



**MINUTES
CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
NOVEMBER 25, 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, November 25, 2019.

A motion was made by Mr. McCoy and seconded by Mr. Jones to approve the October 28, 2019 minutes. All voted for the motion except Mr. France 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.

BOARD ACTION: APPROVED OCTOBER 28, 2019 MINUTES ON NOVEMBER 25, 2019

AYE 8 NO 0 ABSTAIN 1 ABSENT 0

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

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



Applicant **Jeremy & Natalie Biggie**
Address **409 Susan Constant Drive**
Public Hearing **November 25, 2019**
City Council District **Lynnhaven**

Agenda
Item

1

Parcel GPIN: 2419-61-4826
Applicant's Agent: Robert Simon
CBPA Board Action: DEFERRED ON NOVEMBER 25, 2019 UNTIL THE JANUARY 27, 2020 PUBLIC HEARING

It was stated by staff that the applicant requested the application be deferred.

There was no opposition present.

A motion was made by Mr. Jones, seconded by Mrs. McDaniels to defer the variance until the January 27, 2020 public hearing. All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Applicant **NLSM Conservation, LLC**
Address **4152 Ewell Road**
Public Hearing **November 25, 2019**
City Council District **Lynnhaven**

Agenda
Item

2

Parcel GPIN: 1479-90-3329
Applicant's Agent: Self Represented
CBPA Board Action: DEFERRED ON NOVEMBER 25, 2019 UNTIL THE DECEMBER 18, 2019
PUBLIC HEARING

The applicant was unable to attend the meeting due to travels.

There was no opposition present.

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

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Applicant **Linwood & Courtney Nelms**
Address **2025 Alphine Road**
Public Hearing **November 25, 2019**
City Council District **Lynnhaven**

Agenda
Item

3

Parcel GPIN: 1499-78-7150
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 17 CONDITIONS ON NOVEMBER 25, 2019

The variance of Linwood & Courtney Nelms located at 2025 Alphine Road 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:

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 with CBPA variances for similar encroachments into the 100-foot RPA buffer being granted within a quarter mile radius of the lot, as the entire neighborhood was platted prior to the adoption of the CBPA Ordinance. While each variance is considered based on the unique conditions found on a lot, many of these lots where redevelopment is proposed must obtain relief from the CBPA Ordinance due to the prevalence of the RPA throughout the area.
- 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 understanding the suitability of the lot in relation to accommodate additional living space for family need. As such, approximately 1,495 square feet of the redevelopment proposed will result in a net reduction in accessory structures.
- 3) The variance is the minimum necessary to afford relief with only a minimal increase in impervious cover proposed. A reduction in the size of existing accessory structures, along with the layout and location of the proposed improvements, in Staff's view, maximizes the redevelopment to the greatest extent practicable. The design uses the existing grade elevations to minimize land disturbance.
- 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 given the use of permeable pavers to promote infiltration of stormwater.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load the redevelopment of the lot, use of permeable pavers, natural condition of the lot and underlying soil conditions conducive of infiltration given the sandy composition, all provides merit towards a no net increase in impervious cover.

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) The conditions of the existing Chesapeake Bay Preservation Area (CBPA) variance, specifically the required 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
- 3) 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.
- 4) All remaining pervious areas shall remain in a natural state as shown on the CBPA exhibit submitted with the variance application. The pervious areas shall be supplemented with buffer restoration planting units that 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 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) 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) 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.
- 9) 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.**
- 10) 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.
- 11) 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.
- 12) 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.
- 13) The proposed driveway and associated walkway 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.

- 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 \$141.16 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.
- 16) This variance and associated conditions **are in addition to** the conditions of the Board variance granted December 16, 1991.
- 17) The conditions and approval associated with this variance are based on the exhibit plan dated August 26, 2019, prepared by WPL. 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. Jones to approve the variance request with the 17 conditions listed above. All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Applicant **Bennett & Elizabeth Thomas**
Address **3016 Island Lane**
Public Hearing **November 25, 2019**
City Council District **Lynnhaven**

Agenda
Item

4

Parcel GPIN: 1499-17-0438
Applicant's Agent: Self Represented
CBPA Board Action: APPROVED WITH 6 CONDITIONS ON NOVEMBER 25, 2019

The variance of Bennett & Elizabeth Thomas located at 3016 Island Lane was granted with the following 6 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 because the proposed improvements associated with this variance request do not require removal of any existing vegetation, nor will it encroach further seaward than existing improvements on 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 neighborhood was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, placing the majority of this property within the RPA.
- 3) Although a minimal increase in overall impervious cover is proposed, the Board is of the opinion that the materials associated with the proposed improvements offer merit towards ecological benefits by providing minimal water quality maintenance and rainwater infiltration towards the minimum necessary to afford relief.
- 4) The Board is of the opinion with the established canopy cover, existing mature forest floor, and underlying soil conditions will not be injurious to the neighborhood, nor be of substantial detriment to water quality given the applicant's intent to preserve the natural conditions of the lot and preserve the existing forest floor to the greatest extent practicable.
- 5) The use of underdeck treatment is a recommended condition of approval as a means to manage erosion and sedimentation control towards a no net increase in nonpoint source pollution load.

CBPA Variance Conditions:

1. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.
2. A maximum of 1,500 square feet of turf is permitted for this property. Said turf shall not be permitted within the 50-foot seaward buffers. Within the RPA, 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 with all remaining pervious areas preserved as riparian buffer. Buffer restoration areas 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 Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance to the greatest extent practicable: **3 understory trees, 6 large shrubs, and 9 small shrubs.**

The required restoration shall be located in the Resource Protection Area and 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.

3. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
4. Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
5. 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.
6. Under deck treatment of sand and gravel shall be installed.

Bennett Thomas appeared before the Board.

There was no opposition present.

As an item of the consent agenda, a motion was made by Mr. McCoy, seconded by Mr. Jones to approve the variance request with the 6 conditions listed above. All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Applicant **Loretta Rinaldi**
Address **2001 English Cedar Circle**
Public Hearing **November 25, 2019**
City Council District **Lynnhaven**

Agenda
Item

5

Parcel GPIN: 1499-78-8080
Applicant's Agent: Self Represented
CBPA Board Action: APPROVED WITH 4 CONDITIONS ON NOVEMBER 25, 2019

The variance of Loretta Rinaldi located at 2001 English Cedar Circle was granted with the following 4 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) The Board of the opinion that granting the variance to encroach into the RPA feature with the proposed concrete pad, that a special privilege will not be afforded to the applicant that other owners of property in the neighborhood have been similarly afforded with the improvement of their lots.
- 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 property are within the RPA.
- 3) The variance is the minimum necessary to afford relief given the dimensions of the concrete pad are sized solely to accommodate the width and length of the desired hot tub. The applicant is not requesting additional impervious cover for a walkway around the hot tub and intends to utilize the existing walkway for access.
- 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 method of construction provided by the applicant and minimal land disturbance.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load; all existing vegetation is being retained, land disturbance will be limited to less than 200 square feet, and any run-off produced from the proposed improvements has approximately 70 linear feet of pervious cover to sheet-flow across before draining into tidal waters.

CBPA Variance Conditions:

1. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.
2. 400 square feet of buffer restoration shall be installed for the proposed new impervious cover 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

3. 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.**
4. This variance and associated conditions **are in addition to** the conditions of the Board variance granted September 23, 1991.

Loretta Rinaldi appeared before the Board.

There was no opposition present.

As an item of the consent agenda, a motion was made by Mr. McCoy, seconded by Mr. Jones to approve the variance request with the 4 conditions listed above. All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Applicant **Robert Remsing**
Address **2108 W Kendall Circle**
Public Hearing **November 25, 2019**
City Council District **Lynnhaven**

Agenda
Item

6

Parcel GPIN: 1499-79-3822
Applicant's Agent: Self Represented
CBPA Board Action: APPROVED WITH 4 CONDITIONS ON NOVEMBER 25, 2019

Board's Findings:

The variance of Robert and Lisa Remsing located at 2108 W Kendall Circle was granted with the following 4 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 request of improvements associated with the redevelopment of this lot is consistent with similar variance requests from adjacent properties granted by prior CBPA Boards dating back to 1991.
- 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 property are within the RPA.
- 3) The variance is the minimum necessary to afford relief based on testimony by the applicant, with the applicant's initiative to redevelop approximately 35 percent or 1,529 square feet of the existing impervious cover with a permeable pavement system.
- 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 applicant's efforts to redevelop a lot that predates the CBPA and Stormwater Management Ordinances with sustainable urban best management practices is in harmony with the purpose and intent of the Ordinance.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load, the Board commends the applicants for their approach and thoroughness with the redevelopment of this lot integrating resiliency and sustainability to both the primary and accessory structures.

CPBA Variance Conditions:

1. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.
2. 1,000 square feet of buffer restoration shall be installed on the lot. Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **2 canopy trees, 2 understory trees, 4 large shrubs and 6 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.

3. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
4. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.

Robert and Lisa Remsing appeared before the Board.

There was no opposition present.

A motion was made by Mr. McCoy, seconded by Mrs. McDaniels to approve the variance with the 4 conditions as amended (Amended Condition 2). All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Applicant **Kara & Jeremiah Wilkinson**
Address **523 26th Street**
Public Hearing **November 25, 2019**
City Council District **Beach**

Agenda
Item

7

Parcel GPIN: 2418-90-2068
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 8 CONDITIONS ON NOVEMBER 25, 2019

The variance of Kara & Jeremiah Wilkinson located at 523 26th Street was granted with the following 8 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 proposed improvements are in keeping with the development of 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 lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this property are within the RPA.
- 3) The variance is the minimum necessary to afford relief because the request to encroach into the RPA buffer with the proposed improvements initially provided a two-tiered paver patio area that consisted of approximately 586 square feet, extending to the edge of the 50-foot seaward buffer. Working with Staff, the applicant's agent reduced the encroachment request by approximately 143 square feet, shifting the proposed impervious cover landward of the 50-foot seaward buffer by approximately 10 feet, as a means to address environmental issues while being 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 construction of the proposed improvements utilizing existing grade elevations with retaining walls and steps, the introduction of vegetative cover within the RPA buffer, and abatement of the ongoing

erosion to the existing bank, the functions of the buffer will be restored, consistent with the intent of the ordinance.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load, the Board is of the opinion that the proposed improvements better the current conditions of the RPA and provide merit towards reestablishing an ecological benefit by provided better water quality maintenance while allowing the RPA to function as intended by not introducing an extensive amount of fill material or severely altering existing site conditions

CBPA Variance Conditions:

1. The conditions and approval associated with this variance are based on the exhibit plan dated January 29, 2019 prepared by WPL, signed November 4, 2019 by Eric A. Garner and presented to the Board, the application submitted and the sworn presentation to the Board. A Single-Family RPA Small Projects 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. Said site-plan shall provide existing spot elevations along the rear property lines and proposed elevations of all hard surfaces – patios, retaining walls, etc. All drainage shall be contained on the property.
2. Buffer restoration shall be installed per the described areas on the CBPA Exhibit presented to the Board. Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers to the greatest extent practicable.

The required 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. 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.

3. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
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 10 feet from improvements.

5. Construction limits along the seaward portion of the project shall lie a maximum of 10 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. No perimeter fill is authorized outboard or seaward of the proposed improvements.

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. Jones to approve the variance request with the 8 conditions listed above. All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Applicant **Kathleen & Trudy Hoff**
Address **3729 Lynnfield Drive**
Public Hearing **November 25, 2019**
City Council District **Lynnhaven**

Agenda
Item

8

Parcel GPIN: 1489-40-2271
Applicant's Agent: Self Represented
CBPA Board Action: APPROVED WITH 3 CONDITIONS ON NOVEMBER 25, 2019

The variance of Kathleen & Trudy Hoff located at 3729 Lynnfield Drive was granted with the following 3 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 several variances to the CBPA Ordinance have been granted in the vicinity of this lot to redevelop property within the RPA since the adoption of the Ordinance. In addition, several properties have wood piers between 32 feet to 164 feet in length for access to the water. While this site does not have pier for water access as other property owners in the vicinity have constructed, the retention of the existing tiered deck and steps does provide this property owner with a reasonable alternative for access and enjoy the shoreline.
- 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 property are within the RPA.
- 3) The variance is the minimum necessary to afford relief because "*all structures installed were done so with raised base or foundation using impervious cover materials (decking).*" Staff evaluated this finding of the CBPA Ordinance based off the applicant's redevelopment of this lot and retention of existing vegetation. A typical request to redevelop within the RPA buffer often encroaches further seaward. In this case, redevelopment was held to a no net increase in impervious cover and no further encroachment seaward with the primary structure, excluding the after-the-fact variance request.

- 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 minimal amount of land disturbance associated with the construction of the improvements and all activity strictly defined by the construction footprint. The Board offers that the strict adherence of land disturbance to the construction footprint, albeit after-the-fact, does comply with the general performance standards set forth within the CBPA Ordinance.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load, the minimal amount of land disturbance and the provided mitigation plan provides merit towards a no net increase in nonpoint source pollution load from the unauthorized improvements.

CPBA Variance Conditions:

1. Upon granting of a variance, an as-built survey shall be submitted to the Department of Planning, Development Services Center within 90 days from the date of this hearing. Once the as-built survey has been received and reviewed, a **CBPA / CIVIL Permit** must be obtained within 30 days.

2. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: 435 square feet x 200 percent = 870 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: 3 canopy trees, 3 understory trees, 6 large shrubs, and 9 small shrubs.

3. Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under the wood deck and stairs per staff approval.

Kathleen Hoff and Trudy Hoff (mother) appeared before the Board.

There was no opposition present.

A motion was made by Mrs. McDaniels, seconded by Mr. France to approve the variance with the 3 conditions as amended (Deleted Conditions 2 and 3 of Staff’s recommended conditions found in the Staff write up). All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

DREPS AYE

FRANCE	AYE
JESTER	AYE
JONES	AYE
MCCOY	AYE
MCDANIELS	AYE
SMITH	AYE
STEIER	AYE
WALLACE	AYE



Applicant **Robert & Andrea Lunsford**
Address **2701 Shepherds Quarter**
Public Hearing **November 25, 2019**
City Council District **Beach**

Agenda
Item

9

Parcel GPIN: 1497-57-6960
Applicant's Agent: Self Represented
CBPA Board Action: APPROVED WITH 5 CONDITIONS ON NOVEMBER 25, 2019

Board's Findings:

The variance of Robert & Andrea Lunsford located at 2701 Shepherds Quarter 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, as several lots within this neighborhood are entirely within the 100-foot RPA.
- 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 necessitated by the lot being platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance.
- 3) Staff evaluated this finding of the CBPA Ordinance based off the applicant's redevelopment of this lot and retention of existing vegetation as merit towards the variance being the minimum necessary to afford relief. A typical request to redevelop within the RPA buffer within this neighborhood often results in further encroachment into the 100-foot 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 the encroachments into the RPA, specifically the 50-foot seaward buffer, is typical of a Small Project in the RPA. The amount of impervious cover, 235 square feet, which will be reduced in the conditions, is limited. In addition, the minimal amount of land disturbance associated with the construction of the improvements and all activity strictly defined by the construction footprint, Staff offers that the strict adherence of land disturbance to

the construction footprint, albeit after-the-fact, does comply with the general performance standards set forth within the CBPA Ordinance.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load, Staff is of the opinion that the installation of at least 200 percent of buffer restoration is essential to towards establishment of a riparian ecosystem, further ensuring a significant reduction in stormwater runoff, and to enhance erosion control.

CPBA Variance Conditions:

1. Upon granting of a variance, an as-built survey shall be submitted to the Department of Planning, Development Services Center within 90 days from the date of this hearing. Once the as-built survey has been received and reviewed, a **CBPA / CIVIL Permit** shall be obtained within 30 days. Failure to comply with this condition may result in a show cause hearing.
2. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,802 square feet x 200 percent = 3,604 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: **9 canopy trees, 9 understory trees, 18 large shrubs, and 27 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.

3. Submitted concurrent with the as-built survey 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.

4. ****** 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 \$412.95 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.

5. The asphalt drive shall be reduced in length so that none of the asphalt is within the 50-foot seaward buffer of the Chesapeake Bay Preservation Area (CBPA), Resource Protection Area (RPA) with all the buffer restoration installation completed within 6 months.

Andrea Lunsford appeared before the Board.

There was no opposition present.

A motion was made by Mrs. McDaniels, seconded by Mr. Wallace to approve the variance with the 5 conditions as amended (Added Condition 5). All voted for the motion except Mr. McCoy who voted no.

AYE 8 NO 1 ABSTAIN 0 ABSENT 0

DREPS	AYE
FRANCE	AYE
JESTER	AYE
JONES	AYE
MCCOY	NO
MCDANIELS	AYE
SMITH	AYE
STEIER	AYE
WALLACE	AYE



Restoration Hearing **Kathleen & Trudy Hoff**
 Address **3729 Lynnfield Drive**
 Public Hearing **November 25, 2019**
 City Council District **Lynnhaven**

Agenda
 Item
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Parcel GPIN: 1489-40-2271
Applicant’s Agent: Self Represented
CBPA Board Action: WITHDRAWN ON NOVEMBER 25, 2019

BOARD ACTION: WITHDRAWN NOVEMBER 25, 2019

There was no opposition present.

A motion was made by Mr. Smith, seconded by Mr. France to withdraw the restoration request.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Restoration Hearing **Robert & Andrea Lunsford**
Address **2701 Shepherds Quarter**
Public Hearing **November 25, 2019**
City Council District **Beach**

Agenda
Item

11

Parcel GPIN: 1497-57-6960
Applicant's Agent: Self Represented
CBPA Board Action: No action.

There was no action by the Board and the after-the-fact variance request, Item 9 was heard as restoration initiatives regarding the unauthorized improvements within the Chesapeake Bay Preservation Area (CBPA), Resource Protection Area (RPA).

There was no opposition present.