

Chesapeake Bay Preservation Area Board Agenda

July 22, 2019



CHESAPEAKE BAY PRESERVATION AREA BOARD

NOTICE OF PUBLIC HEARING

The City of Virginia Beach Chesapeake Bay Preservation Area (CBPA) Board will hold a Public Hearing on **Monday, July 22, 2019, at 10:00 a.m.** in the City Council Chamber, Virginia Beach Municipal Center, Virginia Beach, Virginia.

An informal session will be held at 9:00 a.m. in the City Manager's Conference Room, Room 234 of Building 1 at the Municipal Center. During the informal session, Staff briefs the Board on agenda items. All interested persons are invited to attend. There is no opportunity for citizenry to speak at the briefing session; however, the public is invited to speak at the formal CBPA Board Public Hearing held at 10:00 a.m. in the City Council Chamber.

The Staff reviews all of the items on this agenda and offer recommendation for consideration by the Board, in the event they should approve the application. However, it should not be assumed that those conditions constitute all of the conditions that will ultimately be attached to the project. Staff agencies may impose further conditions and requirements applicable to city ordinances.

Those members of the public interested in attending the public hearing should be advised that, for reasons the Board deems appropriate, certain items on the agenda may be heard out of order and that it should not be assumed that the order listed below will be exactly followed during the public hearing.

THE FOLLOWING DESCRIBES THE ORDER OF BUSINESS FOR THE PUBLIC HEARING

(IF YOU DO NOT UNDERSTAND, ASK A STAFF MEMBER SITTING AT THE DESK AT THE FRONT OF THE CHAMBER OR THE STAFF MEMBER AT THE DESK OUTSIDE THE CHAMBER).

- 1. DEFERRALS:** The first order of business is the consideration of requests to defer an item. The Board will ask those in attendance at the hearing if there are any requests to defer an item that is on the agenda. PLEASE NOTE THE REQUESTS THAT ARE MADE, AS ONE OF THE ITEMS BEING DEFERRED MAY BE THE ITEM THAT YOU HAVE AN INTEREST IN.

If an item is deferred, a deferral date will be determined at the public hearing. Typically deferrals range from thirty (30) to sixty (60) days or may be deferred indefinitely. The Board will vote on all of the items deferred individually. It is important, therefore, if you have an objection to an item being deferred to note your objection as the Board goes through the items being considered for deferral.

- 2. CONSENT AGENDA:** The second order of business is consideration of the "consent agenda." The consent agenda contains those items:
 - a. that the Board believes are unopposed and
 - b. which have a favorable Staff recommendation.

If an item is placed on the Consent Agenda, that item will be heard with other items on the agenda that appear to be unopposed and have a favorable staff recommendation. The Board will vote on all of the items at one time. Once the Board has approved the item as part of the Consent Agenda, the variance request is granted and will not be discussed any further. It is important, therefore, if you

have an objection to an item being placed on the Consent Agenda to note your objection as the Board goes through the items being considered for the Consent Agenda.

Process for the Consent Agenda:

- The Board will announce the item number and item title being considered for inclusion on the Consent Agenda.
- The Board will ask if there is anyone in the audience representing the item, and if so, ask them to go up to the podium and state their name for the record.
- The Board will ask the representative of the item if they are aware of the conditions and if they agree to the conditions.
- The Board will then ask if there is anyone in the audience in opposition to the item. If you are opposed to the item, stand or raise your hand to let the Board know.
- If the item is opposed, it will be removed from the consent agenda and heard in its normal place on the agenda.
- After the Board has gone through all of the items that it believes should be on the Consent Agenda, it will vote at one time for all of the items, announcing the number of each item being voted on. Pay attention to the list of items being voted on.

3. REGULAR AGENDA: The Board will then proceed with the remaining items on the agenda, according to the following process:

- a. The applicant or applicant's representative will have 10 minutes to present its case.
- b. Next, those who wish to speak in support to the application will have 3 minutes to present their case.
- c. If there is a spokesperson for the opposition, he or she will have 10 minutes to present their case.
- d. All other speakers not represented by the spokesperson in opposition will have 3 minutes.
- e. The applicant or applicant's representative will then have 3 minutes for rebuttal of any comments from the opposition.
- f. There is then discussion among the Board members. No further public comment will be heard at that point. The Board may, however, allow additional comments from the opposition if a member of the Board sponsors the opposition. Normally, you will be sponsored only if it appears that new information is available and the time will be limited to 3 minutes.
- g. The Board does not allow slide or computer generated projections other than those prepared by the Department of Planning and Community Development Staff.

The Board asks that speakers not be repetitive or redundant in their comments. Do not repeat something that someone else has already stated. Petitions may be presented and are encouraged. If you are part of a group, the Board requests, in the interest of time, that you use a spokesperson, and the spokesperson is encouraged to have his or her supporters stand to indicate their support.

Those members of the public interested in speaking in support or in opposition to an agenda item shall be limited to 3 minutes in which to address the Board. At the discretion of the Board Chairman, this time may be increased to 5 minutes. Speakers will be electronically timed.

If you are **physically disabled** or **visually impaired** and need assistance at this meeting, please call **The Department of Planning and Community Development at (757) 385-4621.**



CHESAPEAKE BAY PRESERVATION AREA BOARD AGENDA

Public Hearing Date **July 22, 2019**

9:00 AM

- INFORMAL STAFF BRIEFINGS OF PUBLIC HEARING AGENDA ITEMS. STAFF BRIEFINGS HELD IN THE CITY MANAGER'S CONFERENCE ROOM.

10:00 AM

- FORMAL REVIEW OF PUBLIC HEARING AGENDA ITEMS. FORMAL REVIEW HELD IN THE CITY COUNCIL CHAMBER.

OLD BUSINESS AGENDA ITEMS

1.

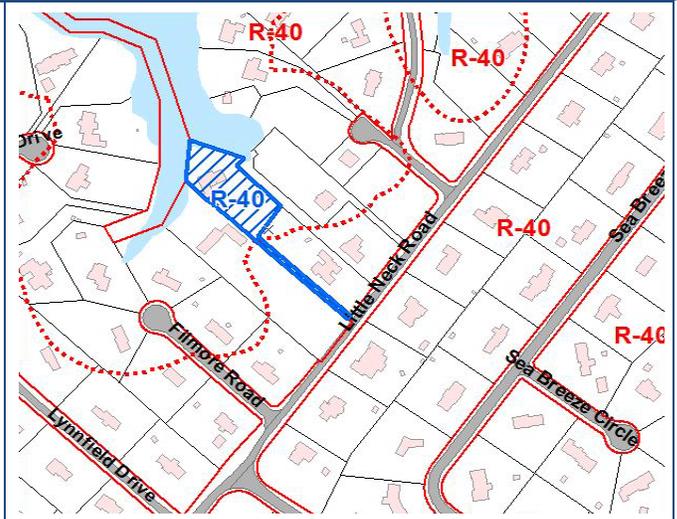
Mehdi Salemi & Sara Abolahrari
[Applicant & Property Owner]

1536 W. Little Neck Road
GPIN: 1489-50-0669
COUNCIL DISTRICT – Lynnhaven

Applicant's Agent – Eddie Bourdon

Staff Planner – PJ Scully

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NEW BUSINESS AGENDA ITEMS

2.

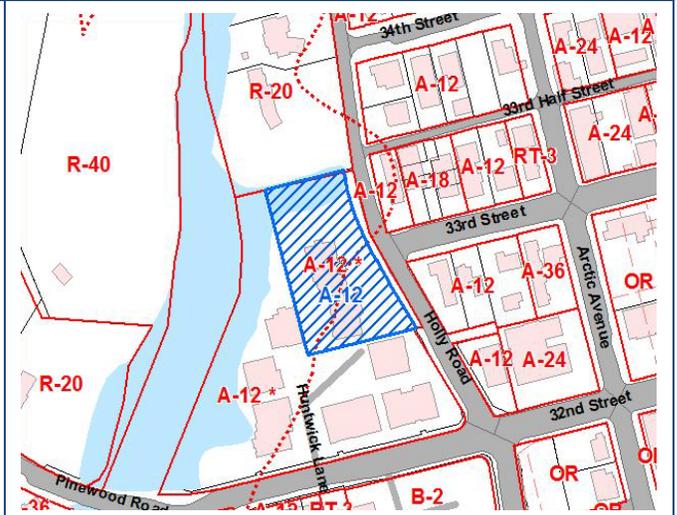
Jeanie Robinson
[Applicant & Property Owner]

3236 Holly Road
GPIN: 2418-92-2503
COUNCIL DISTRICT – Beach

Applicant's Agent – Meg French

Staff Planner – PJ Scully

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3.

Farino Living Trust

[Applicant & Property Owner]

681 Thalia Point Road

GPIN: 1488-01-5274

COUNCIL DISTRICT – Lynnhaven

Applicant's Agent – Robert Simon

Staff Planner – PJ Scully

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4.

Mark & Kathleen Boettcher Trust

[Applicant & Property Owner]

739 Shepham Court

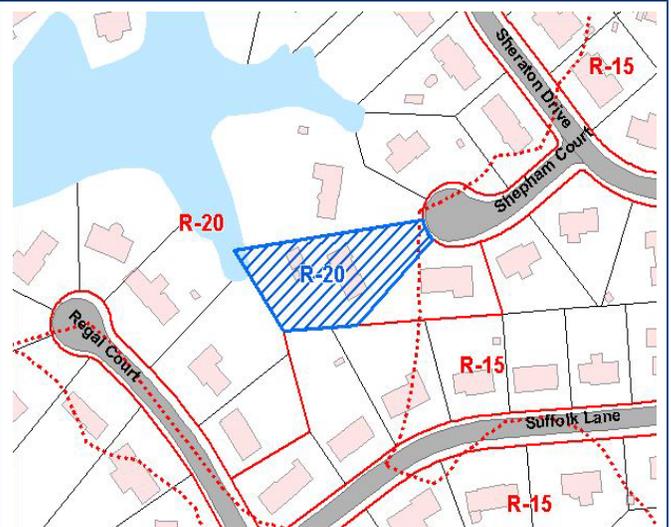
GPIN: 1488-21-0720

COUNCIL DISTRICT – Lynnhaven

Applicant's Agent – Self-represented

Staff Planner – PJ Scully

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5.

Demarkus Parker & Jobenia Odum

[Applicant & Property Owner]

936 Le Cove Drive

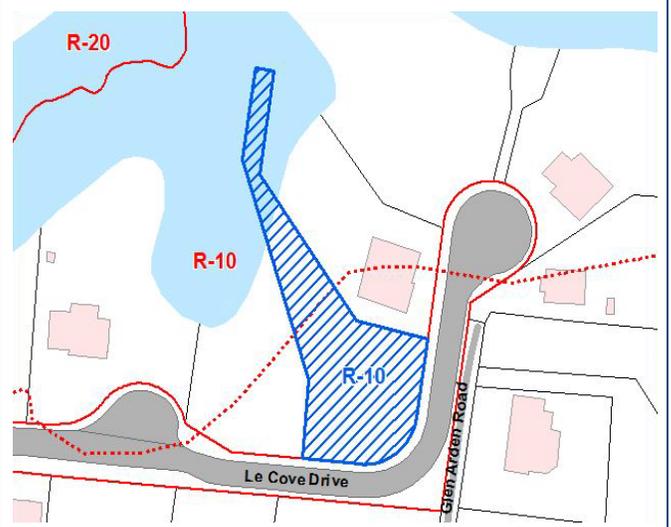
GPIN: 1456-19-1636

COUNCIL DISTRICT – Kempsville

Applicant's Agent – Self-represented

Staff Planner – PJ Scully

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6.

Thet Kyaw

[Applicant & Property Owner]

621 W. Kingston Circle

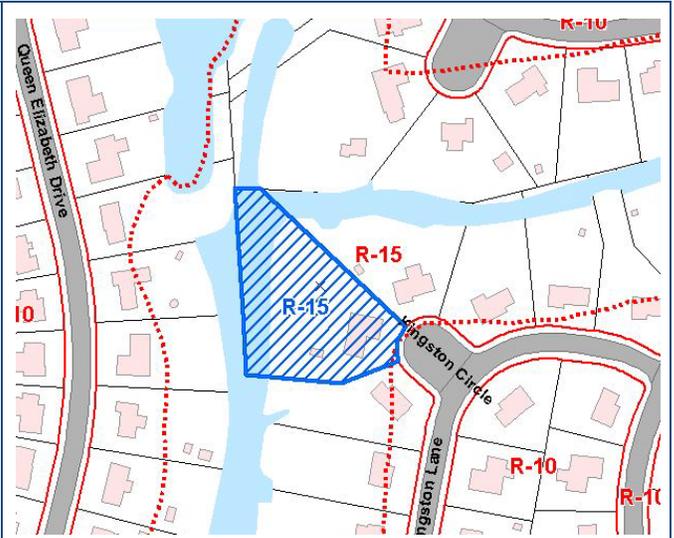
GPIN: 1488-50-7952

COUNCIL DISTRICT – Lynnhaven

Applicant's Agent – Self-represented

Staff Planner – PJ Scully

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7.

David & Krysten Mroz

[Applicant & Property Owner]

632 Robens Road

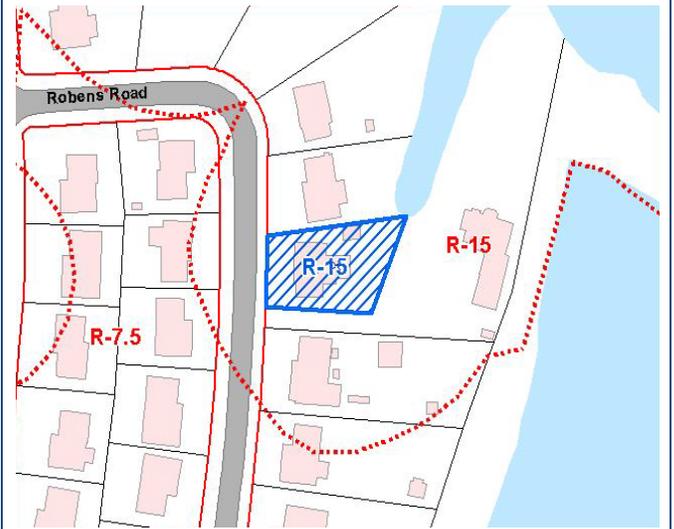
GPIN: 1487-48-5569

COUNCIL DISTRICT – Lynnhaven

Applicant's Agent – Self-represented

Staff Planner – PJ Scully

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8.

Denise Kulick

[Applicant & Property Owner]

1076 Downshire Chase

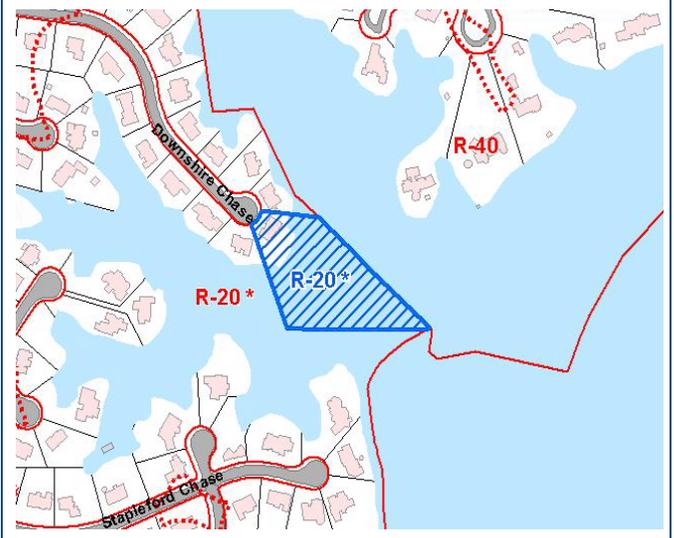
GPIN: 1498-16-9982

COUNCIL DISTRICT – Lynnhaven

Applicant's Agent – Richard Calvert

Staff Planner – PJ Scully

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RESTORATION HEARING AGENDA ITEM

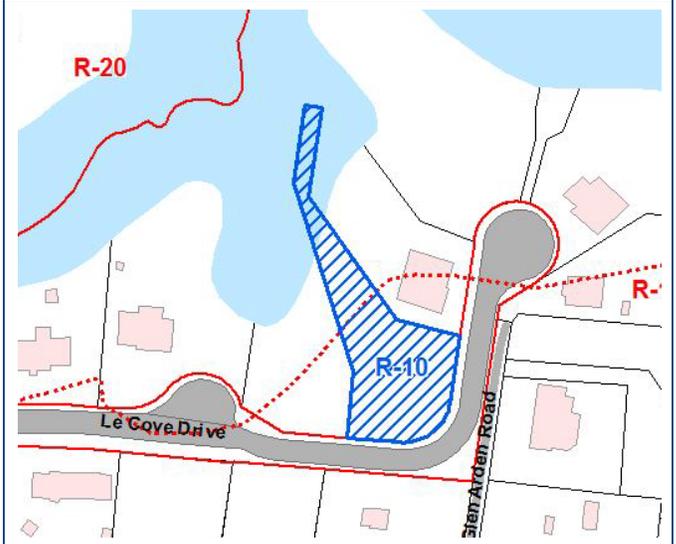
9.

Demarkus Parker & Jobenia Odum
[Applicant & Property Owner]

936 Le Cove Drive
GPIN: 1456-19-1636
COUNCIL DISTRICT – Kempsville

Applicant's Agent – Self-represented

Staff Planner – PJ Scully
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SHOW CAUSE AGENDA ITEM

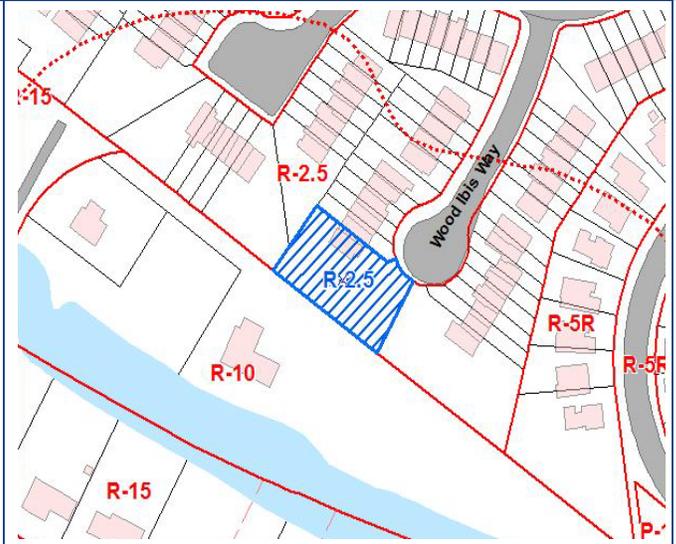
10.

Peter A. Koumoutseas
[Applicant & Property Owner]

2201 Wood Ibis Way
GPIN: 1489-09-7474
COUNCIL DISTRICT – Bayside

Applicant's Agent – Self-represented

Staff Planner – PJ Scully
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Applicant & Property Owner **Mehdi Salemi & Sara Abolahrari**
 Address **1536 W. Little Neck Road**
 Public Hearing **July 22, 2019**
 City Council District **Lynnhaven**

Agenda Item

1

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a swimming pool with associated raised patio area.

Applicant's Agent

Eddie Bourdon

Staff Planner

PJ Scully

Lot Recordation

6/14/1994

Map Book 236, Page 10

GPIN

1489-50-0669

SITE AREA

47,092 square feet or 1.081 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

44,347 square feet or 1.018 acres

EXISTING IMPERVIOUS COVER OF SITE

13,581 square feet or 31 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

15,074 square feet or 34 percent of site

Area of Redevelopment in RPA

31 square feet

Area of New Development in RPA

1,493 square feet

Location of Proposed Impervious Cover

50 foot Seaward Buffer

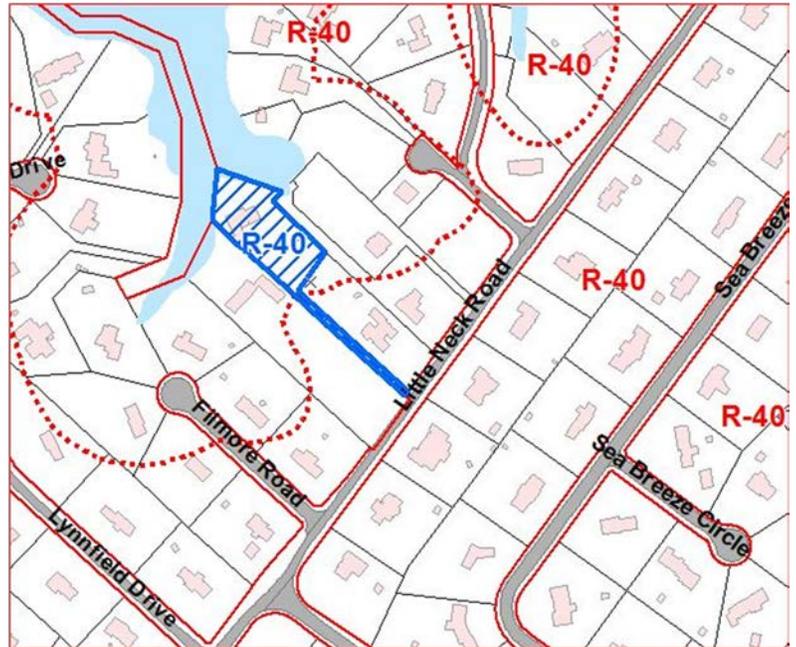
50 foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet – area provided on CBPA Exhibit

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Wood steps at rear of residence

Construction Details

- Swimming pool with associated raised patio area

CBPA Ordinance Variance History

No known Chesapeake Bay Preservation Area (CBPA) Board variance history to report.

Environmental Conditions

Flood Zone

Multiple Zones – Zone X and AE, Base Flood Elevation (BFE): 8

Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

Rumford Series (highly erodible soils) located below the top of bank

Shoreline

Shoreline is in a natural state and vegetated with a mix of herbaceous and woody plant material.

Riparian Buffer

Heavily to moderately wooded lot

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

The encroachment in the RPA associated with this variance request is for an accessory structure located within the upper reach of the 50 foot seaward buffer. The existing improvement on the lot were constructed in 1953 with the lot originally recorded in 1950, prior to the adoption of the CBPA Ordinance. Within the 100 foot buffer, the applicant has situated the proposed improvements so that the encroachment does not impact the most sensitive portion of the buffer – the top of bank feature. Given the location of environmental features associated with this lot – the top of bank feature and associated steep grade, Staff is of the opinion that the applicant’s placement of the proposed improvements are in harmony with the performance standards of the CBPA Ordinance, specifically limiting land disturbance to a minimal area necessary to provide for the proposed use while preserving existing vegetation to the maximum extent practicable [City Code, Appendix F, Sec. 106 (A)].

For the Board’s deliberation, the applicant’s Engineer of Record has provided comments relative to the findings of the CBPA Ordinance specific to this variance request, and believes that the design of the proposed improvements will be in harmony with the purpose and intent of the CBPA Ordinance based on the following.

Mehdi Salemi & Sara Abolahrari

Agenda Item 1

Page 8

- 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.”* Staff concurs and offers that the location of the existing environmental features, specifically the delineated top of bank feature and associated bank contains encroachment into the least sensitive portion of the RPA feature.
- 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 *“with the house being constructed in 1953 and prior to the adoption of the CBPA Ordinance.”* Staff concurs and offers that the plat recorded in 1994 reduced the overall size of this lot with the correction to the May 24, 1950 subdivision conveyed in Deed Book 274, Page 144.
- 3) The variance is the minimum necessary to afford relief *“with the proposed improvements being limited landward within the buffer, to the greatest extent practicable except for a pathway to the existing pier.”* Staff concurs.
- 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 are in keeping with the development of the neighborhood and adjacent parcels.”* Also, the site currently does not offer stormwater mitigation for the river, however, *“if approved, the existing improvements and the proposed development will be designed to have treatment provided between the improvements and the river.”* Staff 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. The current condition of the riparian buffer is primarily turf and the recommended buffer restoration provided in the conditions below, should the variance request be granted, 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 restoration and bioretention stormwater management will be placed between the improvements and the river to capture and treat runoff prior to discharging into the canal.”* If properly implemented and maintained, Staff is of the opinion that the restoration of the riparian buffer offers a management practice towards a no net increase in nonpoint source pollution from this variance request.

Given the above comments, Staff recommends the following 13 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. The conditions and approval associated with this variance are based on the exhibit plan prepared by WPL dated May 20, 2019 and signed by Eric Garner May 20, 2019. 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.
2. 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. Land disturbance associated with the proposed improvements at any given time shall not exceeds 2,500 square feet. If at any time land disturbance exceeds 2,500 square feet, Planning Department Staff may issue a

stop work order. At that time, a full site development plan in compliance with local and State regulations shall be submitted for review and approval through the Development Services Center (DSC).

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. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **2,892 square feet x 200 percent = 5,784 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: **7 canopy trees, 7 understory trees, 28 large shrubs, and 42 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.

5. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
6. 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.**
7. 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.
8. 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.**
9. 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.
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. 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.
12. **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 \$342.14 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.
13. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.

** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

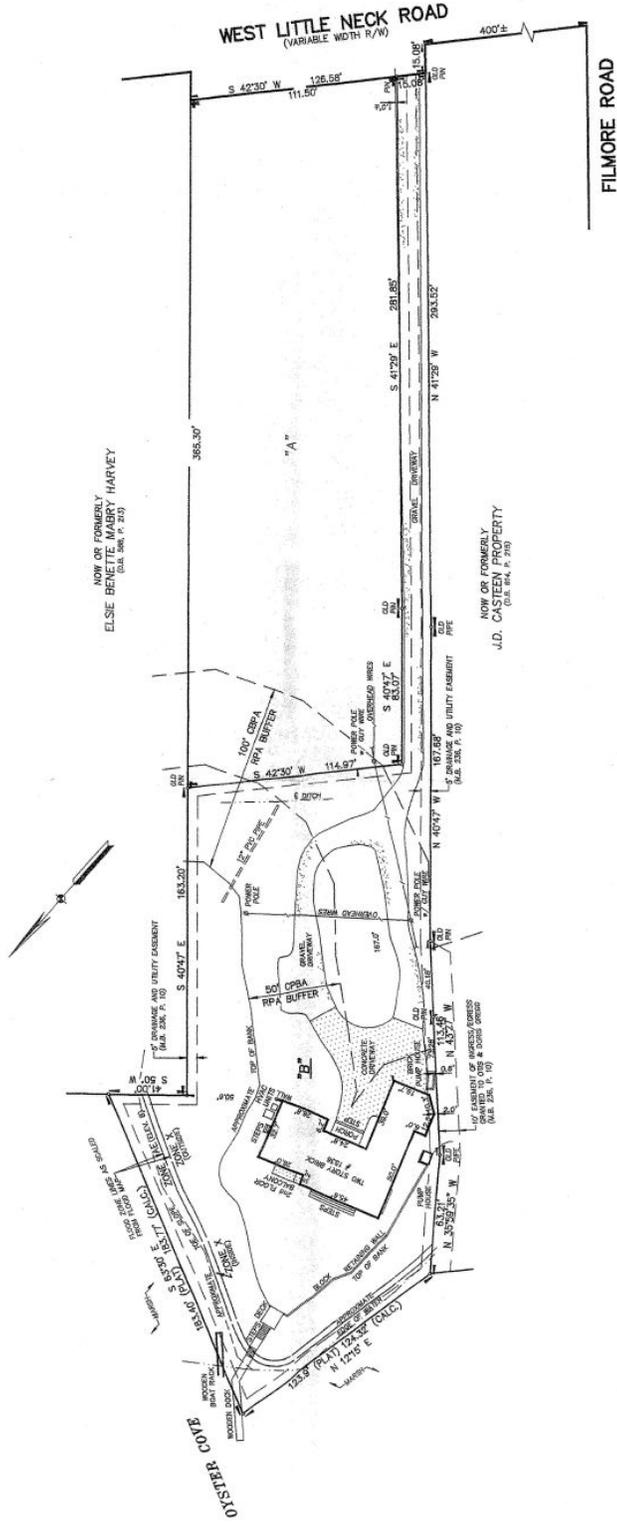
Site Aerial



CBPA Exhibit – Existing Conditions

THIS IS TO CERTIFY THAT I, ON JUNE 13, 2007, SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS ARE AS SHOWN ON THIS PLAT. I HAVE NOT FOUND ANY ENCUMBRANCES ON THE PROPERTY EXCEPT AS SHOWN.

SIGNED: Jeffrey D. Williams
JEFFREY D. WILLIAMS, L.S. 2045



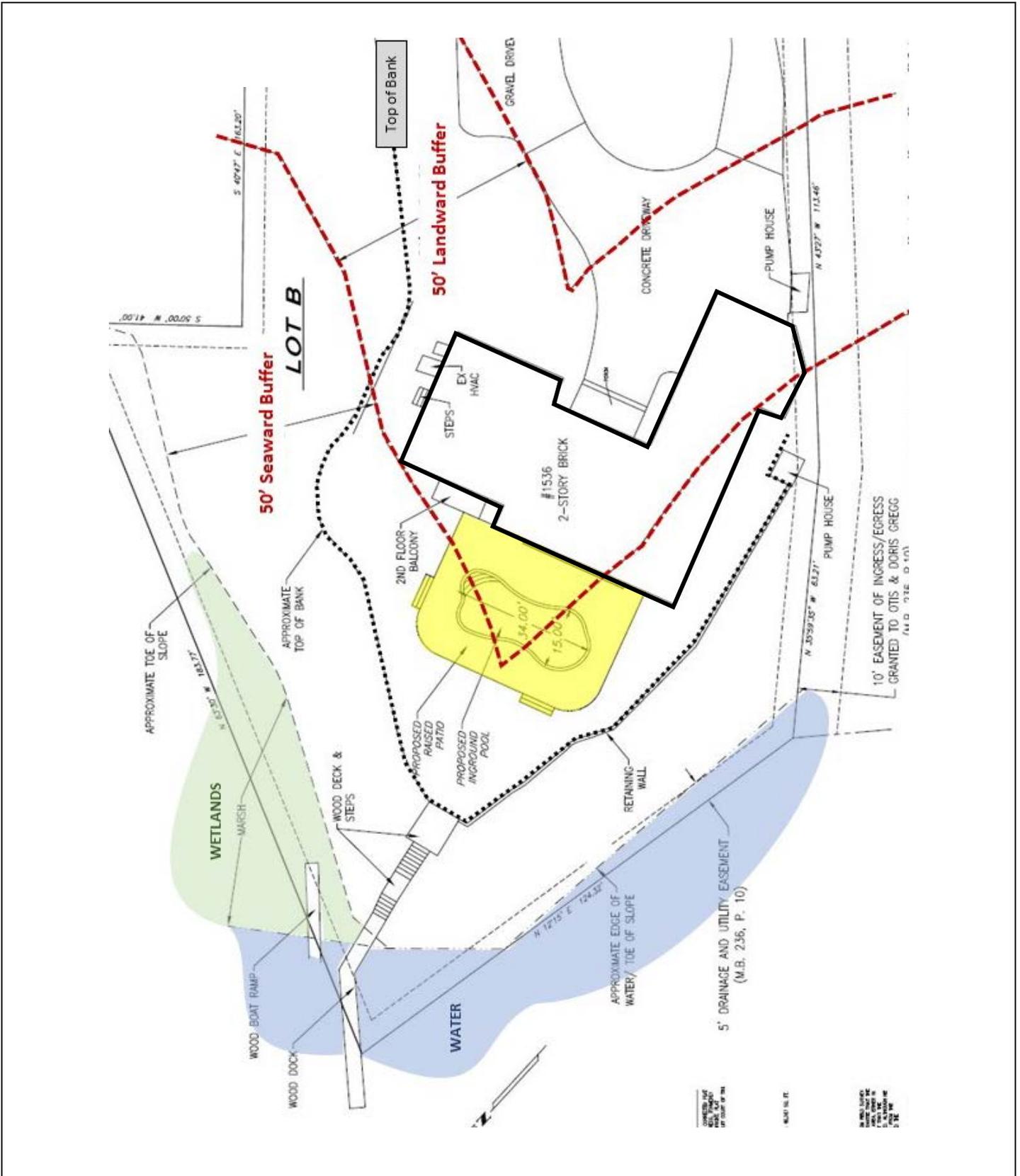
PHYSICAL SURVEY
OF
LOT "B", REVISED CORRECTED PLAT OF RESUBDIVISION OF 2.03 ACRE
SITE, PROPERTY OF OTIS & DORIS GREGG, FORMERLY I.F. CHURCH AND
SITE, PART OF PROPERTY J.D. CASTEEN, FORMERLY MRS. WRIGHT
(PLAT FOR P. 10)

FOR
JOSEPH S. AMJAL AND MINNA L. AMJAL
VIRGINIA BEACH, VIRGINIA
SCALE: 1"=40' JUNE 13, 2007
JOHN E. SIRINE AND ASSOCIATES, LTD.
SURVEYORS-ENGINEERS-PLANNERS
4317 BONNEY ROAD
VIRGINIA BEACH, VIRGINIA 23462



SHEET 1

CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Mehdi Salemi & Saraabol Ahrari

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

Acquisition of Property by City	Disposition of City Property	Modification of Conditions or Proffers
Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).		
<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE: _____
<input type="checkbox"/>	NO CHANGES AS OF	DATE: _____
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE: _____



Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Mehdi Salemi & Saraabol Ahrari

If an LLC, list all member's names:

N/A

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

N/A

(B) List the businesses that have a parent-subsiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.

Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: Mehdi Salemi & Saraabol Ahrari

If an LLC, list the member's names:

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

N/A

(B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

N/A

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	WPL
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	Bank of America
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Eddie Bourdon, Esq.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?

N/A



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

APPLICANT'S SIGNATURE	PRINT NAME	DATE
<i>Mehdi Salemi</i>	Mehdi Salemi	3/25/19

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

AS NEEDED, PAGE LEFT BLANK



Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct an expansion to the existing patio area with associated step, and wood bridge over the existing bioretention planting bed.

Applicant's Agent

Meg French

Staff Planner

PJ Scully

Lot Recordation

11/27/2013

Instr. No. 20131127001385160

GPIN

2418-92-2503

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

20 square feet

Area of New Development in RPA

90 square feet

Location of Proposed Impervious Cover

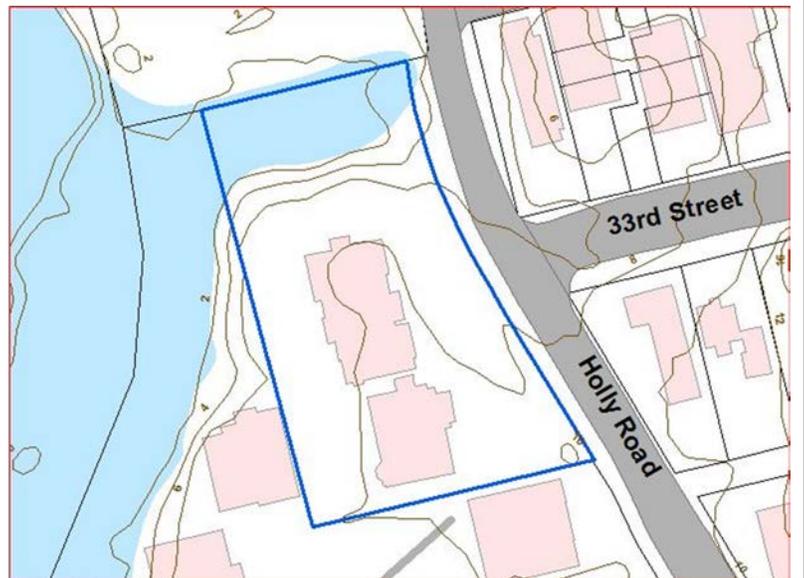
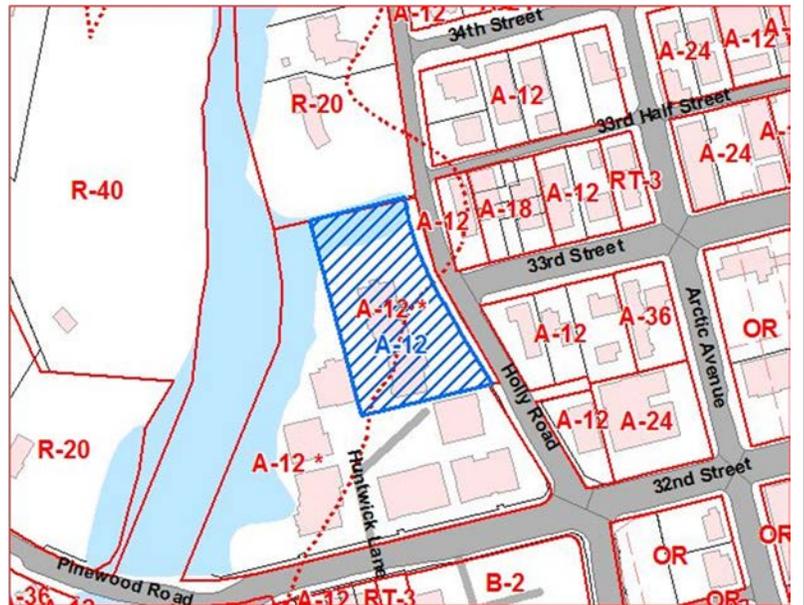
50 foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as submitted



Summary of Proposal

Demolition Details

- Segmented block steps

Construction Details

- Concrete patio expansion with associated steps
- Wood bridge over existing bioretention swale

CBPA Ordinance Variance History

- A CBPA variance application was deferred indefinitely on April 25, 2016 for a request to construct a circular permeable paver patio, steps from existing porch, and two footbridge walkways (removable) over the existing bioretention swale.
- A CBPA variance application was deferred for 30 days on October 26, 2015 and denied November 23, 2015 for a request to construct a paver patio area with wood deck walkways over the existing bioretention swale.
- **May 24, 2010 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a multi-family development (5 two story townhomes) with the following conditions:**
 1. *A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.*
 2. *Wire re-enforced 36" silt fence, for erosion and sedimentation control measures, shall be installed along the seaward limits of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed 10 ft. from proposed improvements. Best management practices for erosion and sediment control shall be employed during restoration activities to protect adjacent wetlands and shorelines of water bodies.*
 3. *Permanent and / or temporary soil stabilization measures as determined by staff shall be applied to all disturbed / denuded area(s) prior to a final civil / building inspection or certificate of occupancy.*
 4. *Construction limits shall lie a maximum of 15' outboard of improvements.*
 5. *The construction access way shall be noted on the site plan, as well as the stockpile / staging area.*
 6. *All areas outside limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact.*
 7. *Where mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal fringe marsh.*
 8. *A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed. The landscape plan shall clearly delineate existing naturalized (trees, landscaping and mulched organic surfaces) areas, planting beds, and turf zones.*

9. *A revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.*
10. *The conditions and approval associated with this variance are based on the site plan sealed April 15, 2010 by Michael E. Perry, prepared by MSA, P.C.*
11. *Stormwater runoff from proposed new impervious cover shall be conveyed to stormwater management facilities. Stormwater facilities shall be installed prior to the certificate of occupancy or release of the building permit.*
12. ***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 \$1,304.00 and is based on 25% of the proposed impervious cover within the RPA. Said payment shall provide for the equivalent of an approximate 1,423 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.*
13. *Buffer restoration of shall be installed which is equal to 200% of the proposed new impervious cover within the RPA (11,384 sq. ft.) and 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. The required restoration shall be in areas currently devoted to turf and shall have a mulch layer of organic material 4" – 6" 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 50% deciduous and 50% evergreen species. Said restoration shall be installed prior to the issuance of the certificate of occupancy.*
14. *Buffer restoration shall be installed which is equal to 100% of the proposed area of redevelopment within the RPA (2,370 sq. ft.) and 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. The required restoration shall be in areas currently devoted to turf and shall have a mulch layer of organic material 4" – 6" 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 50% deciduous and 50% evergreen species. Said restoration shall be installed prior to the issuance of the certificate of occupancy. In lieu of 100% restoration for redevelopment areas, a 10% reduction in pollutant removal load is acceptable via a structural BMP.*
15. *It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.*

The May 24, 2010 Board granted variance has been acted upon and the associated improvements constructed.

Environmental Conditions

Flood Zone

0.2% Annual Chance of Flooding

Soil Type(s)

Yeopim Series (deep and moderately well-drained soils)

Rumford Series (highly erodible soils) located below the top of bank

Shoreline

Shoreline is in a natural state.

Riparian Buffer

Sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

The 2011 approved multi-family site plan for the 5-townhome development specified a drainage swale along the western portion of the lot draining into a bioretention planting bed along the north side of the townhome development. These improvements addressed stormwater management requirements associated with the redevelopment of the lot. With the CBPA variance applications submitted in 2015 and 2016, as mentioned above, the applicant's agent attempted to have the existing bioretention planting bed evaluated by the original Engineer of Record associated with the 2011 approved site plan. At that time, the Board expressed concern with the proposed wood footbridge over the existing bioretention bed (stormwater management facility for the development) potentially impacting the design parameters of stormwater conveyance through the facility and impacting the function of the stormwater management facility's design objective. Staff is of the opinion that the elevation of the wood foot bridge over the bioretention planning bed is above the designed flow channel of the stormwater management facility and given the minimal flow volume would not be a detriment to the stormwater conveyance for the development.

Should the Board desire to consider granting this variance request, the following comments relative to the findings of the CBPA Ordinance specific to this variance request are offered by the applicant's agent for the Board's deliberation.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because the proposed improvements are *"in harmony with other similar developments that in this reach of the river, where encroach has been in the upper limits of the RPA."* Staff concurs.
- 2) The encroachment into the RPA on this lot is based upon conditions or circumstances that have been created by the predecessor in title *"with the approved development planned for the structures and parking only."* Staff concurs.
- 3) The variance is the minimum necessary to afford relief *"given that the requested area of the patio is minimal in size."* Staff is of the opinion that the request to expand the existing patio area is the minimum necessary to provide for function and circulation out of the rear of the existing residential structure.
- 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 minimal proposed addition for the patio coupled with extensive planting and minimal turf area."* Staff concurs.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load *"the existing rear yard will be mulched and planted."* Staff offers that the proposed plantings offers a means towards additional infiltration and interception of stormwater.

Given the above comments, Staff recommends the following 7 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended 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. Buffer restoration shall be installed in substantial compliance with the CBPA Exhibit planting plan provided by Meg French, Certified Landscape Designer.

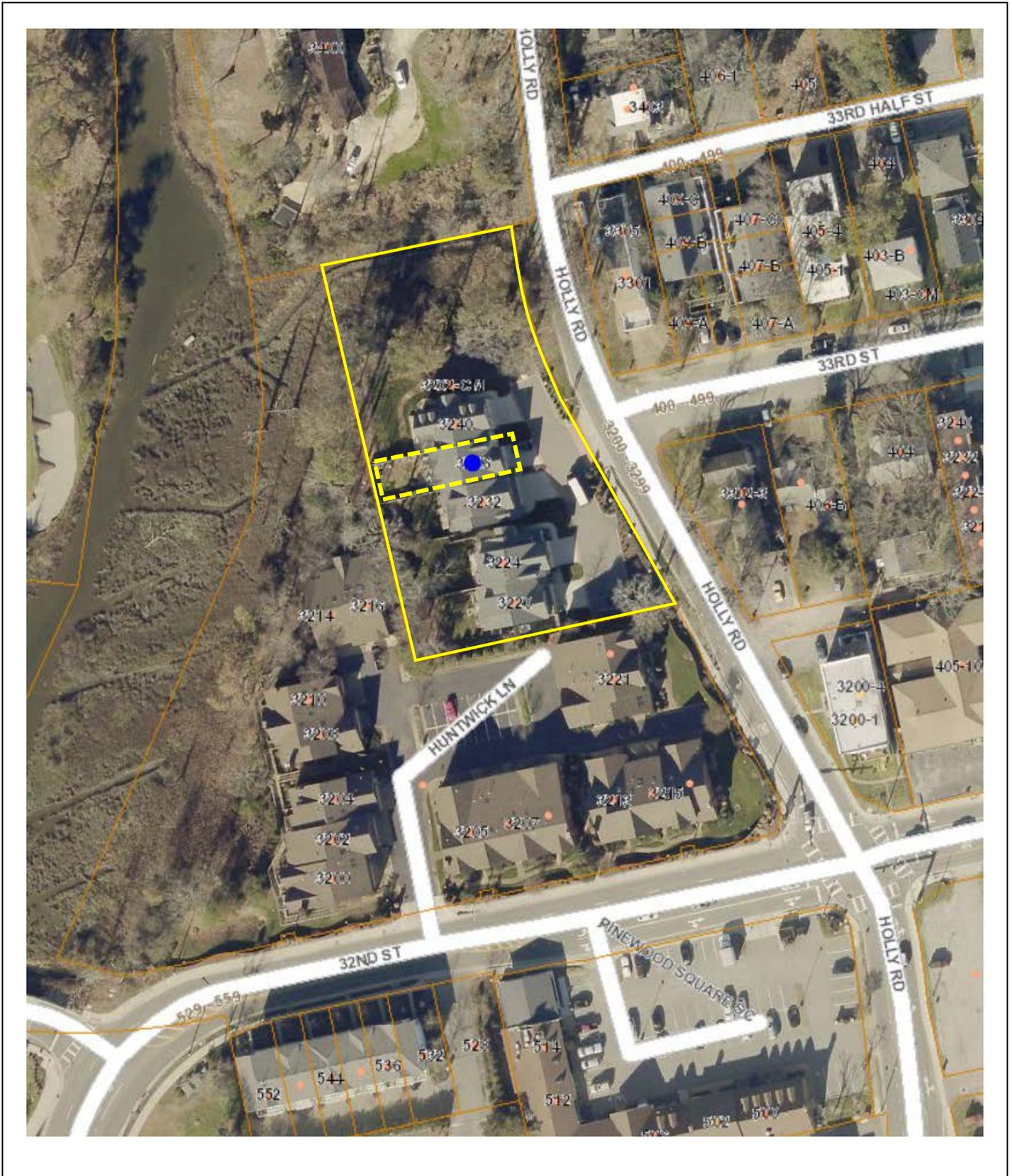
The required restoration shall be located in the Resource Protection Area and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. Said restoration shall be installed 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. **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.**
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. No perimeter fill is authorized outboard or seaward of the proposed improvements.
7. This variance and associated conditions **are in addition to** the conditions of the Board variance granted May 24, 2010.

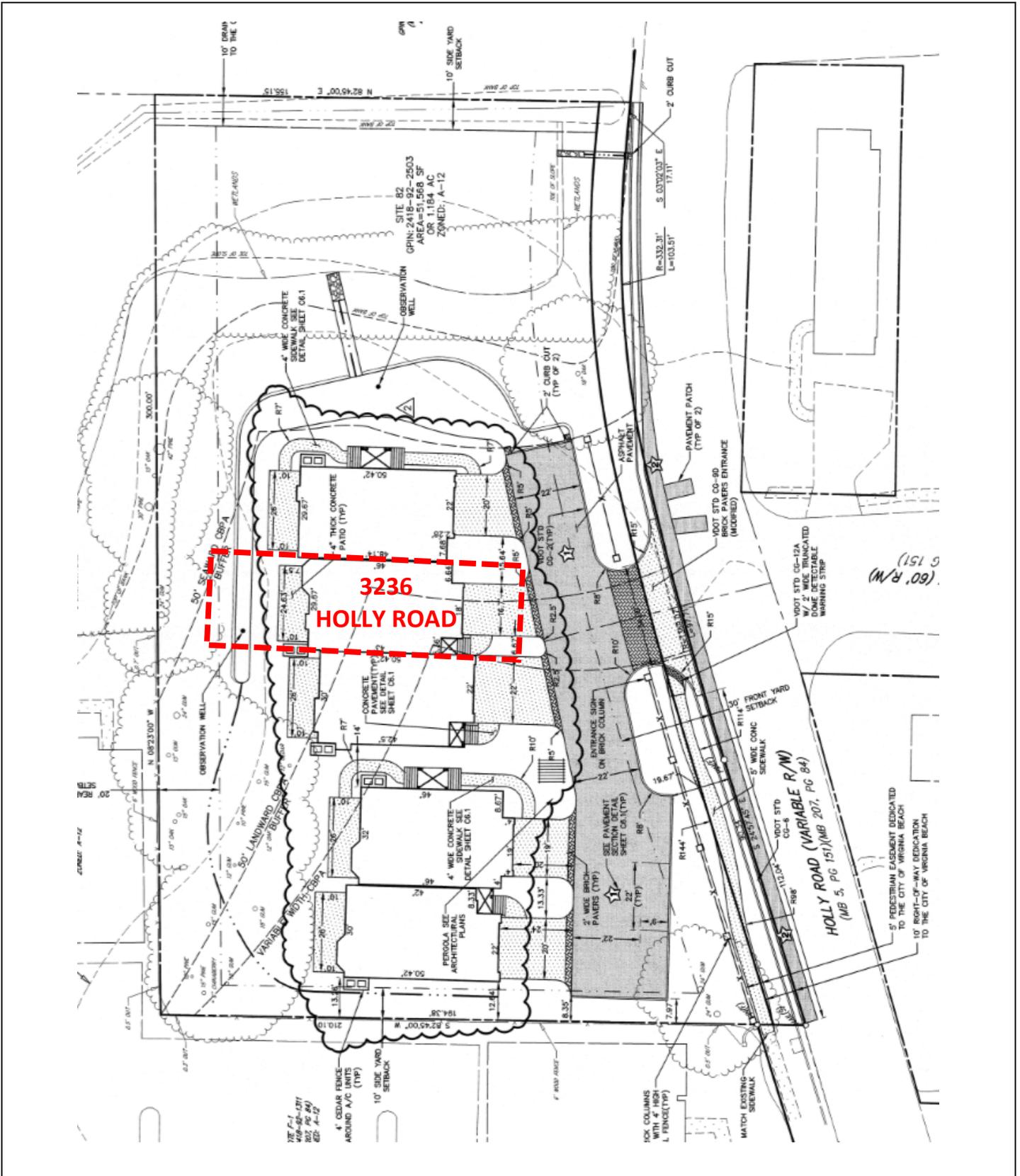
** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

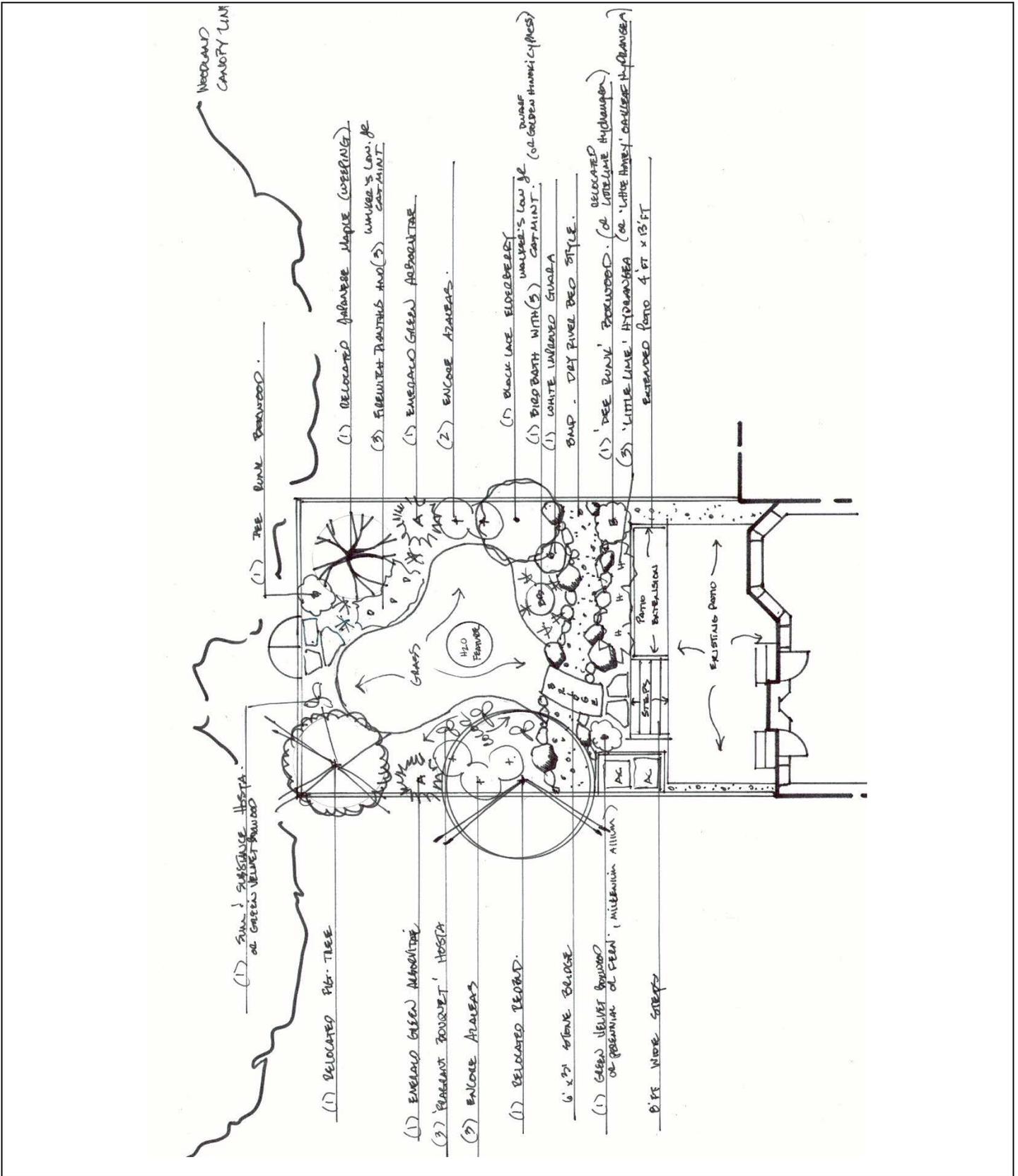
Site Aerial



2011 Approved Site Plan



CBPA Exhibit – Buffer Restoration Plan





APPLICANT'S NAME Jean Robinson

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

Acquisition of Property by City	Disposition of City Property	Modification of Conditions or Proffers
Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).		
<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE: _____
<input type="checkbox"/>	NO CHANGES AS OF	DATE: _____
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE: _____



- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Jean Robinson
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: _____
If an LLC, list the member's names:

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	LINDA WELLS
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Meg French (Landscape Designer)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	Gentle Rain, Lakewood Living Spaces
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	NONE
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	NONE
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	Jean S. Robinson	5/1/19
APPLICANT'S SIGNATURE	PRINT NAME	DATE

*Last 2 pages of the Disclosure Statement not provided – Applicant and Property Owner are the same.

AS NEEDED, PAGE LEFT

Variance Request

Modification of the February 27, 2006
 Chesapeake Bay Preservation Area (CBPA)
 Board variance to delete condition 7.

Applicant's Agent

Robert Simon

Staff Planner

PJ Scully

Lot Recordation

5/6/1958
 Map Book 45, Page 2

GPIN

1488-01-5274

SITE AREA

22,885 square feet or 0.525 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

19,176 square feet or 0.44 acres

EXISTING IMPERVIOUS COVER OF SITE

5,159 square feet or 26.9 percent of site

Location of Proposed Impervious Cover

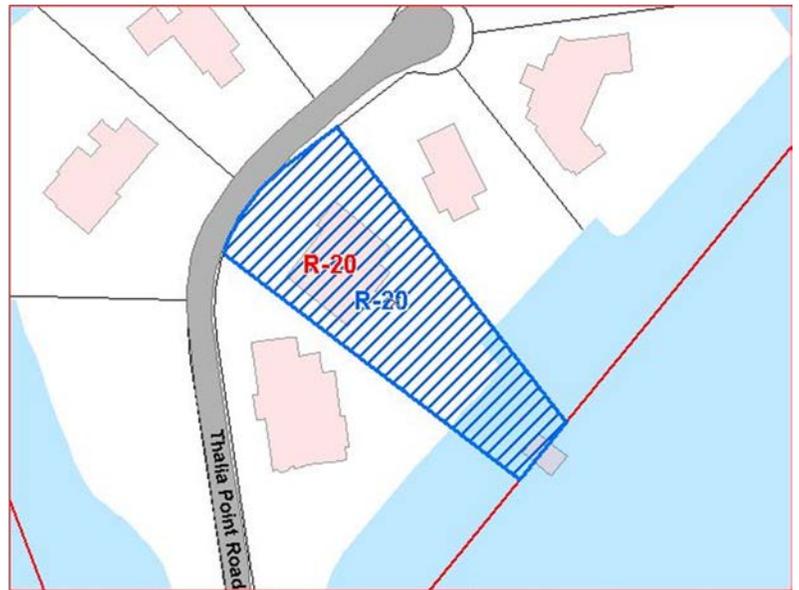
50 foot Seaward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Wood bulkhead

Construction Details

- Wood bulkhead – 2 feet outboard of the existing bulkhead

CBPA Ordinance Variance History

February 27, 2006 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a residential addition and swimming pool with the following conditions:

1. *A pre-construction meeting shall be convened with Civil Inspections prior to any land disturbance.*
2. *Dual 36" erosion and sedimentation control measures (silt fences) shall be installed along the seaward portion of this project prior to any land disturbance and shall remain in place until such time as vegetative cover is established.*
3. *Permanent or temporary soil stabilization shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy.*
4. *Construction limits shall lie a maximum of 10' seaward of improvements.*
5. *The construction access way shall be noted on the site plan, as well as the stockpile staging area.*
6. *Stormwater from existing and proposed impervious cover shall be conveyed to stormwater management facilities*
7. *If and when the shoreline is hardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (vinyl, timber or steel bulkhead). The toe of said revetment shall lie at or landward of the existing bulkhead. Said condition shall be so noted on the site plan.*
8. *If necessary, a retaining wall shall be installed along the channelward side of the pool. The pool shall be built into the slope with no perimeter fill permitted beyond pool decking.*
9. *Pool decking shall be as shown on the submitted site plan dated January 3, 2006.*
10. *The pool shall be constructed prior to or concurrent with the residential addition.*
11. ***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.*
12. *Buffer restoration totaling 1,237 sq. ft. shall be installed which is equal to 150% of the proposed impervious cover and shall utilize bayscape landscaping principles. The required restoration shall be in areas currently devoted to **turf** and shall have a mulch layer of organic material 4" – 6" in depth. In addition to the aforementioned buffer restoration area, a minimum of eighteen (18) trees shall be installed and shall be comprised of 50% deciduous*

and 50% evergreen species. The required trees shall be evenly distributed throughout the lot to the greatest extent practicable. Said restoration shall be installed prior to the final building inspection. Said condition shall be so noted on the site plan.

13. A separate landscape / buffer restoration plan shall be submitted concurrent with the site plan detailing location, number, and species of vegetation to be installed. Areas of existing turf and landscape beds shall be noted on the landscape plan.
14. The conditions and approval associated with this variance are based on the site plan dated January 3, 2006, prepared by Engineering Services Inc.
15. A revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.

The February 27, 2006 CBPA Board granted variance has been acted upon and the associated upland improvements constructed.

Environmental Conditions

Flood Zone

Multiple Zones – Zone X and AE, Base Flood Elevation (BFE): 8

Soil Type(s)

Bojac Series (deep and poorly drained soils)
Rumford Series (highly erodible soils) located below the top of bank

Shoreline

Shoreline is hardened by a wood bulkhead. The applicant's agent has stated in the Water Quality Impact Assessment (WQIA) that the existing timber bulkhead has exceeded its design life.

Riparian Buffer

Sparsely wooded.

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

Condition 7 of the February 2006 CBPA Board variance requires that *"if and when the shoreline is re-hardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (vinyl, timber or steel bulkhead), exclusive of the boat basin. The toe of said revetment shall lie at or landward of mean high water or tidal vegetated wetlands, unless the Wetlands Board determines that site specific conditions warrant a more seaward alignment."* The applicant's agent has submitted this variance request to have said condition reconsidered by the Board allowing the applicant to bulkhead the property. The proposed bulkhead is specified 2 feet outboard of the existing and at elevation 5.0, which is an increase of approximately 7 to 8 inches above the existing bulkhead at elevation 4.4. There is minimal fill associated with the increase in elevation and typical of the necessary backfill needed to meet existing grade while providing positive drainage.

To further justify this variance request, the applicant's agent has provided the following comments relative to the findings of the CBPA Ordinance specific to this variance request.

- 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 rip rap only condition was imposed on all CBPA variances without regard to practicability or with regard to site characteristics or constraints. Other waterfront lots within the city without CBPA approvals may employ any legal erosion control measures including bulkheads."* While Staff respects the agent's statement regarding the practicability of redeveloping the existing shoreline, shoreline analysis conducted by the Center for Coastal Resource Management suggests the use of non-structural best management practices for this parcel. This preferred shoreline best management practice is provided given the low energy environment along the existing shoreline.
- 2) The encroachment into the RPA on this lot is based upon conditions or circumstances that are or have been imposed by the applicant's predecessor in title because *"the condition was required for CBPA variance approval in 2006 by our predecessor in title without regard to future owners or site conditions."* Staff concurs, however does not believe that prior decisions made with regards to redeveloping the existing shoreline warrant a request to reharden the shoreline without respect to the purpose and intent of the CBPA Ordinance to protect existing high quality state waters, prevent any increase in pollution, and restore state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including gamefish, which might reasonably be expected to inhabit them.
- 3) The variance is the minimum necessary to afford relief as submitted. *"The property is developed in accordance with the approved variance and the bulkhead needs to be replaced. The project meets all guidelines for permit approval from the US ACOE, VMRC, and Wetlands Board."* Staff concurs.
- 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 *"every lot on Thalia Island is protected with a vertical bulkhead and bulkheads are exempt from the Ordinance."* As stated above, Staff is of the opinion that a request to reharden the shoreline should be proposed with respect to the purpose and intent of the CBPA Ordinance to protect existing high quality state waters, prevent any increase in pollution, and restore state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including gamefish, which might reasonably be expected to inhabit them.
- 5) *"There is no increase in impervious cover and therefore no increase in nonpoint source pollution."* Staff concurs.

Should the Board desire to consider granting this variance request, Staff offers the following recommended condition for deliberation.

Recommended Conditions

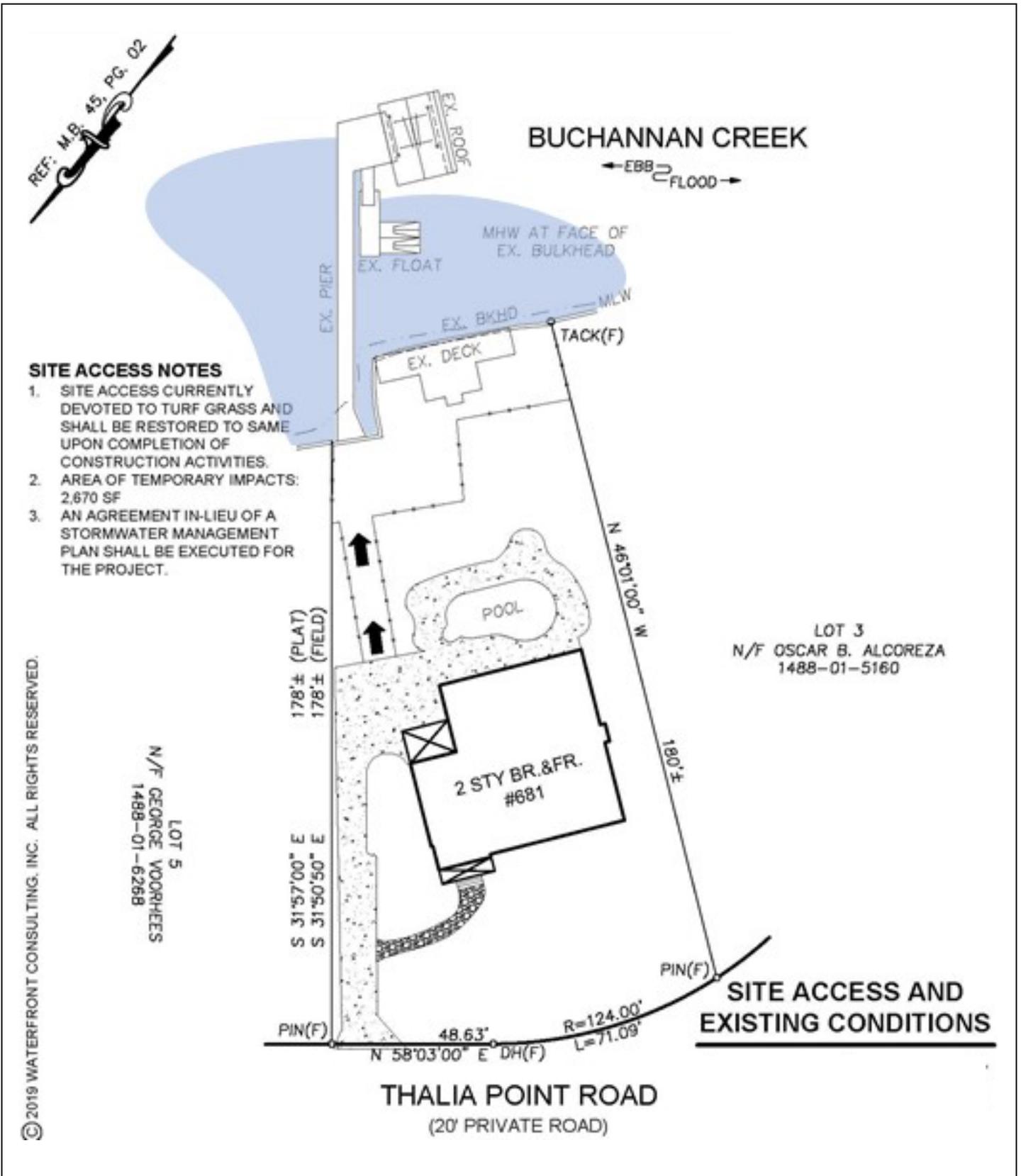
1. This variance is in addition to the conditions of the CBPA Board variance granted February 27, 2006 and removes condition 7 of said 2006 CBPA variance that states “If and when the shoreline is hardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (vinyl, timber or steel bulkhead). The toe of said revetment shall lie at or landward of the existing bulkhead. Said condition shall be so noted on the site plan.”

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

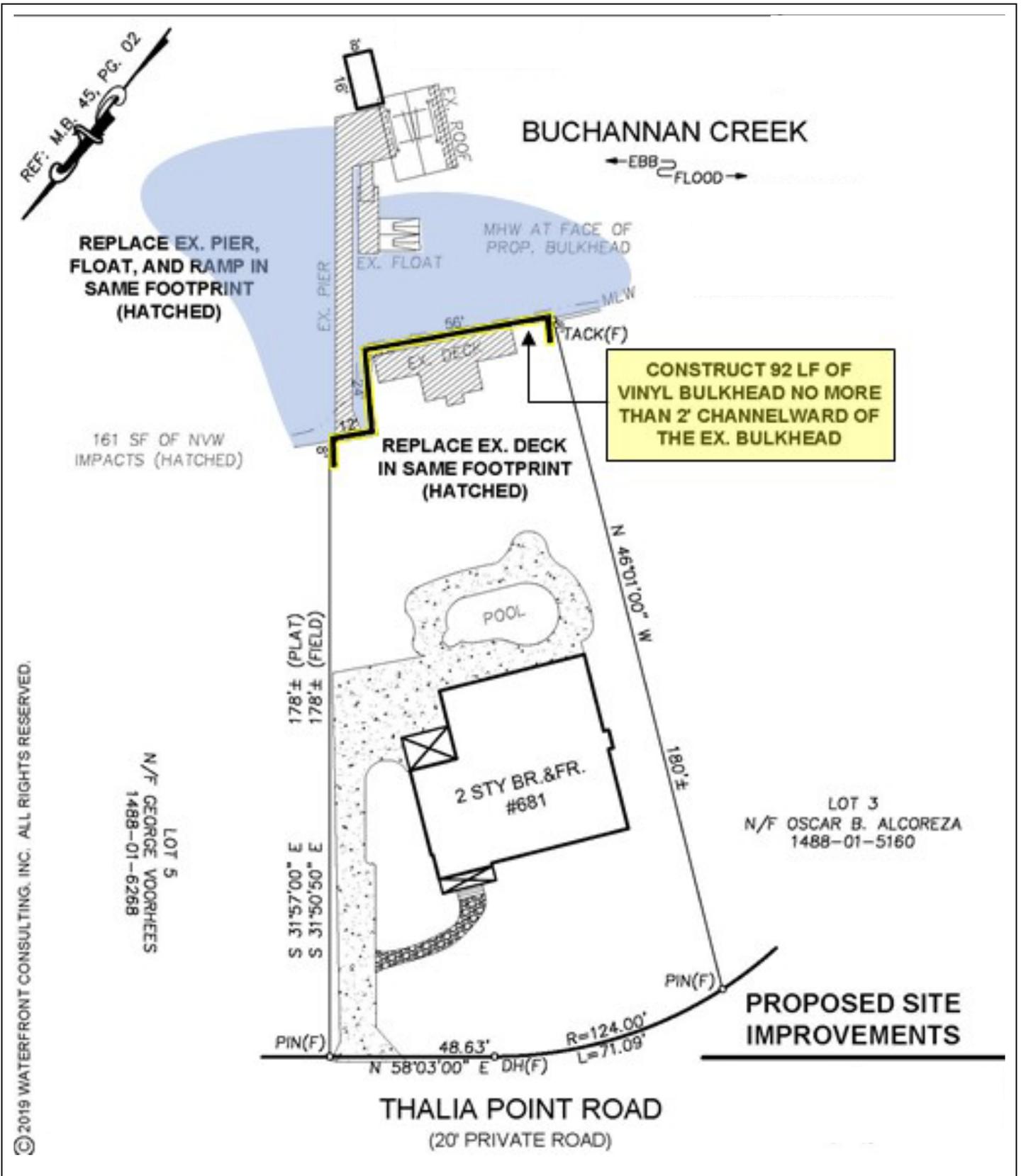
Site Aerial



CBPA Exhibit – Existing Conditions



CBPA Exhibit – Proposed Improvements



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- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Farino Living Trust
If an LLC, list all member's names:
Trustees:
Dale F. Farino and Julie G. Farino

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: _____
If an LLC, list the member's names:



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	Project out for bid
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	WCI, Chesapeake Bay Site Solutions
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	Farino Living Trust	
APPLICANT'S SIGNATURE 	PRINT NAME <i>E. Farino</i> <i>Julie G. Farino</i>	DATE <i>3/27/19</i>

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

Variance Request

Encroachment into the Resource Protection Area (RPA) buffer to construct a detached garage with associated driveway expansion

Applicant's Agent

Self-represented

Staff Planner

PJ Scully

Lot Recordation

1/18/1975

Map Book 95, Page 5A

GPIN

1488-21-0720

SITE AREA

32,433 square feet or 0.744 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

32,433 square feet or 0.744 acres

EXISTING IMPERVIOUS COVER OF SITE

5,344 square feet or 16.47 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

6,465 square feet or 19.9 percent of site

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

1,491 square feet

Location of Proposed Impervious Cover

50 foot Landward Buffer

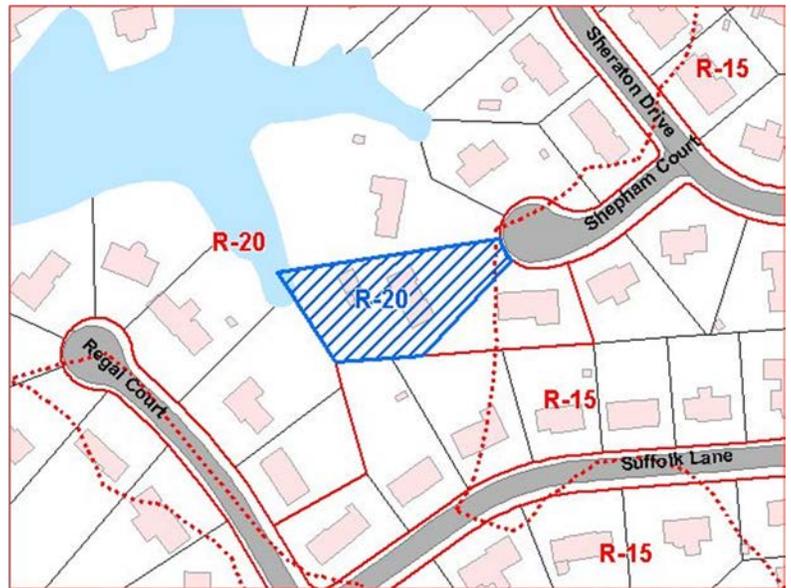
100 foot Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Sheds – 4 in total with 1 fire damaged

Construction Details

- Detached garage
- Driveway expansion

CBPA Ordinance Variance History

No Chesapeake Bay Preservation Area (CBPA) Board variance history to report.

Environmental Conditions

Flood Zone

Multiple Zones – Zone X and AE, Base Flood Elevation (BFE): 8

Soil Type(s)

State Series (deep, well-drained soils) located above the top of bank above the top of bank
Rappahannock Series (deep and poorly drained soils) below the top of bank

Shoreline

Shoreline is in a natural state.

Riparian Buffer

Moderately to sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

The applicant desires to remove the 12 foot by 20 foot fire damaged shed and construct a 18 foot by 27 foot detached garage further landward in the 100 foot Resource Protection Area (RPA). The construction of the proposed detached garage requires compliance with accessory use and structures regulations of the Zoning Ordinance. As a result, the existing sheds within the 100 foot RPA will be removed with the construction of the proposed detached garage. The removal of the existing shed and construction of the proposed garage results in a 116 square foot increase in impervious cover within the 100 foot RPA buffer. The proposed driveway expansion is located within the variable width buffer of the RPA.

Staff believes the approach towards redevelopment within the RPA associated with the variance request provides merit with respect to the performance standards of the CBPA Ordinance given that,

- Land disturbance is limited to the area necessary to provide for the proposed use, inclusive of grading with the proposed detached garage being situated in an area of the lot landward of the top of bank feature. Access to construct the proposed improvements will be from the existing driveway with the area of land disturbance occurring in an area of the buffer currently devoted to turf.

- As situated, land development minimizes the amount of impervious cover. By situating the proposed improvements off the existing driveway and in compliance with zoning setbacks even though the RPA is present. In addition, the proposed improvements, while in the RPA, will be located on areas of the lot that are of relatively flat in topographic slope and stabilized with vegetation seaward of the proposed improvements.

The following comments relative to the findings of the CBPA Ordinance specific to this variance request are offered by the applicant for the Board’s deliberation.

- 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 maximum allowable square footage of a detached/accessory structure is 500 square feet and that is the size of the proposed improvements.”* Staff concurs and offers that the overall project, while increasing the impervious cover in the 100 foot RPA by 116 square feet, provides a retreat of encroachment within the RPA on a lot that was platted prior to the adoption of the CBPA Ordinance.
- 2) Staff offers that 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 placing portions of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief as *“the desire is to construct a 900 square foot garage to cover the applicant’s entire boat however, the Zoning Ordinance limits 500 square feet to cover the engines of the boat when required.”* Staff is of the opinion that the applicant’s request is conscience to both the performance standards of the CBPA Ordinance and the minimum necessary to afford relief given the size of the lot, date the lot was recorded, and location of the RPA buffer.
- 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 *“a 500 square foot garage on a 32,433 square foot lot with old (mature) trees with 10 – 15 percent heavy underbrush riparian buffer with the nearest perennial waterway 300 feet away is not harming. Neighbors are more concerned with eye-soars and it (garage) will be very hard to see.”* Staff concurs.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, *“the project will reduce the fertilizer and weed killer used and it will also increase the width of the riparian buffer.”* Staff concurs.

Given the above comments, Staff recommends the following 10 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. The conditions and approval associated with this variance are based on the exhibit plan dated April 3, 2019, prepared by Roger P. Morgan, Architect and signed by Roger P. Morgan. 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.
2. 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. Land disturbance associated with the proposed improvements at any given time shall not exceeds 2,500

square feet. If at any time land disturbance exceeds 2,500 square feet, Planning Department Staff may issue a stop work order. At that time, a full site development plan in compliance with local and State regulations shall be submitted for review and approval through the Development Services Center (DSC).

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. Buffer restoration shall be installed equal to 100 percent of the proposed new impervious cover within the RPA, or **1,491 square feet**.

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **4 canopy trees, 4 understory trees, 8 large shrubs, and 12 small shrubs**.

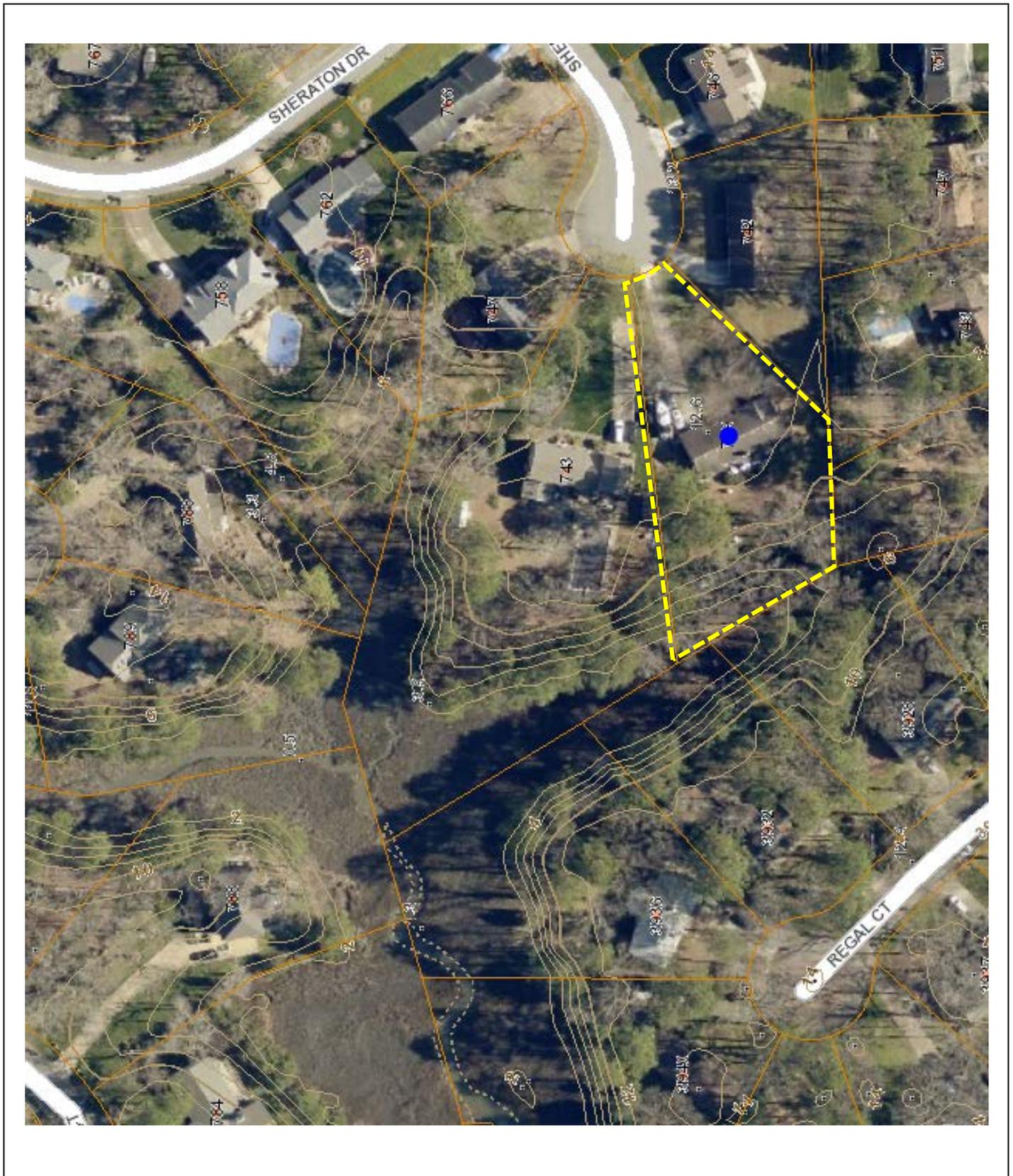
The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 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.

5. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
6. 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.
7. 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.**
8. 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.
9. 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.

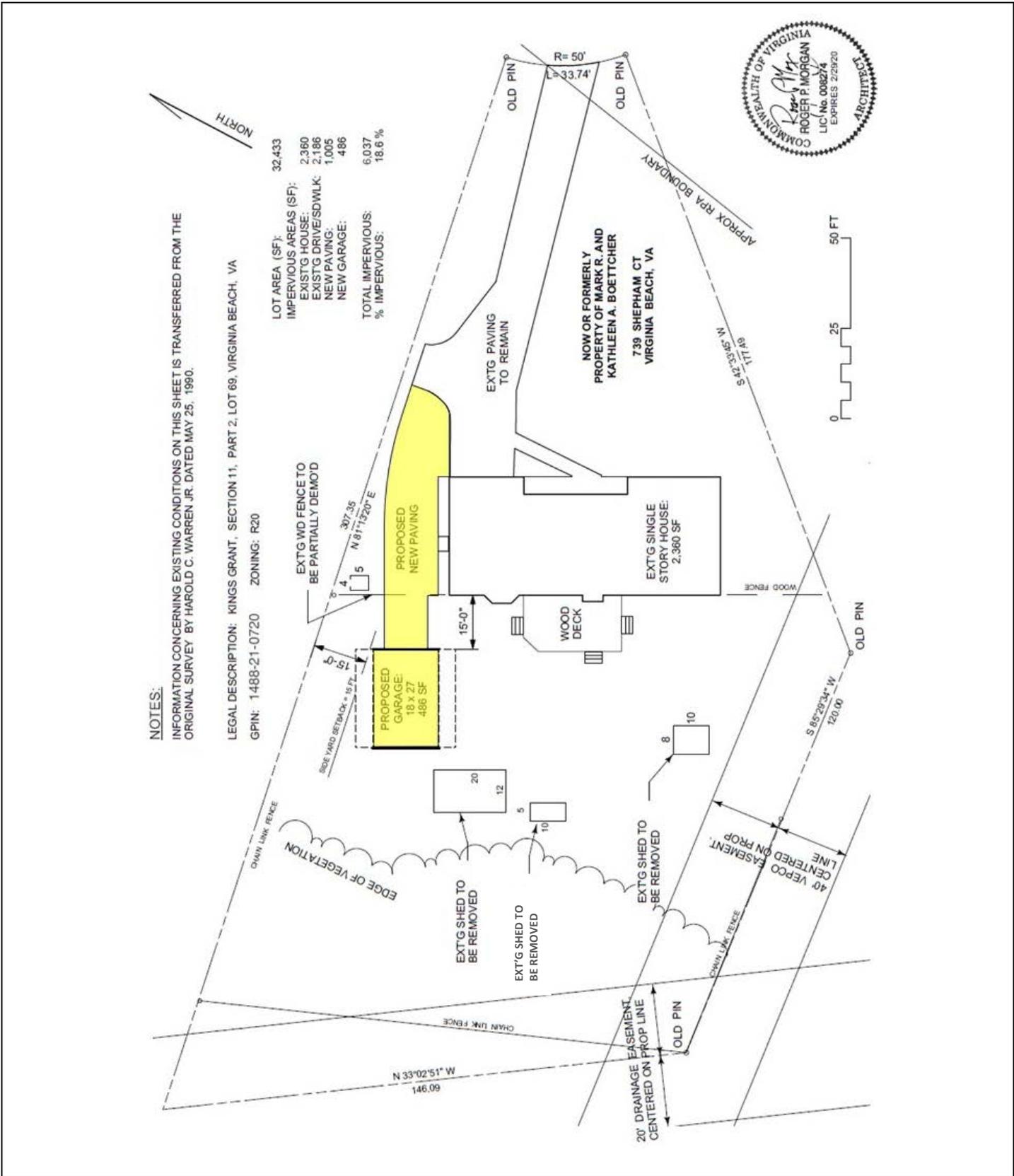
10. No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

Site Aerial



CBPA Exhibit – Proposed Improvements





APPLICANT'S NAME Mark & Kathleen Boettcher Trust

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

Acquisition of Property by City	Disposition of City Property	Modification of Conditions or Proffers
Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).			
<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	



- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: MARK + KATHLEEN BOETTCHER TRUST
 If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: _____
 If an LLC, list the member's names:

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

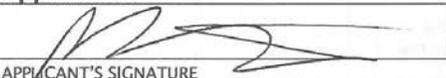
If yes, what is the name of the official or employee and what is the nature of the interest?



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	Mark Boettcher	30AAPR19
APPLICANT'S SIGNATURE	PRINT NAME	DATE

*Last 2 pages of the Disclosure Statement not provided – Applicant and Property Owner are the same.

Mark & Kathleen Boettcher Trust

Agenda Item 4

Page 62



Applicant & Property Owner **Demarkus Parker & Jobenia Odum**
 Address **937 Le Cove Drive**
 Public Hearing **July 22, 2019**
 City Council District **Kempsville**

Agenda Item

5

Variance Request

Encroachment into the 100 foot Resource Protection Area (RPA) variable width buffer for the after-the-fact construction of a concrete paver patio around the existing swimming pool.

Applicant's Agent

Self-represented

Staff Planner

PJ Scully

Lot Recordation

10/23/2006
 Ins No. 200610230011606690

GPIN

1456-19-1636

SITE AREA

24,945 square feet or 0.573 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

22,583 square feet or 0.518 acres

EXISTING IMPERVIOUS COVER OF SITE

5,514 square feet or 24.4 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

n/a

Area of Redevelopment in RPA

n/a

Area of New Development in RPA

n/a

Location of Proposed Impervious Cover

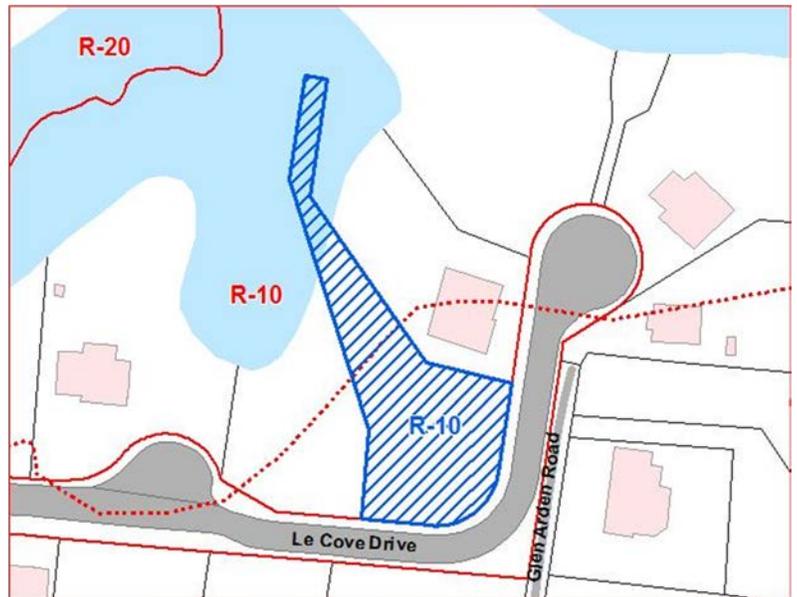
100 foot Variable Width Buffer
 Resource Management Area (RMA)

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Defer for 30 days to the August 26, 2019 CBPA Board Public Hearing



Summary of Proposal

Construction Details

- After-The-Fact concrete paver patio

CBPA Ordinance Variance History

September 27, 2004 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for a 5 lot subdivision with the following conditions.

1. *A pre-construction meeting shall be convened with Civil Inspections prior to any land disturbance, inclusive of demolition.*
2. *Dual 36" erosion and sedimentation control measures (silt fences) shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Additionally, a heavy duty construction fence, acceptable to Civil Inspections, shall be installed along the aforementioned E & S controls and shall be maintained during all phases of construction.*
3. *Construction limits shall lie a maximum of 10' seaward of improvements for Lots 1, 2, 3, and 5. Construction limits for Lot 4 shall lie 10' seaward of the improvements to be demolished. No construction limits shall encroach within the first 100' buffer for Lots 1, 2, and 3.*
4. *The construction access way shall be noted on the site plan, as well as the stockpile staging area.*
5. *All stormwater from proposed impervious cover, inclusive of the extension of Le Cove Drive, shall be conveyed to structural stormwater management facilities*
6. *If and when the shoreline is re-hardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (timber, vinyl or steel bulkhead). Said condition shall be so noted on the site plan.*
7. *Pool decking shall be a maximum of 4'X4'X4'X8' (diving board end). Pool decking shall not lie further seaward than that which is depicted on the site plan sealed October 15, 2004 prepared by Robert S. Kellam.*
8. *Pools shall be constructed prior to or concurrent with the residence.*
9. *If applicable, under deck treatment of sand and gravel shall be installed.*
10. ***As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program prior to or concurrent with site plan approval. Payment shall be based upon 25% of impervious cover within the Resource Protection Area. The formula for payment is as follows: 25% of square footage of impervious cover within the buffer divided by 27 (cubic yards) times 15 (estimated bushels of oyster shell within a cubic yard) times \$1.65 (cost of shell and cost to plant).*
11. *All area seaward of the authorized limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact. Said condition shall be so noted on the site plans.*

12. *Tree compensation shall be at a 3:1 ratio and shall be comprised of a minimum of 50% evergreen and 50% deciduous species. Note on each site plan the number to be removed and installed.*
13. *The conditions and approval associated with this variance are based on the site plan sealed October 15, 2004 by Kellam & Gerwitz, P.E.*
14. *A certified arborist shall provide written verification as to the disposition of the residual forested buffer, those portions of the buffer to be restored, clearing for site lines and vistas, the need for forest floor amendments, and the removal of vegetation along shorelines to augment the growth of tidal vegetated wetlands and erosion abatement. Said arborist shall provide assistance before, during and after the project to ensure forested buffer resources are protected and restored. Said arborist shall provide his/her findings to the DSC concurrent with the submission of construction plans.*
15. *If the proposed community pier is not approved, the applicant shall return to the Chesapeake Bay Preservation Area Board to address the impacts of additional piers and the parcel configuration.*
16. *If the proposed community pier is approved, the lot lines shall be adjusted to preclude riparian rights on Lots 1, 2, & 3.*
17. *A revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.*

Environmental Conditions

Flood Zone

Multiple Zones – Zone X and AE, Base Flood Elevation (BFE): 8

Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

Rappahannock Series (deep and poorly drained soils) located below the top of bank

Shoreline

Shoreline is in a natural state and vegetated with a mix of herbaceous and woody plant material.

Riparian Buffer

Heavily to moderately wooded lot

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

A CBPA variance application was submitted by the applicant after the May 23, 2019 Show Cause hearing for the unauthorized concrete paver patio constructed on the lot. The applicant's intent was to have a CBPA variance application, inclusive of an after-the-fact exhibit accompany the Restoration Hearing ordered by the Board. The applicant is working with the Engineer of Record, who prepared the site plan, to delineate the unauthorized concrete paver patio. Staff received an email from the Engineer of Record on July 12, 2019 stating that *"this is to inform you that the owners, Mark & Jobenia Parker at 936 LeCove Drive, has hired us to prepare an After-The-Fact CBPA Variance Exhibit.*

Demarkus Parker & Jobenia Odum

Agenda Item 5

Page 65

We currently awaiting the field survey work to be performed in order for us to prepare the exhibit. The exhibit will be submitted to the Planning Department as soon as possible.” In the absence of an after-the-fact exhibit, Staff has addressed the unauthorized improvements within the RPA in the Restoration Hearing report for this lot.

Given the above comments, should the Board desire to deliberate the after-the-fact variance request, Staff recommends the following 10 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended Conditions

1. 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. Land disturbance associated with the proposed improvements at any given time shall not exceeds 2,500 square feet. If at any time land disturbance exceeds 2,500 square feet, Planning Department Staff may issue a stop work order. At that time, a full site development plan in compliance with local and State regulations shall be submitted for review and approval through the Development Services Center (DSC).
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.

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 consisting of **1 canopy trees, 1 understory trees, 2 large shrubs, and 3 small shrubs per every 400 square feet of impervious cover in the RPA.**

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.

4. The overall impervious cover of the site shall not exceed 6,550 square feet or 29 percent of the site landward of water and wetlands.
5. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
6. 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.

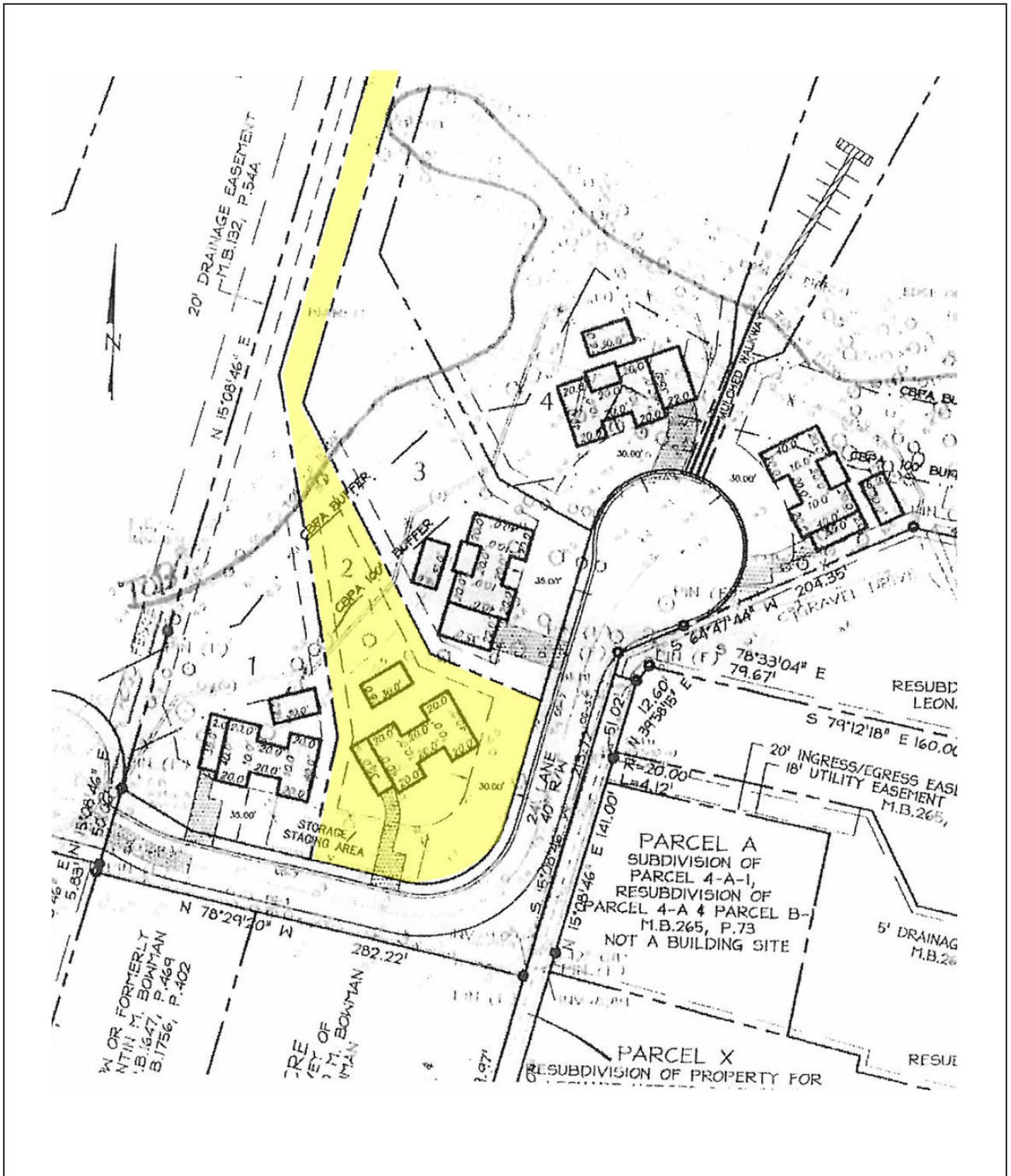
7. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
8. Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
9. 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.
10. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.

** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

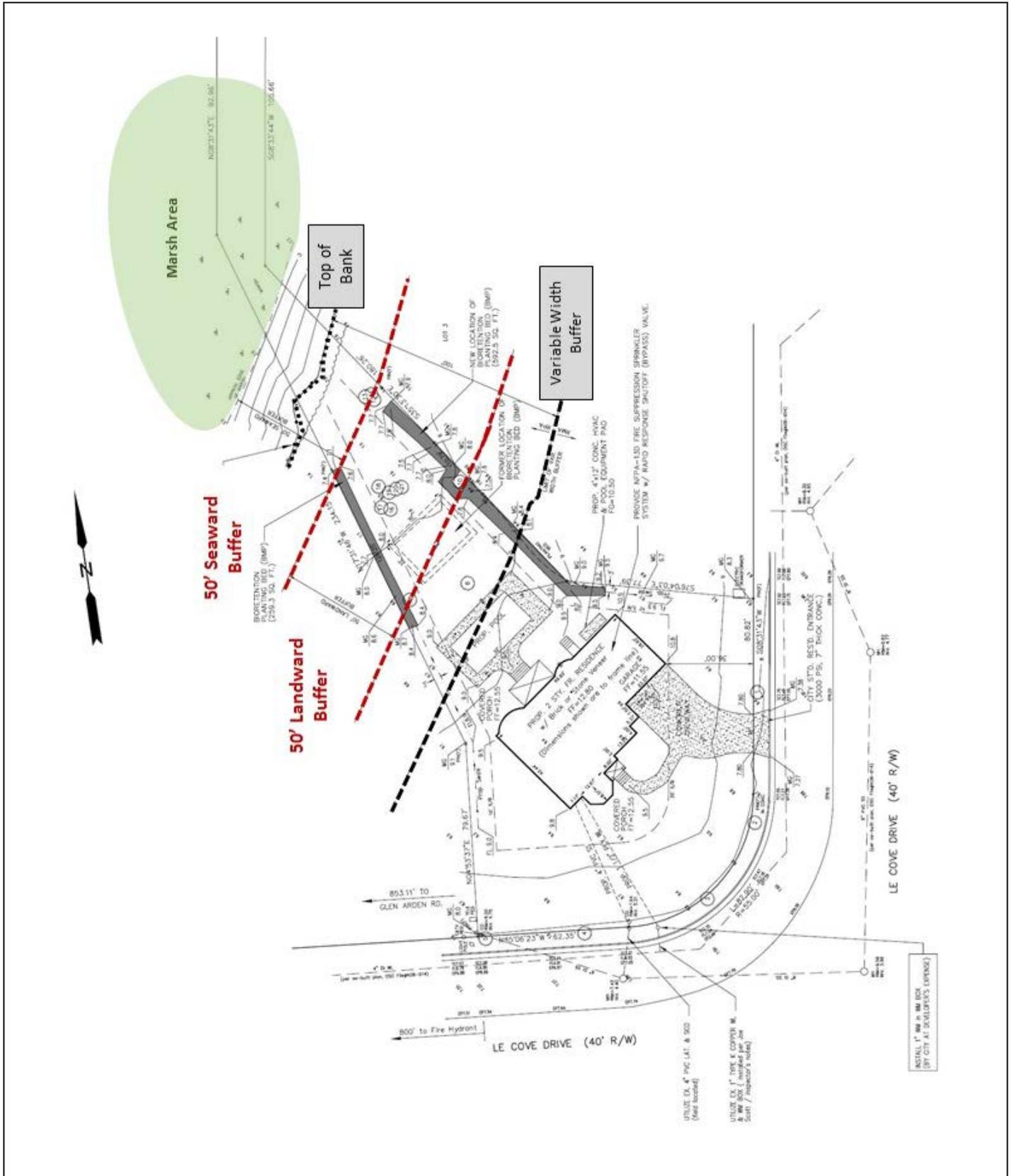
***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

Site Aerial

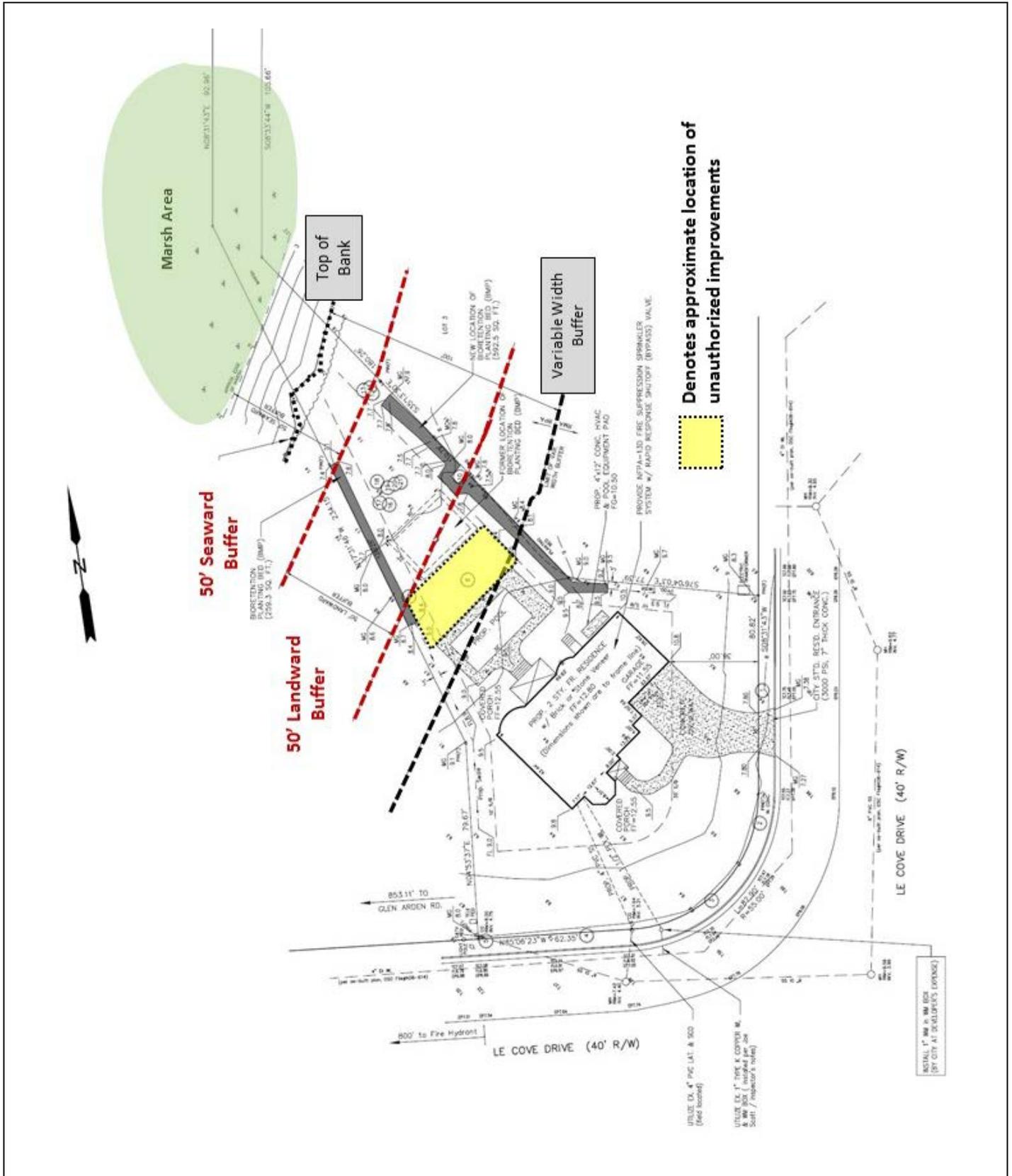




September 13, 2017 Post Plan Revision – BMP Relocation



CBPA Exhibit – Approximate Location of Unauthorized Improvements





APPLICANT'S NAME Jobenia Parker

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Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

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<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	



- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.
- (A) List the Applicant's name: _____
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.
- (A) List the Property Owner's name: _____
If an LLC, list the member's names:



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	Perricott Taxes
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors / Agents	Gallop Surveyors
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	Sun Trust Mortg.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

If yes, what is the name of the official or employee and what is the nature of the interest?



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	<i>Jobenia Parker</i>	6/25/19
APPLICANT'S SIGNATURE	PRINT NAME	DATE

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

Demarkus Parker & Jobenia Odum

Agenda Item 5

Page 76

Variance Request

Encroachment into the Resource Protection Area (RPA) to expand the existing wood deck footprint with a second story deck and landing area off the rear of the residence.

Applicant's Agent

Self-represented

Staff Planner

PJ Scully

Lot Recordation

2/23/1966

Map Book 67, Page 54

GPIN

1488-50-7952

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

175 square feet

Area of New Development in RPA

313 square feet

Location of Proposed Impervious Cover

50 foot Landward Buffer

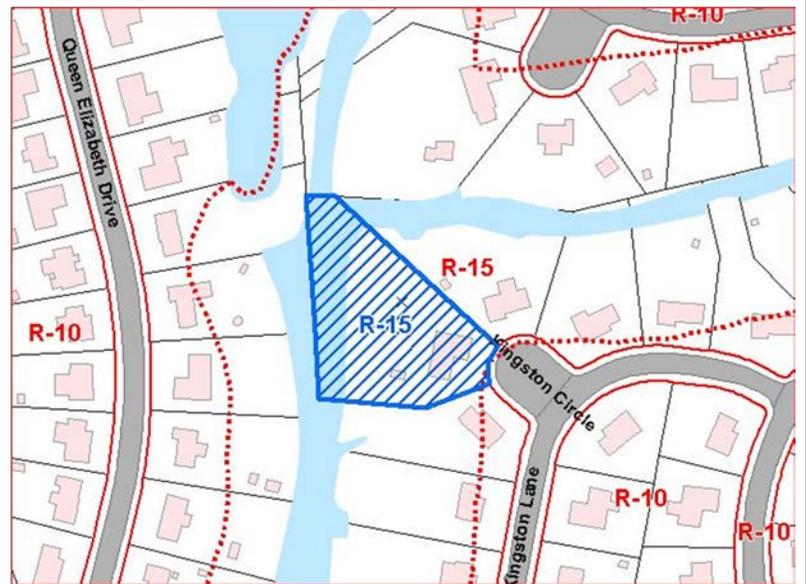
100 Variable Width Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as submitted



Summary of Proposal

Construction Details

- Second story wood decks – 2 in total

CBPA Ordinance Variance History

No known Chesapeake Bay Preservation Area (CBPA) Board variance history to report. A CBPA Administrative variance was granted March 26, 2012 for two separate building additions – a two-story garage addition with a breezeway to a shed and building addition off the rear of the residence. To date the two-story garage addition with associated driveway expansion has been built.

Environmental Conditions

Flood Zone

Multiple Zones – Zone X and AE, Base Flood Elevation (BFE): 8

Soil Type(s)

State Series (deep, well-drained soils) located above the top of bank
Rumford Series (highly erodible soils) located below the top of bank

Shoreline

Shoreline is hardened by a riprap revetment/concrete rubble

Riparian Buffer

Sparsely wooded

- Number of existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

Prior to the 2012 CBPA Administrative variance, the overall impervious cover of the lot was 3,221 square feet or 11.4 percent of the land area outside of water and marsh. The post-development impervious cover, inclusive of all the proposed improvements associated with the 2012 CBPA Administrative variance totaled 5,445 square feet or 19.2 percent of the land area outside of water and marsh. To date, the building addition off the rear of the residence has not been constructed. Given the overall impervious cover of the lot being under 20 percent and the proposed improvements being located within the upper reach of the 50 landward buffer and variable width buffer of the Resource Protection Area (RPA), Staff is of the opinion that the proposed improvements will have minimal impact on the existing riparian buffer and will not contribute to the degradation of water quality, or prove detrimental to the RPA feature.

Should the Board desire to consider granting this variance request, the following comments relative to the findings of the CBPA Ordinance specific to this variance request are offered by the applicant for the Board's deliberation.

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property which are subject to the provisions of the CBPA Ordinance because *“the request is similar to other improvements on adjacent lots.”* Staff concurs.
- 2) Staff provides that 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 much of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief *“with a good portion of the proposed improvements being redevelopment.”* Staff concurs and offers that the footprint of the wood deck is similar in size to other existing decks within the neighborhood.
- 4) Staff is of the opinion that the variance is in harmony with the purpose and intent of the CBPA Ordinance and not of substantial detriment to water quality with the retention of all existing vegetation within the property, the introduction of buffer planting to an already present riparian buffer, the proposed improvements being outboard of the 50 foot seaward buffer, and the minimal site impact associated with the proposed improvements. The applicant provides that with the proposed improvements *“no vegetation will be removed.”*
- 5) As a means to manage towards a no net increase in nonpoint source pollution load *“buffer restoration and planting have been installed.”* The applicant provides that the lot has been landscaped and areas allowed to naturalize. Staff is of the opinion that the conditioned buffer restoration coupled with approximately 80 feet of stabilized groundcover and plantings in the RPA buffer offers a means to filter stormwater runoff.

Should the Board desire to consider granting this variance request, Staff offers the following 7 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended 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. The proposed deck along the south side of the residence shall be a maximum of 4 feet by 4 feet.
3. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **313 square feet x 200 percent = 626 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 Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance: **2 canopy trees, 2 understory trees, 4 large shrubs, and 3 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.

4. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
5. 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.
6. Construction limits 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.**
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.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

Site Aerial



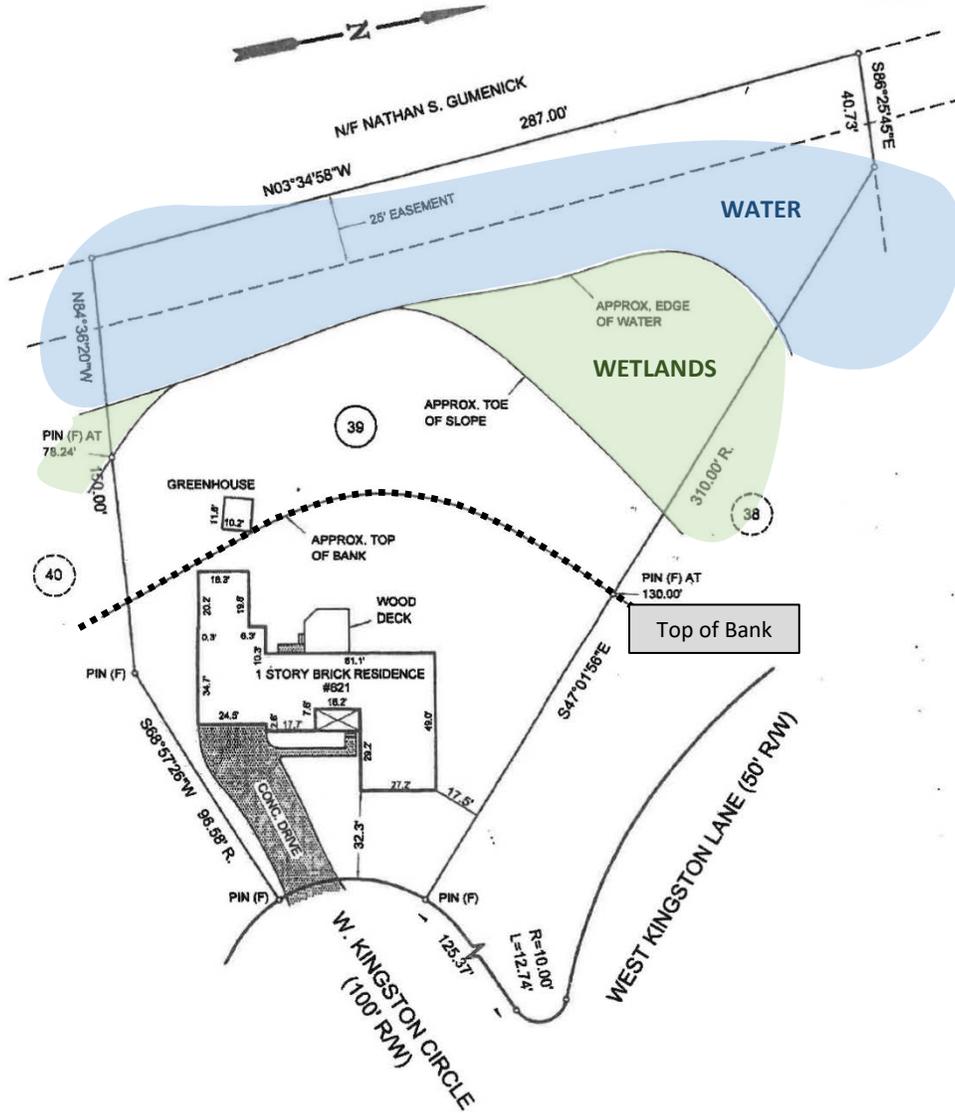
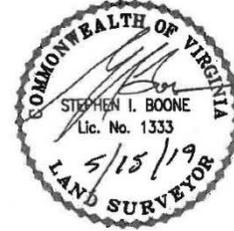
CBPA Exhibit – Existing Conditions

THIS IS TO CERTIFY THAT ON MAY 13, 2019, I SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND PHYSICAL IMPROVEMENTS ARE SHOWN ON THIS PLAT. THE IMPROVEMENTS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OR VISIBLE EASEMENTS EXCEPT AS SHOWN.

THE RESIDENCE SHOWN HEREON APPEARS TO BE IN FLOOD ZONE "X"
 FIRM MAP CITY OF VIRGINIA BEACH COMMUNITY NO. 515531
 MAP REVISION: JAN. 16, 2015 PANEL NO. 0101G

THIS SURVEY PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT.

A 5' UTILITY AND DRAINAGE EASEMENT (UNLESS GREATER WIDTH IS NOTED) EXISTS ALONG AND ADJACENT TO ALL SIDE AND REAR LINES OF ALL LOTS WITHIN THIS SUBDIVISION.



PHYSICAL SURVEY
 OF
 621 W. KINGSTON CIRCLE, VIRGINIA BEACH, VIRGINIA
 LOT 39
KINGS GRANT

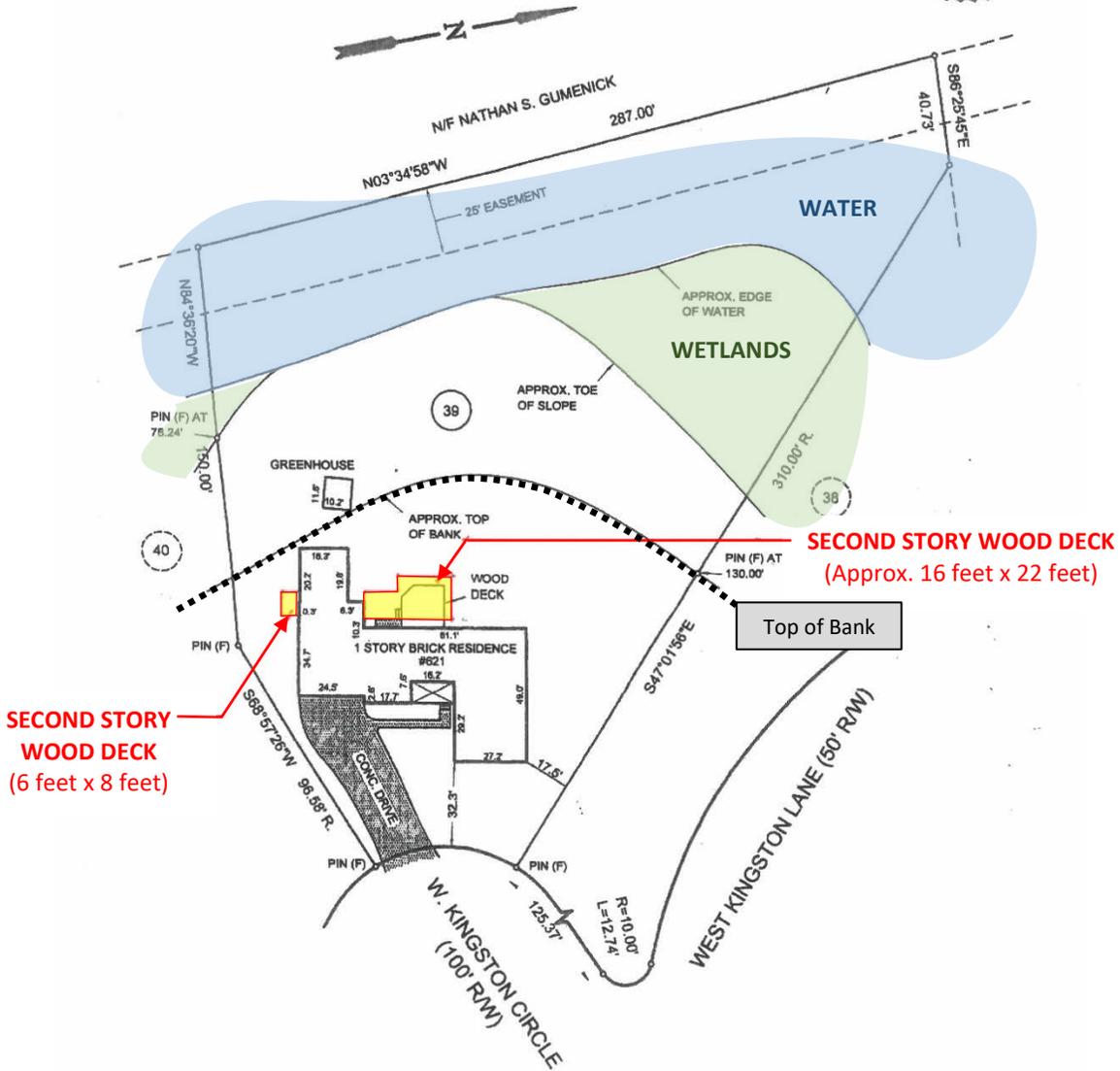
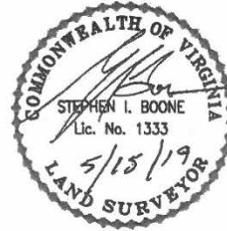
CBPA Exhibit – Proposed Improvements

THIS IS TO CERTIFY THAT ON MAY 13, 2019, I SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND PHYSICAL IMPROVEMENTS ARE SHOWN ON THIS PLAT. THE IMPROVEMENTS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OR VISIBLE EASEMENTS EXCEPT AS SHOWN.

THE RESIDENCE SHOWN HEREON APPEARS TO BE IN FLOOD ZONE "X"
 FIRM MAP CITY OF VIRGINIA BEACH COMMUNITY NO. 515531
 MAP REVISION: JAN. 16, 2015 PANEL NO. 0101G

THIS SURVEY PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT.

A 5' UTILITY AND DRAINAGE EASEMENT (UNLESS GREATER WIDTH IS NOTED) EXISTS ALONG AND ADJACENT TO ALL SIDE AND REAR LINES OF ALL LOTS WITHIN THIS SUBDIVISION.



SECOND STORY WOOD DECK
 (6 feet x 8 feet)

SECOND STORY WOOD DECK
 (Approx. 16 feet x 22 feet)

PHYSICAL SURVEY

OF
 621 W. KINGSTON CIRCLE, VIRGINIA BEACH, VIRGINIA
 LOT 39
 KINGS GRANT



APPLICANT'S NAME THET M. KYAW

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

Acquisition of Property by City	Disposition of City Property	Modification of Conditions or Proffers
Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).			
<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	



- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: Thet Mon Kyaw
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: _____
If an LLC, list the member's names:



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsiary¹ or affiliated business entity² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	S B Williams Contracting Co - Boone
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

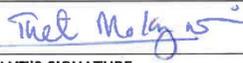
If yes, what is the name of the official or employee and what is the nature of the interest?



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	THET M. KYAW	may-29-2019
APPLICANT'S SIGNATURE	PRINT NAME	DATE

Variance Request

Encroachment into the Resource Protection Area (RPA) 100 foot buffer to construct a new wood deck.

Applicant's Agent

Self-represented

Staff Planner

PJ Scully

Lot Recordation

5/8/1957

Map Book 47, Page 10

GPIN

1487-48-5569

SMALL PROJECT IN THE RPA

PROPOSED IMPERVIOUS COVER

Area of Redevelopment in RPA

180 square feet

Area of New Development in RPA

140 square feet

Location of Proposed Impervious Cover

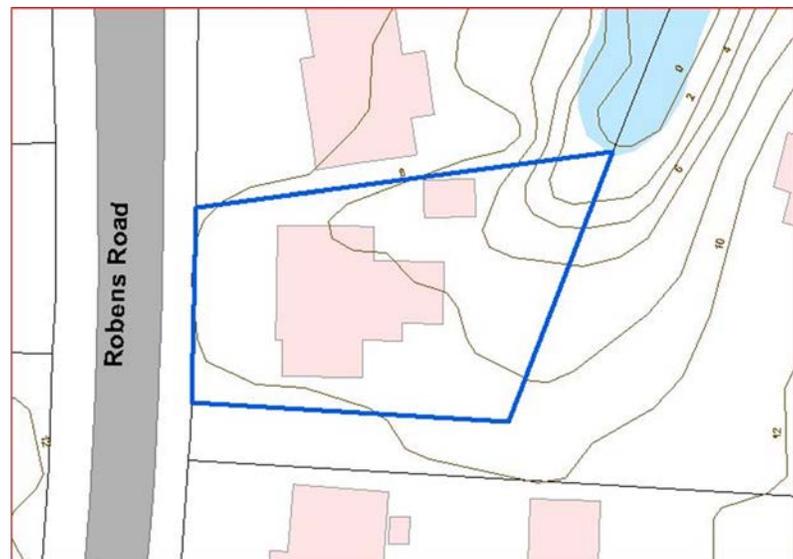
50 foot Landward Buffer

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet

Staff Recommendation

Approval as submitted



Summary of Proposal

Demolition Details

- Wood deck with stairs

Construction Details

- Wood deck – 16 feet by 20 feet

CBPA Ordinance Variance History

No Chesapeake Bay Preservation Area (CBPA) Board variance history to report.

Environmental Conditions

Flood Zone

Multiple Zones – Zone X and AE, Base Flood Elevation (BFE): 8

Soil Type(s)

Tetotum Series (deep, moderately well-drained soils)

Rumford Series (highly erodible soils) located below the top of bank

Shoreline

Shoreline is in a natural state.

Riparian Buffer

Sparsely wooded, developed parcel.

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0

Evaluation and Recommendation

The applicant is proposing to replace and slightly expand an existing, deteriorating wooden deck. Staff is of the opinion that the construction impacts from the proposed improvements, inclusive of the expansion to the wood deck will be negligible. Given the established vegetative cover of the rear yard and the installation of underdeck treatment conditioned with the variance request, Staff supports the 140 square foot increase in impervious cover as not being detrimental to Resource Protection Area features.

The following comments are offered relative to the findings of the CBPA Ordinance specific to this variance request for the Board's deliberation, and Staff has provided the recommended conditions below specific to this variance request.

- 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 wood deck is a minimal expansion."* Staff concurs

with the applicant's statement. The proposed improvements are minimal and occur in areas of existing turf and will not result in any alteration to the existing topography or vegetation.

- 2) Staff provides that the encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore placing portions of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief because *"the wood deck is a minimal expansion."* Staff concurs and offers that the proposed improvements focus the majority of the improvements over existing impervious cover as redevelopment with minimal expansions to the existing wood deck.
- 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 minimizes encroachment into the RPA buffer and minimizes land disturbance."* Staff concurs.
- 5) Staff offers that the proposed improvements are not located in the most sensitive portions of the parcel – 50 foot seaward buffer, and that the retention of the existing riparian buffer canopy trees coupled with the existing marsh outboard of the parcel provides a natural means to manage towards a no net increase in nonpoint source pollution load. The applicant provides that *"underdeck treatment of rock will be installed as a means to minimize sediment migration through erosion control."*

Staff recommends the following 5 reasonable and appropriate conditions towards preventing the variance from causing or contributing to a degradation of water quality.

Recommended 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: **1 canopy tree, 3 understory trees and 3 shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading. 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 release of the building permit.

3. Under deck treatment of sand and gravel shall be installed.

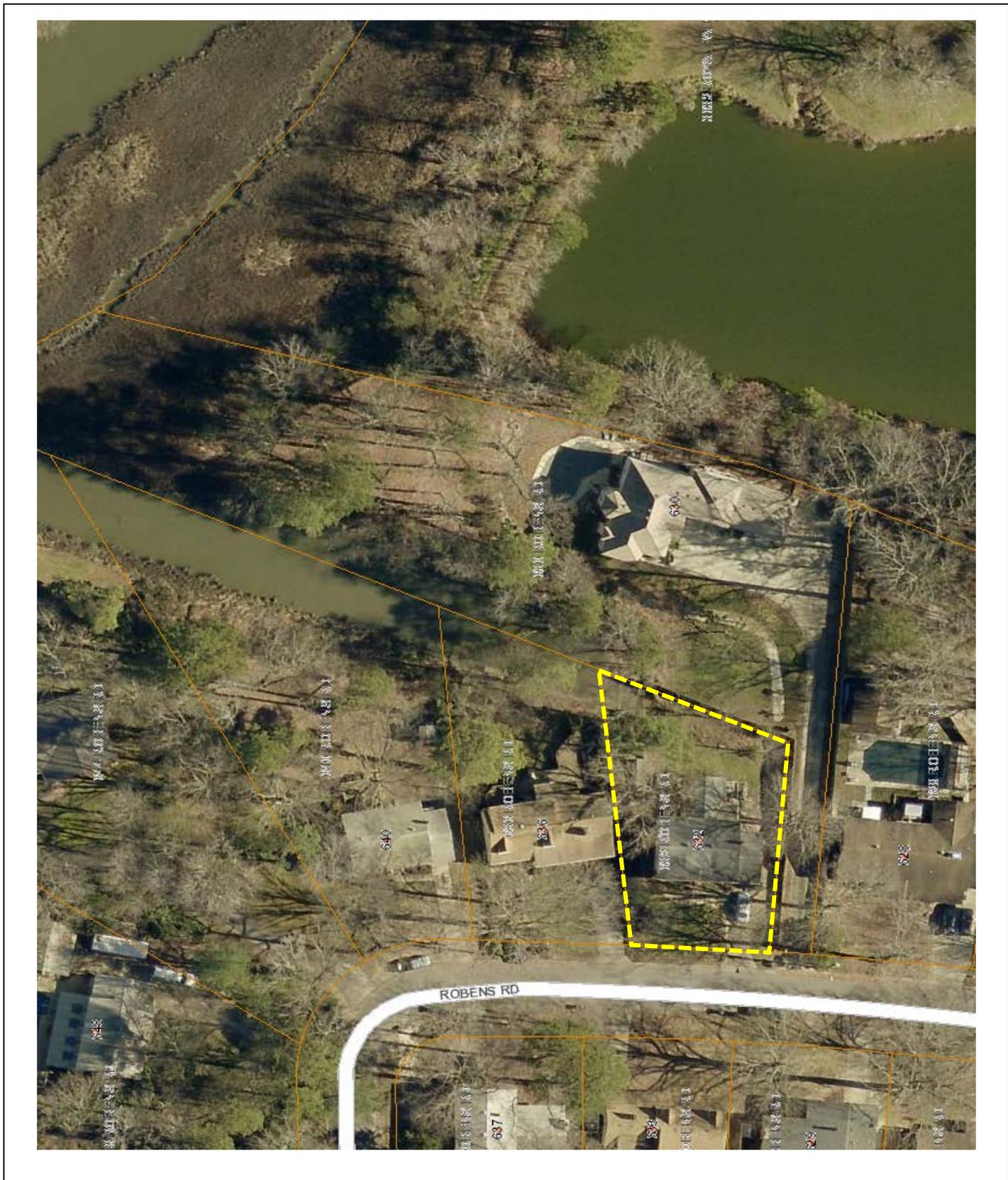
4. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.

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.**

** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

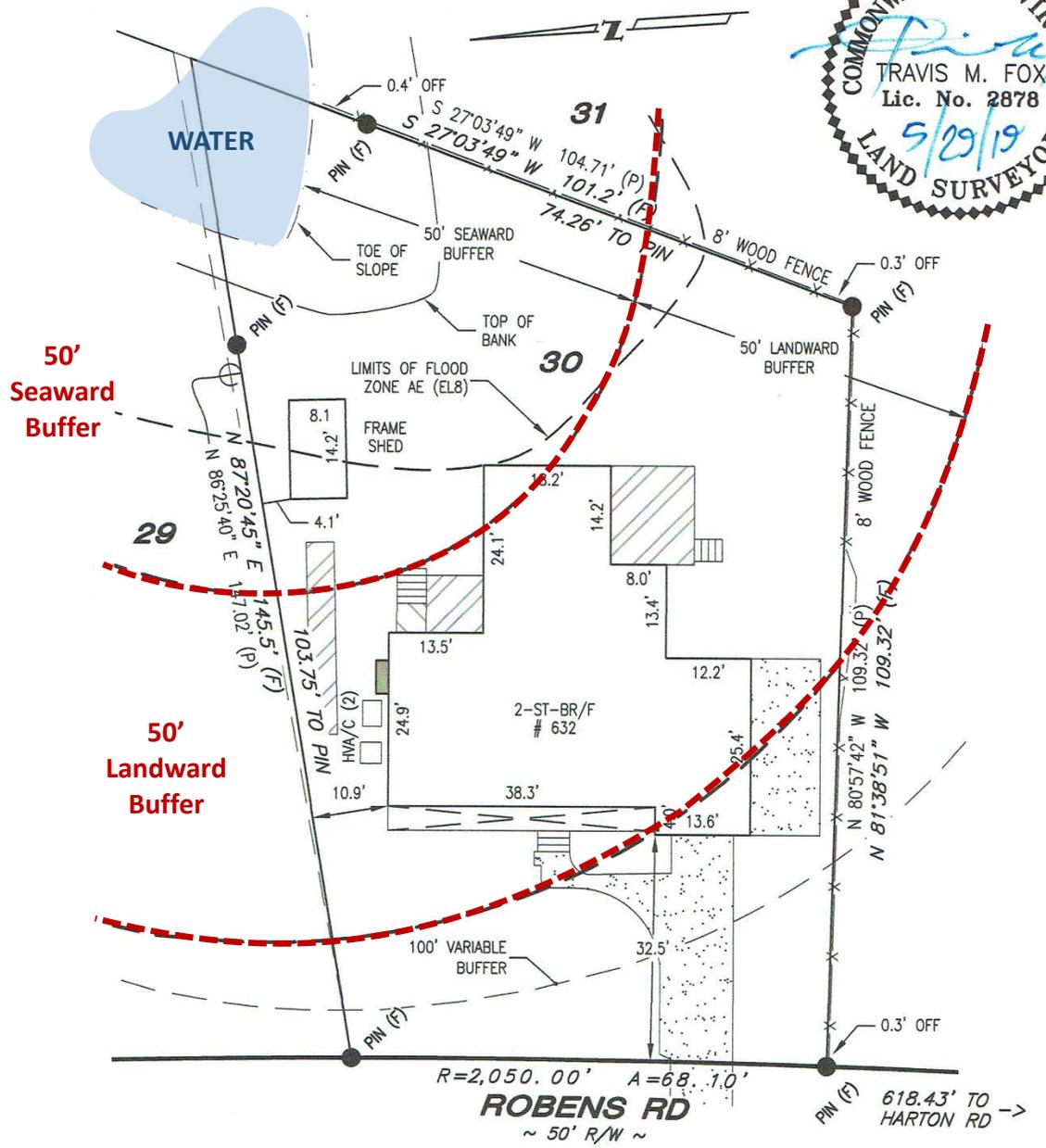
Site Aerial



CBPA Exhibit – Existing Conditions

THIS IS TO CERTIFY THAT ON MAY 20, 2019 I SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE PROPERTY LINES OF RECORD AS SHOWN IN M.B. 47, P. 10 AND THE WALLS OF THE BUILDINGS ARE AS SHOWN ON THIS PLAT. THE BUILDINGS STAND WITHIN THE SAID PROPERTY LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY, EXCEPT AS SHOWN.

FOX LAND SURVEYING, PC
SIGNED BY:



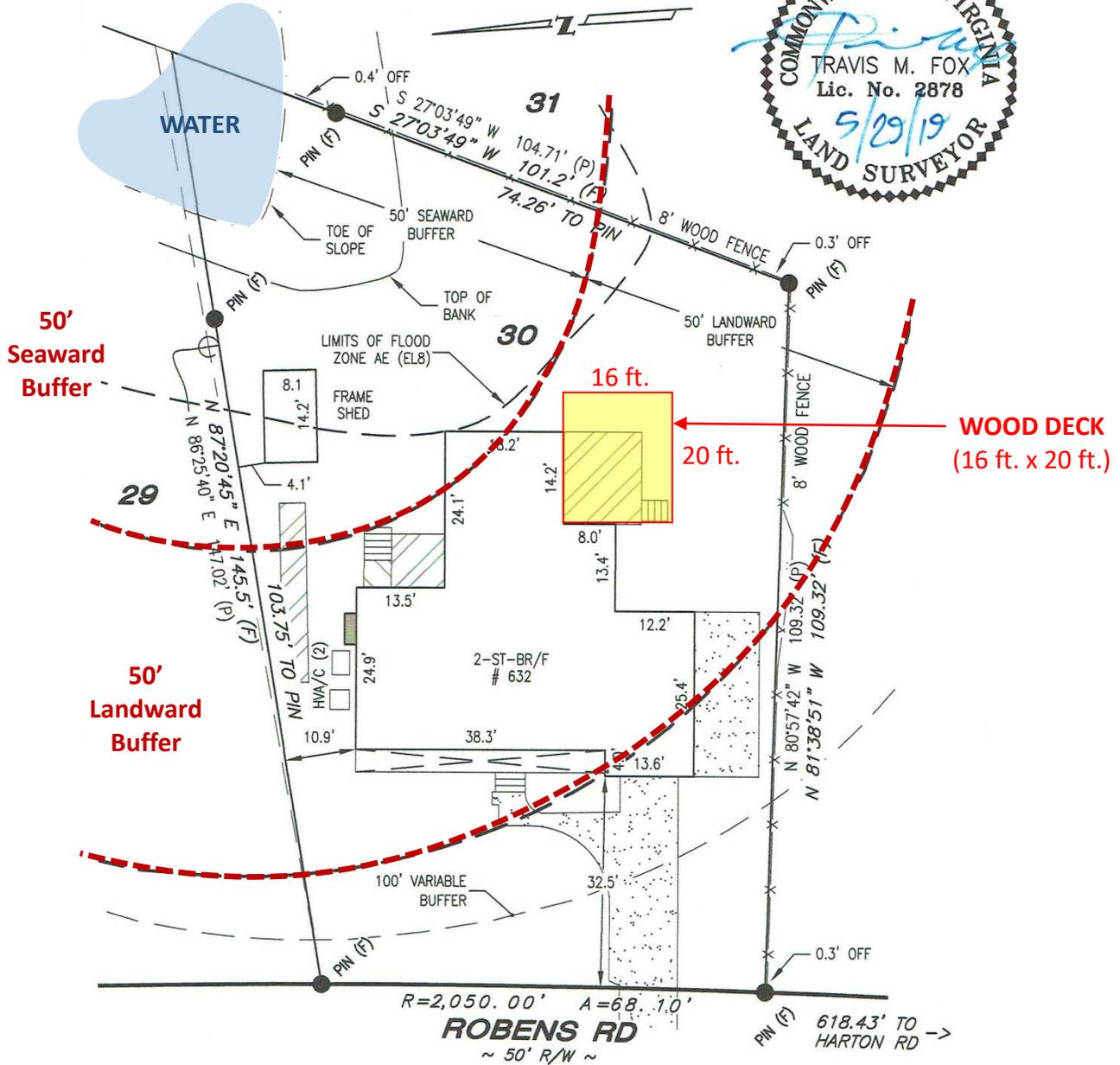
FLOOD INFORMATION: THE PROPERTY SHOWN HEREON APPEARS TO FALL WITHIN FLOOD ZONE(S) X (UNSHADED) (AREAS DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN), X (SHADED) (AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FOR 1% ANNUAL CHANCE FLOOD) AND AE (EL8) (BASE FLOOD ELEVATIONS DETERMINED) AS SHOWN ON F.E.M.A.'S FLOOD INSURANCE RATE MAP (F.I.R.M.) FOR THE CITY OF VIRGINIA BEACH, VIRGINIA, COMMUNITY PANEL NO. 515531 0101 G DATED JANUARY 16, 2015.

- FOX LAND SURVEYING, PC IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN HEREON. THIS SURVEY DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE SUBJECT TO FLOODING. FOR FURTHER INFORMATION, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL.
- THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS WHICH MAY AFFECT SAID PROPERTY AS SHOWN. THIS PLAT DOES NOT INTEND TO REPRESENT A SUBDIVISION OF LAND.

CBPA Exhibit – Proposed Improvements

THIS IS TO CERTIFY THAT ON MAY 20, 2019 I SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE PROPERTY LINES OF RECORD AS SHOWN IN M.B. 47, P. 10 AND THE WALLS OF THE BUILDINGS ARE AS SHOWN ON THIS PLAT. THE BUILDINGS STAND WITHIN THE SAID PROPERTY LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY, EXCEPT AS SHOWN.

FOX LAND SURVEYING, PC
SIGNED BY:



FLOOD INFORMATION: THE PROPERTY SHOWN HEREON APPEARS TO FALL WITHIN FLOOD ZONE(S) X (UNSHADED) (AREAS DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN), X (SHADED) (AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FOR 1% ANNUAL CHANCE FLOOD) AND AE (EL8) (BASE FLOOD ELEVATIONS DETERMINED) AS SHOWN ON F.E.M.A.'S FLOOD INSURANCE RATE MAP (F.I.R.M.) FOR THE CITY OF VIRGINIA BEACH, VIRGINIA, COMMUNITY PANEL NO. 515531 0101 G DATED JANUARY 16, 2015.

- FOX LAND SURVEYING, PC IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN HEREON. THIS SURVEY DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE SUBJECT TO FLOODING. FOR FURTHER INFORMATION, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL.
- THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS WHICH MAY AFFECT SAID PROPERTY AS SHOWN. THIS PLAT DOES NOT INTEND TO REPRESENT A SUBDIVISION OF LAND.



APPLICANT'S NAME DAVID MROZ

DISCLOSURE STATEMENT FORM

The completion and submission of this form is required for all applications that pertain to City real estate matters or to the development and/or use of property in the City of Virginia Beach requiring action by the City Council or a board, commission, or other body appointed by the City Council. Such applications and matters include, but are not limited to, the following:

Acquisition of Property by City	Disposition of City Property	Modification of Conditions or Proffers
Alternative Compliance, Special Exception for	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Board of Zoning Appeals	Encroachment Request	Rezoning
Certificate of Appropriateness (Historic Review Board)	Floodplain Variance	Street Closure
Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
Conditional Use Permit	Lease of City Property	Wetlands Board
	License Agreement	

The disclosures contained in this form are necessary to inform public officials who may vote on the application as to whether they have a conflict of interest under Virginia law.

SECTION 1 / APPLICANT DISCLOSURE

FOR CITY USE ONLY / All disclosures must be updated two (2) weeks prior to any Planning Commission and City Council meeting that pertains to the application(s).

<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE:	
<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	



- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.

(A) List the Applicant's name: _____
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

(B) List the businesses that have a parent-subsidiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **PROPERTY OWNER IS** a corporation, partnership, firm, business, or other unincorporated organization, **AND THEN**, complete the following.

(A) List the Property Owner's name: _____
If an LLC, list the member's names:

If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsiary ¹ or affiliated business entity ² relationship with the Property Owner: *(Attach list if necessary)*

¹ "Parent-subsiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

² "Affiliated business entity relationship" means "a relationship, other than parent-subsiary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that should be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person own or manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a close working relationship between the entities." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

SECTION 3. SERVICES DISCLOSURE

Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Contractors	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Engineers / Surveyors/ Agents	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	NAVY FEDERAL CREDIT UNION
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

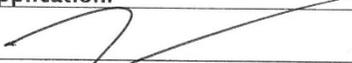
If yes, what is the name of the official or employee and what is the nature of the interest?



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

	DAVID MROZ	6-18-19
APPLICANT'S SIGNATURE	PRINT NAME	DATE

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

David & Krysten Mroz

Agenda Item 7

Page 100

Variance Request

Encroachment into the 100 foot Resource Protection Area (RPA) with fill material associated with the construction of a new bulkhead 2 feet above the existing.

Applicant's Agent

Richard Calvert

Staff Planner

PJ Scully

Lot Recordation

6/21/1984

Map Book 180, Page 43

GPIN

1498-16-9982

SITE AREA

120,821 square feet or 2.77 acres

SITE AREA OUTSIDE OF WATER/WETLANDS

15,627 square feet or 0.36 acres

EXISTING IMPERVIOUS COVER OF SITE

4,455 square feet or 28.5 percent of site

PROPOSED IMPERVIOUS COVER OF SITE

4,455 square feet or 28.5 percent of site

Area of Redevelopment in RPA

0 square feet

Area of New Development in RPA

1,120 square feet – fill material

Location of Proposed Impervious Cover

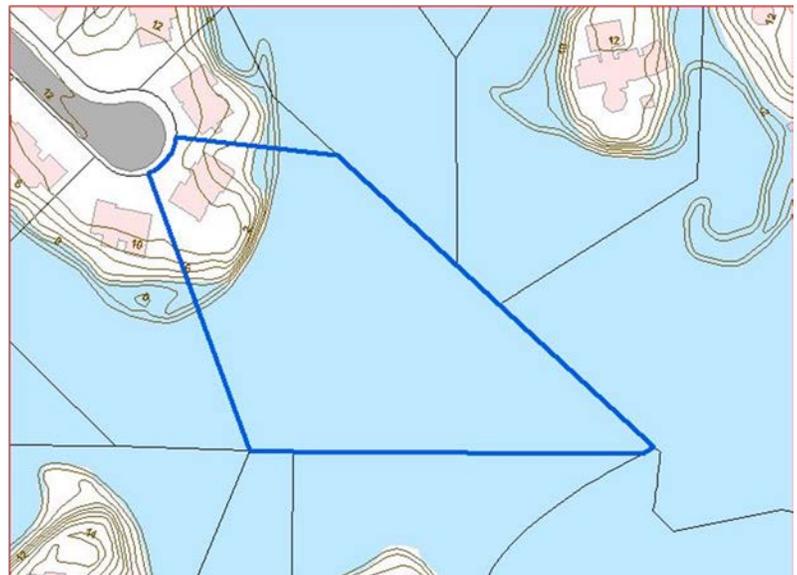
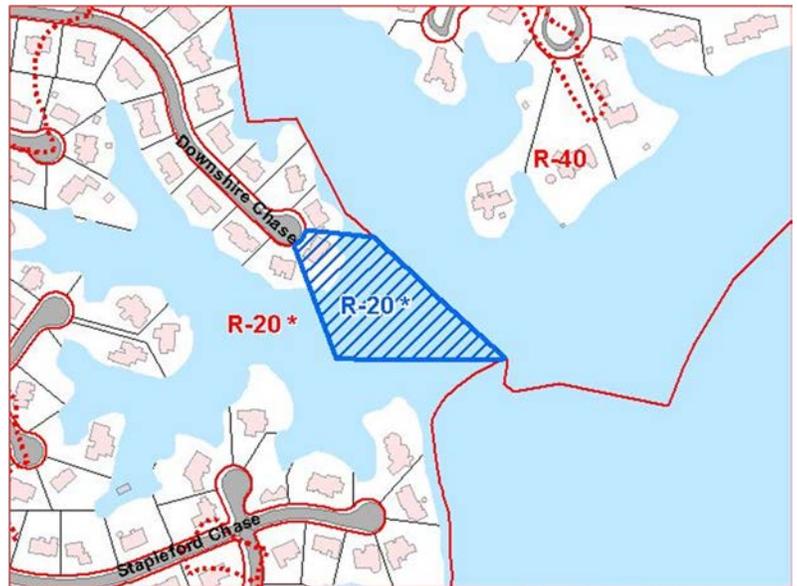
50 foot Seaward Buffer

AMOUNT OF LAND DISTURBANCE

Greater than 2,500 square feet

Staff Recommendation

Approval as conditioned



Summary of Proposal

Demolition Details

- Wood bulkhead
- Wood retaining wall

Construction Details

- Placement of fill material and grading associated with construction of new bulkhead

CBPA Ordinance Variance History

No known Chesapeake Bay Preservation Area (CBPA) Board variance history to report.

Environmental Conditions

Flood Zone

Multiple Zones – Zone X and AE – Base Flood Elevation (BFE): 8

Soil Type(s)

State Series (deep, well-drained soils) located above the top of bank
Rumford Series (highly erodible soils) located below the top of bank

Shoreline

Shoreline is hardened by a wood bulkhead. The existing wood bulkhead is failing, and the applicant's request to construct a new bulkhead 2 feet seaward of the existing bulkhead has been approved by Wetlands Board.

Riparian Buffer

Sparse to moderately wooded parcel.

- Number of existing canopy trees requested for removal within the RPA: 1
- Evaluation of existing tree removal request: The tree requested for removal is showing signs of decline. Given the age of the tree, presence of decline and proximity to the limits of construction and fill, Staff supports the request.

Evaluation and Recommendation

The applicant's agent provided, in the Water Quality Impact Assessment (WQIA) that *"the existing bulkhead is failing with broken piles and is in danger of collapse. In order to protect the property from heavy loss a new bulkhead is proposed 2 feet outboard of the existing bulkhead structure. The yard is small and the work will be very difficult. The new bulkhead is proposed at elevation 10.0 and the anchors extend into the yard 30 feet. There will be heavy impacts to the yard during construction, including the removal of 1 tree. Upon completion the yard will be repaired with topsoil, and seed fertilizer with EC2. The removed tree shall be mitigated with new trees as directed."*

The area of proposed backfill material is 1,120 square feet and will match the existing upland grade elevation at the existing upland retaining wall. The depth of fill will vary but averages approximately 2 feet in depth over the delineated

area of fill. Staff is of the opinion that the applicant's Engineer of Record has provided viable reasoning towards the placement of fill material in the portion of the RPA relative to the proposed improvements and bulkhead replacement. The redevelopment of the existing bulkhead offers protection from potential erosion and sedimentation migration from the surrounding upland developments.

The applicant's agent has provided comments relative to the findings of the CBPA Ordinance specific to this variance request's associated land disturbance and believes that the placed fill material will be in harmony with the purpose and intent of the CBPA Ordinance based on the following.

- 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 *"there is a wall failure with potential collapse."* Staff concurs and offers that the request to place fill material within the 100 foot RPA associated with the bulkhead replacement is limited to an area within the existing bulkhead and upland retaining wall and does not extent further into the RPA nor impact the existing riparian buffer.
- 2) Staff offers that the encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore placing portions of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief as *"the new wall design/replacement is based on the recommendations of a Structural Engineer to avoid further loss and damage to property. The work is necessary to correct the failure."* Staff provides that the proposed improvements, as defined by the City's CBPA Ordinance definition of development, which is based off land disturbance associated with the placement of fill material and not associated with the introduction of additional impervious cover within the RPA, will not decrease the permeability of the site or negatively impact water quality.
- 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 wall replacement is to avoid a failure and impacts to water quality at the site and impacts to adjacent neighbors."* Staff concurs and offers that while the Center for Coastal Resources Management has evaluated the redevelopment of this shoreline for a non-structural living shoreline best management practice, the existing grade elevation and proximity of the existing residential structure to the shoreline warrants an alternative evaluation more suitable to existing conditions and restraints.
- 5) The applicant provides that *"as a means to manage towards a no net increase in nonpoint source pollution load there will be no change."* Staff provides that the applicant is not proposing an increase in the amount of impervious cover within the RPA and offers that maintaining a vegetative cover within the entire 100 foot RPA buffer provides merit towards effectively retarding runoff, preventing erosion, and filtering nonpoint source pollution.

Staff offers the following 8 recommended conditions relative to the performance standards of the CBPA Ordinance specific to this variance request, as a means towards preventing the variance from causing or contributing to a degradation of water quality.

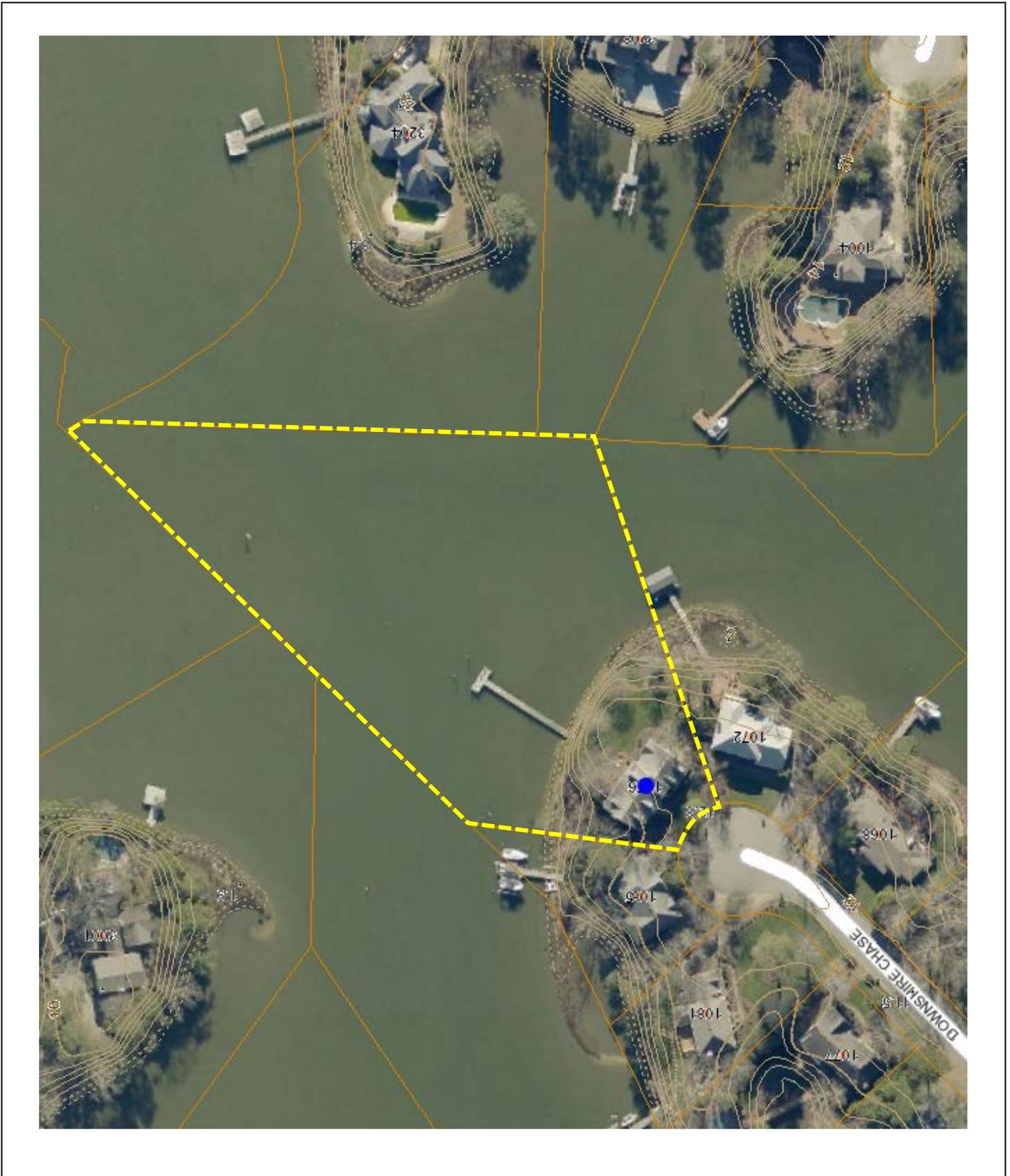
Recommended Conditions

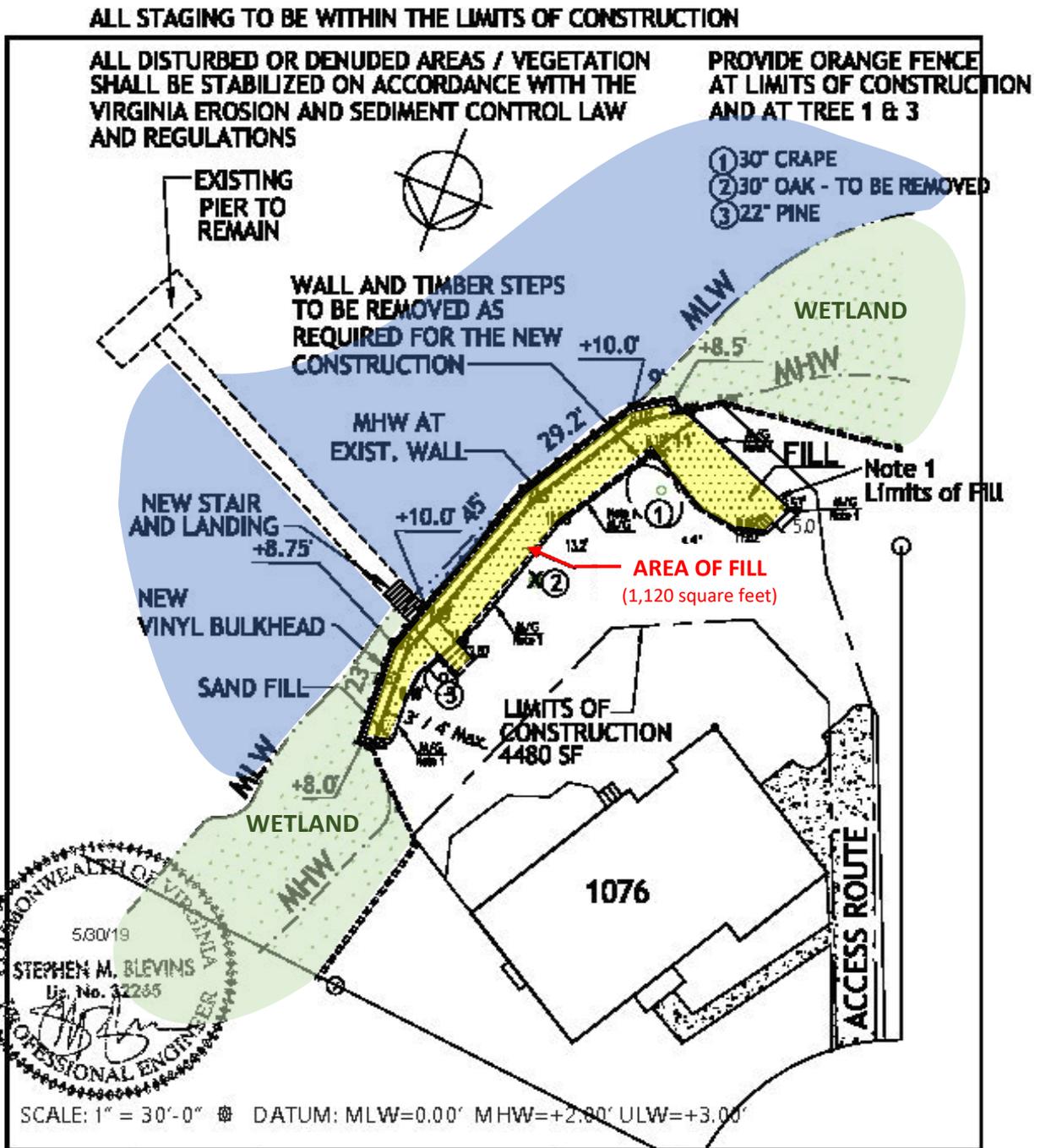
1. The conditions and approval associated with this variance are based on the exhibit plan dated February 1, 2019, prepared by Blakeway, signed May 30, 2019 by Stephen Blevins. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.
2. A pre-construction meeting shall be held with the CBPA Inspector and Waterfront Operations Inspector prior to any land disturbance, including demolition.
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. 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. *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 \$256.66 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.

** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

Site Aerial



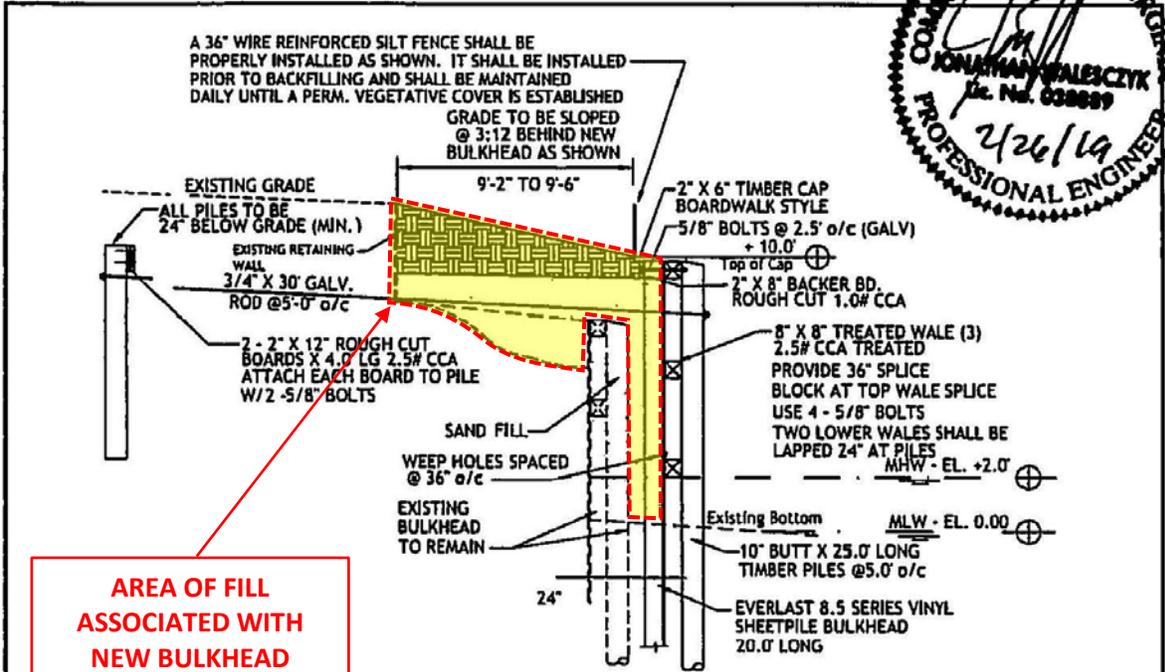


GRADING PLAN

Adjacent Property Owners:

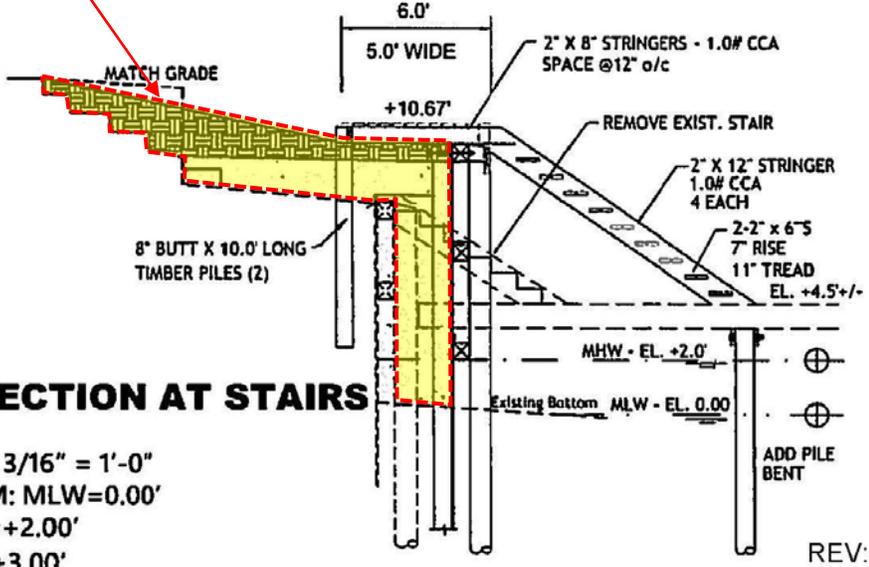
1. B. JAMES
2. G. DESAI

Proposed: **REPLACEMENT BULKHEAD**
in: **LYNNHAVEN RIVER**
at: **1076 DOWNSHIRE CHASE**
County of: **VIRGINIA BEACH**
Applicant: **DENISE KULICK**
Sheet: **3 of 8** Date: **01 FEB 19**



AREA OF FILL ASSOCIATED WITH NEW BULKHEAD

TYPICAL BULKHEAD SECTION



SECTION AT STAIRS

SCALE: 3/16" = 1'-0"
 DATUM: MLW=0.00'
 MHW=+2.00'
 ULW=+3.00'

REV: 19 MAR 19

CALVERT MARINE 757-777-6960	SECTIONS	Proposed: REPLACEMENT BULKHEAD in: LYNNHAVEN RIVER at: 1076 DOWNSHIRE CHASE County of: VIRGINIA BEACH Applicant: DENISE KULICK Sheet: 4 of 6 Date: 01 FEB 19
	Adjacent Property Owners: 1. B. JAMES 2. G. DESAI	



APPLICANT'S NAME Denise Kulick

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<input type="checkbox"/>	NO CHANGES AS OF	DATE:	
<input type="checkbox"/>	REVISIONS SUBMITTED	DATE:	



- Check here if the **APPLICANT IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
- Check here if the **APPLICANT IS** a corporation, partnership, firm, business, or other unincorporated organization.
- (A) List the Applicant's name: Denise A. Kulick
If an LLC, list all member's names:

If a CORPORATION, list the the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

- (B) List the businesses that have a parent-subsubsidiary ¹ or affiliated business entity ² relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes ¹ and ²

SECTION 2 / PROPERTY OWNER DISCLOSURE

Complete Section 2 only if property owner is different from Applicant.

- Check here if the **PROPERTY OWNER IS NOT** a corporation, partnership, firm, business, or other unincorporated organization.
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- (A) List the Property Owner's name: Denise A. Kulick
If an LLC, list the member's names:



If a Corporation, list the names of all officers, directors, members, trustees, etc. below: *(Attach list if necessary)*

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¹ "Parent-subsidiary relationship" means "a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation." See State and Local Government Conflict of Interests Act, Va. Code § 2.2-3101.

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Are any of the following services being provided in connection with the subject of the application or any business operating or to be operated on the Property. If the answer to any item is YES, please identify the firm or individual providing the service: IF THE OWNER AND APPLICANT ARE DIFFERENT, EACH MUST COMPLETE THE SECTION SEPERATELY



APPLICANT

YES	NO	SERVICE	PROVIDER (use additional sheets if needed)
<input type="checkbox"/>	<input type="checkbox"/>	Accounting and/or preparer of your tax return	
<input type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	
<input type="checkbox"/>	<input type="checkbox"/>	Contract Purchaser (if other than the Applicant) - identify purchaser and purchaser's service providers	
<input type="checkbox"/>	<input type="checkbox"/>	Any other pending or proposed purchaser of the subject property (identify purchaser(s) and purchaser's service providers)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction Contractors	McGee Contracting LLC
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Engineers / Surveyors/ Agents	Calvert Marine
<input type="checkbox"/>	<input type="checkbox"/>	Financing (include current mortgage holders and lenders selected or being considered to provide financing for acquisition or construction of the property)	
<input type="checkbox"/>	<input type="checkbox"/>	Legal Services	
<input type="checkbox"/>	<input type="checkbox"/>	Real Estate Brokers / Agents/Realtors for current and anticipated future sales of the subject property	

SECTION 4. KNOWN INTEREST BY PUBLIC OFFICIAL OR EMPLOYEE

YES	NO	Does an official or employee of the City of Virginia Beach have an interest in the subject land or any proposed development contingent on the subject public action?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	

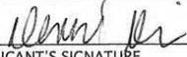
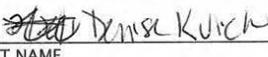
If yes, what is the name of the official or employee and what is the nature of the interest?



CERTIFICATION:

I certify that all of the information contained in this Disclosure Statement Form is complete, true, and accurate.

I understand that, upon receipt of notification that the application has been scheduled for public hearing, I am responsible for updating the information provided herein two weeks prior to the Planning Commission, Council, VBDA meeting, or meeting of any public body or committee in connection with this Application.

		
APPLICANT'S SIGNATURE	PRINT NAME	DATE

*Last 2 pages of the Disclosure Statement not provided – Applicant and Owner are the same.

Property Owner's Agent

Self-represented

Staff Planner

PJ Scully

Lot Description

Subdivision of part of D.M. Bowman property to be known as Le Cove Point, Lot 2, 936 Le Cove Drive.

Lot Recordation

10/23/2006

Ins No. 20061023001606690

GPIN

1456-19-1636

Current Property Owner

Demarkus Parker & Jobenia Odum

Unauthorized Improvements

- Concrete paver patio area located seaward of the existing swimming pool deviates from the approved site plan and the conditions of the September 27, 2004 CBPA Variance, specifically condition 7.

RESTORATION HEARING

Noncompliance found, and motion was made at the May 23, 2019 Chesapeake Bay Preservation Area Board public hearing to find the unauthorized improvements in noncompliance to the provisions of the Chesapeake Bay Preservation Area Ordinance.

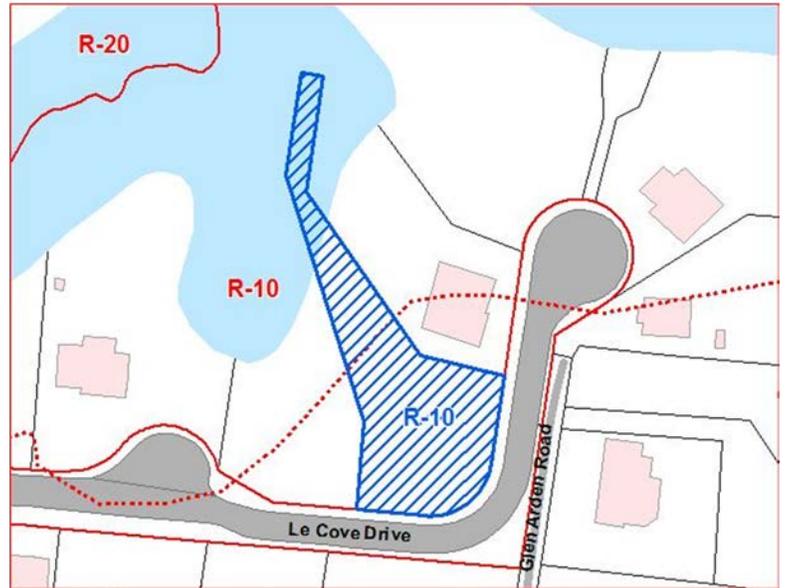
Environmental impacts

- Low

Degree of deviation or noncompliance

- Low

A civil charge was imposed, and a Restoration Hearing was ordered by the CBPA Board for the property owner – Demarkus Parker & Jobenia Odum. The civil charge has been paid.



CBPA Ordinance Variance History

September 27, 2004 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for a 5 lot subdivision with the following conditions.

1. *A pre-construction meeting shall be convened with Civil Inspections prior to any land disturbance, inclusive of demolition.*
2. *Dual 36" erosion and sedimentation control measures (silt fences) shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Additionally, a heavy duty construction fence, acceptable to Civil Inspections, shall be installed along the aforementioned E & S controls and shall be maintained during all phases of construction.*
3. *Construction limits shall lie a maximum of 10' seaward of improvements for Lots 1, 2, 3, and 5. Construction limits for Lot 4 shall lie 10' seaward of the improvements to be demolished. No construction limits shall encroach within the first 100' buffer for Lots 1, 2, and 3.*
4. *The construction access way shall be noted on the site plan, as well as the stockpile staging area.*
5. *All stormwater from proposed impervious cover, inclusive of the extension of Le Cove Drive, shall be conveyed to structural stormwater management facilities*
6. *If and when the shoreline is re-hardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (timber, vinyl or steel bulkhead). Said condition shall be so noted on the site plan.*
7. *Pool decking shall be a maximum of 4'X4'X4'X8' (diving board end). Pool decking shall not lie further seaward than that which is depicted on the site plan sealed October 15, 2004 prepared by Robert S. Kellam.*
8. *Pools shall be constructed prior to or concurrent with the residence.*
9. *If applicable, under deck treatment of sand and gravel shall be installed.*
10. ***As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program prior to or concurrent with site plan approval. Payment shall be based upon 25% of impervious cover within the Resource Protection Area. The formula for payment is as follows: 25% of square footage of impervious cover within the buffer divided by 27 (cubic yards) times 15 (estimated bushels of oyster shell within a cubic yard) times \$1.65 (cost of shell and cost to plant).*
11. *All area seaward of the authorized limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact. Said condition shall be so noted on the site plans.*
12. *Tree compensation shall be at a 3:1 ratio and shall be comprised of a minimum of 50% evergreen and 50% deciduous species. Note on each site plan the number to be removed and installed.*
13. *The conditions and approval associated with this variance are based on the site plan sealed October 15, 2004 by Kellam & Gerwitz, P.E.*
14. *A certified arborist shall provide written verification as to the disposition of the residual forested buffer, those portions of the buffer to be restored, clearing for site lines and vistas, the need for forest floor amendments,*

and the removal of vegetation along shorelines to augment the growth of tidal vegetated wetlands and erosion abatement. Said arborist shall provide assistance before, during and after the project to ensure forested buffer resources are protected and restored. Said arborist shall provide his/her findings to the DSC concurrent with the submission of construction plans.

15. If the proposed community pier is not approved, the applicant shall return to the Chesapeake Bay Preservation Area Board to address the impacts of additional piers and the parcel configuration.
16. If the proposed community pier is approved, the lot lines shall be adjusted to preclude riparian rights on Lots 1, 2, & 3.
17. A revised site plan shall be submitted to the Department of Planning, Development Services Center for review and approval prior to the issuance of a building permit.

Chronology of Events

- | | |
|--------------------|---|
| October 6, 2015 | Site plan approved by the Development Services Center (DSC) for the construction of a single-family residence and swimming pool for Lot 2, 936 Le Cove Drive. |
| September 13, 2017 | Post plan revision approved by the DSC for the relocation of the proposed best management practices, BMP shown on the October 6, 2015 approved site plan. |
| April 9, 2019 | Staff visited the property located at 936 Le Cove Drive to investigate construction activity in the rear yard reported by a building inspector. At that time, it was observed that a matter of noncompliance to the provisions of the Chesapeake Bay Preservation Area Ordinance may have occurred, specifically the on-going and unauthorized construction of a concrete paver patio. |
| April 9, 2019 | Staff sent an email to the property owner regarding the construction activity at 936 Le Cove Drive. The email stated that a determination had been made that the constructed patio area located seaward of the existing swimming pool deviates from the approved site plan and the conditions of the September 27, 2004 CBPA Variance, specifically condition 7.

<p style="text-align: center;"><i>7. Pool decking shall be a maximum of 4'X4'X4'X8' (diving board end). Pool decking shall not lie further seaward than that which is depicted on the site plan sealed October 15, 2004 prepared by Robert S. Kellam.</i></p> Staff stated in the email that <i>"the correspondence shall serve as written notice that you have thirty (30) days from the date of this email to remove the unauthorized improvements and restore all unauthorized areas of land disturbance to existing grade elevations. Failure to comply will result in a Show Cause hearing at the May 23, 2019 CBPA Board Public Hearing."</i> |
| April 10, 2019 | A Stop Work Order was issued for the property for the on-going and unauthorized construction of a concrete paver patio without Chesapeake Bay Preservation Area Board approval. |
| April 19, 2019 | Staff met with the property owners at the Department of Planning and Community Development to discuss the unauthorized improvements at 936 Le Cove Drive, the 2007 CBPA variance conditions, and the process going forward given the property owners desire to retaining the paver patio area. |

- April 25, 2019 Staff stated in an email to the property owner that *“a comparison of the paver patio to the September 27, 2004 CBPA variance exhibit represents a further encroachment seaward and does not comply with the conditions of the 2004 CBPA variance. As such, Staff cannot approve the improvements as constructed and a subsequent variance to the Chesapeake Bay Preservation Area (CBPA) Ordinance will be required, if you desire to retain the unauthorized improvements. Given that the improvements were installed without obtaining a subsequent CBPA variance, you will receive a letter from the Department of Planning and Community Development to attend a Show Cause hearing at the Thursday, May 23, 2019 CBPA Board Public Hearing.”*
- April 30, 2019 Staff met in the field with the property owner regarding the unauthorized improvements and the necessity to proceed through the Show Cause process given the conditions of the September 27, 2004 CBPA variance.
- May 8, 2019 Staff sent written notice to the property owners to appear before the Chesapeake Bay Preservation Area Board at the public hearing scheduled for Thursday, May 23, 2019 for a show cause hearing.
- May 23, 2019 During the public hearing, the CBPA Board found the unauthorized improvements in noncompliance to the provisions of the CBPA Ordinance. The CBPA Board imposed a civil charge to the property owner. A restoration hearing was ordered by the CBPA Board for June 24, 2019. The Department of Planning and Community Development did not conduct any public hearings for the month of June.
- May 29, 2019 The applicant meet with Staff to complete a CBPA application and Water Quality Impact Assessment (WQIA) for an after-the-fact CBPA variance request associated with the unauthorized concrete paver patio in the RPA.
- June 24, 2019 The Department of Planning and Community Development did not hold public hearings for the month of June.
- June 25, 2019 The applicant meet with Staff to resubmit a CBPA application and Water Quality Impact Assessment (WQIA) for an after-the-fact CBPA variance request associated with the unauthorized concrete paver patio in the RPA.
- July 12, 2019 Staff received an email from the Engineer of Record, who prepared the site plan, stating that *“this is to inform you that the owners, Mark & Jobenia Parker at 936 LeCove Drive, has hired us to prepare an After-The-Fact CBPA Variance Exhibit. We currently awaiting the field survey work to be performed in order for us to prepare the exhibit. The exhibit will be submitted to the Planning Department as soon as possible.”*

Evaluation and Recommendation

The subject area of the unauthorized concrete paver patio occurred within the variable width buffer of the Resource Protection Area (RPA) and the Resource Management Area (RMA) of the Chesapeake Bay watershed. It is unknown the square footage of unauthorized impervious cover within the RPA associated with the concrete paver patio.

A CBPA variance application was submitted by the applicant after the May 23, 2019 Show Cause hearing for the unauthorized concrete paver patio constructed on the lot. The applicant’s intent was to have a CBPA variance application, inclusive of an after-the-fact variance exhibit accompany the Restoration Hearing ordered by the Board. The

applicant is working with the Engineer of Record, who prepared the site plan, to delineate the unauthorized concrete paver patio. Staff received an email from the Engineer of Record on July 12, 2019 stating that *“this is to inform you that the owners, Mark & Jobenia Parker at 936 LeCove Drive, has hired us to prepare an After-The-Fact CBPA Variance Exhibit. We currently awaiting the field survey work to be performed in order for us to prepare the exhibit. The exhibit will be submitted to the Planning Department as soon as possible.”*

In the absence of a CBPA variance exhibit accompanying the after-the-fact CBPA variance application, agenda item 5 above, Staff recommends that the item be deferred for 30 days to the August 26, 2019 CBPA Board Public Hearing.

Site Aerial



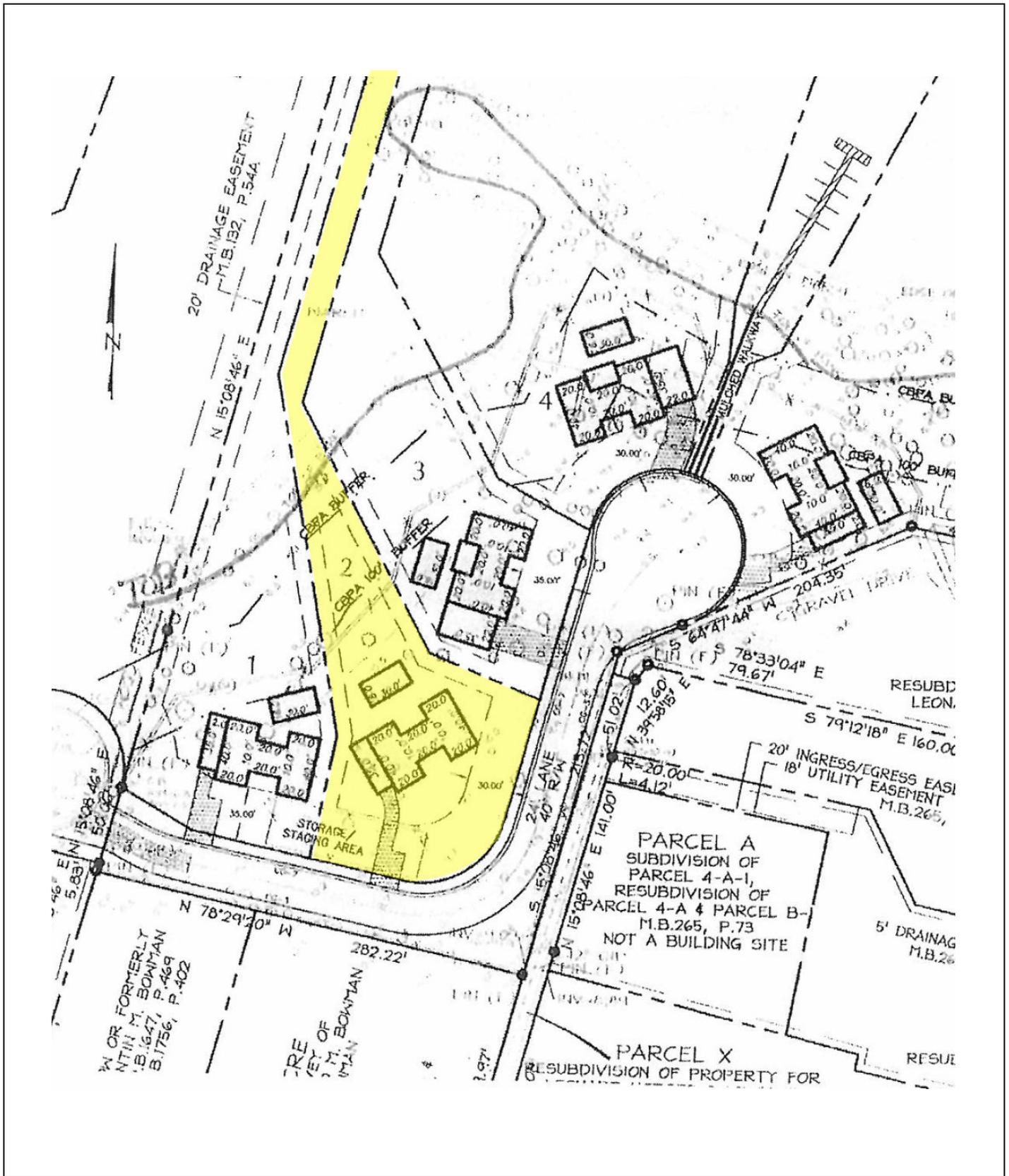
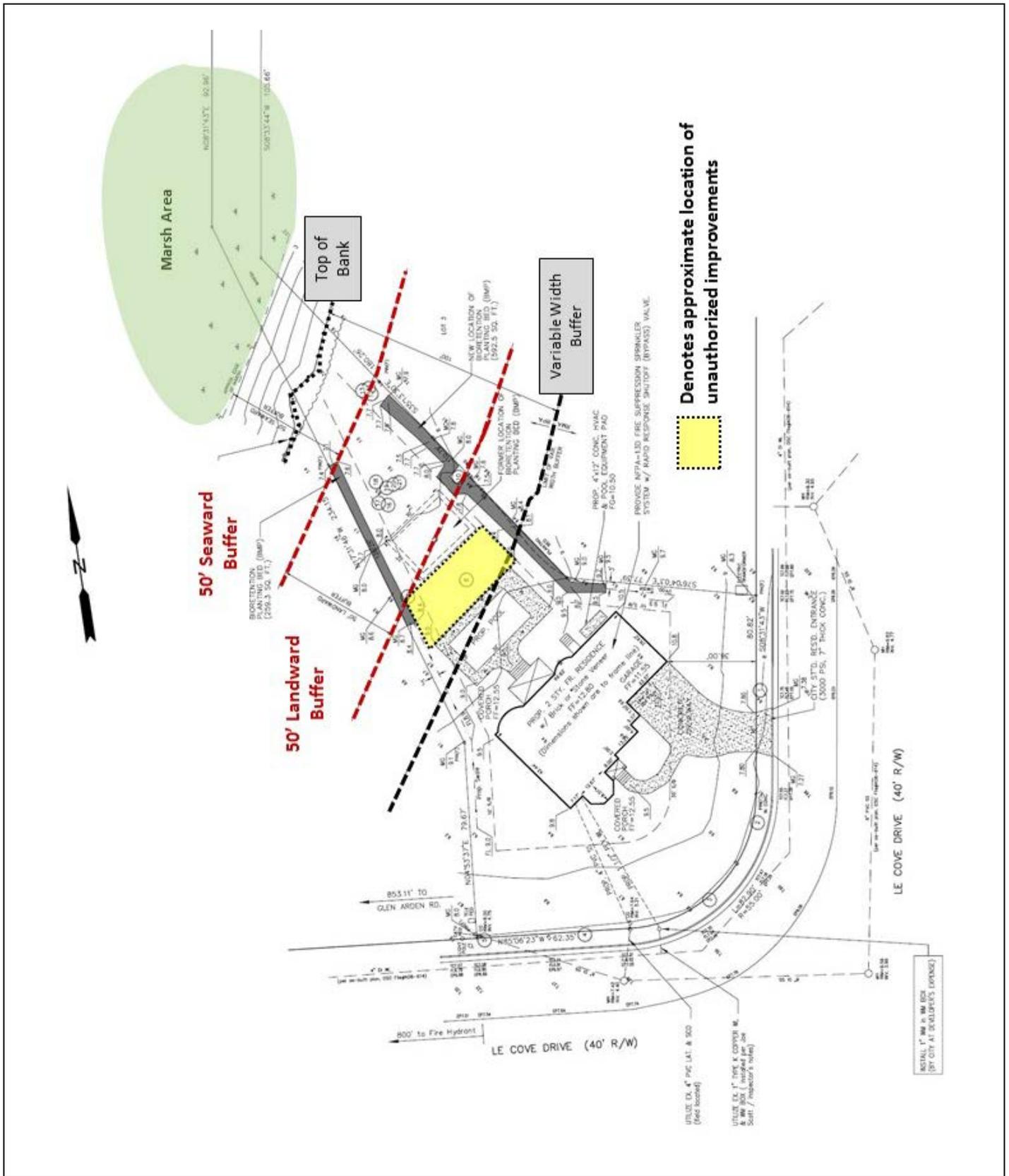


Exhibit – Approximate Location of Unauthorized Improvements



AS NEEDED, PAGE LEFT BLANK

Property Owner's Agent

Self-represented

Staff Planner

PJ Scully

Lot Recordation

12/26/1984

Map Book 186, Page 48

Lot Description

Aeries on the Bay, Phase Two, Part B and Resubdivision of Lots 36-43, Block B, Phase Two of Part A – Lot 25, 2201 Wood Ibis Way

GPIN

1489-09-7474

Current Property Owner

Peter A. Koumoutseas

DESCRIPTION OF NONCOMPLIANCE

Unauthorized Improvements

- Placement of fill material on the lot without approval

Location of Unauthorized Improvements

50 foot Landward Buffer

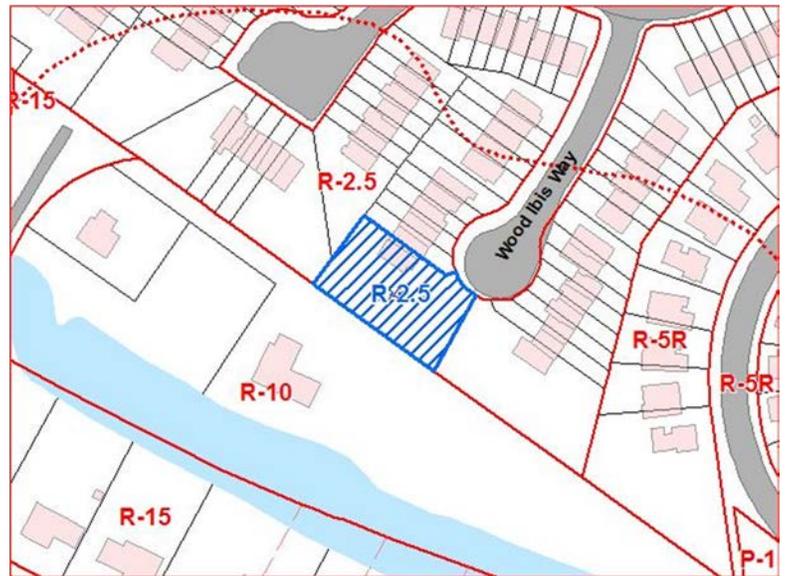
100 foot Variable Width Buffer

CBPA Ordinance

- The unauthorized improvements constitute a noncompliance to Section 106 of the Chesapeake Bay Preservation Area Ordinance.

AMOUNT OF LAND DISTURBANCE

Less than 2,500 square feet



CBPA Ordinance Variance History

This item was deferred at the May 23, 2019 CBPA Board Public Hearing for 60 days until the July 22, 2019 CBPA Board Public Hearing.

No known prior Chesapeake Bay Preservation Area Board variance history.

History of Noncompliance

To Staff's knowledge, Peter A. Koumoutseas has no known history of noncompliance with the Chesapeake Bay Preservation Area Board beyond the aforementioned description of noncompliance.

Chronology of Noncompliant Event

April 3, 2019	Staff received a citizen inquiry regarding land disturbance activity occurring at 2201 Wood Ibis Way and the placement of topsoil adjacent to the woodland area of the lot.
April 4, 2019	Civil Inspections visited the property to investigate the land disturbance activity reported at 2201 Wood Ibis Way.
April 5, 2019	Staff met with the property owner in the field to discuss the land disturbing activity that had occurred. At that time, the property owners desire to improve the property was discussed and Staff explained the process and approval required to make improvements to property required by the City.
April 19, 2019	Staff received a second citizen inquiry regarding the stockpiling of fill material at the property adjacent to the woodland area of the lot.
April 23, 2019	A Stop Work Order was issued for the property for the on-going and unauthorized land disturbance.
April 24, 2019	Civil Inspections visited the property to verify that the Stop Work Order is in place.
April 25, 2019	Staff met in the field with the property owner regarding the stockpiling of additional fill material at the property and discussed corrective actions needing to occur in order to bring the property into compliance. Staff asked the property owner to provide the name(s) on the contractor responsible for delivering the fill material.
May 1, 2019	Staff sent an email to the property owner and contractor associated with the land disturbing activity at 2201 Wood Ibis Way. The email stated that a determination had been made that <i>"an issue of non-compliance to the provisions of the CBPA Ordinance had occurred. Specifically, unauthorized land disturbance and placement of fill material within the RPA buffer. This activity occurred without appropriate review and approval. Accordingly, this correspondence shall serve as written notice that you have until May 13, 2019 to remove the unauthorized fill material and restore all areas of land disturbance to existing grade elevations. Failure to comply will result in a Show Cause hearing at the May 23, 2019 CBPA Board Public Hearing."</i>

- May 2, 2019 Staff received an email from the property owner concerned over timeline given by Staff to remove the unauthorized fill material from the property. Staff responded to the property owners email requesting the property owner to provide a specific date to when the unauthorized fill material will be removed from the property.
- May 2, 2019 Staff received an email from the contractor requesting to have a conversation with Staff pertaining to the communication that occurred between he and the property owner regarding the stockpiling of fill material at 2201 Wood Ibis Way.
- May 8, 2019 Staff sent written notice to the property owners to appear before the Chesapeake Bay Preservation Area Board at the public hearing scheduled for Thursday, May 23, 2019 for a show cause hearing.
- May 10, 2019 Staff received an email from the property owner that he is progressing with the removal of the unauthorized fill material from the property and is asking for an extension of time from the May 13th, 2019 deadline to have the material removed from the property.
- May 14, 2019 Civil Inspections visited the property and confirms that a portion of the unauthorized fill material has been removed.
- May 14, 2019 Staff sent an email to the property owner regarding the extension of time request that stated *"With progress being made to remove the dirt from the property and dispose of in a lawful manor, I will ask the Board at the public hearing to defer the Show Cause 30 day to allow additional time to comply. I cannot speak for the Board but will ask for the deferral. Given the request, the Board will likely have questions for your regarding the progress and additional time being requested."*
- May 23, 2019 The CBPA Board voted to defer the Show Cause hearing to the July 22, 2019 CBPA Public Hearing to allow addition time for the property owner to remove the unauthorized fill material from the property.
- June 17, 2019 Staff received an email from the property owner stating, *"I have removed approximately, 95%-97% of the fill dirt from 2201 Wood Ibis Way. I wanted to see if you had time to come by and review and validate; and let me know if it is satisfactory to resolve the issue? Please let me know when a good time is, so that we can coordinate."*
- June 24, 2019 Staff met the property owner on the lot to review the progress of removing the unauthorized fill material from the lot. At that time most of the unauthorized fill material had been removed. Staff discussed with the property owner the areas still needing to be addressed and probed the soil in the area to obtain an approximate depth.
- July 15, 2019 Staff visited the lot to review the property owners progress of removing the unauthorized fill material from the lot. The majority of unauthorized fill material has been removed from the lot with approximately 4 to 8 inches of fill material remain along the existing top of bank.

Evaluation and Recommendation

Relative Degree of Deviation

The subject activity of noncompliance, stockpiling of fill material to be distributed within the lot was performed without Staff review, approval and permitting. Land disturbance associated with the stockpiling of fill material is less than 2,500 square feet.

Environmental Impact

The subject area of noncompliance appears to occur within the 50 foot landward and 100 foot variable width buffers of the Chesapeake Bay Preservation Area (CBPA) Resource Protection Area (RPA) adjacent to a contiguous nontidal wetland of a tidal waterway.

The subject activity of noncompliance does not appear to have disturbed a substantial area of existing forest floor and no signs of sediment migration into the adjacent nontidal wetlands were present when Staff visited the site.

Recommendation

It is the opinion of the Department of Planning and Community Development that the degree of deviation or noncompliance has been high and the environmental impact has been low.

Site Aerial



Exhibit – Approximate Area of Unauthorized Improvements

