



**MINUTES
CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
NOVEMBER 21, 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 Wednesday, November 21, 2018.

A motion was made by Mr. Poole and seconded by Mr. Steier to approve the October 22, 2018 minutes. All voted for the motion. This vote also serves as the official roll call for this meeting. All members were present except Mr. France and Mr. McCoy.

BOARD ACTION: APPROVED OCTOBER 22, 2018 MINUTES ON NOVEMBER 21, 2018

AYE 7 NO 0 ABSTAIN 0 ABSENT 2

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

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



Applicant **Patrick and Sheryl Reynolds**
Address **2421 Windward Shore Circle**
Public Hearing **November 21, 2018**
City Council District **Lynnhaven**

Agenda
Item

1

Parcel GPIN: 1499-98-3029
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 17 CONDITIONS ON NOVEMBER 21, 2018

Board's Findings:

- 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; because the proposed improvements within the buffer are in keeping with the size and location of other improvements on parcels within this neighborhood where the majority of buildable area for a residential structure (area within the zoning setbacks) being entirely within the 100 foot RPA buffer.
- 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 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. 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) While an argument can be made that the proposed improvements are similar to other parcels in the neighborhood, specifically those parcels that have been redeveloped or developed within the 50 foot seaward buffer with swimming pools, wood deck and patios; the Board is of the opinion that the variance is the minimum necessary to afford relief because the overall post-development impervious cover offers merit towards being the minimum necessary to afford relief by the use of a permeable paver system with the redevelopment of the existing driveway as well as an additional well-placed buffer restoration plan. This use provides a means towards preventing a no net increase in nonpoint source pollution load while promoting infiltration of stormwater into the ground given the underlying sandy soils.
- 4) The Board is of the opinion that the variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial

detriment to water quality, or otherwise detrimental to the public welfare given 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) Given the location of the proposed improvements and new ownership of the parcel associated with this variance request, Staff has provided recommended conditions requiring that the existing BMPs be reinstalled or maintained and the buffer restoration associated with the previous variance verified and reinstalled, if absent. This will be in addition to the new BMPs and additional buffer restoration associated with this request.
- 6) Finally, the following 17 reasonable and appropriate conditions are offered towards preventing the variance from causing or contributing to a degradation of water quality.

CPBA Variance Conditions:

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be 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. 1,600 square feet of buffer restoration shall be installed within the RPA.

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **4 canopy trees, 4 understory trees, 8 large shrubs, and 12 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall 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 proposed driveway shall be constructed of a permeable pavement system. A detail of the specific permeable paver system and subbase construction shall be provided site plan submitted to the Development Services Center for review and approval.

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 \$116.18 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. This variance and associated conditions **shall be in addition to** the conditions of the Board variance granted December 20, 2007 with the exception of condition 20 (Schmidt Amendment).
16. The conditions and approval associated with this variance are based on the exhibit plan prepared by Gaddy Engineering Services, signed October 31, 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.
17. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.

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

There was no opposition present.

A motion was made by Mr. Smith, seconded by Mr. Poole to approve the variance with the 17 conditions as amended (Amended Condition 15 and added Condition 17). All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 2

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



Applicant **South Linkhorn Bay Trust & et al**
Address **Lot 196, North Linkhorn Park**
Public Hearing **November 21, 2018**
City Council District **Lynnhaven**

Agenda
Item

2

Parcel GPIN: 2418-47-4423
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: DEFERRED ON NOVEMBER 21, 2018 UNTIL THE DECEMBER 19, 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. Poole, seconded by Mr. Jones to defer the variance until the December 19, 2018 public hearing. All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 2

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



Applicant **South Linkhorn Bay Trust & et al**
 Address **Lot 197, North Linkhorn Park**
 Public Hearing **November 21, 2018**
 City Council District **Lynnhaven**

Agenda
 Item
3

Parcel GPIN: 2418-47-4336
Applicant’s Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: DEFERRED ON NOVEMBER 21, 2108 UNTIL THE DECEMBER 19, 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. Poole, seconded by Mr. Jones to defer the variance until the December 19, 2018 public hearing. All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 2

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



Applicant **James Garofalo**
Address **816 Bishopsgate Lane**
Public Hearing **November 21, 2018**
City Council District **Lynnhaven**

Agenda
Item

4

Parcel GPIN: 1498-01-6973
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 14 CONDITIONS ON NOVEMBER 21, 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 are in keeping with the neighborhood. In addition, the Board offers that the proposed improvements are similar to other variance requests in the vicinity of this parcel where encroachments were within the 100 foot RPA buffer, landward of the recorded open space easement, and utilized existing naturalized areas to reestablish the forested understory riparian ecosystem.
- 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 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 applicant provides that the variance is the minimum necessary to afford relief *"based on the proposed improvements being designed to minimize the impacts to the Chesapeake Bay."* The Board concurs and is of the opinion that the utilization of a low retaining wall within the upper reach of the 50 foot seaward buffer offers the potential to manage stormwater sheet flow, similar to a level spreader technique, towards dissipating the energy of stormwater run-off from the upland improvements while spreading the flow to preserve the riparian buffer.
- 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 owners design of the proposed improvements to minimize the impacts to the Chesapeake Bay. In addition, the majority of the proposed improvements are above the top of bank and situated not due to convenience (at the rear exit of the residence) but along the southern

portion of the parcel where the existing topography is relatively flat and provides minimal impacts to existing grades and mature vegetation.

- 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.
- 6) Finally, the following 14 reasonable and appropriate conditions are offered towards preventing the variance from causing or contributing to a degradation of water quality.

CPBA Variance Conditions:

1. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
2. Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
3. The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
4. Wire reinforced 36 inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.
5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. **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. 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: **1,380 square feet x 200 percent = 2,760 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of 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: **7 understory trees, 14 large shrubs, and 21 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where understory vegetation is absent within existing mulched areas. 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. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

12. Under deck treatment of sand and gravel shall be installed.
13. ****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 \$316.25 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for an oyster shell plant within the Lynnhaven River Basin.**

14. The conditions and approval associated with this variance are based on the exhibit plan dated September 5, 2018, prepared by WP Large, signed October 2, 2018 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

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

There was no opposition present.

A motion was made by Mr. Jones, seconded by Mr. Poole to approve the variance with the 14 conditions listed above. All voted for the motion except Mrs. McDaniels who voted no.

AYE 6 NO 1 ABSTAIN 0 ABSENT 2

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



Applicant **Kruth Family Trust**
Address **2012 Absalom Drive**
Public Hearing **November 21, 2018**
City Council District **Lynnhaven**

Agenda
Item

5

Parcel GPIN: 1499-78-1060
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 12 CONDITIONS ON NOVEMBER 21, 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 this variance request is similar to the CBPA variance, recently granted to the property immediately south of this property – fill, pool, and deck. Moreover, the Board is of the opinion that the proposed improvements, specifically the placement of fill material is minimal, will match adjacent grades to the greatest extent practicable in the RPA, and will provide flood protection.
- 2) The encroachment, placement of fill material 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 reduced the overall impervious area and is replacing a bulkhead with riprap.
- 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; with the property being filled to help with flooding problems. A retaining wall will be installed along the north property line to contain the fill and the fill will approximately match the grades along the south side. The Board is of the opinion that the use of sand as backfill material to a minimal depth along the proposed riprap shoreline that is contained within the parcel, and does not exceed an overall slope of 1 ½ percent, should not pose a substantial detriment to water quality if properly stabilized with vegetative cover that is salt tolerant and adaptive to seasonal tidal inundation.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load the overall impervious area is being reduced and landscaping is being added.
- 6) Finally, the following 12 reasonable and appropriate conditions are offered 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.
5. 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.
6. 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.
7. 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.
8. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.

9. Buffer restoration shall be installed equal to 100 percent of the proposed fill material area within the RPA: **1,600 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **4 canopy trees, 4 understory trees, 8 large shrubs, and 12 small shrubs.**

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

10. Under deck treatment of sand and gravel shall be installed.
11. Backfill material shall be well drained sandy material consistent with the properties and characteristics of the Psammets soil series.
12. The conditions and approval associated with this variance are based on the exhibit plan dated October 4, 2018, prepared by Gallup Surveyors and Engineers, signed October 4, 2018 by David Butler. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

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

There was no opposition present.

As an item of the consent agenda, a motion was made by Mr. Poole, seconded by Mr. Jones to approve the variance request with the 12 conditions listed above. All voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 2

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



Applicant **Susan and Stanley Parsick**
Address **1836 North Alanton Drive**
Public Hearing **November 21, 2018**
City Council District **Lynnhaven**

Agenda
Item

6

Parcel GPIN: 2409-53-6066
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 18 CONDITIONS ON NOVEMBER 21, 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 are in keeping with the development of the neighborhood and adjacent parcels with the existing waterway being a manmade channel that was excavated between 1947 and 1958. The majority of the residential structures on the adjacent parcels were constructed between 1968 and 1974.
- 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 house was originally built in the 1960's and near the current zoning standards, therefore the only area for expansion or development is in the rear of the property. The proposed improvements have been limited to the landward buffer except for the pathway to the waterfront.
- 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 with the proposed improvements being similar with the redevelopment of the neighborhood and adjacent parcels, the site currently does not offer any stormwater mitigation for the adjacent canal, however if approved, the proposed redevelopment of this parcel will be required to have treatment provided therefore mitigating runoff into the canal. In addition, the use of retaining walls with integrated planting areas, maintaining the existing slope (approximately 4 percent or less) within the 50 foot seaward buffer, and keeping fill material seaward of the top of bank feature all offer several means of appropriate

planning and design to ensure that the proposed improvements will not be of substantial detriment to water quality.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load, the planting of buffer restoration and bio-retention stormwater management will be installed with the proposed improvements to capture and treat run-off prior to discharging into the canal.
- 6) Finally, the following 18 reasonable and appropriate conditions are offered towards preventing the variance from causing or contributing to a degradation of water quality.

CPBA Variance Conditions:

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

7. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
9. A site plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
10. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
11. Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
12. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **4,773 square feet x 200 percent = 9,546 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, 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. The maximum impervious cover of the parcel shall not exceed 8,819 square feet or 30.8 percent of the parcel outside of water or wetlands.
14. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
15. **As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$1,093.81 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for an oyster shell plant within the Lynnhaven River Basin.
16. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
17. The conditions and approval associated with this variance are based on the exhibit plan dated September 12, 2018, prepared by WPL, signed October 30, 2018 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.
18. The proposed driveway shall be constructed of a permeable pavement system. A detail of the specific permeable paver system and subbase construction shall be provided site plan submitted to the Development Services Center for review and approval.

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. Smith to approve the variance with the 18 conditions as amended (Amended Condition 13 and added Condition 18). All voted for the motion except Mrs. McDaniels and Mr. Steier who voted no.

AYE 5 NO 2 ABSTAIN 0 ABSENT 2

**DREPS AYE
FRANCE ABSENT
JESTER AYE
JONES AYE**

MCCOY		ABSENT
MCDANIELS	NO	
POOLE	AYE	
SMITH	AYE	
STEIER	NO	