



**MINUTES  
CHESAPEAKE BAY PRESERVATION AREA BOARD  
VIRGINIA BEACH, VIRGINIA  
AUGUST 26, 2019**

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, August 26, 2019.

A motion was made by Mr. Jones and seconded by Mr. France to approve the August 26, 2019 minutes. All voted for the motion. This vote also serves as the official roll call for this meeting. All members were present except Mr. McCoy.

**BOARD ACTION: APPROVED JULY 22, 2019 MINUTES ON AUGUST 26, 2019**

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

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

**Board Members Present: Joe Dreps, David France, David Jester, Casey Jones, June McDaniels, Reese Smith, Michael Steier, and Al Wallace.**



Applicant **Regina Wrench**  
Address **2980 Buccaneer Road**  
Public Hearing **August 26, 2019**  
City Council District **Lynnhaven**

Agenda  
Item

**1**

**Parcel GPIN:** 1499-17-5904  
**Accela Record:** 2019-CBPA-00018  
**CBPA Board Action:** APPLICATION WITHDRAWN ON AUGUST 26, 2019

**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. France to withdraw this application. All voted for the motion.**

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

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



Applicant **Clarke and Anne Crenshaw**  
Address **1216 Cedar Point Drive**  
Public Hearing **August 26, 2019**  
City Council District **Lynnhaven**

Agenda  
Item

**2**

**Parcel GPIN:** 2418-68-3284  
**Accela Record:** 2019-CBPA-00032  
**CBPA Board Action:** APPROVED WITH 1 CONDITION ON AUGUST 26, 2019

The variance of Clarke and Anne Crenshaw located at 1216 Cedar Point Drive was granted with the following 1 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:

**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 practicability of redeveloping the existing shoreline is based off of a site analysis conducted by the applicant agent and based off of current field and environmental conditions specific to this lot.
- 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 lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this lot are within the RPA.
- 3) The variance is the minimum necessary to afford relief with the methodology to construct the rip rap revetment from the waterway not introducing extensive upland land disturbance associated with excavation and grading if the rip rap revetment were to be constructed as conditioned by the 2003 CBPA variance.
- 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 existing buffer restoration is well vegetated and functioning and the proposed riprap is preferable to a vertical bulkhead and creates a non-vegetated wetland habitat.
- 5) With the redevelopment of the shoreline and no impervious cover proposed with the variance request, there is no increase in impervious cover and therefore no increase in nonpoint source pollution.

**CBPA Variance Conditions:**

1. This variance is in addition to the conditions of the CBPA Board variance granted July 28, 2003 and removes condition 6 of said 2003 CBPA variance that states *"If and when the shoreline is hardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (timber or steel bulkhead). Said condition shall be so noted on the site plan. The toe of said revetment shall lie no further seaward than 4' from the existing bulkhead."*

**Bob 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. Jones, seconded by Mr. France to approve the variance request with the 1 condition listed above. All voted for the motion.**

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

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



Applicant **James and Nancy Worcester**  
Address **802 Gilbert Circle**  
Public Hearing **August 26, 2019**  
City Council District **Lynnhaven**

Agenda  
Item

**3**

**Parcel GPIN:** 1498-51-0273  
**Accela Record:** 2019-CBPA-00038  
**CBPA Board Action:** APPROVED WITH 15 CONDITIONS ON AUGUST 26, 2019

The variance of James and Nancy Worcester located at 802 Gilbert Circle was granted with the following 15 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:

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated as the proposed improvements are in keeping with the development of the neighborhood with and situated in an area that offers the least amount of land disturbance to existing environmental features.
- 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 lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this lot are within the RPA.
- 3) The variance is the minimum necessary to afford relief with the house being built in the 1950's in its current location on the lot and the applicant's positioning of the proposed improvements being contained within the landward buffer.
- 4) The Board is of the opinion that the proposed improvements will not drastically impact the RPA, be injurious to the neighborhood, or be a substantial detriment to water quality because the current condition of the riparian buffer offers vegetative cover to promote infiltration of stormwater runoff and the buffer restoration provided in the recommended conditions below will 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, buffer restoration and bioretention stormwater management will be placed between the improvements and the tidal feature to capture and treat runoff.

**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. **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. 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 **3,773 square feet** 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 to the greatest extent practicable.

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 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. Under deck treatment of sand and gravel shall be installed.
13. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
14. **\*\*As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$1,556.36 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.**

15. The conditions and approval associated with this variance are based on the exhibit plan dated August 7, 2019, prepared by WPL and signed August 7, 2019 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 applicants.**

**There was no opposition present.**

**As an item of the consent agenda, a motion was made by Mr. Jones, seconded by Mr. France to approve the variance request with the 15 conditions listed above. All voted for the motion.**

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

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



Applicant **Glenn and Julia Cherry**  
Address **1409 Mill Dam Road**  
Public Hearing **August 26, 2019**  
City Council District **Lynnhaven**

Agenda  
Item

**4**

**Parcel GPIN:** 2408-38-7956  
**Accela Record:** 2019-CBPA-00037  
**CBPA Board Action:** APPROVED WITH 15 CONDITIONS ON AUGUST 26, 2019

The variance of Glenn and Julia Cherry located at 1409 Mill Dam Road was granted with the following 15 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:

**Board's Findings:**

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated as the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels with the location of the proposed improvements in an area that offers the least amount of impact to existing environmental features.
- 2) The encroachment into the RPA on this lot is based upon circumstances that have been created by the applicant with the subdivision of the existing lot, however the applicant's desire to construct a new dwelling for the property owners given the age and condition of the existing residential structure built in 1940.
- 3) The variance is the minimum necessary to afford relief with the applicant's design of the proposed improvements done so to minimize the impacts to the Chesapeake Bay and the inclusion of bioretention beds the site will provide for the treatment of stormwater.
- 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 redeveloping approximately 75 percent of the existing impervious cover on the lot with 416 square feet of the 925 square feet on new impervious cover located within the upper reach of the 50-foot landward buffer.

- 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 runoff.

**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. **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. 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: **925 square feet x 200 percent = 1,850 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 to the greatest extent practicable.

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 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. 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.
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 \$211.97 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including**

oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.

14. The conditions and approval associated with this variance are based on the exhibit plan dated August 6, 2019, prepared by WPL and signed August 8, 2019 by Eric A. Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

15. This variance and associated conditions **will supersede** the conditions of the Board variance granted June 27, 2005 specific to Lot A only.

**Eddie Bourdon, Attorney with Sykes Bourdon Ahern & Levy 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. Jones, seconded by Mr. France to approve the variance request with the 15 conditions listed above. All voted for the motion.**

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

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



Applicant **Bells Nest, LLC**  
 Address **4006 Richardson Road**  
 Public Hearing **August 26, 2019**  
 City Council District **Bayside**

Agenda  
 Item  
**5**

**Parcel GPIN:** 1488-06-9968  
**Applicant’s Agent:** 2019-CBPA-00036  
**CBPA Board Action:** DEFERRED ON AUGUST 26, 2019 UNTIL THE SEPTEMBER 23, 2019 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. Wallace, seconded by Mr. Smith to defer the variance until the September 23, 2019 public hearing. All voted for the motion except Mr. Jones who was abstained because he has several family members who live on this street and will be moving on this street as well.**

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

**DREPS AYE  
 FRANCE AYE  
 JESTER AYE  
 JONES ABSTAIN  
 MCCOY ABSENT  
 MCDANIELS AYE  
 SMITH AYE  
 STEIER AYE  
 WALLACE AYE**



Applicant **Krambias Properties, LLC**  
Address **921 Bobolink Drive**  
Public Hearing **August 26, 2019**  
City Council District **Lynnhaven**

Agenda  
Item

**6**

**Parcel GPIN:** 2418-22-7567  
**Accela Record:** 2019-CBPA-00035  
**CBPA Board Action:** DEFERRED ON AUGUST 26, 2019 UNTIL THE SEPTEMBER 23, 2019 PUBLIC HEARING

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

**There was no opposition present.**

**A motion was made by Mr. Jones, seconded by Mr. France to defer the variance until the September 23, 2019 public hearing. All voted for the motion.**

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

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



Applicant **Peter Koumoutseas – Restoration Hearing**  
 Address **2201 Wood Ibis Way**  
 Public Hearing **August 26, 2019**  
 City Council District **Bayside**

Agenda  
Item  
**7**

**Parcel GPIN:** 1489-09-7474  
**Accela Record:** 2019-CBPOA-00002  
**CBPA Board Action:** RESTORATION HEARING APPROVED ON AUGUST 26, 2019

Noncompliance found, and a motion was made at the July 22, 2019 Chesapeake Bay Preservation Area (CBPA) Board public hearing to find the unauthorized improvements in noncompliance to the provisions of the Chesapeake Bay Preservation Area Ordinance.

A civil charge was imposed, and a Restoration Hearing was ordered by the CBPA Board for the property owner – Peter A. Koumoutseas.

The Board determined that the restoration order has been satisfied with the unauthorized fill material removed from the lot, the area of land disturbance seeded, and straw placed over all denuded areas until vegetative cover established.

**There was no opposition present.**

**A motion was made by Mr. Jones, seconded by Mr. Smith to approve this restoration variance.**

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

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