



**MINUTES  
CHESAPEAKE BAY PRESERVATION AREA BOARD  
VIRGINIA BEACH, VIRGINIA  
JUNE 25, 2018**

Chair Mr. Jester, called to order the **Chesapeake Bay Preservation Area Board** meeting in the City Council Chambers, City Hall Building, Virginia Beach Municipal Center, on Monday, June 25, 2018.

A motion was made by Mr. McCoy and seconded by Mr. Poole to approve the May 24, 2018 minutes. All voted for the motion except Mrs. McDaniels who was abstained due to her absence from the May hearing, and Mr. Smith who was not present in the Council Chamber when the motion was made. This vote also serves as the official roll call for this meeting. All members were present except Mr. Jones.

**BOARD ACTION: APPROVED MAY 24, 2018 MINUTES ON JUNE 25, 2018**

**AYE 6 NO 0 ABSTAIN 1 ABSENT 2**

<b>DREPS</b>	<b>AYE</b>
<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>ABSENT</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>ABSTAIN</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>ABSENT (Was outside the Council Chamber when motion was made)</b>
<b>STEIER</b>	<b>AYE</b>

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



Applicant	<b>Constance Saunders</b>	Agenda Item  <b>1</b>
Property Owner	<b>Constance Saunders</b>	
Address	<b>Saw Pen Point</b>	
Public Hearing	<b>June 25, 2018</b>	
City Council District	<b>Bayside</b>	

**Description: GPIN: 1478-94-3040**

**AGENT: Robert Kellam**

**BOARD ACTION: DEFERRED ON JUNE 25, 2018 UNTIL THE AUGUST 27, 2018 PUBLIC HEARING**

**Constance Saunders and Robert Kellam appeared before the Board.**

**David Compton of the Planning Department appeared before the Board to make commentary.**

**There was no opposition present.**

**A motion was made by Mr. McCoy, seconded by Mr. Poole to defer the variance until the August 27, 2018 public hearing. All voted for the motion except Mr. France who voted no.**

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

<b>DREPS</b>	<b>AYE</b>
<b>FRANCE</b>	<b>NO</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>ABSENT</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>AYE</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>STEIER</b>	<b>AYE</b>



Applicant	Michael V. & Richard E. Olivieri Revocable Trust
Property Owner	Michael E. & Richard V. Olivieri Revocable Trust
Address	1337 Starling Court
Public Hearing	June 25, 2018
City Council District	Lynnhaven

Agenda  
Item

2

**Description: GPIN: 2418-13-7671**

**AGENT: David Kledzik**

**BOARD ACTION: APPROVED WITH THE 6 CONDITIONS ON JUNE 25, 2018**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated because the proposed improvements 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 as 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. The applicant is merely requesting an improvement to the use and function of the single family residence that is replacing a much older dwelling with 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 and 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.
- 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.

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

**CBPA Variance 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.

**David Kledzik appeared before the Board.**

**There was no opposition present.**

**As an item of the consent agenda, a motion was made by Mr. McCoy, seconded by Mr. France to approve the variance request with the 6 conditions listed above. All voted for the motion.**

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

<b>DREPS</b>	<b>AYE</b>
<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>ABSENT</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>AYE</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>STEIER</b>	<b>AYE</b>



Applicant	Cornerstone Equity LLC	Agenda Item  <b>3</b>
Property Owner	Cornerstone Equity LLC	
Address	1301 Harris Road	
Public Hearing	June 25, 2018	
City Council District	Lynnhaven	

**Description: GPIN: 1488-99-0159**

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

**BOARD ACTION: APPROVED WITH 19 CONDITIONS ON JUNE 25, 2018**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated as the proposed building and improvements are in keeping with the neighborhood and the relocation of 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 parcel and the ability to limit the encroachment into the 50 foot seaward buffer on the site.
- 3) The variance is the minimum necessary to afford relief with the owners designing the proposed improvements to 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 of 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 the Board 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.

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

**CPBA Variance Conditions:**

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance.
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 and incorporate the proposed gazebo.
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.

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

**There was no opposition present.**

**A motion was made by Mr. McCoy, seconded by Mr. Poole to approve the variance with the 19 conditions as amended (Amended Condition 13). All voted for the motion except Mr. France, Mrs. McDaniels, and Mr. Smith who voted no.**

<b>AYE</b>	<b>5</b>	<b>NO</b>	<b>3</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>1</b>
<b>DREPS</b>		<b>AYE</b>					
<b>FRANCE</b>		<b>NO</b>					
<b>JESTER</b>		<b>AYE</b>					
<b>JONES</b>		<b>ABSENT</b>					
<b>MCCOY</b>		<b>AYE</b>					
<b>MCDANIELS</b>		<b>NO</b>					
<b>POOLE</b>		<b>AYE</b>					
<b>SMITH</b>		<b>NO</b>					
<b>STEIER</b>		<b>AYE</b>					



Applicant	<b>Louis and Ellen Jones</b>	Agenda Item  <b>4</b>
Property Owner	<b>Louis and Ellen Jones</b>	
Address	<b>3902 Richardson Road</b>	
Public Hearing	<b>June 25, 2018</b>	
City Council District	<b>Bayside</b>	

**Description: GPIN: 1488-25-1889**

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

**BOARD ACTION: DEFERRED ON JUNE 25, 2018 UNTIL THE JULY 23, 2018 PUBLIC HEARING**

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

**There was no opposition present.**

**A motion was made by Mr. France, seconded by Mrs. McDaniels to defer the variance until the July 23, 2018 public hearing. All voted for the motion except Mr. Dreps, Mr. Smith and Mr. Steier who voted no.**

**AYE 5 NO 3 ABSTAIN 0 ABSENT 1**

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



Applicant	<b>NLSM Conservation LLC</b>	<b>Agenda Item  5</b>
Property Owner	<b>NLSM Conservation LLC</b>	
Address	<b>4152 Ewell Road</b>	
Public Hearing	<b>June 25, 2018</b>	
City Council District	<b>Bayside</b>	

**Description: GPIN: 1479-90-3329**

**AGENT: Self Represented**

**BOARD ACTION: APPROVED WITH THE 16 CONDITIONS ON JUNE 25, 2018**

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated because this 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 on a parcel that 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.
- 6) Finally, the 16 conditions provided are reasonable and appropriate towards preventing the variance from causing or contributing to a degradation of water quality.

**CBPA Variance Conditions:**

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

**No one appeared before the Board.**

**There was no opposition present.**

**As an item of the consent agenda, a motion was made by Mr. McCoy, seconded by Mr. France to approve the variance request with the 16 conditions listed above. All voted for the motion.**

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

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



Applicant	<b>Patrick and Sheryl Reynolds</b>	Agenda Item  <b>6</b>
Property Owner	<b>Patrick and Sheryl Reynolds</b>	
Address	<b>2421 Windward Shore Drive</b>	
Public Hearing	<b>June 25, 2018</b>	
City Council District	<b>Lynnhaven</b>	

**Description: GPIN: 1499-98-3029**

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

**BOARD ACTION: DEFERRED ON JUNE 25, 2018 UNTIL THE AUGUST 27, 2018 PUBLIC HEARING**

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

**There was no opposition present.**

**A motion was made by Mr. McCoy, seconded by Mr. Poole to defer the variance until the August 27, 2018 public hearing. All voted for the motion.**

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

<b>DREPS</b>	<b>AYE</b>
<b>FRANCE</b>	<b>AYE</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>ABSENT</b>
<b>MCCOY</b>	<b>AYE</b>
<b>MCDANIELS</b>	<b>AYE</b>
<b>POOLE</b>	<b>AYE</b>
<b>SMITH</b>	<b>AYE</b>
<b>STEIER</b>	<b>AYE</b>