



**MINUTES
CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
APRIL 22, 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, April 22, 2019.

A motion was made by Mrs. McDaniels and seconded by Mr. Jones to approve the March 25, 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 MARCH 25, 2019 MINUTES ON APRIL 22, 2019

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

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



Applicant **Jeffery and Michelle Kingsland**
Address **1268 South Schooner Lane**
Public Hearing **April 22, 2019**
City Council District **Lynnhaven**

Agenda
Item

1

Parcel GPIN: 1498-86-7529
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 14 CONDITIONS ON April 22, 2019

The variance of Jeffery and Michelle Kingsland located at 1268 South Schooner Lane was granted with the following 14 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 along this reach of the Lynnhaven River that have been developed on narrow peninsulas, therefore resulting in limited buildable area above water and wetlands.
- 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 majority of the proposed development being over existing decks and walkways. In addition, the Board is of the opinion that given the limited rear yard area, the finished floor elevation of the residence, the growing family dynamic, and the potential of a mosquito breeding ground in the adjacent vegetated marsh that the proposed improvements offer merit towards being the minimum necessary to afford relief.
- 4) The variance is in harmony with the purpose and intent of the CBPA Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels,

with planting buffer restoration being placed between the improvements and the marsh.

- 5) Given the applicant's specification of underdeck treatment with all of the proposed improvements, the removal of the existing at-grade concrete and retention of the existing riparian buffer canopy tree cover, the variance request offers merit towards managing a no net increase in nonpoint source pollution load from the proposed improvements.

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. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
8. A Single Family Dwelling 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. The DSC may require additional information that may affect the release 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: **523 square feet x 200 percent = 1,046 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.**

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. ****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 \$119.85 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for an oyster shell plant within the Lynnhaven River Basin.**

14. The conditions and approval associated with this variance are based on the exhibit plan dated March 1, 2019, prepared by WPL, signed March 1, 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.

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. Steier to approve the variance request with the 14 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	ABSENT
MCDANIELS	AYE
SMITH	AYE
STEIER	AYE
WALLACE	AYE



Applicant **Ronald Dozier, et al**
Address **3137 Lynnhaven Drive**
Public Hearing **April 22, 2019**
City Council District **Lynnhaven**

Agenda
Item

2

Parcel GPIN: 1499-08-1458
Applicant's Agent: John Jiannine, Artistic Pools Unlimited
CBPA Board Action: APPROVED WITH 15 CONDITIONS ON APRIL 22, 2019

The variance of Ronald Dozier, et al located at 3137 Lynnhaven Drive 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 because this reach of the canal consists of R-10 zoned residential lots with the average distance from the edge of water to the primary residence being approximately 48 linear feet. This lot has approximately 70 linear feet of yard from the edge of water to the primary structure of which, the proposed improvements are adjacent too, and landward of the 50 foot seaward 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 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 because the proposed pool and pool deck are adjacent to the residence with minimal walkway and the dimensions of the proposed swimming pool are consistent with others within the neighborhood with the specified pool surround of 3 feet by 3 feet by 5 feet is minimal 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 construction access to the area of the proposed improvements being from a hard surface, which offers a means towards managing water quality within the site during construction. In addition, the

lot slopes from front to rear and the topography of the 50 foot seaward buffer is relatively flat and stabilized with turf, which offers a means of sediment control and infiltration of sheetflow given the underlying soil conditions.

- 5) To manage towards a no net increase in nonpoint source pollution load buffer restoration will be installed. And given the relatively flat topography, distance to the existing canal, and minimal land disturbance with no improvements within the 50 foot seaward buffer, the integrity of the buffer preserved.

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. The construction access way and contractor parking area shall utilize the existing driveway. The area within the limits of construction and existing concrete patio shall be utilized for staging and stockpiling areas.
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. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
6. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
7. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.

8. The bioretention planting bed/stormwater management facility – 3 feet wide by 12 feet long by 24 inches deep, associated with the prior redevelopment approval shall be reinstalled.
9. A Single Family Dwelling 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. The DSC may require additional information that may affect the release 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: **857 square feet x 200 percent = 1,714 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: **5 canopy trees, 5 understory trees, 10 large shrubs, and 15 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. ****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 \$196.39 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall provide for an oyster shell plant within the Lynnhaven River Basin.**
15. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board. 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.

John Giannine of Artistic Pools Unlimited appeared before the Board representing the applicant.

There was no opposition present.

As an item of the consent agenda, a motion was made by Mrs. McDaniels, seconded by Mr. Jones to approve the variance request with the 15 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	ABSENT
MCDANIELS	AYE
SMITH	AYE
STEIER	AYE
WALLACE	AYE