



**MINUTES
CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
DECEMBER 19, 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, December 19, 2018.

A motion was made by Mr. Poole and seconded by Mr. Jones to approve the November 21, 2018 minutes. All voted for the motion except Mr. France and Mr. McCoy who were abstained due to their absence from the November meeting. This vote also serves as the official roll call for this meeting. All members were present except Mr. Smith.

BOARD ACTION: APPROVED NOVEMBER 21, 2018 MINUTES ON DECEMBER 19, 2018

AYE 6 NO 0 ABSTAIN 2 ABSENT 1

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

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



Chesapeake Bay Preservation Area Board
Administrative Business
Election of Officers for 2019

Agenda
Item

1

Election of 2019 Chesapeake Bay Preservation Area Board Officers

A motion was made by Mr. McCoy, seconded by Mr. Poole to elect Mr. Jester as the Chairman, Mr. France as the Vice Chairman, and Mr. Jones as the Secretary. All voted for the motion.

AYE 8 NO 0 ABSTAIN 0 ABSENT 1

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



Applicant **South Linkhorn Bay Trust & et al**
Address **Lot 196, N. Linkhorn Park Ext., York Lane**
Public Hearing **December 19, 2018**
City Council District **Lynnhaven**

Agenda
Item

2

Parcel GPIN: 2418-47-4423
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: APPLICATION WITHDRAWN ON DECEMBER 19, 2018

Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the applicant for the withdrawal of the variance request at Lot 196, N. Linkhorn Park Extension, York Lane.

There was no opposition present.

A motion was made by Mr. Dreps, seconded by Mr. McCoy to withdraw this application. All voted for the motion.

AYE 8 NO 0 ABSTAIN 0 ABSENT 1

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



Applicant **South Linkhorn Bay Trust & et al**
 Address **Lot 197 N. Linkhorn Park Ext., York Lane**
 Public Hearing **December 19, 2018**
 City Council District **Lynnhaven**

Agenda
 Item
3

Parcel GPIN: 2418-47-4336
Applicant’s Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: APPLICATION WITHDRAWN ON DECEMBER 19, 2018

Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the applicant for the withdrawal of the variance request at Lot 197, N. Linkhorn Park Extension, York Lane.

There was no opposition present.

A motion was made by Mr. Dreps, seconded by Mr. McCoy to withdraw this application. All voted for the motion.

AYE 8 NO 0 ABSTAIN 0 ABSENT 1

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



Applicant **Carl and Peggy Lankford**
Address **937 Winwood Drive**
Public Hearing **December 19, 2018**
City Council District **Lynnhaven**

Agenda
Item

4

Parcel GPIN: 2418-01-8542
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 16 CONDITIONS ON DECEMBER 19, 2018

The variance of Carl and Peggy Lankford located at 937 Winwood Drive was granted with the following 16 reasonable and appropriate conditions offered towards preventing the variance from causing or contributing to a degradation of water quality based on the following findings, as required in Section 110(H) of the CBPA Ordinance:

- 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 on other parcels within the neighborhood and adjacent parcels.
- 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 as the house was originally built in the 1950's and near the current zoning standards, therefore the only area for expansion or development is in the rear of the property. Moreover, the proposed improvements have been limited to the landward buffer. The Board concurs and is of the opinion that the applicant's request is conscience to both the performance standards of the CBPA Ordinance and the minimum necessary to afford relief given the size of the parcel, date the parcel was recorded, and location of the RPA 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 as the Board is of the opinion that the proposed improvements will not drastically impact the RPA or be injurious to the neighborhood, or a substantial detriment to water quality because the current condition of the riparian buffer is primarily devoted to turf. With the required buffer restoration, should the variance request be granted, the restoration

methods of buffer planting and stormwater management should enhance the ecological and biological function of the RPA.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load, buffer restoration and bioretention stormwater management practices will be installed to capture and treat runoff prior to discharging into the adjacent waterways.

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.
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: **1,545 square feet x 200 percent = 3,090 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **8 canopy trees, 8 understory trees, 16 large shrubs, and 24 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. Gravel downspout intercepts and/or gravel dripline intercepts shall be provided as a means of erosion and sediment control for stormwater run-off from 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 \$354.06 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. The conditions and approval associated with this variance are based on the exhibit plan dated July 6, 2018, prepared by WPL, signed November 1, 2018 by Eric A. Gardner. 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.

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 16 conditions listed above. All voted for the motion.

AYE 8 NO 0 ABSTAIN 0 ABSENT 1

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



Applicant **Brian LaRoche and Heidi Hampson**
Address **2009 Compass Circle**
Public Hearing **December 19, 2018**
City Council District **Lynnhaven**

Agenda
Item

5

Parcel GPIN: 2409-09-3371
Applicant's Agent: Robert Simon
CBPA Board Action: APPROVED WITH 17 CONDITIONS ON DECEMBER 19, 2018

The variance of Brian LaRoche and Heidi Hampson located at 2009 Compass Circle was granted with the following 17 reasonable and appropriate conditions offered towards preventing the variance from causing or contributing to a degradation of water quality based on the following findings, as required in Section 110(H) of the CBPA Ordinance:

- 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 harmony with other improvements on adjacent parcels within the neighborhood that have been redeveloped with encroachments into the 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 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 Board is of the opinion that the variance request with the proposed improvements provide sufficient function and ability for pedestrian circulation as proposed, and are the minimum necessary to afford relief.
- 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 Board being of the opinion that the proposed improvements will not adversely impact the RPA, be injurious to the neighborhood, or pose a substantial detriment to water quality because the current condition of the riparian buffer is primarily devoted to turf. With the required buffer restoration, should the variance request be granted, the restoration methods of buffer planting and stormwater management should enhance the ecological and biological function of the RPA.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, Staff offers that the installation of buffer restoration to establish a healthy riparian ecosystem, coupled with the required stormwater management of run-off, will provide a means to ensure that there be 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. 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.
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. The conditions of the existing Chesapeake Bay Preservation Area (CBPA) variance, specifically the required buffer restoration and stormwater management facilities shall be documented on the revised site plan. Documentation shall describe the health and functionality of said requirements. Prior restoration requirements shall be installed if not present.
13. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,923 square feet x 200 percent = 3,846 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: **6 canopy trees, 11 understory trees, 20 large shrubs, and 30 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.

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 \$440.68 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. This variance and associated conditions **are in addition to** the conditions of the Board variance granted January 24, 2005.

17. The conditions and approval associated with this variance are based on the exhibit plan prepared by Chesapeake Bay Site Solutions, signed December 3, 2018 by Gregory 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.

Robert Simon appeared before the Board representing the applicants.

There was no opposition present.

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

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



Applicant **Michael and Charlotte Zeiders Revocable Trust**
Address **1532 Duke of Windsor Road**
Public Hearing **December 19, 2018**
City Council District **Lynnhaven**

Agenda
Item

6

Parcel GPIN: 2408-98-8105
Applicant's Agent: Eddie Bourdon, Sykes Bourdon Ahern & Levy
CBPA Board Action: APPROVED WITH 18 CONDITIONS ON DECEMBER 19, 2018

The variance of Michael D. Zeiders Revocable Trust and Charlotte A Zeiders Revocable Trust located at 1532 Duke of Windsor Road was granted with the following 18 reasonable and appropriate conditions offered towards preventing the variance from causing or contributing to a degradation of water quality based on the following findings, as required in Section 110(H) of the CBPA Ordinance:

- 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 given the impervious cover within the 100 foot RPA buffer being less than 3.5 percent of the overall impervious cover of the parcel, and that the request to encroach within the 100 foot RPA is similar to other encroachments into the RPA within 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 or predecessor in title 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 proposed guest house is situated above top of bank close to existing improvements and the applicant has provided a revised CBPA exhibit with a no net increase in impervious cover.
- 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 improvements sited above top of bank, close to existing improvements and meets zoning requirements. The Board concurs and further offers the recommended conditions below as a means to prevent the overall improvements of the parcel from contributing to the detriment of water quality.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load, that applicant's agent has stated that BMPs will be utilized and buffer restoration provided.

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.
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: **1,047 square feet x 200 percent = 2,094 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, 8 understory trees and 12 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. Gravel downspout intercepts and/or gravel dripline intercepts shall be provided as a means of erosion and sediment control for stormwater run-off from 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 \$239.93 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 October 22, 2018, prepared by Gallup Surveyors & Engineers, signed October 22, 2018 by David Butler. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Deviation from said conditions during site plan review may require re-submittal for Board consideration.
18. The existing brick path along the side yard of the residence and to the wood pier shall remain as a brick path and not be removed and replaced as a mulch path as proposed on the CBPA exhibit.

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

There was no opposition present.

A motion was made by Mr. McCoy, seconded by Mr. Poole to approve the variance with the 18 conditions as amended (Added Condition 18). All voted for the motion.

AYE 8 NO 0 ABSTAIN 0 ABSENT 1

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



Applicant **Taylor Franklin**
Address **4153 First Court Road**
Public Hearing **December 19, 2018**
City Council District **Bayside**

Agenda
Item

7

Parcel GPIN: 1489-36-8231
Applicant's Agent: Robert Hewitt
CBPA Board Action: APPROVED WITH 5 CONDITIONS ON DECEMBER 19, 2018

The variance of Taylor W. Franklin located at 4153 First Court Road was granted with the following 5 reasonable and appropriate conditions offered towards preventing the variance from causing or contributing to a degradation of water quality based on the following findings, as required in Section 110(H) of the CBPA Ordinance:

- 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 current variance request is similar to other minor projects in the RPA, such as sheds and wood decks that have minimal impacts to the RPA buffer with limited disturbance to natural drainage patterns and existing vegetation.
- 2) The encroachment into the RPA on this parcel is based upon conditions or circumstances that have been imposed by the applicant's predecessor in title; however, the request as per the general performance standards for development and redevelopment set forth in Section 106(A) of the CBPA Ordinance is deemed acceptable due to the land disturbance being limited to the minimal area necessary to provide for the proposed use and existing vegetation being preserved to the maximum extent practicable.
- 3) The variance is the minimum necessary to afford relief given the extent of riparian buffer vegetation that has been retained on the parcel and the minimal footprint of accessory structures within the RPA feature.
- 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 preservation of riparian buffer vegetation along the seaward portion of the proposed improvements and the minimal increase in overall impervious cover for the site in the 100 foot RPA buffer.

- 5) The structure is to be elevated above ground sitting on posts, so there will be minimal disturbed area 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.
3. 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.
4. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **100 square feet x 200 percent = 200 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: **1 canopy tree, 2 understory trees and 3 shrubs.**

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

5. 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, Development Services Center for review and approval prior to the issuance of a building permit. The Development Services

Center and/or Permits and Inspections may require additional information that may affect the release of a building permit.

Robert Hewitt 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. McCoy, seconded by Mr. Poole to approve the variance request with the 5 conditions listed above. All voted for the motion.

AYE 8 NO 0 ABSTAIN 0 ABSENT 1

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