



**MINUTES
CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
JULY 23, 2018**

Chair Mr. Jester, called to order the **Chesapeake Bay Preservation Area Board** meeting in the City Council Chambers, City Hall Building, Virginia Beach Municipal Center, on Monday, July 23, 2018.

A motion was made by Mr. McCoy and seconded by Mr. Poole to approve the June 25, 2018 minutes. All voted for the motion except Mr. Jones who abstained due to his absence from the June hearing. This vote also serves as the official roll call for this meeting. All members were present.

BOARD ACTION: APPROVED JUNE 25, 2018 MINUTES ON JULY 23, 2018

AYE	8	NO	0	ABSTAIN	1	ABSENT	0
DREPS		AYE					
FRANCE		AYE					
JESTER		AYE					
JONES		ABSAIN					
MCCOY		AYE					
MCDANIELS		AYE					
POOLE		AYE					
SMITH		AYE					
STEIER		AYE					

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



Applicant	Louis and Ellen Jones	Agenda Item 1
Property Owner	Louis and Ellen Jones	
Address	3902 Richardson Road	
Public Hearing Date	July 23, 2018	
City Council District	Bayside	

Parcel GPIN: 1488-25-1889
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 15 CONDITIONS ON JULY 23, 2018
Accela Record: 2018-CBPA-00028

Board's Findings:

- 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.
- 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.
- 3) The variance is the minimum necessary to afford relief because the proposed overall development of the site is below 28.0% at 27.9% and 25.2% in the RPA, and that the majority 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.

- 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.

CPBA Variance Conditions:

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.
5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. **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: **8,641 square feet x 200 percent = 17,282 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: **21 canopy trees, 21 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., dated June 5, 2018 and revised June 25, 2018 and June 30, 2018, signed July 3, 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.

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

There was no opposition present.

A motion was made by Mrs. McDaniels, seconded by Mr. Poole to approve the variance with the 15 conditions listed above. All voted for the motion except Mr. Jones who was abstained because he had a conflict of interest.

AYE	8	NO	0	ABSTAIN	1	ABSENT	0
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DREPS	AYE
FRANCE	AYE
JESTER	AYE
JONES	ABSTAIN
MCCOY	AYE
MCDANIELS	AYE
POOLE	AYE
SMITH	AYE
STEIER	AYE



Applicant	Stephen Alexander Homes	Agenda Item 2
Property Owner	South Linkhorn Bay Trust, et. al.	
Address	Lot 196, N. Linkhorn Park Ext, York Lane	
Public Hearing	July 23, 2018	
City Council District	Lynnhaven	

Parcel GPIN: 2418-47-4423
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: DEFERRED UNTIL THE AUGUST 27, 2018 PUBLIC HEARING
Accela Record: 2018-CBPA-00036

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

There was no opposition present.

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

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Applicant	Stephen Alexander Homes	Agenda Item 3
Property Owner	South Linkhorn Bay Trust, et. al.	
Address	Lot 197, N. Linkhorn Park Ext, York Lane	
Public Hearing	July 23, 2018	
City Council District	Lynnhaven	

Parcel GPIN: 2418-47-4336
Applicant’s Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: DEFERRED UNTIL THE AUGUST 27, 2018 PUBLIC HEARING
Accela Record: 2018-CBPA-00037

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

There was no opposition present.

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

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Applicant	Shaun Rai and Holly Anderson	Agenda Item 4
Property Owner	Shaun Rai and Holly Anderson	
Address	504 55th Street	
Public Hearing	July 23, 2018	
City Council District	Lynnhaven	

Parcel GPIN: 2418-69-6646
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 15 CONDITIONS ON JULY 23, 2018
Accela Record: 2018-CBPA-00038

Board's Findings:

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property, as the proposal conforms to other properties within this neighborhood, which are subject to the provisions of the CBPA Ordinance and are similarly situated where development has been approved within the RPA. The Board commends the applicant's for maintaining the front yard setback and existing impervious cover towards the redevelopment of this parcel.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore placing the majority of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief given the amount of redevelopment proposed and minimal increase in the overall impervious cover of the parcel, with the overall increase in impervious cover being minimal, approximately 287 square feet.
- 4) Staff is of the opinion that the variance is in harmony with the purpose and intent of the ordinance and not injurious to the neighborhood, as the encroachment into the RPA is consistent with the location of improvements on other properties in the vicinity, and not of substantial detriment to water quality due to the access to and limits of expansion within the RPA, nor otherwise detrimental to the public welfare.
- 5) Staff is of the opinion that the applicant's investment in redeveloping those portions of RPA already developed to the greatest extent practicable coupled with the integration of non-structural stormwater best management practices and buffer restoration will provide a means to manage towards a no net increase in nonpoint source pollution load.

CPBA Variance Conditions:

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.

2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
5. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit.
6. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
7. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
8. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
9. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
10. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **3,361 square feet x 200 percent = 6,722 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: **16 canopy trees, 16 understory trees, 32 large shrubs and 48 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 interference with the integrity of shoreline structures. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

11. The existing wood shed shall be moved out of the seaward buffer.
12. No proposed impervious cover shall be within the 50 foot seaward buffer as measured from the bulkhead.
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 \$769.99 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for an oyster shell plant within the Lynnhaven River Basin.**
15. The conditions and approval associated with this variance are based on the exhibit plan dated May 22, 2018 and revised June 1, 2018, prepared by Gallup Surveyors and Engineers, signed June 1, 2018 by Bruce Gallup. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

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

There was no opposition present.

A motion was made by Mr. McCoy, seconded by Mr. Poole to approve the variance with the 15 conditions as amended (Amended Conditions 11 and 12). All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Applicant	AJ Potters Investments LLC	Agenda Item 5
Property Owner	AJ Potters Investments LLC	
Address	1539 McCullough Lane	
Public Hearing	July 23, 2018	
City Council District	Lynnhaven	

Parcel GPIN: 2409-81-8242
Applicant's Agent: Rick Scarper, Site Improvement Associates
CBPA Board Action: APPROVED WITH 19 CONDITIONS ON JULY 23, 2018
Accela Record: 2018-CBPA-00034

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 RPA cannot be avoided and the applicant has provided a proposal that reduces the overall impervious cover of the parcel.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance; therefore, placing portions of this property within the RPA.
- 3) The overall impervious cover has been reduced and the proposed improvements concentrated towards the front of the residence as a means for the variance being the minimum necessary to afford relief. The Board commends the applicant's agent for providing a reduction in impervious cover and recommends the use of alternative materials, such as a permeable pavement system, within the driveway as a means to comply with the performance standards of the CBPA Ordinance towards the promotion of infiltrating stormwater into the ground consistent with the use of structural urban best management practices [City Code, Appendix F, Section 106 (A)(3)(a)(3)].
- 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; based on the reduction in impervious cover, treatment of all stormwater run-off, addressing the on-going shoreline erosion, and the installation of buffer restoration.
- 5) The Board is of the opinion, the applicant's investment in redeveloping the uplands portion of the property concurrent with the proposed shoreline hardening project, provides a means to manage towards a no net increase in nonpoint source pollution load.

CPBA Variance Conditions:

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
5. Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
7. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.

11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. For all trees proposed for removal outboard of the limits of construction, replacement of existing vegetation shall be provided at a 3 to 1 ratio.
13. All construction activity associated with the shoreline hardening shall occur prior to or concurrent with the construction of the upland improvements. Said activities shall be coordinated with a pre-construction meeting held with the Waterfront Operation Inspector and CBPA Inspector prior to any land disturbance, including demolition.
14. Backfill material shall be well drained, loamy material consistent with the properties and characteristics of the underlying soil series to maintain and promote rainwater infiltration.
15. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **2,763 square feet x 200 percent = 5,526 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: **10 canopy trees, 10 understory trees, 28 large shrubs, and 42 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.

16. The proposed driveway shall be constructed of a permeable pavement system.
17. The pool shall be constructed prior to or concurrent with the residence.
18. ****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 \$632.49 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.**
19. The conditions and approval associated with this variance are based on the exhibit plan dated June 5, 2018, prepared by Site Improvement Associates, Inc., signed June 5, 2018 by Claude F.

Lym. 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.

Rick Scarper with Site Improvements appeared before the Board representing the applicant.

There was no opposition present.

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

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Applicant	Timothy and Julie Finn	Agenda Item 6
Property Owner	Timothy and Julie Finn	
Address	1405 Hickman Drive	
Public Hearing	July 23, 2018	
City Council District	Lynnhaven	

Parcel GPIN: 1489-41-1050
Applicant's Agent: Rick Scarper, Site Improvement Associates
CBPA Board Action: APPROVED WITH 7 CONDITIONS ON JULY 23, 2018
Accela Record: 2018-CBPA-00032

Board's Findings:

- 1) The variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this ordinance and are similarly situated because the parcel was recorded prior to October 1, 1989 and the applicant desires to extend the 6 foot by 21 foot covered patio. The Board is of the opinion that the proposed improvements are similarly situated with those improvements on adjacent properties within the neighborhood and will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance therefore placing portions of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief because the applicant has retained improvements within the landward 50 foot portion of the buffer and landward of the pool and associated decking. The Board agrees with Staff that the proposed improvements are situated in the least sensitive portion of the parcel and as proposed should not contribute to the degradation of water quality.
- 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 a comprehensive stormwater treatment was installed with the initial construction and variance and continues to function as designed. In addition, two buffer units will be installed if approved.
- 5) Stormwater will be conveyed to the existing stormwater facility coupled with additional buffer restoration as a means to manage towards a no net increase in nonpoint source pollution load.

CBPA Variance Conditions:

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
4. 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.
5. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **275 square feet x 200 percent = 550 square feet.**

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

6. This variance and associated conditions **are in addition to** the conditions of the Board variance granted January 26, 2004.
7. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.

Rick Scarper with Site Improvement appeared before the Board representing the applicants.

There was no opposition present.

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

AYE	9	NO	0	ABSTAIN	0	ABSENT	0
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DREPS	AYE
FRANCE	AYE
JESTER	AYE
JONES	AYE
MCCOY	AYE
MCDANIELS	AYE
POOLE	AYE
SMITH	AYE
STEIER	AYE