



**MINUTES  
CHESAPEAKE BAY PRESERVATION AREA BOARD  
VIRGINIA BEACH, VIRGINIA  
OCTOBER 28, 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, October 28, 2019.

A motion was made by Mr. McCoy and seconded by Mr. Jones to approve the September 23, 2019 minutes. All voted for the motion except Mr. Smith who was abstained due to his absence from that meeting. This vote also serves as the official roll call for this meeting. All members were present except Mr. Dreps and Mr. France.

**BOARD ACTION: APPROVED SEPTEMBER 23, 2019 MINUTES ON OCTOBER 28, 2019**

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

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

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



Applicant **Krambias Properties, LLC**  
 Address **921 Bobolink Drive**  
 Public Hearing **October 28, 2019**  
 City Council District **Lynnhaven**

Agenda  
 Item  
**1**

**Parcel GPIN:** 2418-22-7567  
**Applicant’s Agent:** Eddie Bourdon, Sykes Bourdon Ahern & Levy  
**Accela Record:** 2019-CBPA-00035  
**CBPA Board Action:** DEFERRED ON OCTOBER 28, 2019 UNTIL THE DECEMBER 18, 2019 PUBLIC HEARING

**David Kledzik, Marine Engineering appeared before the Board.**

**A motion was made by Mr. Jones, seconded by Mr. McCoy to defer the variance until the December 18, 2019 public hearing. All voted for the motion.**

**AYE 7 NO 0 ABSTAIN 0 ABSENT 2**

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



Applicant **James Belote**  
Address **2429 Windward Shore Drive**  
Public Hearing **October 28, 2019**  
City Council District **Lynnhaven**

Agenda  
Item

**2**

**Parcel GPIN:** 1499-98-1228  
**Applicant's Agent:** David Kledzik, Marine Engineering  
**Accela Record:** 2019-CBPA-00039  
**CBPA Board Action:** APPROVED WITH 15 CONDITIONS ON AUGUST 26, 2019

The variance of James Belote located at 2429 Windward Shore 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:

**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 based off the recommend conditions provided in Staff's report for this variance request, specifically conditions 3, 11, 12 and 13, as means to offer the applicant the ability to redevelop the lot within the provisions of the CBPA Ordinance.
- 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 rather 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 placing this lot within the RPA.
- 3) The variance is the minimum necessary to afford relief with the redevelopment of the lot only increasing the overall impervious cover by 50 square feet, from 9,402 square feet to 9,452 square feet.
- 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 offer a better control of stormwater, will improve water quality with a potential to reduce stormwater runoff velocities from upland improvements, will promote the infiltration of rainwater with the proper selection of porous backfill material, and

will provide an area for indigenous ground cover adjacent to the existing riprap revetment (especially woody vegetation), all contributing towards preventing site erosion.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load, Staff has provided recommended conditions with the report for this variance request that manage the redevelopment of this lot towards a no net increase in nonpoint source pollution loading into the adjacent waterways.

**CBPA Variance Conditions:**

- 1) A Single-Family RPA 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.
- 2) 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.
- 3) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **607 square feet x 200 percent = 1,214 square feet.**

The required restoration shall be located in the 50-foot seaward buffer of the Resource Protection Area, in areas currently devoted to turf to the greatest extent practicable and transition landwards as needed to fulfill the required buffer restoration square footage. Areas of the lot inundated by abnormal high tides or storm surge may be converted to no-mow zones as a component of the required buffer restoration. Said buffer restoration areas shall be maintained and not removed or allowed to revert to turf in the future.

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs, grasses and groundcovers suitable for the existing grade elevations and environmental conditions. The following quantities are required: **3 canopy trees, 3 understory trees, 6 large shrubs, and 9 grasses and/or groundcovers.** 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.

- 4) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) 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.
- 7) 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.**
- 8) Dual 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 5 feet from improvements with a secondary silt fence installed along the toe of slope, adjacent to the existing rip rap revetment.
- 9) Construction limits along the seaward portion of the project shall lie a maximum of 5 feet seaward of improvements.
- 10) 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.
- 11) Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under all wood decks and stairs.
- 12) Backfill material associated with the retaining wall shall be well drained sandy material consistent with the properties and characteristics of the Fripp soil series.
- 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 \$139.10 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) It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.

16) The conditions and approval associated with this variance are based on the exhibit plan prepared by Marine Engineering, LLC and signed October 1, 2019 by David Kledzik. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

**David Kledzik, Marine Engineering 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. Jones, seconded by Mr. McCoy to approve the variance request with the 16 conditions listed above. All voted for the motion.**

**AYE 7 NO 0 ABSTAIN 0 ABSENT 2**

<b>DREPS</b>	<b>ABSENT</b>
<b>FRANCE</b>	<b>ABSENT</b>
<b>JESTER</b>	<b>AYE</b>
<b>JONES</b>	<b>AYE</b>
<b>MCCOY</b>	<b>AYE</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 **Jeremy and Natalie Biggie**  
Address **409 Susan Constant Drive**  
Public Hearing **October 28, 2019**  
City Council District **Lynnhaven**

Agenda  
Item

**3**

**Parcel GPIN:** 2419-61-4826  
**Applicant's Agent:** Robert Simon  
**Accela Record:** 2019-CBPA-00044  
**CBPA Board Action:** DEFERRED ON OCTOBER 28, 2019 UNTIL THE NOVEMBER 25, 2019  
PUBLIC HEARING

**Robert Simon appeared before the Board representing the applicants.**

**There was no opposition present.**

**A motion was made by Mr. Jones, seconded by Mr. McCoy to defer the variance until the November 25, 2019 public hearing. All voted for the motion.**

**AYE 7 NO 0 ABSTAIN 0 ABSENT 2**

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



Applicant **NLSM Conservation, LLC**  
Address **4152 Ewell Road**  
Public Hearing **October 28, 2019**  
City Council District **Beach**

Agenda  
Item

**4**

**Parcel GPIN:** 1479-0-3329  
**Applicant's Agent:** Self Represented  
**Accela Record:** 2019-CBPA-00045  
**CBPA Board Action:** DEFERRED ON JANUARY 25, 2016 UNTIL THE MARCH 28, 2016 PUBLIC HEARING

**No one appeared before the Board.**

**There was no opposition present.**

**A motion was made by Mr. McCoy, seconded by Mr. Wallace to defer the variance until the November 25, 2019 public hearing. All voted for the motion.**

**AYE 7 NO 0 ABSTAIN 0 ABSENT 2**

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



Property Owner **Kathleen & Trudy Hoff**  
**Show Cause Hearing**  
 Address of Noncompliance **3729 Lynnfield Drive**  
 Public Hearing **October 28, 2019**  
 City Council District **Lynnhaven**

Agenda  
Item  
**5**

**Parcel GPIN:** 1489-40-2271  
**Applicant’s Agent:** Self Represented  
**Accela Record:** 2019-CBPV-00004  
**CBPA Board Action:** SHOW CAUSE HEARING HELD ON OCTOBER 28, 2019 ~ VIOLATION FOUND, IMPOSED A CIVIL CHARGE, RESTORATION HEARING SET FOR NOVEMBER 25, 2019

**Kathleen Hoff, homeowner appeared before the Board.**

**There was no opposition present.**

**A motion was made by Mr. Smith, seconded by Mrs. McDaniels to find a violation. All voted for the motion.**

**AYE 7 NO 0 ABSTAIN 0 ABSENT 2**

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

**A motion was made by Mr. Wallace, seconded by Mrs. McDaniels to impose a civil charge of \$3,000 and imposed a restoration hearing order for November 25, 2019. All voted for the motion.**

**AYE 7 NO 0 ABSTAIN 0 ABSENT 2**

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

<b>MCCOY</b>	<b>AYE</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>



Property Owner **Robert & Andrea Lunsford – Show Cause Hearing**  
 Address of Noncompliance **2701 Shepherds Quarter**  
 Public Hearing **October 28, 2019**  
 City Council District **Beach**

Agenda Item  
**6**

**Parcel GPIN:** 1497-57-6960  
**Applicant’s Agent:** Self Represented  
**Accela Record:** 2019-CBPA-00003  
**CBPA Board Action:** SHOW CAUSE HEARING HELD ON OCTOBER 28, 2019 VIOLATION FOUND, IMPOSED A CIVIL CHARGE, RESTORATION HEARING SET FOR NOVEMBER 25, 2019

**Andrea Lunsford appeared before the Board.**

**There was no opposition present.**

**A motion was made by Mrs. McDaniels, seconded by Mr. McCoy to find a violation.**

**AYE 7 NO 0 ABSTAIN 0 ABSENT 2**

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

**A motion was made by Mrs. McDaniels, seconded by Mr. Wallace to impose a civil charge of \$2,500 and imposed a restoration hearing order for November 25, 2019. All voted for the motion.**

**AYE 7 NO 0 ABSTAIN 0 ABSENT 2**

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

<b>MCCOY</b>	<b>AYE</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>