15,285 square feet. The redevelopment of this parcel was approved for 15,046 square feet or 30.7 percent of the site – an overall reduction of 239 square feet. Calculating the proposed changes associated with this variance request increases the overall impervious cover of the site by 163 square feet, when subtracting the proposed overall impervious cover of this variance request (15,209 square feet) from the approved impervious cover of the October 24, 2016 CBPA variance (15,046 square feet). Staff spoke with the applicant's agent and suggested that the overall proposed impervious cover associated with this variance request not exceed 15,285 square feet – the initial impervious cover of the parcel prior to its redevelopment in 2016. By not exceeding this amount, the proposed request would not be an increase to the overall impervious cover of the site. In addition, Staff suggested to the applicant's agent to adjust the proposed wood deck/porch area landward of the existing walkway. This adjustment would prevent the proposed improvements from encroaching further seaward of the existing improvements of the parcel.

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

- 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 variance request is for accessory feature found at many other residential properties."* Staff adds that the proposed improvements represent a design modification to the October 24, 2016 CBPA Board variance that are landward of the limits of existing impervious cover, and therefore do not encroach any further into the 100 foot RPA feature.

- 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 requested as an improvement to the use and function of the single family residence that is replacing a much older dwelling.”* Staff adds that this request is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City’s CBPA Ordinance, therefore placing portions of this property is within the RPA. Moreover, this request is for the redevelopment of walkways and patios for ingress/egress to the residence in the same general location as the existing development.
- 3) *“As shown, the variance is the minimum necessary to afford relief while remaining functional and allowing a family to use and enjoy the space.”* Staff is of the opinion, that despite condition 18 of the October 24, 2016 CBPA variance, the proposed improvements are the minimum necessary to afford relief as the overall proposed impervious cover does not exceed the overall impervious cover of the parcel prior to the 2016 CBPA variance.
- 4) *“With the inclusion of buffer restoration and best management practices (BMPs) to protect water quality and reduce pollution thereby promoting the restoration of water quality, 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.”* Staff concurs.
- 5) *“As a means to manage towards a no net increase in nonpoint source pollution load the existing driveway drainage pipe is being redirected to a bioretention planting bed and buffer restoration beds have been situated to capture runoff from the existing public right-of-way and the proposed improvements within the parcel before reaching receiving waters.”* Staff concurs.

Although in 2016 the Board noted that the CBPA variance represented the maximum impervious cover the site could support, Staff recommends approval of the minor modifications to the existing variance. Based off of the request, the proposed improvements do not represent an increase in impervious cover nor a further encroachment seaward than the existing condition of the parcel prior to the 2016 proposed redevelopment improvements. As such, the following 6 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. Wire reinforced silt fence, for erosion and sedimentation control measures and the limits of construction shall be in compliance with the March 31, 2017 Development Services Center (DSC) approved RPA Site Plan. **All areas outside limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact.**
2. A Field Change shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to modifying the active building permit.
3. Under deck treatment of sand and gravel shall be installed.
4. 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.
5. This variance and associated conditions **are in addition to** the conditions of the Board variance granted October 24, 2016, with the exceptions of conditions 18 and 20.

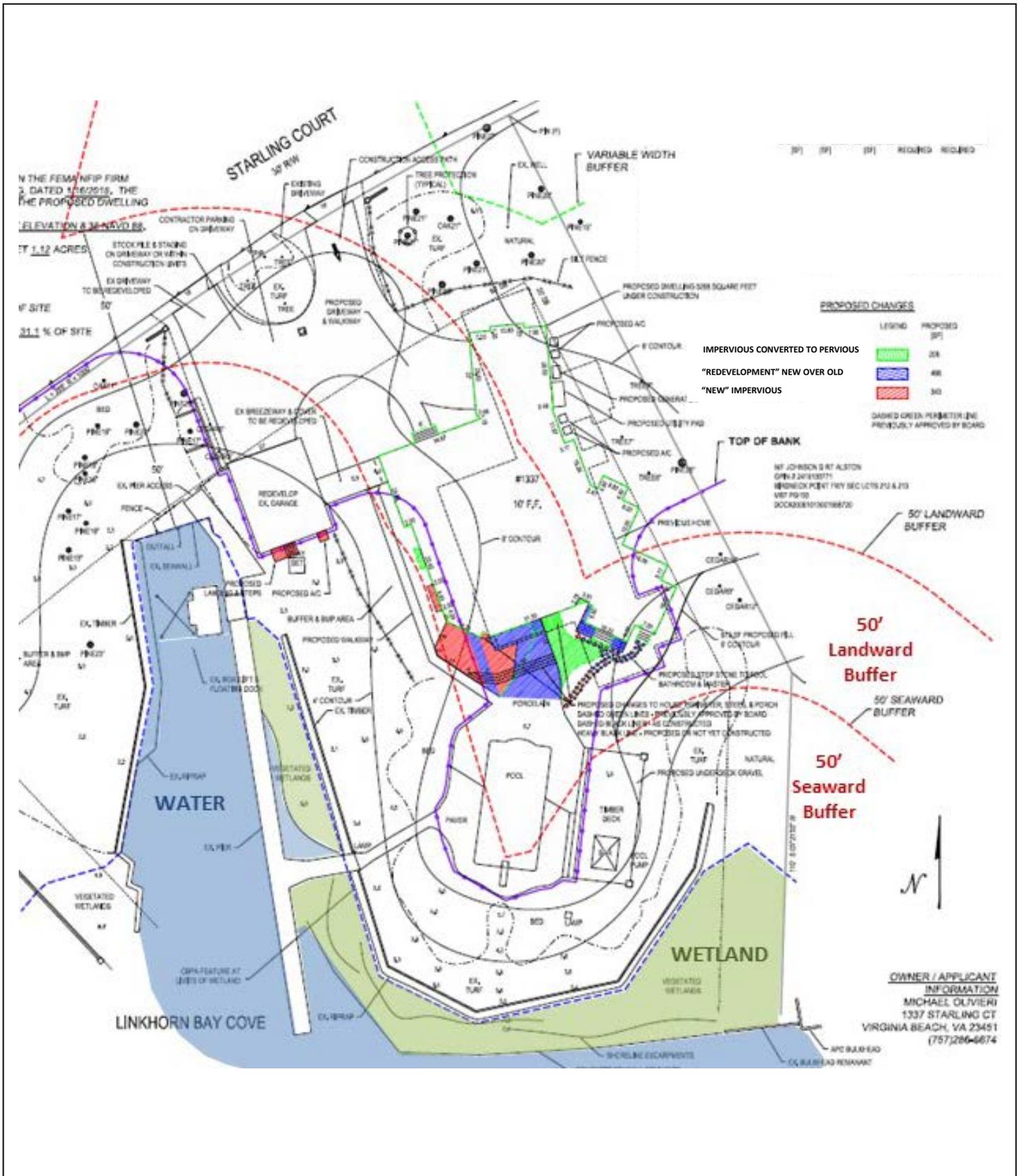
6. The conditions and approval associated with this variance are based on the exhibit plan dated October 6, 2016, prepared by Marine Engineering, signed June 11, 2018 by David Kledzik. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

***NOTE: The 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 MICHAEL OLIVIERI

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: MICHAEL OLIVIERI
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: MICHAEL OLIVIERI
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-subsiary ¹ or affiliated business entity ² 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 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 type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	MARINE ENGINEERING
<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)	BB&T MORTGAGE TOWNE BANK CONSTRUCTION LOAN
<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.

	Michael OLIVIERI	5/4/18
APPLICANT'S SIGNATURE	PRINT NAME	DATE



Variance Request

Encroachment into the Resource Protection Area (RPA) 50 foot landward buffer and variable width buffer – to construct a new single family residence, detached garage and foot bridge

Applicant’s Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

9/7/2006
Instrument number: 20060907001360390

GPIN

1488-99-0159

SITE AREA

90,021 square feet or 2.066 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

78,718 square feet or 1.807 acres

EXISTING IMPERVIOUS COVER OF SITE

10 square feet or 0.01 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

12,951 square feet or 16.5 percent of site

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

12,951 square feet

Location of Proposed Impervious Cover

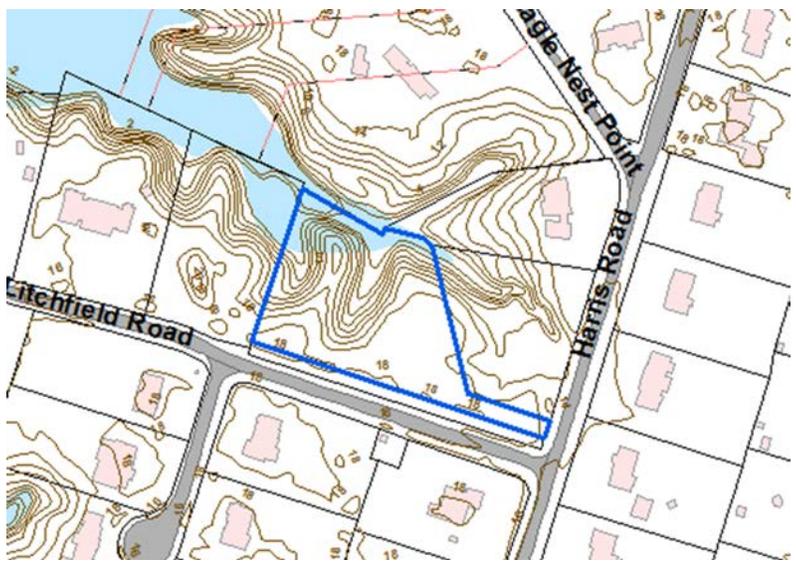
- 50 foot Landward Buffer
- 100 foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Undeveloped parcel

Construction Details

- Single family residence with associated walkways
- Detached garage
- Foot bridge with gazebo

CBPA Ordinance Variance History

December 22, 2003 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 convened with Civil Inspections prior to any land disturbance.*
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. Additionally, 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.*
3. *Construction limits shall lie a maximum of 15' seaward of improvements. The building areas shall be inclusive of the limits of construction.*
4. *The construction access way shall be noted on the site plans, as well as the stockpile staging area.*
5. *All stormwater from proposed impervious cover shall be conveyed to structural stormwater management facilities.*
6. *If and when the shoreline is hardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (timber or steel bulkhead). Said condition shall be so noted on the site plans.*
7. ***As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program prior to or concurrent with site plan approvals. Payment shall be based on 25% of impervious cover on a per lots basis. The formula for payment shall be 25% of impervious cover divided by 27 (cubic yards) times 15 (estimated bushels per cubic yard) times \$1.65 (cost per bushel of oyster shell installed).*
8. *All area outside the building areas 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 plans.*
9. *Tree compensation shall be at a 2:1 ratio.*
10. **** No structural improvements shall lie within 100' of any tidal wetland feature. The limits of tidal influence/jurisdiction shall be clearly noted on the site plans.*

11. Site plans shall be submitted for each lot to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.

*** NOTE: This condition may warrant substantial alterations to the "building area" for proposed Lot 1 and possibly Lot 2.

The December 22, 2003 Board granted variance, for this parcel has not been acted upon.

July 27, 1998 a Chesapeake Bay Preservation Area (CBPA) Board variance request was denied for the filling of the parcel with clean soil.

Environmental Conditions

Flood Zone

Multiple Zones – X and AE, Base Flood Elevation (BFE): 8

Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

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

Shoreline

Shoreline is in a natural state.

Riparian Buffer

Heavily wooded, undeveloped parcel

- Number of existing canopy trees requested for removal within the RPA: 52
- Number of existing understory trees requested for removal within the RPA: 30
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: not provided
- Evaluation of existing tree removal request: The majority of trees being requested for removal are within the 100 foot variable width buffer of the RPA. The applicant has expressed to Staff the desire to preserve healthy hardwood canopy trees within the 100 foot RPA as well as those trees located between the proposed single family dwelling and existing 20 foot private right-of-way.

Evaluation and Recommendation

This variance request deviates from the December 22, 2003 CBPA variance's defined building envelop. Deviations occur with encroachments into the 50 foot landward and the 100 foot variable width buffers by portions of the proposed detached garage and the primary structure. Staff is of the opinion that condition 10 of the 2003 CBPA variance stating that *"No structural improvements shall lie within 100' of any tidal wetland feature. The limits of tidal influence/jurisdiction shall be clearly noted on the site plan"* significantly limits the development potential of the site. Staff strongly believes that the 2003 CBPA exhibit should have been presented for deliberation with the edge of water and marsh delineated and the 100 foot buffer from all tidal wetland features shown. Given this condition, Staff met with the applicant, the applicant's agent, and the Engineer of Record to discuss the variance. Those discussions centered on the following:

- The intent to develop a project compatible with the existing topography, vegetation, and preservation of existing drainage patterns to the greatest extent practicable while remaining cognizant of to the applicable CBPA variance conditions.

- Access to this parcel with regards to the location of the adjacent parcel's single family residence and the 1 foot no ingress/egress easement recorded along Harris Road.
- Relocating the proposed improvements landward and more in harmony with the 50 foot front yard setbacks of adjacent parcels fronting Litchfield Road.
- Delineating the limits of turf and providing a desired quantity to be conditioned with the variance request.

As a result of the discussions, the applicant has modified the initial variance request. The overall impervious cover of the parcel was reduced by 2,640 square feet from 15,591 square feet to 12,951 square feet, or 16 percent of the site.

For the Board's deliberation, 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 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 building and improvements are in keeping with the neighborhood."* Staff concurs and further offers that relocating the proposed improvements landward aligns more with the zoning ordinance minimum front yard setback and the adjacent parcels' 50 foot front yard setbacks, therefore maintaining the character of the neighborhood.
- 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 rather the proposed improvements are in keeping with the neighborhood and based on the size of the lot and the ability to limit the encroachment into the 50 foot seaward buffer on the site."* As stated above, Staff strongly believes that the 2003 CBPA exhibit should have been presented for deliberation with complete information, including the edge of water and marsh and the 100 foot buffer from all tidal wetland features.
- 3) *"The variance is the minimum necessary to afford relief with the owners designing the proposed improvements to be minimal and stay outside of the 50 foot seaward buffer."* Staff is of the opinion that the proposed improvements avoid the most sensitive portions of the parcel and preserves the riparian buffer to the greatest extent practicable, while maintaining an overall impervious cover of under 20 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 proposed improvements are in keeping with the neighborhood and the site does not currently have any stormwater treatment."* Based on a site visit to the property, Staff is of the opinion that the topography of the site in relation to the location of the tidal feature, and the applicant's desire to develop the property in a manner that will preserve the existing riparian ecosystem, will not pose a substantial detriment to water quality.
- 5) *"As a means to manage towards a no net increase in nonpoint source pollution load bioretention beds will be placed seaward of the improvements to store and treat the proposed impervious cover prior to being released into the adjacent waterways."* Staff is of the opinion that the development of this parcel, as proposed with this variance request, provides merit towards maintaining the existing shoreline's ecological and biological functions due to the location of the proposed improvements and to the use of structural best management practices towards a no net increase in nonpoint source pollution load.

Given that the proposed improvements associated with this variance request will remain landward of both the 50 foot seaward buffer and the top of bank feature, and that the overall impervious cover will be less than 17 percent, Staff

supports the variance request as submitted. As such, Staff offers the following 20 recommended conditions for the Board's deliberation specific to this variance request.

Recommended Conditions

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance.
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. **All areas outside limits of construction 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.**
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. A maximum of 8,200 square feet of turf is permitted for this property. Said turf shall not be permitted within the 50 foot seaward buffer or below the top of bank feature. All remaining impervious area shall be areas of buffer restoration. Buffer restoration areas 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.

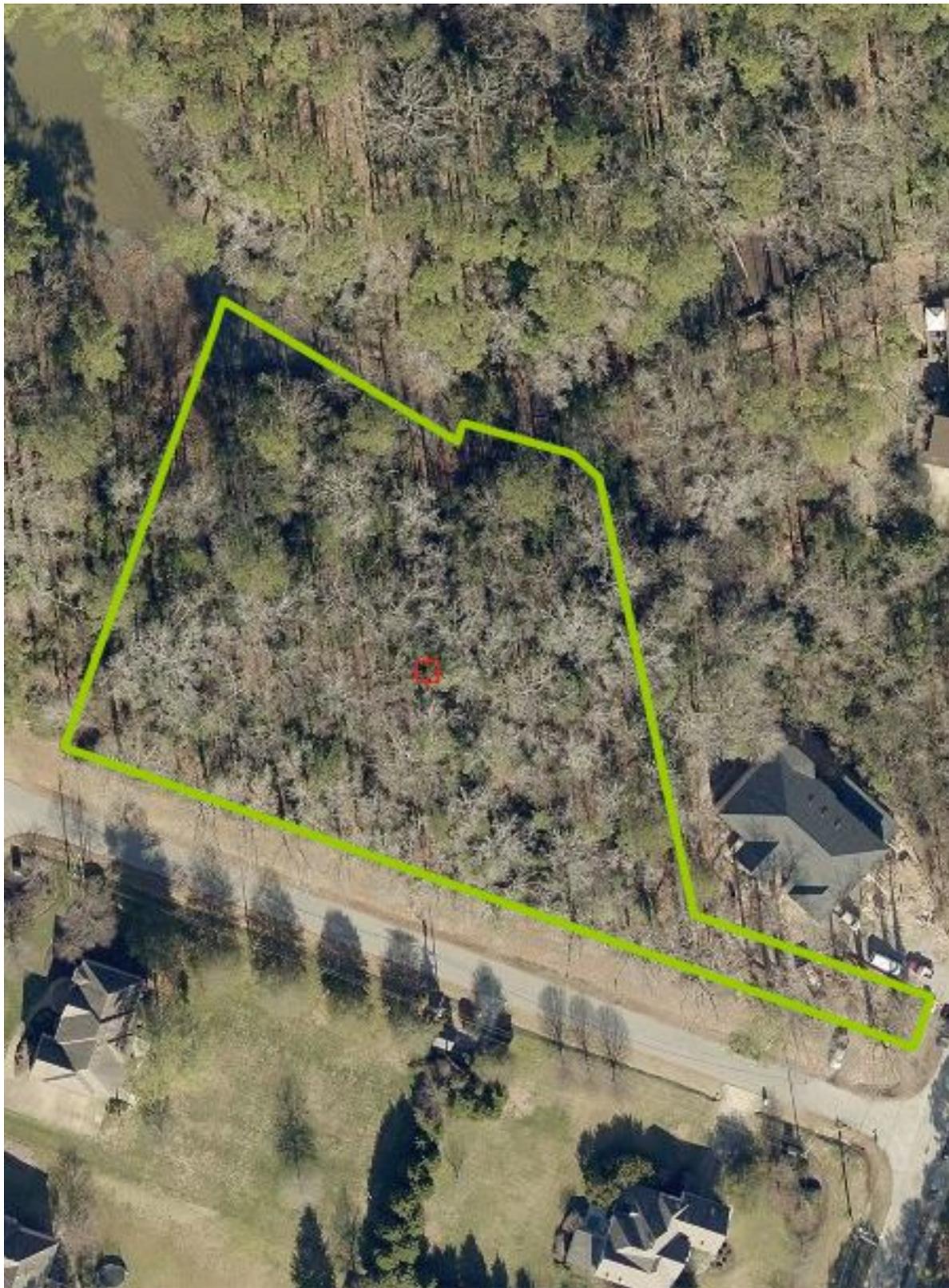
The required restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. 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.

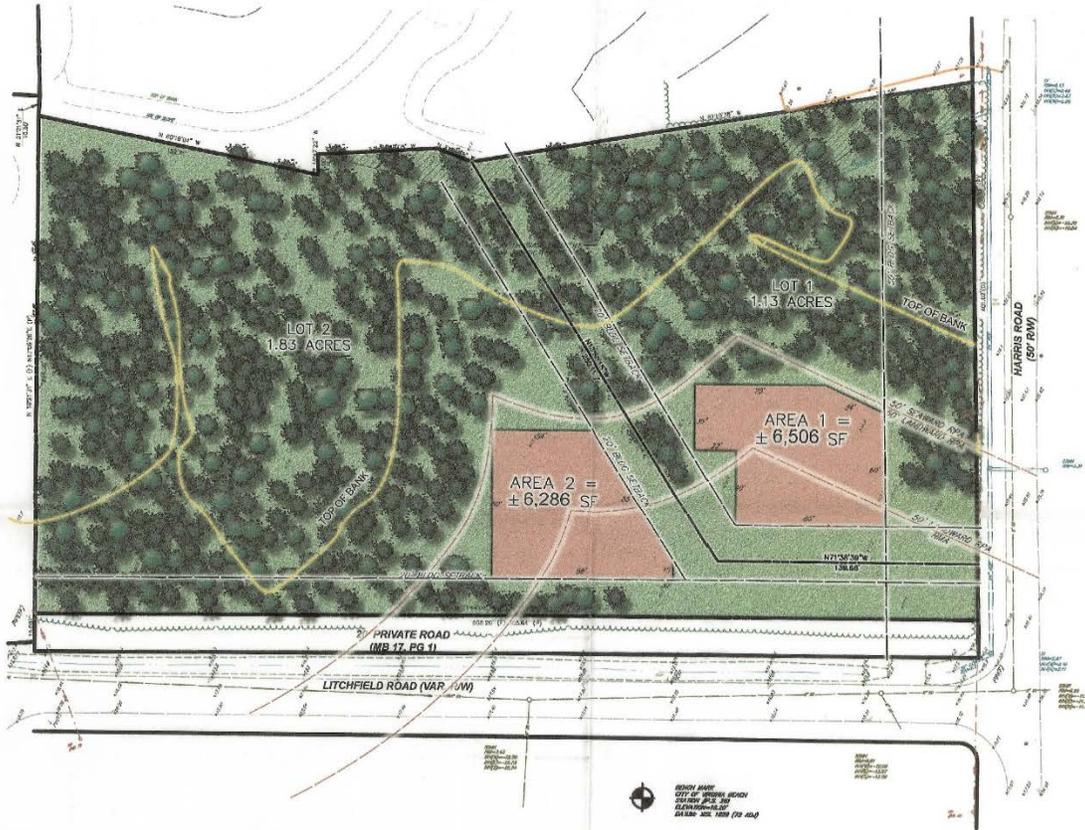
13. The proposed wood bridge shall be constructed as an open pile structure.
14. Under deck treatment of sand and gravel shall be installed under the proposed gazebo.
15. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
16. **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 \$2,967.25 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for the equivalent of an oyster shell plant within the Lynnhaven River Basin.
17. Mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal fringe marsh.
18. This variance and associated conditions **will supersede** the conditions of the Board variance granted December 22, 2003.
19. The conditions and approval associated with this variance are based on the exhibit plan dated April 13, 2018 and revised June 8, 2018, prepared by WPL, signed June 8, 2018 by Eric A. 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





PROPOSED CONDITIONS

Proposed Lot Areas:

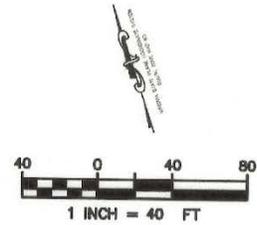
Lot 1:	±1.14 Acres
Lot 2:	±1.83 Acres
Total:	±2.97 Acres

Proposed Impervious Area

Building Area 1:	±6,506 SF
Building Area 2:	±6,286 SF
Total:	±12,792 SF

Proposed Lot Coverage:

Lot 1:	13%
Lot 2:	8%



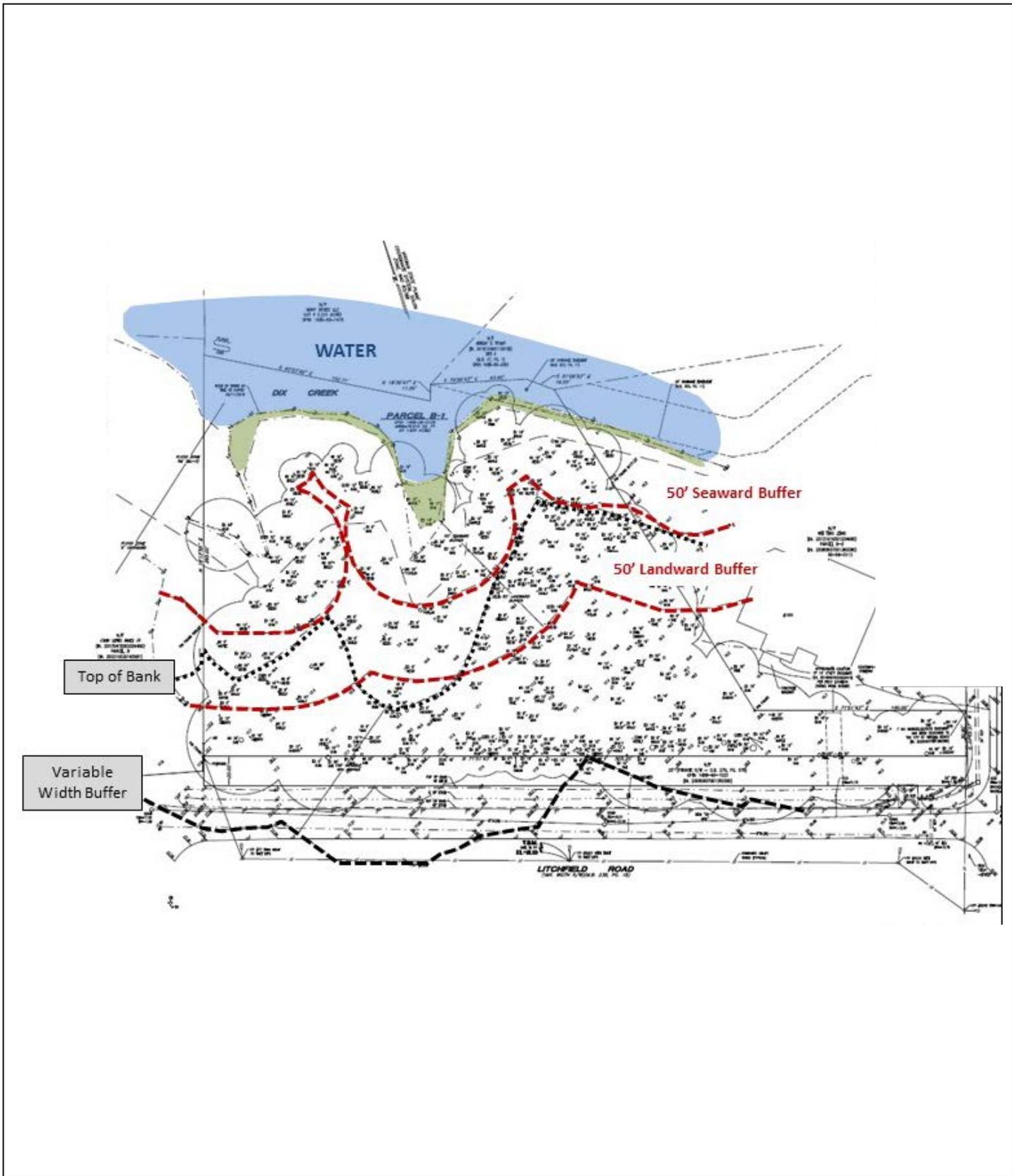
5033 Rouse Drive
Virginia Beach, VA 23462

MSA, P.C.

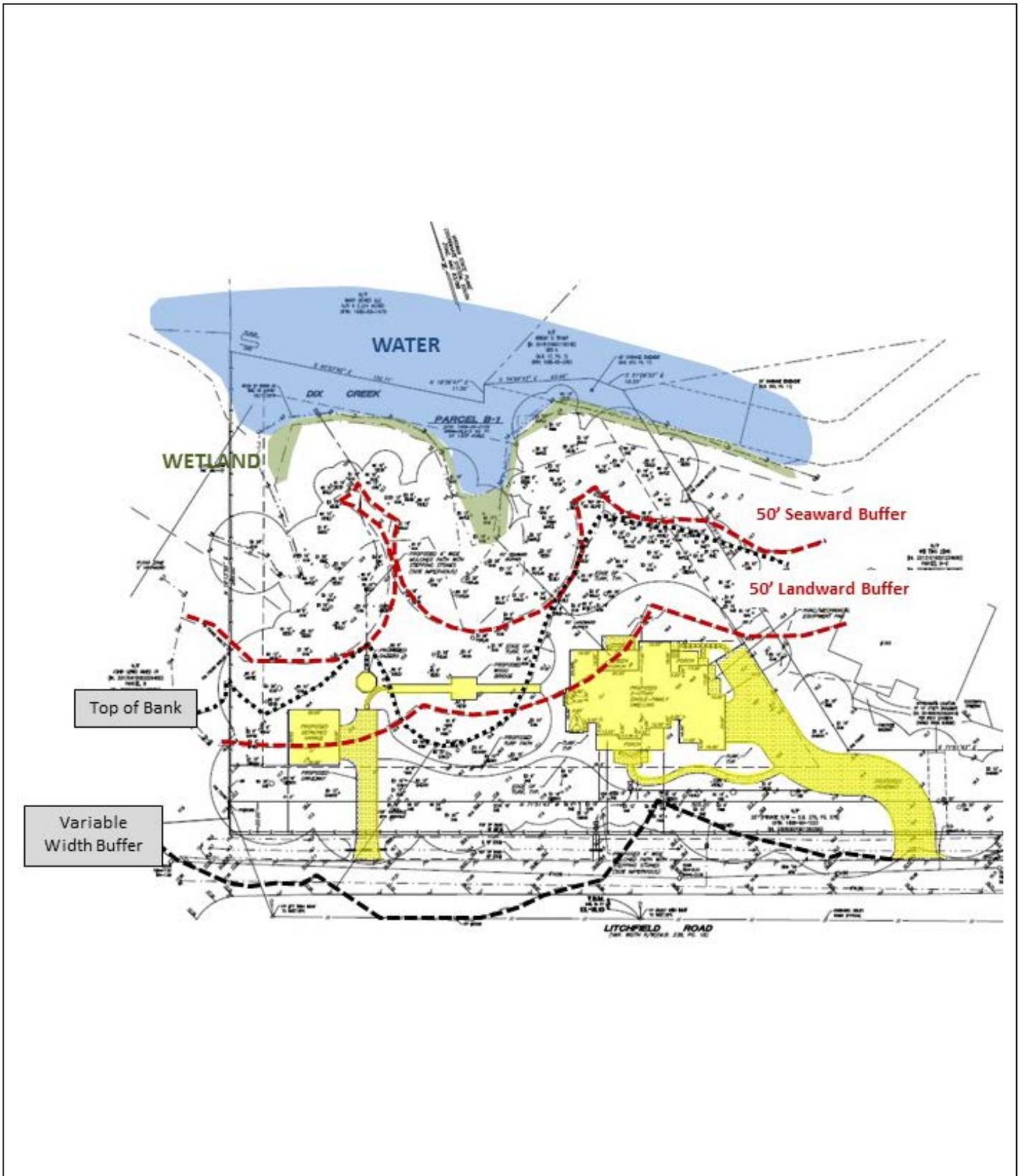
Landscape Architecture
Planning
Surveying
Engineering
Environmental Sciences
MSA PROJ. # 03084A

11/20/03
Prepared for CBPA

CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Kiran Dhillon & Mandip Rawla

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: Kiran Dhillon & Mandip Rawla
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)*

N/A

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: CORNERSTONE EQUITY LLC
If an LLC, list the member's names: Samuel W Meekins, III and John Visco



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-subiliary ¹ or affiliated business entity ² relationship with the Property Owner: *(Attach list if necessary)*

N/A

¹ "Parent-subiliary 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-subiliary 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 type="checkbox"/>	Accounting and/or preparer of your tax return	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Covington Hendrix Anderson Architects
<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)	BB&T Mortgage
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Billy Garrington, GPC
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	Re/Max, Micah Cummings

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.

APPLICANT'S SIGNATURE	PRINT NAME	DATE
<i>Kiranjit Dhillon</i>	Kiranjit Dhillon	4/30/18
<i>Mandip Ravla</i>	Mandip Ravla	4/30/18



OWNER

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 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 type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<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 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	The Real Estate Group, Brandon Angel

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?

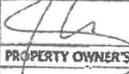
N/A



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.

	Sam Medley / Cornerstone Equity LLC	5/3/18
PROPERTY OWNER'S SIGNATURE	PRINT NAME	DATE

Variance Request

Encroachment into the Resource Protection Area (RPA) to construct a single family residence, guest house, detached garage, circular driveway, swimming pool with associated accessory structures.

Applicant's Agent

Robert Simon

Staff Planner

PJ Scully

Lot Recordation

3/26/1964

Map Book 60, Page 46

GPIN

1488-25-1889

SITE AREA

79,655 square feet or 1.83 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

64,364 square feet or 1.48 acres

EXISTING IMPERVIOUS COVER OF SITE

2,322 square feet or 3.6 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

18,844 square feet or 29.3 percent of site

Area of Redevelopment in RPA

1,534 square feet

Area of New Development in RPA

9,603 square feet

Location of Proposed Impervious Cover

50 foot Seaward Buffer

50 foot Landward Buffer

100 foot Variable Width Buffer

Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Single family residence with associated outbuildings
- A building permit was issued October 31, 2017 to demolish the abandoned single family residence.

Construction Details

- Single family residence with associated walkways
- Detached garage
- Guest house
- Circular driveway
- Swimming pool with associated pool surround and patio
- Outdoor kitchen on patio

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

Multiple Zones – X and AE, Base Flood Elevation (BFE): 8

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 with minimal to moderate erosion occurring along the toe of slope. Staff is of the opinion that this erosion is occurring due to the shading of the bank and underlying soils type. To address the shoreline, the applicant intends to submit a Joint Permit Application (JPA) to install riprap along the toe of the slope and up the bank to approximately elevation 10. This elevation was chosen based off of storm surge elevation associated with Hurricane Isabel, 2003. Adjustments to the proposed riprap revetment may be forthcoming during the JPA review process and subsequent Wetlands Board public hearing.

Riparian Buffer

Sparsely wooded, developed parcel

- Number of existing canopy trees requested for removal within the RPA: 33
- Number of existing understory canopy trees requested for removal within the RPA: 2
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: to be determined
- Evaluation of existing tree removal request: Of the 33 trees requested for removal, 12 of them are associated with the upland improvements. Of those 12, based on staff's field visit, it was determined that those trees along the north and west property lines are in decline and are missing portions of the trees' canopy. The other 21

trees are associated with the shoreline hardening and the trees requested for removal associated with that request may decrease as that project moves forward.

Evaluation and Recommendation

Although portions of the proposed accessory structures associated with this variance request encroach into the 50 foot landward buffer of the RPA, the majority of the proposed impervious cover is within the RPA's variable width buffer and within the Resource Management Area (RMA). During the schematic design process, Staff consulted with the applicant's agents regarding the proposed encroachment into the 50 foot landward buffer. As a result, the applicant has shifted the proposed improvements landward; reducing the encroachment into the RPA by approximately 664 square feet and utilizing approximately 66 percent of the existing impervious cover of the parcel towards redevelopment with the location of the proposed improvements.

Staff supports the application as submitted with the 15 recommended conditions below, and is of the opinion that the proposed improvements will not contribute to the degradation of water quality or prove detrimental to the Resource Protection Area. In addition, the applicant's agent provides the following comments for the Board's deliberation relative to the findings of the CBPA Ordinance specific to this variance request.

- 1) *"This variance request does 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 property was recorded and was one of the first sites developed in the neighborhood many years prior to the adoption of the Bay Act, the house had been in disrepair and damaged due to flooding of a basement that is suspected to have caused a sinkhole along the feature causing erosion and detriment to water quality prior to purchase by the current owner, and the proposed redevelopment is consistent with standards for impervious cover guidelines for similarly situated sites."* 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 or predecessor on title because *"This is redevelopment of a lot platted prior to 1990 and all development is landward of the 50' Seaward Buffer with the exception of a small water dependent utility shed and walkway for the proposed pier. Except for the water dependent pier and riprap revetment, all development is above the top of bank."* Staff concurs.
- 3) *"The variance is the minimum necessary to afford relief because the proposed overall development of the site is below 29.5% at 29.3% and 28.1% in the RPA."* Staff adds that over 72 percent of the proposed impervious cover is located landward of the 100 foot RPA feature and within the least sensitive portion of the parcel.
- 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 as The proposed structures have been pulled back and/or proposed in less sensitive areas of the lot where grades are less severe, where existing vegetation can be maintained, and located where there is current turf and allow for buffer restoration. The vast majority of the trees requested for removal are located in the most sensitive and steepest portion of the slope that may or are already causing a detriment to water quality. Five of the 6 trees requested for removal above the top of bank are in the RMA, two are older and/or have noticeable damage to tops. The prior improvements on the lot were suspected of causing a detriment to water quality."* Staff concurs.

- 5) *“As a means to manage towards a no net increase in nonpoint source pollution load; the site currently has no BMP’s and all storm water runoff continues to erode the slope degrading water quality. The proposed riprap, removal of trees on the steepest portion of the slope (noting that some are dead, diseased, dying or have already fallen), and installing BMP’s will halt the erosion and achieve no additional non-point source pollution load.”* Staff concurs.

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. **All areas outside limits of construction 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.**
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: **9,603 square feet x 200 percent = 19,206 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: **24 canopy trees, 24 understory trees, 48 large shrubs, and 72 small shrubs.**

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

13. 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 \$2,199.99 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 prepared by Chesapeake Bay Site Solutions, Inc., signed June 12, 2018 by Gregory O. Milstead. 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.

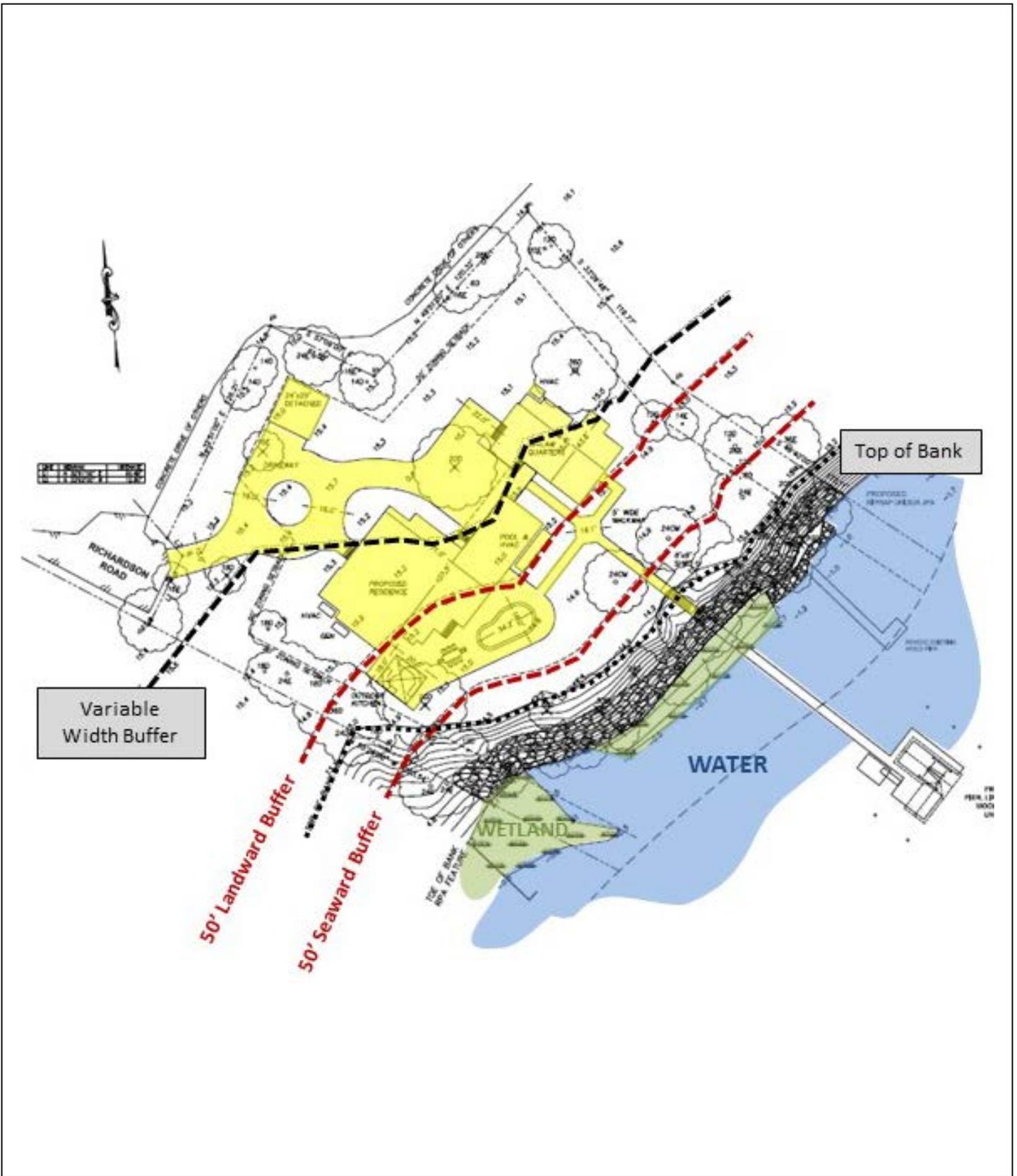
**** NOTE:** The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

*****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 Louis R. and Ellen B. Jones

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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: Louis R. and Ellen B. Jones
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 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-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	BDO USA, 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 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)	
<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 checked="" type="checkbox"/>	<input type="checkbox"/>	

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

Louis R. Jones, Mayor and owner/applicant of 3902 Richardson Road.
Casey M. Jones, CBPA board member, grandson of the applicant.



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.

	Louis R. and Ellen B. Jones	5/7/18
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) with the construction of a single family residence and associated accessory structures

Applicant's Agent

Self-Represented

Staff Planner

PJ Scully

Lot Recordation

12/17/1954
Map Book 31, Page 41

GPIN

1479-90-3329

SITE AREA

102,301 square feet or 2.349 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

67,480 square feet or 1.549 acres

EXISTING IMPERVIOUS COVER OF SITE

3,240 square feet or 4.8 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

10,222 square feet or 15.1 percent of site

Area of Redevelopment in RPA

1,908 square feet

Area of New Development in RPA

7,946.5 square feet

Location of Proposed Impervious Cover

50 foot Landward Buffer
100 foot Variable Width Buffer
Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Undeveloped parcel

Construction Details

- Single family residence with associated walkways
- Gravel parking court with drive

CBPA Ordinance Variance History

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

Environmental Conditions

Flood Zone

X

Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

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 existing tidal marsh and to remove invasive plant species, specifically *Smilax rotundifolia* (Roundleaf Greenbrier).

Riparian Buffer

Heavily wooded, undeveloped parcel

- Number of existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing tree removal request: The layout of the proposed improvements and location within the existing parcel does not require any tree removal with this request. Staff commends the applicant for designing a project that complements the existing conditions of the parcel.

Evaluation and Recommendation

Given the location of the proposed improvements and the preservation of the existing riparian buffer ecosystem, Staff is of the opinion that the submitted application limits land disturbance to a minimum area necessary to provide for the proposed redevelopment and is in harmony with the purpose and intent of the CBPA Ordinance.

Staff is in agreement with the following comments relative to the findings of the CBPA Ordinance specific to this variance request provided by the applicant.

- 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*

NLSM Conservation, LLC

Agenda Item 5

Page 68

this ordinance and are similarly situated because this variance allows for reasonable development given the location of the RPA and hardship that exists on the site while minimizing the environmental impact.”

- 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 given that this variance request is dictated by contours of the land and the desire to preserve the existing trees.”* Staff adds that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City’s CBPA Ordinance therefore placing portions of this property is within the RPA.
- 3) *“The variance is the minimum necessary to afford relief with the design of the improvements created as a minimum footprint necessary to construct a home while avoiding removal of any trees.”*
- 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 as this project is a custom design that addresses the specific site requirements while minimizing impacts to the environment. In addition, feedback was sought from all neighbors on the street during the design process.”*
- 5) *“A site specific design to avoid the 50 foot seaward buffer and a green roof were incorporated to the variance request as a means to manage towards a no net increase in nonpoint source pollution load.”*

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 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. **All areas outside limits of construction 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.**
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. A maximum of 4,600 square feet of turf is permitted for this property. Said turf shall not be permitted within the 50 foot seaward buffer or below the top of bank feature. All remaining impervious area shall be areas of buffer restoration. Buffer restoration areas 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 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. 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 \$1,820.95 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. Mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal fringe marsh.
16. The conditions and approval associated with this variance are based on the exhibit plan dated May 3, 2018, prepared by MSA, P.C. and Wernerfield Architects, signed May 3, 2018 by Braxton Werner. 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.

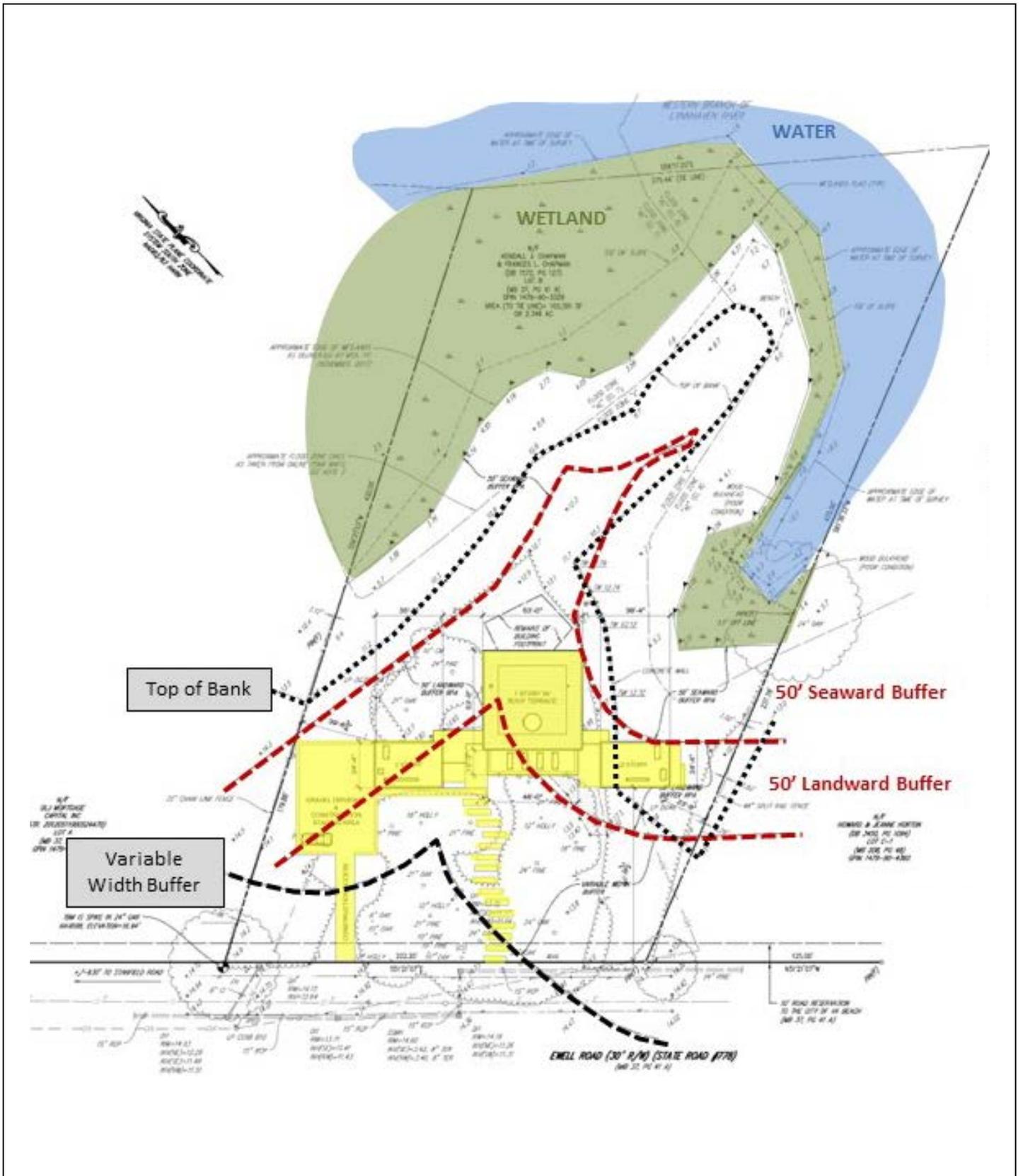
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***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 NLSM Conservation LLC

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	

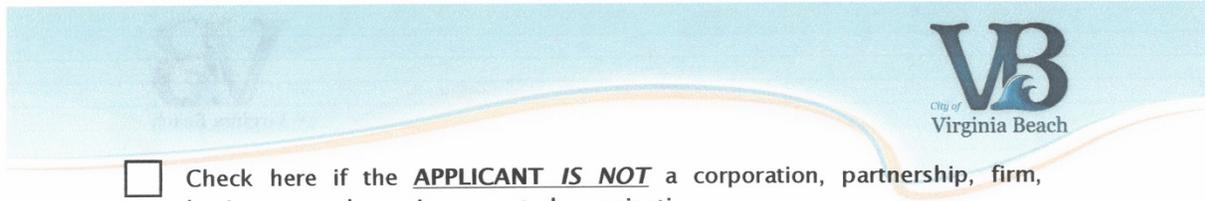
The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

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: NLSM CONSERVATION LLC
 If an LLC, list all member's names:

Brian Ferguson, sole member of NLSM OPERATING LLC,
 the sole member of NLSM CONSERVATION LLC.

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

Brian Ferguson, sole member / managing member of NLSM OPERATING LLC,
 the sole member / managing member of NLSM CONSERVATION LLC.

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

Brian Ferguson, owns NLSM OPERATING LLC, which owns
 NLSM CONSERVATION LLC.

See next page for information pertaining to footnotes ¹ and ²



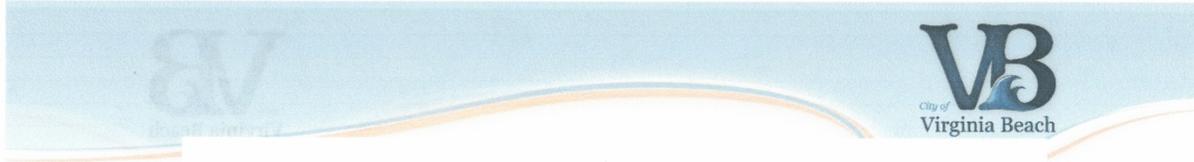
SECTION 2 / PROPERTY OWNER DISCLOSURE

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: NLSM CONSERVATION LLC
 If an LLC, list the member's

names: Brian Ferguson, sole member of NLSM OPERATING LLC,
 the sole member of NLSM CONSERVATION LLC.



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

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

Brian Ferguson, owns NLSM OPERATING LLC, which owns NLSM CONSERVATION LLC.

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

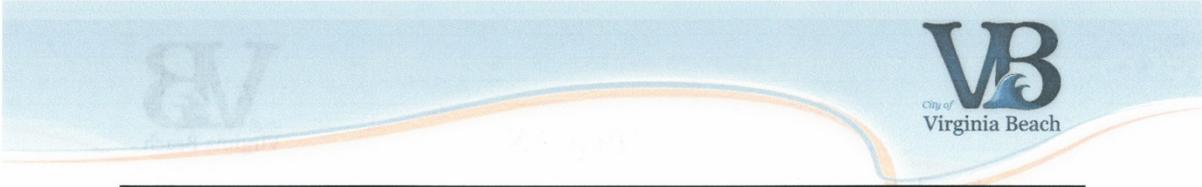


YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	Self
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Wernerfield (Dallas, Texas)
<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	MSA, P.C.
<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)	self
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Michael Inman
<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.**

	Brian Ferguson	6 May 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



Property Owner and Applicant **Patrick L. and Sheryl H. Reynolds**

Agenda Item

Address **2421 Windward Shore Circle**

Public Hearing **June 25, 2018**

City Council District **Lynnhaven**

6

Variance Request

Encroachment into the Resource Protection Area (RPA) 50 foot seaward, 50 foot landward and variable width buffers– to redevelop and expand the existing swimming pool and patio.

Applicant’s Agent

Billy Garrington

Staff Planner

PJ Scully

Lot Recordation

9/3/1958

Map Book 45, Page 37

GPIN

1499-98-3029

SITE AREA

25,705 square feet or 0.590 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

20,447 square feet or 0.469 acres

EXISTING IMPERVIOUS COVER OF SITE

7,323 square feet or 35.8 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

7,183 square feet or 35.1 percent of site

Area of Redevelopment in RPA

745 square feet

Area of New Development in RPA

586 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

- Swimming pool and associated concrete patio area
- Portions of concrete driveway and adjacent gravel area
- Concrete sidewalk to the front door
- Brick and concrete porch off of the rear of the residence

Construction Details

- Redevelopment and expansion of swimming pool and patio area
- Building addition on the rear of the residence
- Stepping stone walkway to the front door

CBPA Ordinance Variance History

December 20, 2007 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the demolition of an existing single family residence to construct a two-story single family residence with associated accessory structures within the 100 foot RPA with the following conditions:

1. *A pre-construction meeting shall be convened with Civil Inspections prior to any land disturbance, inclusive of demolition.*
2. *Wire reinforced 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.*
3. *Permanent and / or temporary soil stabilization as determined by staff shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy.*
4. *Construction limits shall lie a maximum of 15' seaward of improvements.*
5. *The construction access way shall be noted on the site plan, as well as the stockpile staging area.*
6. *Stormwater from all impervious cover shall be conveyed to stormwater management facilities.*
7. *All improvements shall be built into the slope with no perimeter fill.*
8. *A turbidity curtain shall be installed at the boat ramp during removal and noted on the site plan. A Joint Permit Application will be required for the removal of the boat ramp.*
9. *If and when the shoreline is hardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (vinyl, timber or steel bulkhead). The toe of said revetment shall lie at or landward of mean high water or tidal vegetated wetlands. Said condition shall be so noted on the site plan.*
10. *Pool decking shall be installed as noted on the site plan.*
11. *The pool shall be constructed prior to or concurrent with the residence. A retaining wall may be necessary.*

12. *All portions of the existing concrete driveway shall be removed.*
13. *The existing shed and wood deck shall be removed.*
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 \$1,506.00 and is based on 25% of the proposed impervious cover. Said payment shall provide for the equivalent of an approximate 1,643 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.*
15. *Areas that are currently in a natural state, shall remain in a natural state to include the forest floor (leaf litter) left intact.*
16. *Buffer restoration totaling 8,215 sq. ft. shall be installed which is equal to 125% of the proposed impervious cover and shall utilize bayscape landscaping principles. The required restoration shall be in areas currently devoted to turf, shall be installed at or above the 5 ft. contour and shall have a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained as such and not removed or allowed to revert to turf in the future. In addition to the aforementioned buffer restoration area, a minimum of twenty eight (28) trees shall be installed and shall be comprised of 50% deciduous and 50% evergreen species. The required trees shall be evenly distributed throughout the lot to the greatest extent practicable. Said restoration shall be installed prior to the issuance of the certificate of occupancy. Said condition shall be so noted on the site plan.*
17. *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 area (forest floor), planting beds, and turf zones.*
18. *The conditions and approval associated with this variance are based on the site plan dated November 19, 2007, prepared by Gallup Surveyors and Engineers Ltd.*
19. *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.*
20. *It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.*
21. *Any portion of concrete walk located in the seaward portion of the buffer shall be removed and replaced with organic material / stepping stones.*
22. *The portion of the driveway located within the seaward 50' portion of the buffer shall be removed.*

The December 20, 2007 Board granted variance has been acted upon and the associated improvements constructed.

Environmental Conditions

Flood Zone

Multiple Zones – X and AE, Base Flood Elevation (BFE): 7

Soil Type(s)

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

Shoreline

Shoreline is hardened with a riprap revetment.

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 applicant's desire is to redevelop the existing swimming pool and patio area in order to provide more useable and functional area directly outside the door to the existing single family residence. Of note, the applicant for this variance request was not the applicant associated with the December 20, 2007 CBPA variance.

When the Chesapeake Bay Act was adopted, the Virginia Department of Conservation and Recreation (DCR) produced guidance documents for localities to assist with Chesapeake Bay Preservation Area determinations. One such document dealt with permitted development activities. Permitted development activities were described as:

1. No further encroachment into the RPA,
2. No increase of impervious surface in the RPA, and
3. Redevelopment in the same general location.

The proposed improvements associated with this variance request encroach further into the 50 foot seaward buffer by approximately 546 square feet. In an attempt to balance the request's development in the RPA, the applicant has offered to remove existing impervious cover, which includes portions of the existing driveway and front walk, so that the proposed redevelopment does not exceed the existing impervious cover.

The redevelopment of the existing swimming pool, being within the same general location as the proposed swimming pool, is up for interpretation by the phrase, "general location". Staff is of the opinion that the proposed redevelopment of the swimming pool is within the same "general location" of the existing development and that the proposed swimming pool is an appropriated design when analyzing the dimensions of the proposed swimming pool. An average size swimming pool is approximately 14 feet by 28 feet or 392 square feet. For this variance request, the proposed swimming pool is approximately 10 feet in width with a running linear dimension of 32 feet or 347 square feet. However, Staff does not support the variance request in its entirety and has provided recommended conditions below, specifically conditions 3, 4, 5, 12, 13 and 14 to place this variance request more in harmony with the minimum necessary to afford relief and limit land disturbance to the area necessary to provide for the redevelopment of this parcel.

Should the Board desire to consider granting this variance request, the applicant's agent offers the following comments relative to the findings of the CBPA Ordinance specific to this variance request.

- 1) Granting the variance will not confer any special privilege 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 this subdivision was created many years prior to the adoption of the Bay Act, all of the waterfront lots are impacted by the Bay Act and in many instances avoidance of the buffer is impossible for development."* Staff offers that the proposed improvements within the buffer are in keeping with the size and location of other improvements on parcels within this neighborhood.

- 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 fact that the owner did not create the Bay Act and the Board back in 2007 allowed development in the seaward buffer that the new owner wants to reconfigure and it is still in the seaward buffer just as before with a small reduction in impervious cover.”* Staff adds that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City’s CBPA Ordinance therefore placing portions of this property is within the RPA. Given the shape and the size of this parcel, the regulations associated with the CBPA Ordinance does impose a hardship for the redevelopment of this parcel with approximately three-quarters of the parcel within the 100 foot RPA buffer.
- 3) The variance is the minimum necessary to afford relief as *“the previous variance was conditioned that it was the Board’s opinion that it was the maximum impervious cover allowed and the current request reduces that amount by a slight amount. Since we are doing new impervious cover in areas currently pervious we are required to do 200 percent buffer restoration even though we are reducing impervious cover. We also must verify all previous buffer restoration was installed and BMP’s are functioning.”* 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. Although minor, Staff based this opinion off of the post-development impervious cover pertaining to a previous CBPA Board variance on this site that permitted up to 6,572 square feet. In addition, Staff has provided recommend conditions below that propose a reduction to the proposed encroachment of the swimming pool within the 50 seaward buffer for deliberation.
- 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 Bay Act was enacted to promote and improve water quality by reducing runoff. The previous home had a boat ramp and driveway that has been removed to limit runoff. We will be installing more buffer restoration and BMP’s to treat stormwater to promote water quality plus additional payment to the Oyster program to establish reefs in the watershed.”* Staff partially concurs with this comment in that the previous conditions of this parcel prior to its redevelopment were detrimental to water quality with run-off being directly discharged into the adjacent tidal waters via the existing concrete boat ramp.
- 5) *“By reducing the amount of impervious cover and still doing 200 percent buffer restoration we are reducing non-point source run-off. In making sure all previous buffer restoration was installed and prior BMP’s functioning we are ensuring water quality will be improved.”* Given the location of the proposed improvements and new ownership of the parcel associated with this variance request, Staff has provided recommended conditions below requiring that the existing BMPs be reinstalled and the buffer restoration associated with the previous variance verified and reinstalled if absent in addition to the BMPs and buffer restoration associated with this request, should the Board grant a variance.

Staff does not support this variance request as submitted and remains of the opinion that this request is not the minimum necessary to afford relief. However, given Staff’s position the following 18 recommended conditions are offered below should the Board desire to deliberate 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 within the limits of the existing driveway and noted on the site plan.
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. The required silt fence shall be installed 15 feet from improvements 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 access shall be contained within the existing driveway and construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
8. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
9. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
10. The conditions of the existing Chesapeake Bay Preservation Area (CBPA) variance, specifically the required buffer restoration and stormwater management facilities shall be documented on the revised site plan. Documentation shall describe the health and functionality of said requirements. Prior buffer restoration requirements shall be installed if not present and all required BMP's reinstalled.
11. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **586 square feet x 200 percent = 1,172 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: **3 canopy trees, 6 understory, and 9 shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the

shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

12. The maximum impervious cover of the parcel shall not exceed 6,572 square feet.
13. The proposed building addition shall be reduced to the size of the existing brick concrete porch and if needed, the footprint of the existing steps utilized for ingress/egress to the primary structure.
14. All redevelopment of the swimming pool and associated patio area shall be landward of the 6 foot contour and not exceed 900 square feet in impervious cover (390 square feet of new impervious cover plus the 510 square feet of redevelopment).
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.
16. ****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 \$134.29 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.**
17. This variance and associated conditions **are in addition to** the conditions of the Board variance granted December 20, 2007.
18. The conditions and approval associated with this variance are based on the exhibit plan prepared by Gaddy Engineering Services, signed June 8, 2018 by Michael S. Gaddy. 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





APPLICANT'S NAME Patrick and Sheryl Reynolds

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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.

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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: Patrick and Sheryl Reynolds
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: _____
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 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 type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Gaddy Engineering Services, LLC
<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)	PennyMac Mortgage
<input type="checkbox"/>	<input 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	

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.**

	Patrick L Reynolds	05/05/18
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