

# Chesapeake Bay Preservation Area Board Agenda

September 23, 2019

  
**VB** City of Virginia Beach

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# 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, September 23, 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.**

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.

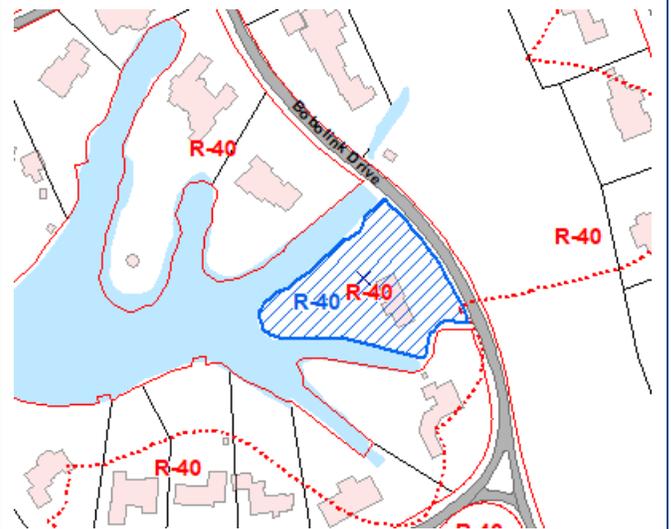
## OLD BUSINESS AGENDA ITEMS

**1. Krambias Properties LLC**  
[Applicant & Property Owner]

**921 Bobolink Drive**  
GPIN: 2418-22-7567  
Council District – Lynnhaven  
Accela Record 2019-CBPA-00035

**Variance Request** – Encroachment into the Resource Protection Area (RPA) buffer to redevelop the single-family residence and construct associated accessory structures.

**Staff Planner** – PJ Scully  
**Staff Report** – page 7



**2. Bella Nest, LLC**  
[Applicant & Property Owner]

**4006 Richardson Road**  
GPIN: 1488-06-9968  
Council District – Bayside  
Accela Record 2019-CBPA-00036

**Variance Request** – Encroachment into the Resource Protection Area (RPA) buffer to construct a new single-family residence with associated accessory structures.

**Staff Planner** – PJ Scully  
**Staff Report** – page 9



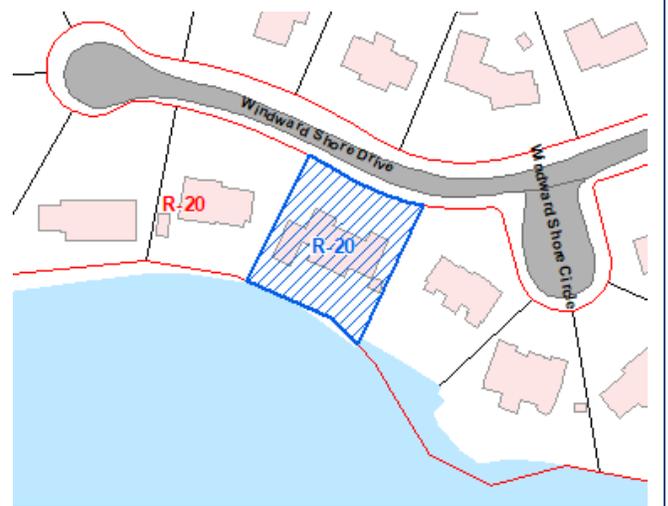
## NEW BUSINESS AGENDA ITEMS

3. **James Belote**  
[Applicant & Property Owner]

**2429 Windward Shore Drive**  
GPIN: 1499-98-1228  
Council District – Lynnhaven  
Accela Record 2019-CBPA-00039

**Variance Request** – Encroachment into the Resource Protection Area (RPA) buffer to redevelop existing driveway, walks and swimming pool and construct retaining wall with associated backfill.

**Staff Planner** – PJ Scully  
**Staff Report** – page 29

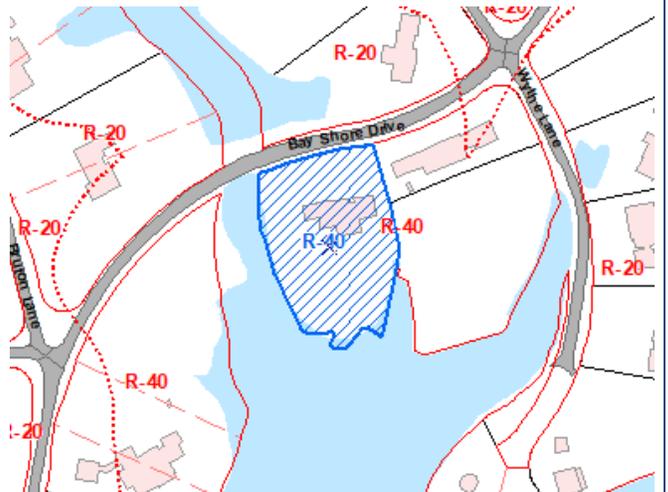


4. **Len Futerman & Ilene Goldstein**  
[Applicant & Property Owner]

**1019 S. Bay Shore Drive**  
GPIN: 2418-37-6035  
Council District – Lynnhaven  
Accela Record 2019-CBPA-00040

**Variance Request** – Encroachment into the Resource Protection Area (RPA) buffer to construct a garage addition, porch, swimming pool and circular driveway.

**Staff Planner** – PJ Scully  
**Staff Report** – page 31

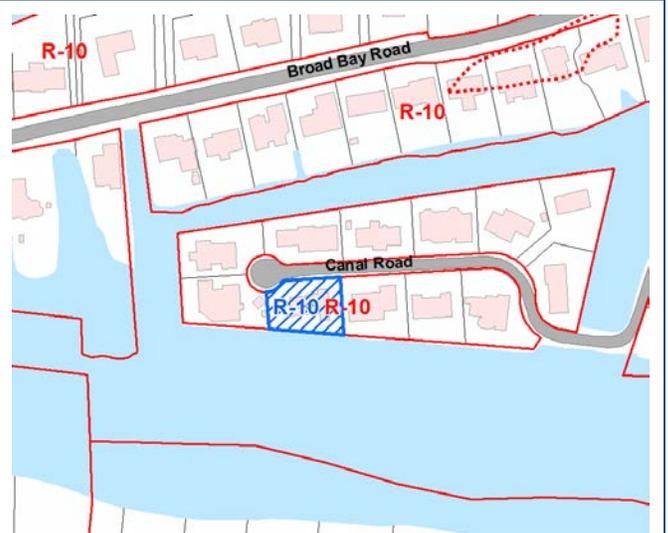


5. **Forest & Elizabeth Hickman**  
[Applicant & Property Owner]

**2721 Canal Road**  
GPIN: 1499-57-4375  
Council District – Lynnhaven  
Accela Record 2019-CBPA-00041

**Variance Request** – Encroachment into the Resource Protection Area (RPA) buffer to construct an addition to the residence and covered rear porch.

**Staff Planner** – PJ Scully  
**Staff Report** – page 47

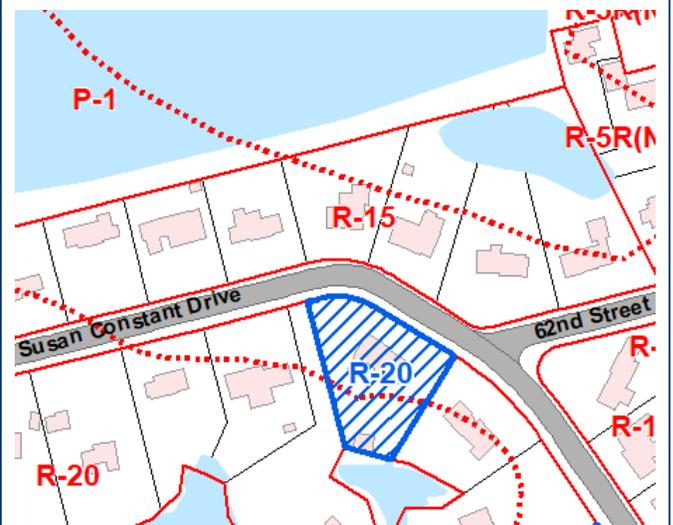


6. **Gracly LLC**  
[Applicant & Property Owner]

**401 Susan Constant Drive**  
GPIN: 2419-62-5025  
Council District – Lynnhaven  
Accela Record 2019-CBPA-00042

**Variance Request** – Encroachment into the Resource Protection Area (RPA) buffer to construct a swimming pool with pool surround, pool house and driveway expansion.

**Staff Planner** – PJ Scully  
**Staff Report** – page 61

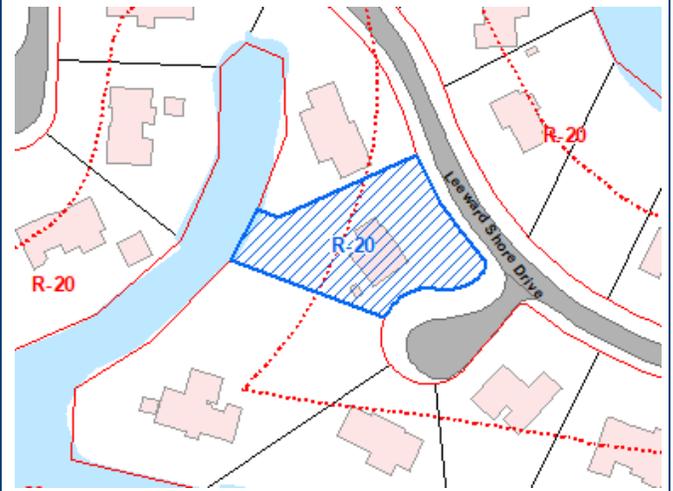


7. **Mark & Kathleen Pawlak**  
[Applicant & Property Owner]

**2233 Spinnaker Circle**  
GPIN: 2409-19-6603  
Council District – Lynnhaven  
Accela Record 2019-CBPA-00043

**Variance Request** – Encroachment into the Resource Protection Area (RPA) buffer to construct a wood deck.

**Staff Planner** – PJ Scully  
**Staff Report** – page 75



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Applicant & Property Owner **Krambias Properties, LLC**  
 Address **921 Bobolink Drive**  
 Public Hearing **September 23, 2019**  
 City Council District **Lynnhaven**

Agenda Item

**1**

The applicant is requesting a 30-day deferral of this application to the Monday, October 28, 2019 CBPA Board Public Hearing to allow additional time to address Staff’s concerns. Staff supports the request to defer.

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to redevelop the single-family residence and construct associated accessory structures.

**Applicant’s Agent**

Eddie Bourdon

**Staff Planner**

PJ Scully

**Lot Recordation**

Map Book 7, Page 193

Recorded 7/30/1926

**GPIN**

2418-22-7567

**SITE AREA**

62,550 square feet or 1.436 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

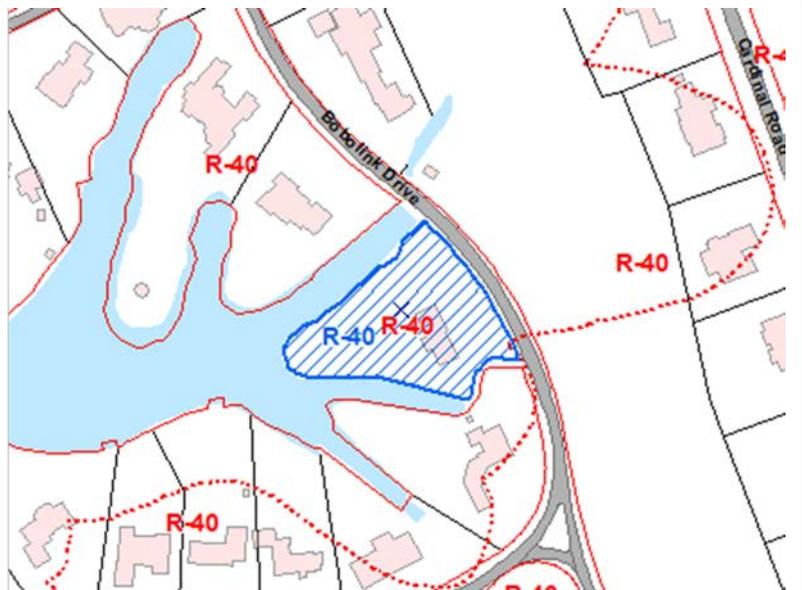
51,417 square feet or 1.180 acres

**EXISTING IMPERVIOUS COVER OF SITE**

7,158 square feet or 13.9 percent of site

**Variance Request History**

This variance request was deferred at the August 26, 2019 Public Hearing to the September 23, 2019 Public Hearing.



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**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to construct a new single-family residence with associated accessory structures.

**Applicant's Agent**

Billy Garrington

**Staff Planner**

PJ Scully

**Lot Recordation**

Map Book 65, Page 11

Recorded 3/8/1965

Instr. No. 20080115000053590

Recorded 115/2008

**GPIN**

1488-06-9968

**SITE AREA**

137,632 square feet or 3.16 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

71,180 square feet or 1.63 acres

**EXISTING IMPERVIOUS COVER OF SITE**

10,094 square feet or 14.2 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

17,532 square feet or 24.6 percent of site

**Area of Redevelopment in RPA**

6,846 square feet

**Area of New Development in RPA**

10,686 square feet

**Location of Proposed Impervious Cover**

50 foot Landward Buffer

100 foot Variable Width Buffer

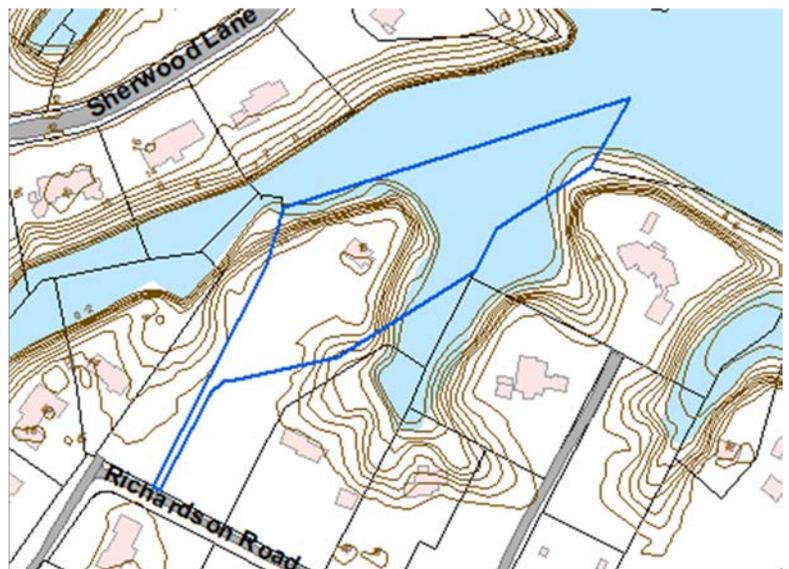
Resource Management Area (RMA)

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Demolition Details

- Complete demolition of all improvements. The single-family structure has been removed from the lot due to safety concerns.

### Construction Details

- Single-family residence
- In-ground swimming pool with pool house and associated pool surround
- Concrete driveway with entry court

## CBPA Ordinance Variance History

The variance request was deferred at the August 26, 2019 Public Hearing to the September 23, 2019 Public Hearing.

### **September 22, 1997 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the establishment of a 3-lot subdivision with the following conditions:**

1. *The improvement envelope for Lot C shall be equal in size to the amount of existing impervious area to be removed from the 50' seaward portion of the buffer.*
2. *The improvement envelope for Lot C shall be shown on the final subdivision plat by metes and bounds.*
3. *All area below the top of bank shall remain in a natural state.*
4. *The preliminary subdivision plat shall reflect the terms of this variance request.*

### **June 27, 2005 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a new single-family residence and swimming pool with the following conditions:**

1. *A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.*
2. *Land disturbance shall be limited to the area necessary to provide for the proposed use or development.*
3. *Wire re-enforced 36" erosion and sedimentation control measures (silt fences), 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. Said silt fence shall be installed 15 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.*
4. *Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline (to the greatest extent practicable) of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.*

5. *Prior to the issuance of any certificate of occupancy, or the final release of any permit authorizing a land disturbing activity, all disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations by such methods as, but not limited to, temporary seeding, permanent seeding, sodding or soil stabilization blankets and matting. The Building Code Official may authorize a temporary certificate of occupancy without the required soil stabilization if the failure to stabilize is due to circumstances beyond the control of the permit holder.*
6. *Construction limits shall lie a maximum of 15' outboard of improvements.*
7. *The construction access way shall be noted on the site plan, as well as the stockpile / staging area.*
8. *If and when the shoreline is hardened a rip-rap revetment or living shoreline 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 mean high water or tidal vegetated wetlands, unless the Wetlands Board determines that site specific conditions warrant a more seaward alignment.*
9. *The pool shape, size, and location shall be as shown on the submitted plan.*
10. *The pool shall be constructed prior to or concurrent with the residence.*
11. *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.*
12. *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.*
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. The landscape plan shall clearly delineate existing naturalized (trees, landscaping and mulched organic surfaces) areas, planting beds, and turf zones.*
14. *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.*
15. *The conditions and approval associated with this variance are based on the site plan prepared by Hassell & Folkes; PC dated 7/17/13 and sealed 9/6/13 by Timothy Fallon.*
16. *\*\*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 \$1,457.49 and is based on 25% of the proposed impervious cover within the RPA, inclusive of the variable width portion of the buffer. Said payment shall provide for the equivalent of an approximate 1,590 sq. ft., 12-inch deep oyster shell plant within the Lynnhaven River Basin.*
17. *Buffer restoration shall be installed equal to 200% of the proposed new impervious cover within the RPA (6,362 sq. ft. x 200% = 12,724 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 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" – 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 and shall be evenly distributed within the RPA buffer. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

18. Buffer restoration shall be installed equal to 100% of the proposed area of redevelopment within the RPA (4,960 sq. ft. x 100% = 4,960 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 located within 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" – 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 and shall be evenly distributed within the RPA buffer. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit. In lieu of 100% restoration for redevelopment areas, a 10% reduction in pollutant removal load is acceptable via a structural BMP.

19. This variance will supersede the previous variance for this lot only.

The July 27, 2005 CBPA Board granted variance has not been acted upon.

## Environmental Conditions

### Riparian Buffer

Heavily to moderately wooded lot

- Number of existing canopy and understory trees requested for removal within the RPA: 47
- Number of dead, diseased, or dying trees requested for removal within the RPA: 19 of the 47 canopy trees within in the RPA
- Evaluation of existing canopy tree removal request: During the site visit, Staff performed a visual analysis of the existing canopy cover of the lot. Several canopy trees, landward of the 50-foot seaward buffer and near the existing residential structure showed abnormal braching variations within identical species. In many instances, the existing canopy structure of individual trees drastically deviates from normal canopy shape due to old growth die back, storm damage, and flattening of limb structure from disease and invasive vine species overgrowth. Staff is of the opinion that the majority of canopy trees within the 50-foot landward and variable width buffers of the RPA have reached their life expectancy and are exhibiting noticeable signs of decline. Since the August 2019 CBPA Board public hearing, the number of trees requested for removal has been reduced from 52 to 47 trees.

### Shoreline

The shoreline is in a natural state.

### 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

### Flood Zone

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

## Evaluation and Recommendation

Staff's write-up from the August 26, 2019 CBPA Staff Report.

*"The existing single-family residence for this lot was removed due to structural damage caused by a storm fallen tree approximately 2 years ago. The redevelopment of the lot increases the amount of impervious cover within the upper reach of the RPA buffer, with most of the proposed impervious cover located within the variable width buffer of the RPA. The existing impervious cover within the 100-foot RPA, prior to the removal of the existing single-family residence was 4,405 square feet. The proposed improvements within the 100-foot RPA increases by 1,409 square feet with an additional 1,556 square feet allocated to redevelopment of existing impervious cover. While the proposed improvements increase the amount of impervious cover for the lot, the layout of the improvements offer a retreat landward from the existing impervious cover within the 100-foot RPA buffer, refer to CBPA Exhibit Overlay Diagram – page 62.*

*Staff is of the opinion, given the comments provided above within the Environmental Conditions section and the original structure of the lot being built in 1939, that the canopy cover on the lot is aged and reflective of the existing conditions which are in decline. With the redevelopment of the lot, Staff offers that the previous CBPA variance identified many of the same trees being requested for removal and concurs with the request given the declining conditions of several large canopy trees within the upper reach of the 100-foot RPA. While the short-term improvements remove several old growth trees, Staff is of the opinion that the long-term benefit will provide better stormwater management in terms of runoff avoided and rainfall interception by introducing younger canopy trees at a rate greater to those being removed. Regarding the overall impervious cover of the lot, proposed at 24.6 percent of the site outside of water and wetlands, Staff conducted a review of adjacent CBPA variances within the neighborhood. Those CBPA variances ranged from 18 percent to 23 percent in overall impervious cover above water and wetland with similar improvements and lot size."*

Since the August 26, 2019 deferral, Staff met with the applicant's agent and Engineer of Record regarding the concerns brought forth at the August 26, 2019 public hearing by the Board. The following items were discussed.

- Utilizing the existing driveway as redevelopment by realigning the proposed driveway layout near the southern portion of the lot.
- Preserving the existing stand of canopy trees located west of the existing driveway with the realignment of the proposed driveway.
- Providing a landward retreat of the proposed improvements. Evaluate the landward retreat of the proposed improvements so that no additional encroachment on existing canopy trees occurs. In addition, evaluate the 2005 CBPA variance proposed improvements and provide a comparison of impacts on existing canopy trees.
- With the reduced pool surround presented at the August 2019 CBPA Board public hearing, relocate the proposed pool house to the west side of the proposed pool. Relocation to provide for a further retreat away from the 50-foot seaward buffer.
- Shifting the proposed sitting area to the southeast within the 50-foot landward buffer. A southeast shift is to avoid the critical root zone of the existing 10-inch Oak.

The revised CBPA Exhibit for this variance request reflects the following changes because of this meeting.

- The proposed driveway has been shifted towards the southern property line and over the existing driveway to the greatest extent practicable.
- With the redevelopment of the existing driveway, the existing stand of canopy trees along the southern portion of the lot are preserved to the greatest extent practicable.
- The proposed single-family residence and associated accessory structures have been shifted landward.

- The proposed sitting area has been shifted to the southeast within the 50-foot landward buffer to avoid the critical root zone of the existing 10-inch Oak to the greatest extent practicable.

The applicant's Engineer of Record provided the following comments relative to the findings of the CBPA Ordinance specific to this variance request. Staff has provided additional comment 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 with *"the proposed dwelling and associated improvements being in keeping with the neighborhood."* Staff concurs and offers that the review of other CBPA variances within the area range from 18 percent to 23 percent in overall impervious cover above water and wetland.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather *"are based on the request to construct a new dwelling for the property."* Staff concurs and offers that the structure was built in 1939 and is of the opinion that the redevelopment will provide needed maintenance to the vegetation on the property and will include ecological benefits to the RPA with replacement of aging unhealthy trees with young trees.
- 3) *"The owners have designed the proposed improvements to minimize the impacts to the Chesapeake Bay and with the inclusion of bio-retention beds to provide for the treatment of stormwater"* as a means to be the minimum necessary to afford relief. While Staff respects that applicant's perspective, recommended conditions have been provided below to further ensure that the request will be the minimum necessary to afford relief.
- 4) The variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare with *"the proposed dwelling and improvements being in keeping with the neighborhood and the site not currently having stormwater treatment."* Staff concurs and offers that the proposed redevelopment of the lot offers benefits through stormwater management and buffer restoration to restore the declining riparian buffer.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load *"bioretention beds will be placed seaward of the improvements to store and treat the proposed impervious cover prior to being released into the adjacent waterway."* Staff concurs.

Finally, Staff recommends the following 17 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 Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 3) Buffer restoration shall be installed equal to **10,686 square feet** within the RPA.

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **32 canopy trees, 32 understory trees, 52 large shrubs, and 78 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.

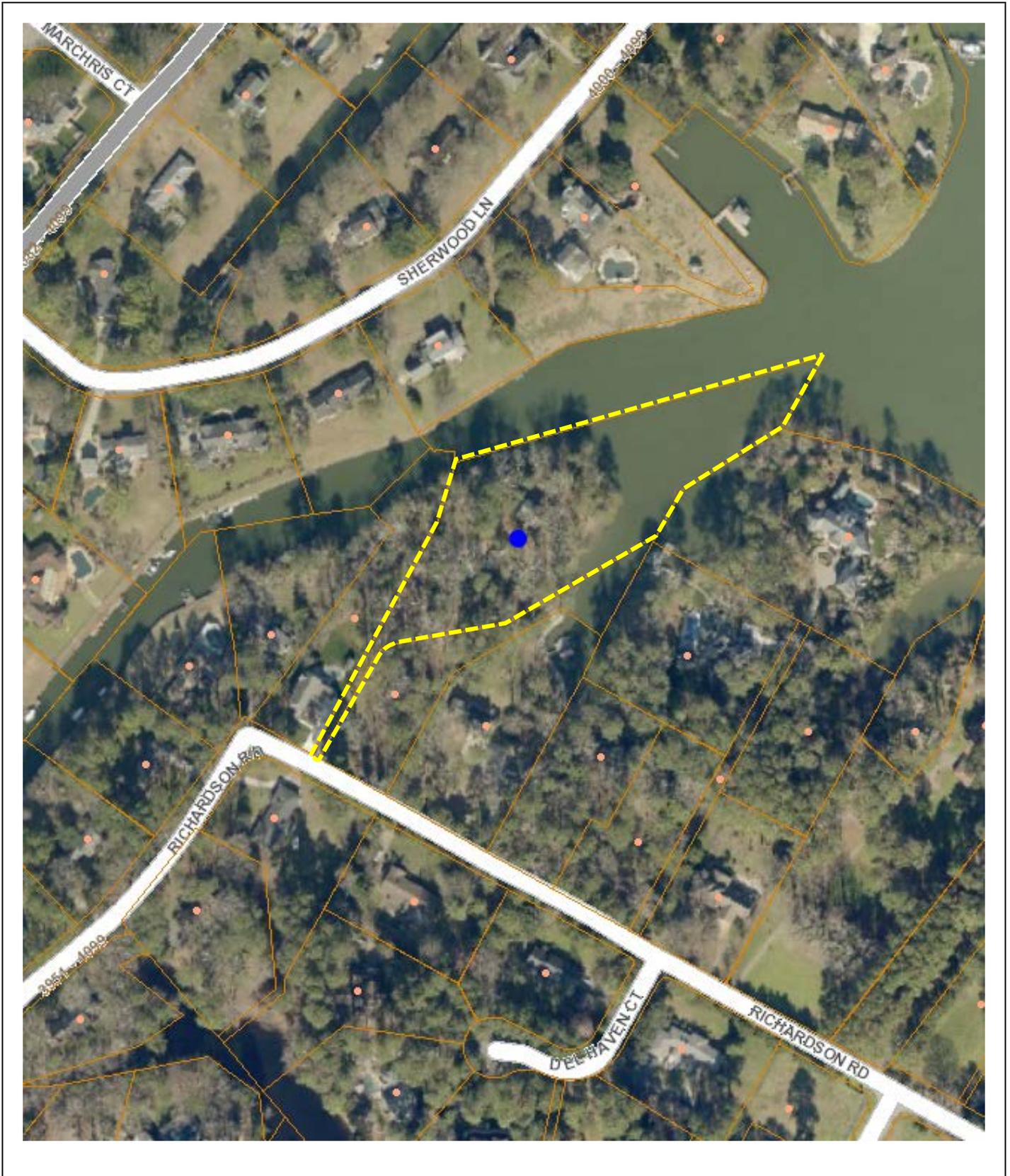
- 4) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 7) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
- 8) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.
- 9) Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 10) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 11) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.

- 12) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 13) The proposed driveway shall be constructed of a permeable pavement system. A detail of the specific permeable paver system and subbase construction shall be provided site plan submitted to the Development Services Center for review and approval.
- 14) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
- 15) \*\* As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$2,448.87 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 16) This variance and associated conditions **will supersede** the conditions of the CBPA variance granted July 27, 2005.
- 17) The conditions and approval associated with this variance are based on the exhibit plan dated April 13, 2018, prepared by WPL, signed September 7, 2019 by Eric A. Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

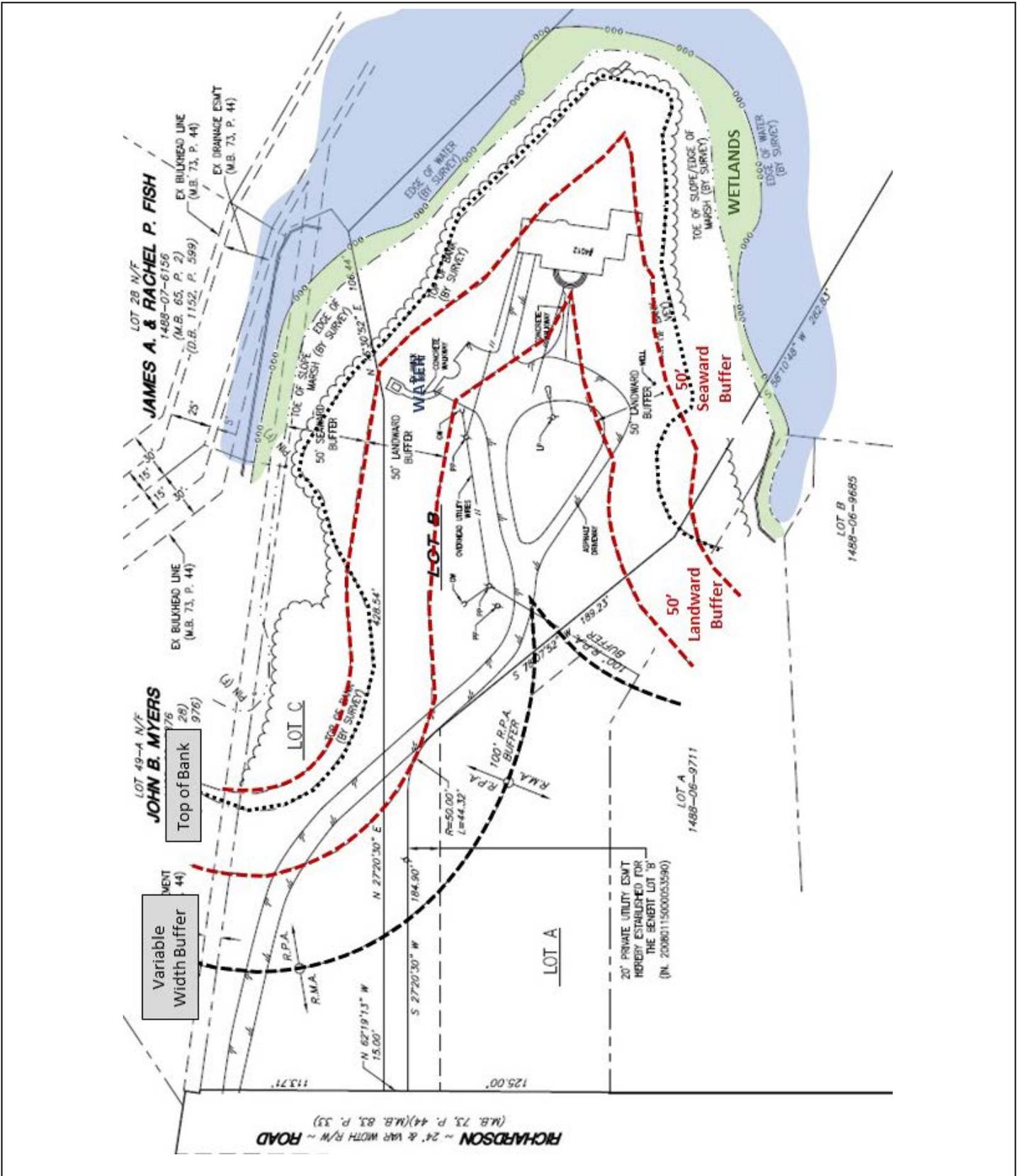
\*\* NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

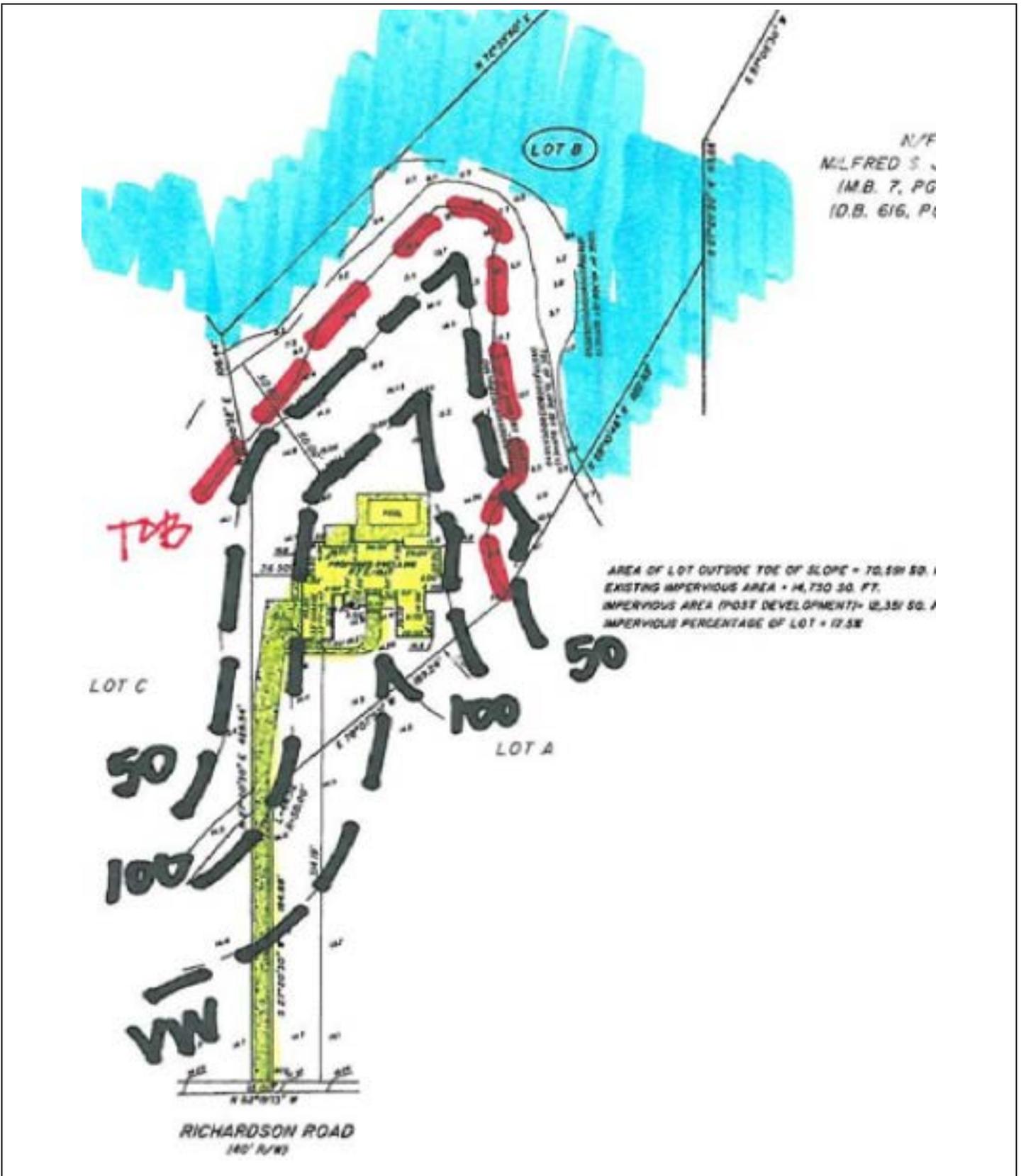
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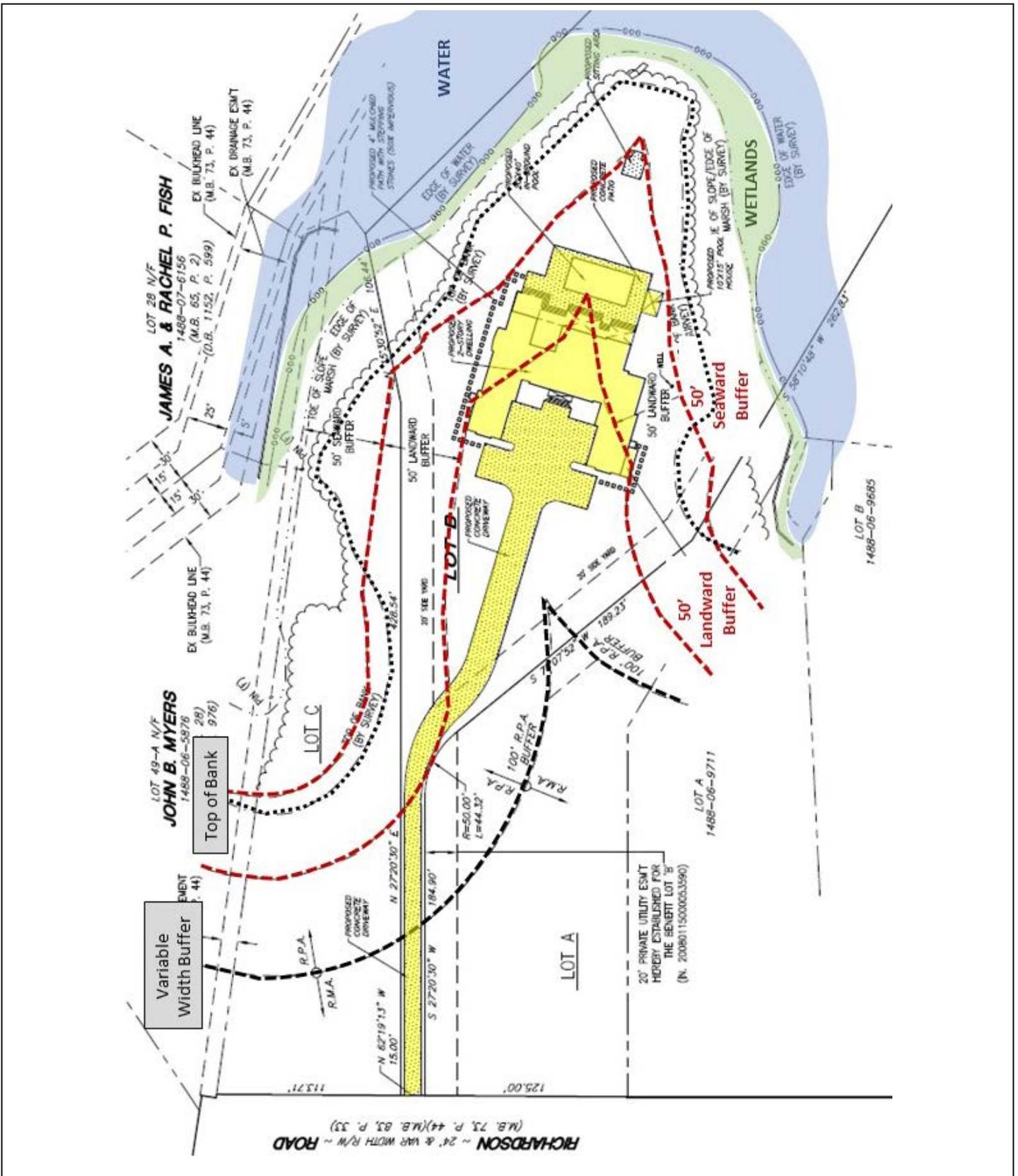
Site Aerial



**CBPA Exhibit – Existing Conditions**













**APPLICANT'S NAME** BELLA NEST, LLC

**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
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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
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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	

Page 1 of 7



- 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: BELLA NEST, LLC  
If an LLC, list all member's names:  
Allen R Jones, Jr, Manager

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-sub subsidiary <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes <sup>1</sup> and <sup>2</sup>

---

## 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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If an LLC, list the member's names: Allen R Jones, Jr, Manager



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-subsiary <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

N/A

<sup>1</sup> "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.

<sup>2</sup> "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.

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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 checked="" type="checkbox"/>	Accounting and/or preparer of your tax return	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Retnauer Baynes Associates
<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)	Sonabank
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	GPC, Inc. Billy Garrington
<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	<b>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?</b>
<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.**

	Allen R Jones, Jr, Manager	7-29-19
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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

AS NEEDED, PAGE LEFT BLANK



Applicant & Property Owner **James Belote**  
Address **2429 Windward Shore Drive**  
Public Hearing **September 23, 2019**  
City Council District **Lynnhaven**

Agenda Item

**3**

The applicant is requesting a 30-day deferral of this application to the Monday, October 28, 2019 CBPA Board Public Hearing to allow additional time to address Staff's concerns. Staff supports the request to defer.

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to redevelop existing driveway, walks and swimming pool and construct retaining wall with associated backfill.

**Applicant's Agent**

David Kledzik

**Staff Planner**

PJ Scully

**Lot Recordation**

Map Book 45, Page 37

Recorded 9/3/1958

**GPIN**

1499-98-1228

**SITE AREA**

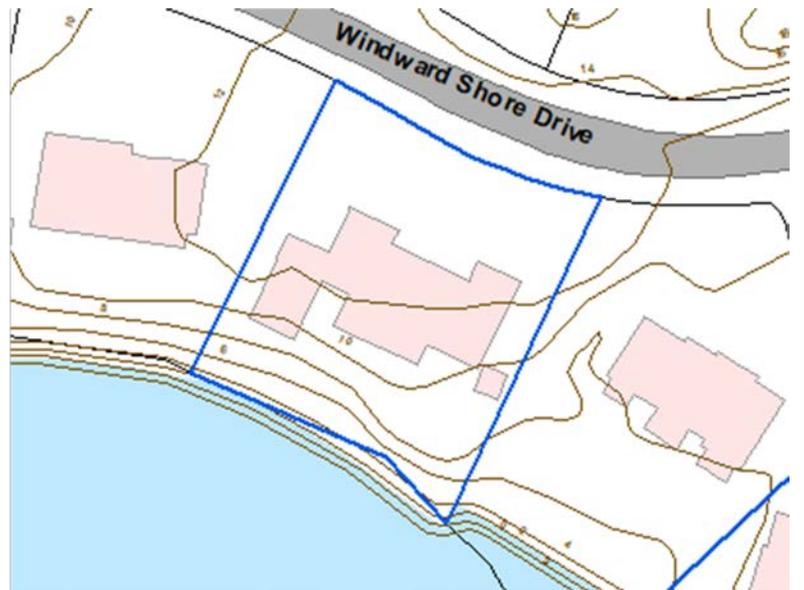
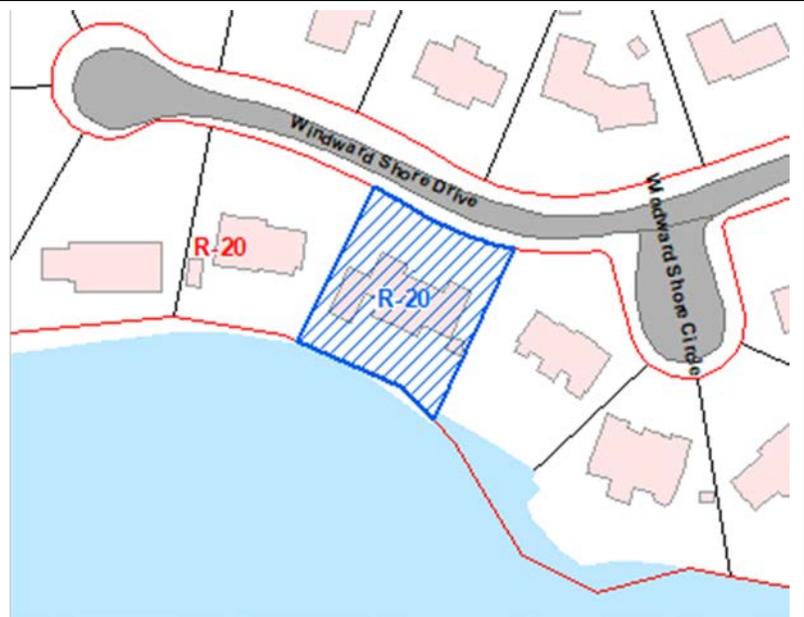
20,883 square feet or 0.48 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

20,535 square feet or 0.47 acres

**EXISTING IMPERVIOUS COVER OF SITE**

9,402 square feet or 45.79 percent of site



AS NEEDED, PAGE LEFT BLANK

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to construct a garage addition, porch, swimming pool and circular driveway.

**Applicant's Agent**

Billy Garrington

**Staff Planner**

PJ Scully

**Lot Recordation**

Map Book 7, Page 144

Recorded 4/26/1926

**GPIN**

2418-37-6035

**SITE AREA**

35,942 square feet or 0.825 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

35,942 square feet or 0.825 acres

**EXISTING IMPERVIOUS COVER OF SITE**

7,155 square feet or 20 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

10,139 square feet or 28.2 percent of site

**Area of Redevelopment in RPA**

3,000 square feet

**Area of New Development in RPA**

4,716 square feet

**Location of Proposed Impervious Cover**

50 foot Seaward Buffer

50 foot Landward Buffer

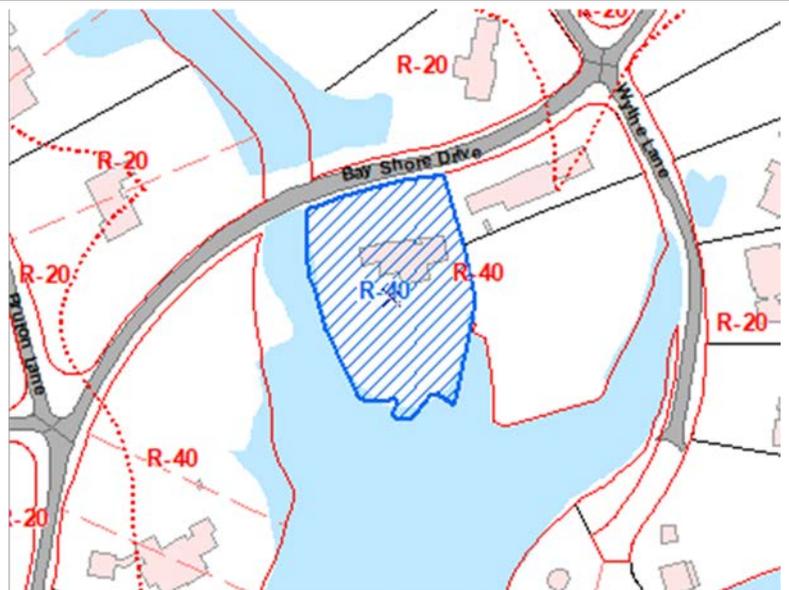
100 foot Variable Width Buffer

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Demolition Details

- Driveway – existing portion redeveloped
- Wood deck
- Walkways

### Construction Details

- Garage addition
- Front porch
- Stepping stone walkways – 3 total
- Retaining wall
- Swimming pool with associated paver patio area and wood deck
- Circular driveway expansion
- Play area

## CBPA Ordinance Variance History

**October 24, 1994 a Chesapeake Bay Preservation Area (CBPA) Board variance was granted for the construction of a wood deck with the following conditions:**

1. *A site plan shall be submitted to the Planning Department for review and approval prior to the issuance of a building permit.*

The October 24, 1994 Board granted variance has been acted upon and the associated improvements constructed.

## Environmental Conditions

### Flood Zone

Multiple Zones – Zone X and AE, Base Flood Elevation (BFE): 7

### Soil Type(s)

State Series (deep, well-drained soils)

### Shoreline

Shoreline is hardened with a rip rap revetment.

### Riparian Buffer

Sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 11
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 3 of the 11 canopy trees within the RPA.
- Number of existing understory trees requested for removal within the RPA: 2

- **Evaluation of existing canopy tree removal request:** The canopy trees being requested for removal are within 15 feet of the proposed improvements. Of the 11 canopy trees requested for removal, 3 are dead and located in the rear of the lot. Staff is of the opinion that the overall quantity of trees requested for removal could be reduced by 3 if the proposed circular driveway expansion was realigned, or by providing a parking court at the front entrance of the residence in-lieu of the proposed circular driveway expansion.

## Evaluation and Recommendation

Staff's evaluation of the variance request revealed the following set of circumstances.

- First, the lot was recorded in 1926, approximately 64 years prior to the adoption of the CBPA Ordinance.
- Second, the existing single-family residence was constructed in 1952, approximately 38 years prior to the adoption of the CBPA Ordinance. No building permits were found for building additions to the existing residential structure. The current footprint of the residence is consistent with the footprint depicted on the 1994 CBPA variance exhibit for the construction of a wood deck.
- Third, the peninsula shape of this lot, with water on three sides remains as it was in 1926 when the lot was created, thereby surrounding the property with an RPA buffer. Staff determined that approximately 4,000 square feet of buildable area is located in the 50-foot landward buffer, where the improvements are proposed. This translates to 11 percent of the 35,942 square foot lot above water and wetland. Within this peninsula shaped area, the width of the 50-foot landward buffer ranges from approximately 10 feet to 60 feet.

The above circumstances result in significant challenges to the full redevelopment of the lot, and the proposed layout of the desired improvements are respectful of the existing environmental conditions, as the pool is located landward of the lower lying elevations of the lot and the 50-foot seaward buffer. Staff is of the opinion that the dimensions of the proposed pool are minimally greater than the average residential swimming pool (16 feet by 32 feet) and the layout of the proposed driveway expansion does not reflect the minimal necessary to afford relief. Staff offers the following comments related to this position regarding the proposed improvements.

- The proposed swimming pool is minimally larger than the average residential swimming pool with a paver patio of approximately 830 square feet. A typical pool surround in the RPA is 4 foot by 4 foot by 4 foot by 8 foot or approximately 734 square feet, 96 square feet less than what is proposed or an area roughly 11 feet by 9 feet. As a compromise Staff recommends a condition below that the size of the paver patio be reduced by 80 square feet as a means towards being the minimum necessary to afford relief. Staff does support the location of the proposed paver patio given the peninsula shape of the lot and existing grade elevations outboard of the proposed improvements.
- Given the elevation change in the front yard, elevation 9.4 feet transitioning to elevation 3.2 feet, in the area of the proposed circular driveway and the existing canopy trees adjacent to the proposed layout of the driveway, Staff is of the opinion that a parking court concept, rather than a circular driveway, that does not transition below the top of bank feature will not only preserve existing tree canopy, but will also be more in harmony with being the minimal necessary to afford relief.

To support the proposed redevelopment of this lot, the applicant's agent has provided the following comments relative to the findings of the CBPA Ordinance specific to this variance request 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 keeping with the development of the neighborhood and adjacent parcels."* Given the year the plat was recorded for the neighborhood and the similarities of the shoreline with adjacent lots within the RPA, Staff concurs with the statement provided by the applicant's agent.

- 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 portions of this lot are within the RPA.
- 3) The variance is the minimum necessary to afford relief given that *"the house was originally built in the 1950's in its current location on the lot, we feel the best areas for expansion/redevelopment for the property is as shown to help avoid additional impacts to the resource. The proposed improvements have been limited to the landward buffer except for walkways."* Staff respects the perspective of the applicant's agent regarding the location of the proposed improvements. Although the location of the proposed improvements, with exception of the walkways, are landward of the 50-foot seaward buffer, Staff is of the opinion that the proposed size of the paver patio area and circular driveways should be reduced. Recommended conditions, specially conditions 2 and 3 are offered below for the Board's deliberation.
- 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, the site currently does not offer any stormwater mitigation for the Bay. However, if approved, the proposed redevelopment will be required to have treatment provided between the improvements and the waterway."* Staff concurs.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load *"planting buffer restoration and bioretention stormwater management will be placed between the improvements and the waterway to capture and treat run-off prior to discharge into the Bay."* Given the existing grade elevation along the rip rap revetment and low-lying topography within the seaward buffer, Staff is of the opinion that the required buffer restoration could be manipulated and a selection of plant species provided to restore the 50-foot seaward buffer into a high marsh/upland woody shrub buffer.

Given the above comments, Staff recommends the following 19 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 Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) The proposed paver patio shall not exceed 750 square feet in size as shown in its proposed location on the submitted CBPA Exhibit.
- 3) The proposed circular driveway shall be reduced to a parking court adjacent to the proposed front covered porch and shall not encroach below the top of bank feature or an existing grade elevation of 8.5 feet.
- 4) 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.
- 5) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA:  
**4,600 square feet x 200 percent = 9,200 square feet.**

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

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs, grasses and groundcovers suitable for the existing grade elevations and environmental conditions. The following quantities are required: **12 canopy trees, 12 understory trees, 46 shrubs – large and small, and 69 grasses and/or groundcovers.** The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 30 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.

- 6) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 7) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 8) 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.
- 9) 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.**
- 10) 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.
- 11) 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.**
- 12) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 13) 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.

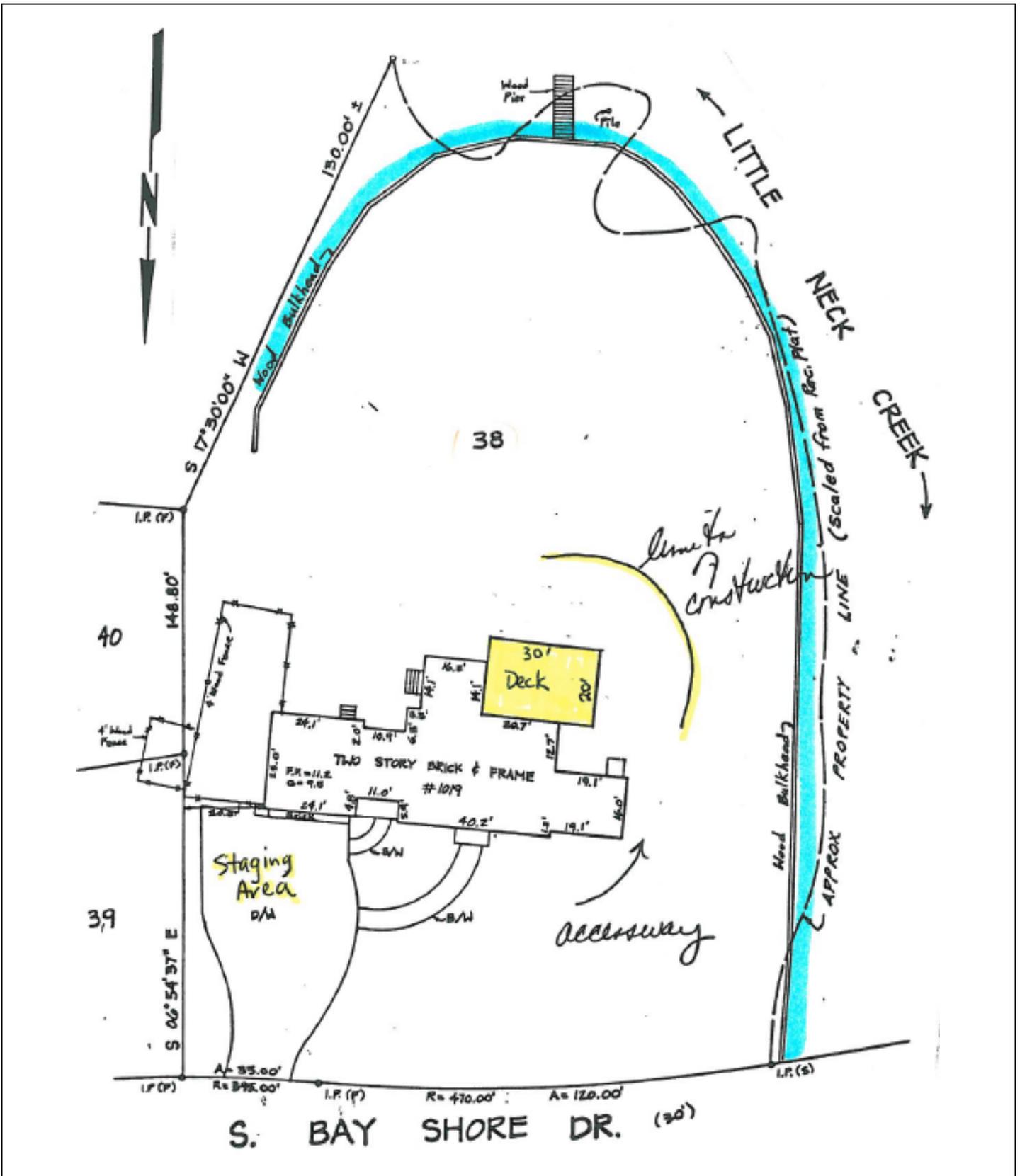
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- 15) Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under the wood deck and stairs.
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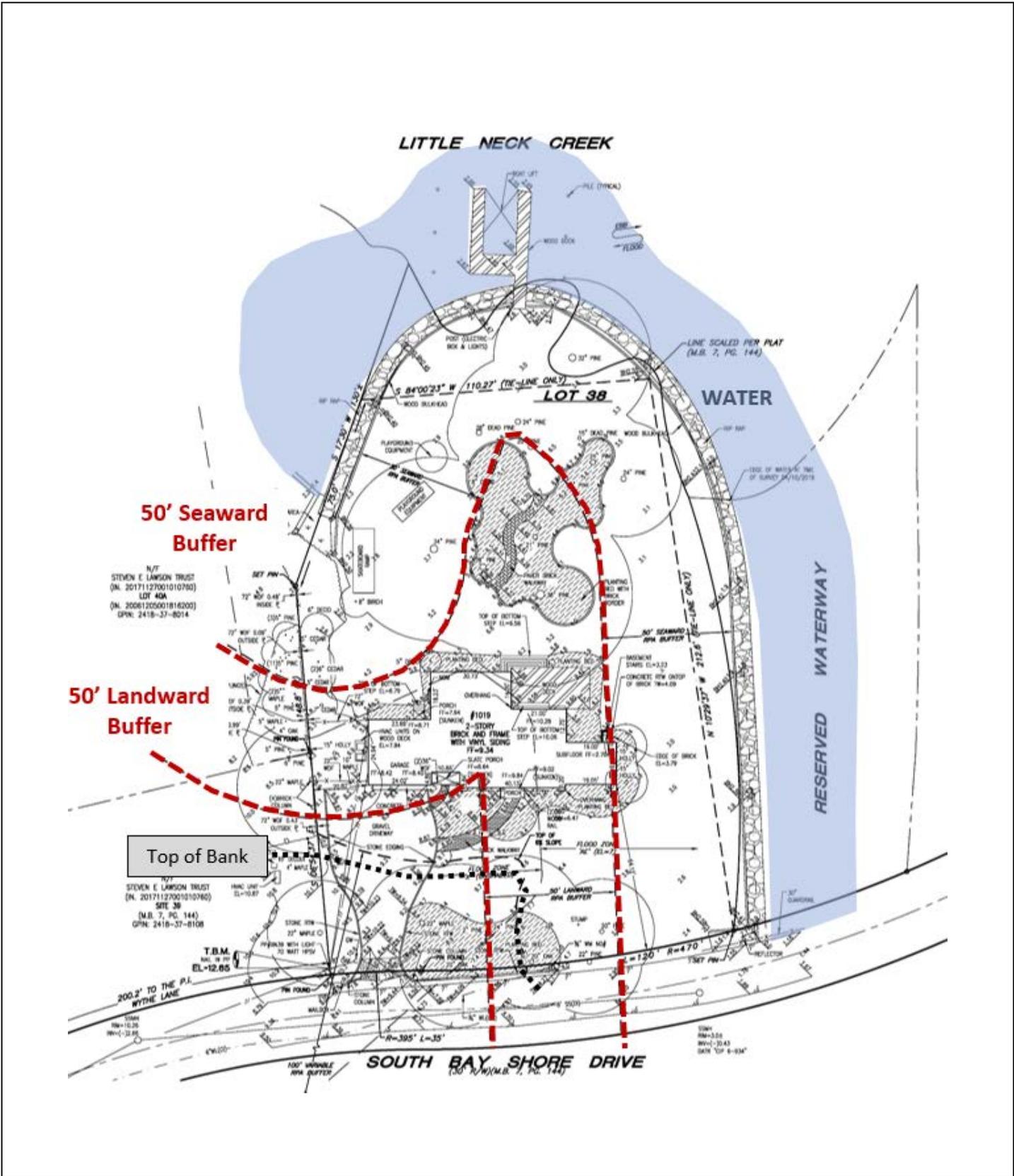
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# Site Aerial

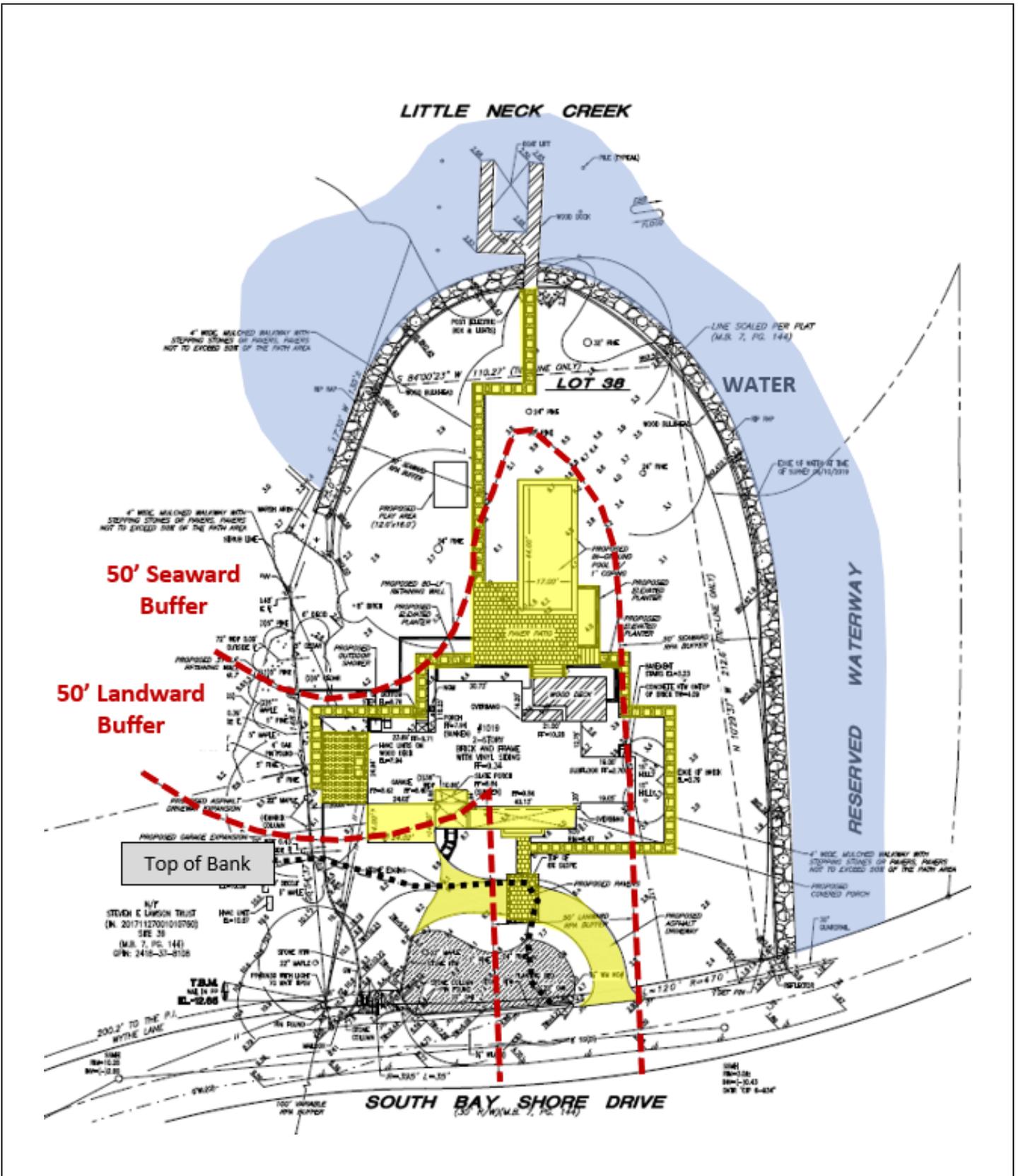




**CBPA Exhibit – Existing Conditions**



**CBPA Exhibit – Proposed Improvements**





**APPLICANT'S NAME** Len Futerman & Ilene Goldstein

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<input type="checkbox"/>	APPLICANT NOTIFIED OF HEARING	DATE: _____
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(A) List the Applicant's name: Len Futerman & Ilene Goldstein  
If an LLC, list all member's names:  
N/A

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N/A

(B) List the businesses that have a parent-subsiary <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*  
  
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See next page for information pertaining to footnotes<sup>1</sup> and <sup>2</sup>

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## 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	David Brotman
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Wayne Anderson (Architect)
<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 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 checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Billy Garrington, GPC
<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"/>	

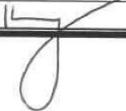
If yes, what is the name of the official or employee and what is the nature of the interest?  
N/A



**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.**

	Len Futerman & Ilene Goldstein	
APPLICANT'S SIGNATURE	PRINT NAME	DATE
	Ilene Goldstein	8/2/2019

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

AS NEEDED, PAGE LEFT BLANK



Property Owner **Forest N. & Elizabeth K. Hickman**  
 Address **2721 Canal Road**  
 Public Hearing **September 23, 2019**  
 City Council District **Lynnhaven**

Agenda Item

**5**

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to construct an addition to the residence and covered rear porch.

**Applicant's Agent**

Billy Garrington

**Staff Planner**

PJ Scully

**Lot Recordation**

Map Book 46, Page 24  
 Recorded 01/20/1959

**GPIN**

1499-57-4375

**SITE AREA**

9,860 square feet or 0.226 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

9,860 square feet or 0.226 acres

**EXISTING IMPERVIOUS COVER OF SITE**

2,542 square feet or 25.8 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

3,560 square feet or 36.1 percent of site

**Area of Redevelopment in RPA**

2,451 square feet

**Area of New Development in RPA**

1,109 square feet

**Location of Proposed Impervious Cover**

50-foot Seaward Buffer

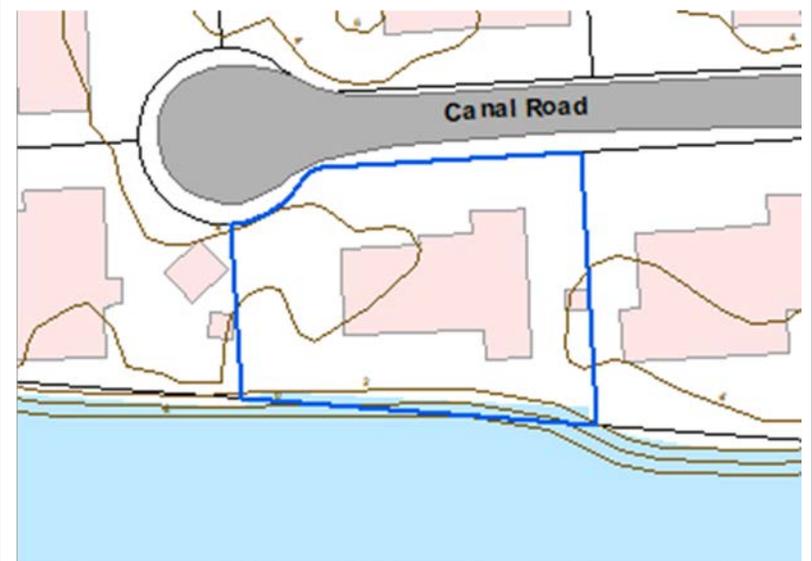
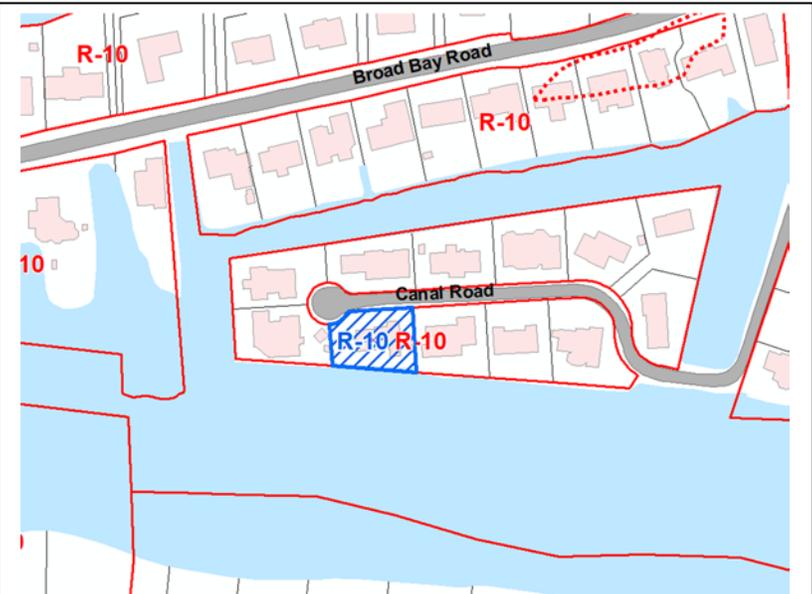
50-foot Landward Buffer

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Demolition Details

- Concrete driveway, sidewalks, stoop, foundation and patio
- Frame shed

### Construction Details

- Residential addition
- Front landing and stairs
- Covered rear porch and stairs
- Expanded concrete driveway and sidewalk

The property owner is participating in the FEMA grant program that elevates residential structures out of the special flood hazard area. The residential structure is scheduled to be elevated the week of September 16, 2019.

## CBPA Ordinance Variance History

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

## Environmental Conditions

### Flood Zone

Zones AE, Base Flood Elevation (BFE): 7

### Soil Type(s)

Psamments Series (moderately well-drained soils, disturbed from excavation)

### Shoreline

Shoreline is hardened with a wood bulkhead.

### Riparian Buffer

Sparsely wooded lot

- Number of existing understory trees requested for removal within the RPA: 1
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 0
- Evaluation of existing canopy tree removal request: The tree being requested for removal is an understory tree located approximately 5 feet from the foundation of the existing residential structure and is within the delineated limits of construction, as shown on the CBPA Exhibit.

## Evaluation and Recommendation

The property owner is participating in the FEMA grant program that elevates residential structures out of the special flood hazard area. The existing residential structure will be elevated so that the finished floor elevation complies with

the requirements of the City's Floodplain Ordinance. After the elevation of the residential structure is complete, the applicant desires to add a second floor and an addition on the west side of the residence.

Expansions to the existing accessory structures are proposed to include an extension of the covered porch on the rear of the residence and a modification to the front walk to provide for the new elevated ingress/egress with the new finished floor elevation of the primary structure.

As means to evaluate this redevelopment request, Staff used the following deductive analysis regarding the expansion of proposed improvements within the Resource Protection Area (RPA) against existing site conditions and environmental events, such as tidal flooding and storm surge.

- *Conservation priorities to help facilitate landward movement of coastal wetlands dislocated by sea level rise.* The existing island is a manmade/altered land mass with bulkheads along the entire shoreline.
- *Given value of all existing wetland classes (vegetated and non-vegetated tidal wetlands, transitional marsh, and non-tidal marsh), transitional uplands, and riparian uplands if present.* No wetland resources are present along the waterway.
- *Identify existing nonpoint and point source pollution points if present against application request and methodology to prevent the variance from causing or contributing to a degradation of water quality.* No point source pollution discharges were observed during the site visit. Staff is of the opinion that the lot is a suitable candidate for the use of structural best management practices given the underlying soil conditions to address nonpoint source run-off and stormwater requirements associated with the redevelopment of the lot.
- *Evaluation of species biodiversity and existing habitat restraints.* The lot is stabilized with sod and sparsely wooded with 4 trees. Staff is of the opinion that species diversity and habitat would be enhanced with the installation of buffer restoration.
- *Soil conditions – very poorly drained, poorly drained, somewhat poorly drained, somewhat well drained, well drained, very well drained.* As mentioned above, Staff is of the opinion that the lot is a suitable candidate for the use of structural best management practices given the underlying soil conditions.

With the intent to prevent a net increase in nonpoint source pollution by both new development and redevelopment of previously developed land, Section 106 (A)(3) of the CBPA Ordinance states that land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the use or development proposed through the incorporation of structural or nonstructural urban best management practices. Given the permeability of the underlying soils and the site's flat topography that offer low runoff velocities of stormwater, Staff is of the opinion that the use of structural (permeable paver system) best management practices coupled with nonstructural (bioretention or infiltration) best management practices for stormwater treatment provides merit towards this variance request being in harmony with the findings of Section 110 (H) of the CBPA Ordinance.

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 keeping with the development of the neighborhood and adjacent parcels."* Staff offers, through an analysis of similarly shape lots with the majority of the buildable area being within the 50-foot seaward buffer on lots platted prior to the adoption of the CBPA Ordinance, that the post-development impervious cover ranges from 33.6 percent to 49.6 percent of the lot above water and wetland.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because *"the lot has topographic relief starting at the*

*front of the site and down to the bulkhead impact on the CBPA buffer in the subject lot, these all appear to be natural conditions.”* 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 portions of this lot are within the RPA.

- 3) The variance is the minimum necessary to afford relief because *“the house was originally built in the 1960’s in its current location on the lot, we feel the best areas for expansion/redevelopment as shown for the property to help avoid additional impacts to the resource.”* While an argument can be made that the proposed improvements are the best area for expansion, Staff is of the opinion that the overall post-development impervious cover provides merit towards being the minimum necessary to afford relief given that improvements on other lots within the neighborhood consist of development within the 50-foot seaward buffer with swimming pools, wood deck and patios.
- 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, the site currently does not offer any stormwater mitigation for the bay, however if approved, the proposed redevelopment will be required to have treatment provided between the improvements and the bay.”* To further support the variance request, Staff offer that the use of a permeable paver system with the redevelopment and expansion of the proposed driveway provides merit towards being in harmony with the purpose and intent of the Ordinance and has provided the recommended condition, specifically condition 2 below.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, *“buffer restoration and bio-retention stormwater management will be placed between the improvements and the river to capture and treat runoff prior to discharging into the bay.”* Staff offers, in addition to the above statement, that there is mutual agreement that the site’s flat topography and high infiltration rates of the existing soil profile help reduce the potential for nonpoint source pollution from reaching adjacent waterways. Staff is of the opinion that this lot and several in this area are impacted more by abnormal tidal events that breach the existing bulkhead and infiltrate the existing stormwater drainage system than any impacts from the resulting percentage of impervious cover.

Given the above comments, Staff recommends the following 17 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 Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) The proposed driveway shall be constructed of a permeable pavement system. A detail of the specific permeable paver system and subbase construction shall be provided site plan submitted to the Development Services Center for review and approval.
- 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: **1,109 square feet x 200 percent = 2,218 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **3 canopy trees, 5 understory trees, 10 large shrubs, and 15 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

- 5) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 6) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 7) 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.
- 8) 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.**
- 9) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
- 10) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **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.**
- 11) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 12) 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.

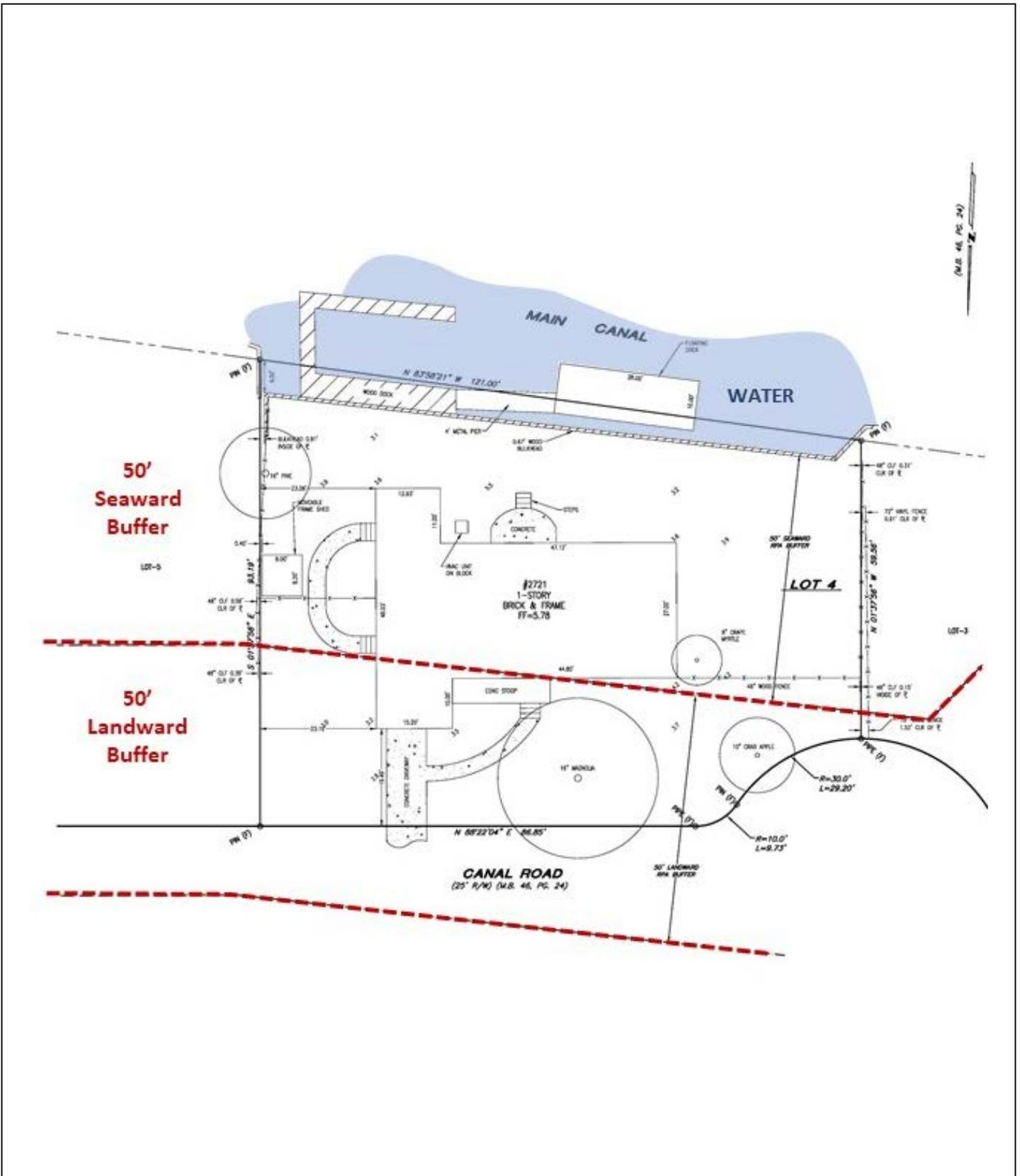
- 13) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 14) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
- 15) \*\* As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$254.14 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.
- 16) It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
- 17) The conditions and approval associated with this variance are based on the exhibit plan dated August 1, 2019, prepared by WPL, signed August 8, 2019 by Eric A. Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

\*\* 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.



**CBPA Exhibit – Existing Conditions**







**APPLICANT'S NAME** Elizabeth K & Forest N Hickman

**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 Board of Zoning Appeals	Economic Development Investment Program (EDIP)	Nonconforming Use Changes
Certificate of Appropriateness (Historic Review Board)	Encroachment Request	Rezoning
Chesapeake Bay Preservation Area Board	Floodplain Variance	Street Closure
Conditional Use Permit	Franchise Agreement	Subdivision Variance
	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: Elizabeth K & Forest N Hickman  
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 <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*  
N/A

See next page for information pertaining to footnotes <sup>1</sup> and <sup>2</sup>

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## 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: Elizabeth K & Forest N Hickman  
If an LLC, list the member's names: N/A

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-subsiary <sup>1</sup> or affiliated business entity <sup>2</sup> relationship with the Property Owner: *(Attach list if necessary)*

N/A

<sup>1</sup> "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.

<sup>2</sup> "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.

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### 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 checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Progressive Design
<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)	Union Service Corporation
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Legal Services	Billy Garrington, GPC
<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.

	Elizabeth & Forest Hickman	8/5/19
APPLICANT'S SIGNATURE	PRINT NAME	DATE

**Variance Request**

Encroachment the Resource Protection Area (RPA) buffer to construct a swimming pool with pool surround, pool house and driveway expansion.

**Applicant's Agent**

Eddie Bourdon

**Staff Planner**

PJ Scully

**Lot Recordation**

Map Book 60, Page 30

Recorded 2/28/1964

**GPIN**

2419-62-5025

**SITE AREA**

28,405 square feet or 0.652 acres

**SITE AREA OUTSIDE OF WATER/WETLANDS**

28,405 square feet or 0.652 acres

**EXISTING IMPERVIOUS COVER OF SITE**

6,388 square feet or 22.5 percent of site

**PROPOSED IMPERVIOUS COVER OF SITE**

9,778 square feet or 34.4 percent of site

**Area of Redevelopment in RPA**

2,662 square feet

**Area of New Development in RPA**

3,895 square feet

**Location of Proposed Impervious Cover**

50 foot Landward Buffer

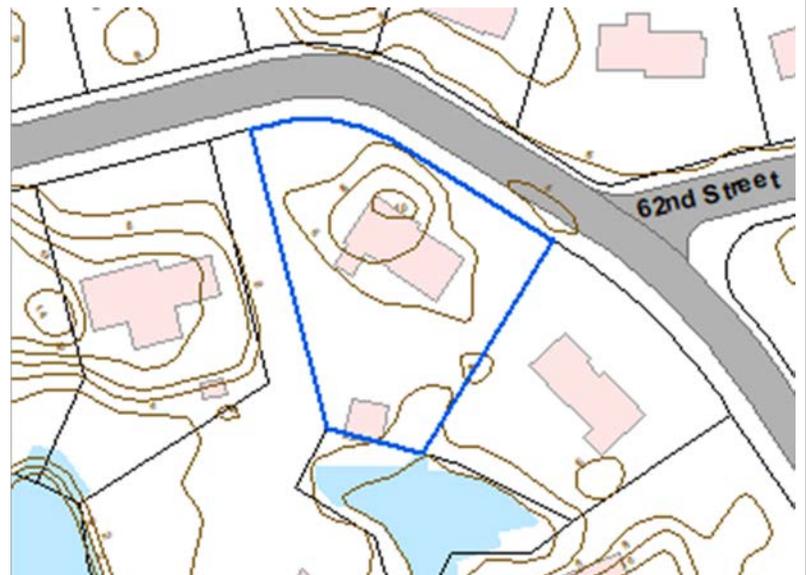
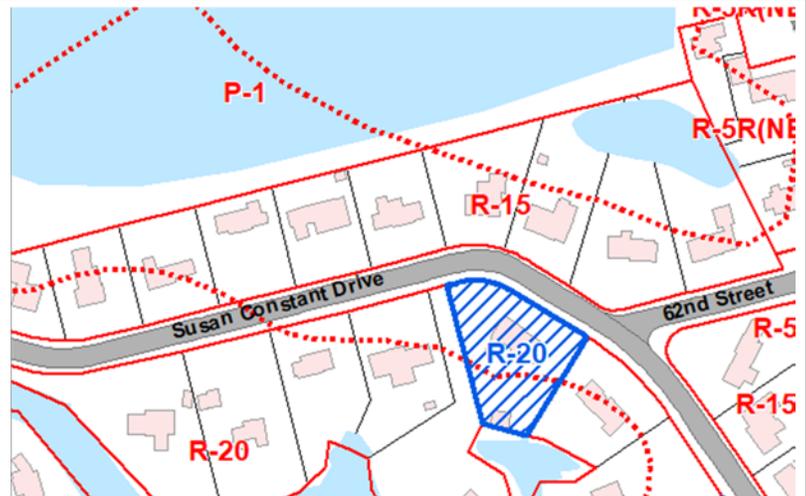
100 foot Variable Width Buffer

**AMOUNT OF LAND DISTURBANCE**

Greater than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Demolition Details

- Asphalt driveway
- Concrete porch
- Paver walks

### Construction Details

- Driveway expansion
- Swimming pool and raised hot tub
- Paver patios and walkways
- Outdoor kitchen

## CBPA Ordinance Variance History

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

## Environmental Conditions

### Flood Zone

Zone AE, Base Flood Elevation (BFE): 7

### Soil Type(s)

Lakehurst Series (deep, moderately drained sandy marine and eolian sediment soils)

### Shoreline

Shoreline is hardened with a wood bulkhead.

### Riparian Buffer

Moderately to sparsely wooded lot

- Number of existing canopy trees requested for removal within the RPA: 0
- Number of existing understory trees requested for removal within the RPA: 8
- Number of dead, diseased or dying existing canopy trees requested for removal within the RPA: 2 of the 8 canopy trees within the RPA
- Evaluation of existing tree removal request: The trees being requested for removal are understory trees directly adjacent to, or within 10 feet of the existing residential structure. During the site visit, Staff observed that most of these trees have reached their maturity with several showing signs of decline.

## Evaluation and Recommendation

Staff initially met informally with the applicant's Engineer of Record to discuss the proposed project, the intent of the Chesapeake Bay Preservation Area (CBPA) Ordinance, and general expectations of the CBPA Board regarding elements of CBPA applications submitted for variance requests. At that meeting, Staff expressed the following concerns.

- The post-development impervious cover of the lot proposed at 11,173 square feet or 39.3 percent of the lot above water and wetland.
- The amount of proposed impervious cover within the 100-foot RPA, approximately 3,258 square feet (approximately 31 percent of the area within the 100-foot buffer).
- The amount of accessory structures, specifically the existing 1-story frame building and proposed pool house with covered patio within the RPA. Staff verified with real estate records that the 2 accessory structures comply with zoning use regulations [City Code, Appendix A, Sec. 501(b)].
- How the required buffer restoration will be satisfied, and the sustainability of plant material in regard to the required buffer restoration units, approximately 16 units.

Since preliminary discussions, the following revisions have been made and submitted for formal review.

- A reduction in the overall impervious cover of the lot by approximately 1,395 square feet – from 11,173 square feet or 39.3 percent of the lot above water and wetland to 9,778 square feet or 34.4 percent of the lot above water and wetland.
- A reduction in the amount of proposed impervious cover within the 100-foot buffer by approximately 545 square feet – from approximately 3,258 square feet to 2,713 square feet. The reduction of impervious cover within the 100-foot RPA offers a landward treat of proposed impervious cover.

While Staff acknowledges the above adjustments, Staff is of the opinion that the extent of the proposed paver patio areas and accessory structures do not reflect the minimal necessary to afford relief. Staff offers the following comment related to this position regarding the proposed improvements.

- Applying a typical pool surround in the RPA of 4 foot by 4 foot by 4 foot by 8 foot for the proposed swimming pool and raised hot tub affords approximately 954 square feet of patio area. The proposed paver patios shown on the CBPA exhibit provides approximately 1,909 square feet. For comparison, an average living room size of a custom home is 22 feet by 28 feet or 616 square feet. As a compromise Staff recommends a condition below that the proposed impervious cover in the 100-foot RPA be reduced by approximately 800 square feet as a means towards being the minimum necessary to afford relief. This reduction in impervious cover would also bring the overall impervious cover of the lot to approximately 31 percent.

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 keeping with the development of the neighborhood and adjacent parcels."* Staff respects the point of view provided by the applicant's agent with lots located to the west of this lot similar in size. Several lots within the area encroach within the 100-RPA if not entirely due the lot depth and the man-made canal.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because *"the lot has topographic relief starting at the front of the site and down to the bulkhead impact on the CBPA buffer on the subject lot, these all appear to be natural conditions."* Staff is of the opinion that the provided statement does not support the variance request and 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 portions of this lot are within the RPA
- 3) The variance is the minimum necessary to afford relief because *"the house was originally built in the 1960s in its current location on the lot, we feel the best areas for expansion/redevelopment for the property as*

*shown to help avoid additional impact to the resource. The proposed improvement have been limited to landward buffer.”* Staff has provided recommended condition below that provide merit to the variance request being the minimum necessary to afford relief.

- 4) The variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *“the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels, the site currently does not offer any stormwater mitigation for the bay, however if approved, the proposed redevelopment will be required to have treatment provided between the improvements and the bay.”* Staff has provided recommended condition below that provide merit to the variance request being in harmony with the purpose and intent of the CBPA Ordinance.
- 5) *“Planting buffer restoration and bio-retention stormwater management will be placed between the improvements and the river to capture and treat runoff prior to discharging into the bay”* as a means to manage towards a no net increase in nonpoint source pollution load. Given the existing topography of the rear yard and lack of an established riparian buffer, Staff is of the opinion that the required buffer restoration and selection of plant species provided would of a reestablishment of habitat if properly implemented beginning in the 50-foot seaward buffer and moving landward.

Given the above comments, Staff recommends the following 18 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 Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) Exclusive of the existing 1-story frame building adjacent to the bulkhead, the proposed impervious cover within the 100-foot RPA buffer and seaward of the existing single-family residence shall not exceed 1,800 square feet.
- 3) The proposed driveway shall be constructed of a permeable pavement system. A detail of the specific permeable paver system and subbase construction shall be provided site plan submitted to the Development Services Center for review and approval.
- 4) 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.
- 5) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **3,100 square feet x 200 percent = 6,200 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: **8 canopy trees, 8 understory trees, 32 large shrubs, and 48 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.

- 6) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 7) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 8) 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.
- 9) 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.**
- 10) 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.
- 11) 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.**
- 12) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 13) 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.
- 14) 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.
- 15) 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.
- 16) **\*\* 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 \$710.41 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.

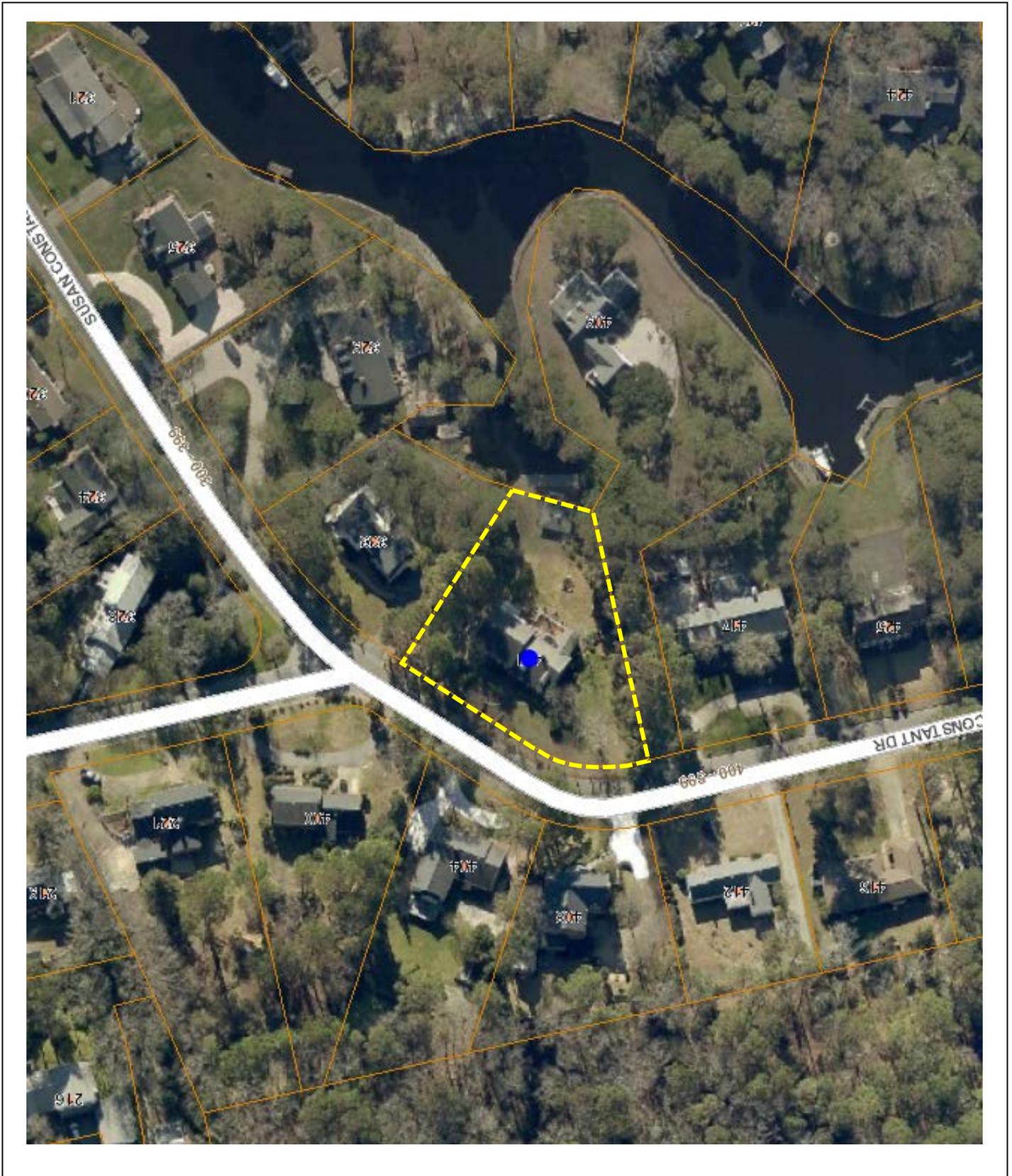
17) It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.

18) The conditions and approval associated with this variance are based on the exhibit plan dated June 24, 2019, prepared by WPL, signed September 5, 2019 by Eric A. Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

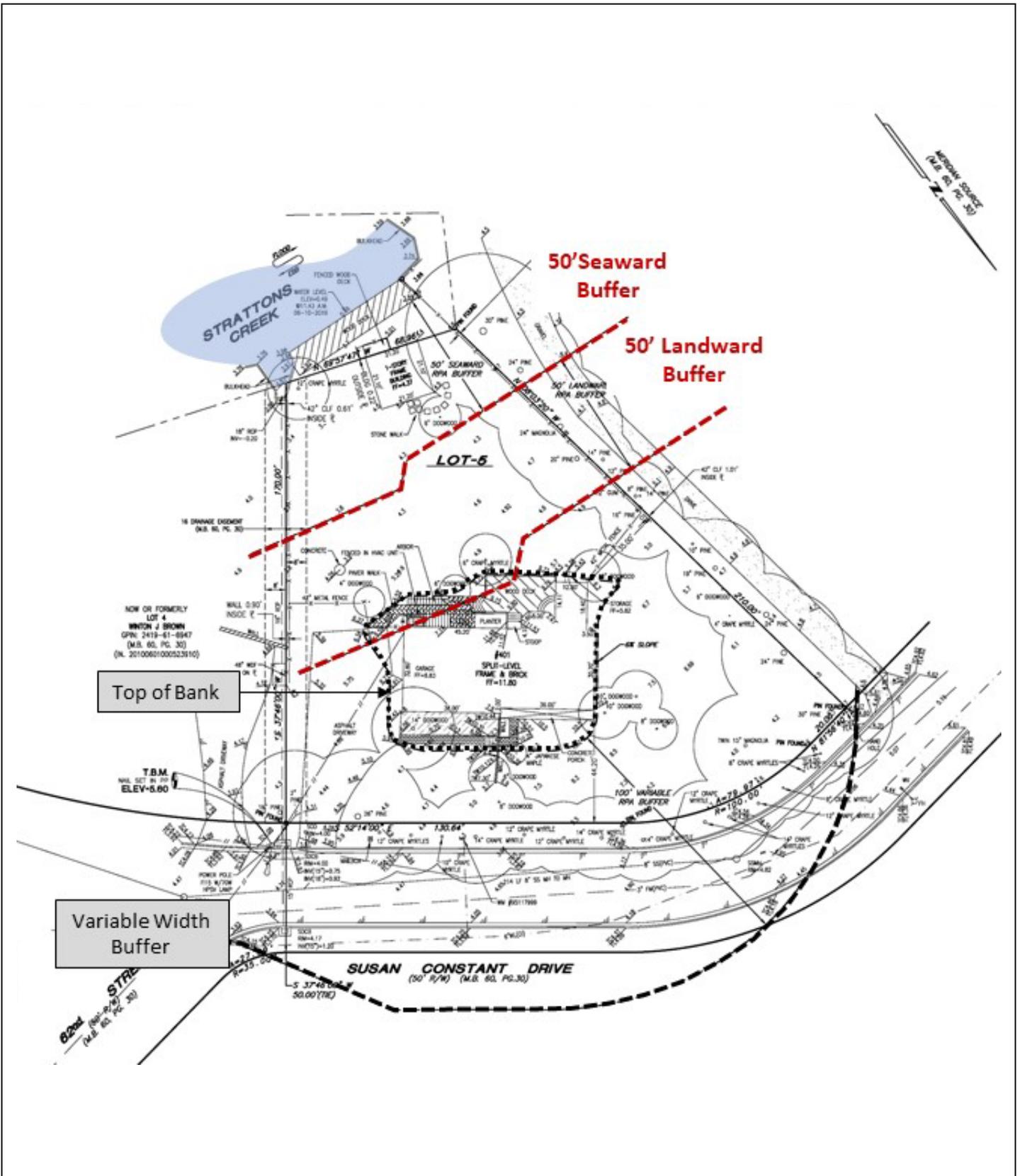
\*\* NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

\*\*\*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**







**APPLICANT'S NAME** GRACLY LLC

Trustees for the Gracalie Styron Davis Revocable Living 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: GRACLY LLC  
 If an LLC, list all member's names:

members : Bridget Davis, Leroy Davis

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<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

N/A

See next page for information pertaining to footnotes<sup>1</sup> and <sup>2</sup>

**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)*

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

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<sup>1</sup> "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.

<sup>2</sup> "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.

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### 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 checked="" type="checkbox"/>	<input type="checkbox"/>	Architect / Landscape Architect / Land Planner	Altruistic Design & Siksa Aurand
<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 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 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?

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

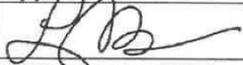
N/A



**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.

	Leroy Davis	8.19.2019
APPLICANT'S SIGNATURE	PRINT NAME	DATE

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

Gracly, LLC

Agenda Item 6

Page 74



Applicant & Property Owner **Mark & Kathleen Pawlak**  
 Address **2233 Spinnaker Circle**  
 Public Hearing **September 23, 2019**  
 City Council District **Lynnhaven**

Agenda Item

**7**

**Variance Request**

Encroachment into the Resource Protection Area (RPA) buffer to construct a deck

**Applicant's Agent**

Self-represented

**Staff Planner**

PJ Scully

**Lot Recordation**

Map Book 48, Page 15  
 Recorded 10/5/1959

**GPIN**

2409-19-6603

**SMALL PROJECT IN THE RPA**

**PROPOSED IMPERVIOUS COVER**

**Area of Redevelopment in RPA**

32 square feet

**Area of New Development in RPA**

670 square feet

**Location of Proposed Impervious Cover**

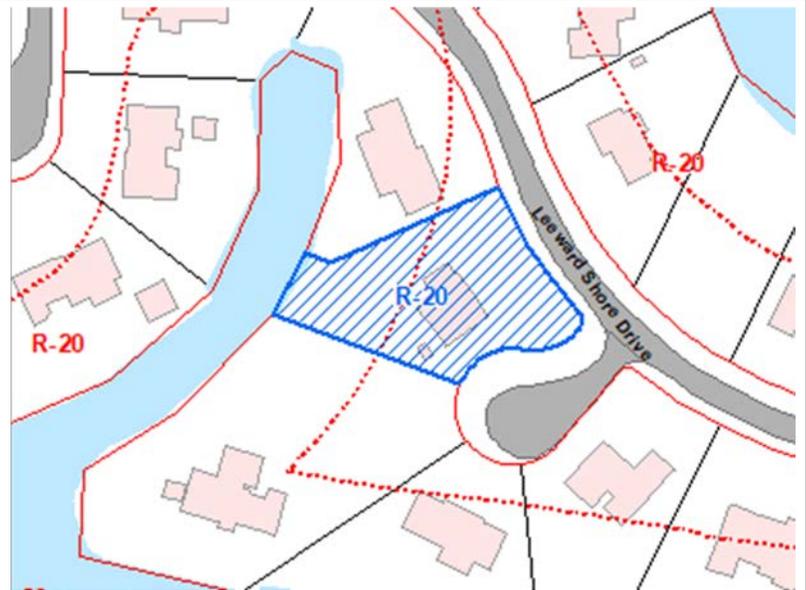
50 foot Landward Buffer

**AMOUNT OF LAND DISTURBANCE**

Less than 2,500 square feet

**Staff Recommendation**

Approval as conditioned



## Summary of Proposal

### Construction Details

- Wood deck – 2 tiers

## CBPA Ordinance Variance History

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

## Environmental Conditions

### Flood Zone

Zone AE, Base Flood Elevation (BFE): 7

### Soil Type(s)

Lakehurst Series (deep, moderately drained sandy marine and eolian sediment soils)

### Shoreline

Shoreline is hardened with a bulkhead.

### Riparian Buffer

Sparsely wooded lot

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

## Evaluation and Recommendation

In 2015, a single-family residence with a circular driveway was demolished on the lot. At that time, the impervious cover outside of water and wetlands totaled 4,661 square feet or 32.16 percent. The existing single-family residence on the property was constructed approximately 2 years later with a reduction in the overall impervious cover by 483 square feet to 4,187 square feet or 28.8 percent of the lot outside of water and wetland. The approved site plan prepared by the land surveyor of record for those improvements depicted all impervious cover landward of the 100-foot RPA buffer.

With this variance request, the applicant desires to construct a 2-tier wood deck off the rear of the residence, as shown below on the CBPA Exhibit. The proposed improvements are located within the upper reach of the 50-foot landward buffer and within an area currently devoted to turf. When compared to the impervious cover associated with the 2015 single-family residence and circular driveway, the 670 square foot wood deck represents a 187 square foot increase to the overall impervious cover of the lot. Staff is of the opinion that the scope of the variance request and minimal land disturbance anticipated to construct the wood deck would not be detrimental to water quality, nor be an increase in nonpoint source pollution load into the adjacent tidal waters.

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 in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because *“the proposed improvements are similar to redeveloped lots within the neighborhood that have encroached into the RPA.”* Staff concurs.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because *“the lot was not platted prior to the adoption of the CBPA ordinance.”* Staff concurs.
- 3) The variance is the minimum necessary to afford relief because *“the deck offers reasonable space for the desired use.”* Given the location of the proposed wood deck within the upper reach of the 100-foot RPA buffer, 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 will not remove any existing vegetation and will provide buffer restoration.”* Staff concurs.
- 5) *“Buffer restoration and under deck treatment”* will be installed as a means to manage towards a no net increase in nonpoint source pollution load. Staff concurs.

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 & Community Development, 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. Submitted concurrent with the CBPA exhibit to the Department of Planning & Community Development, Zoning Division 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: **670 square feet x 200 percent = 1,340 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 100-foot buffer 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. 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. Under deck treatment of sand and gravel shall be installed.

\*\* 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







**APPLICANT'S NAME**

MARK J PAWLAK

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Chesapeake Bay Preservation Area Board	Franchise Agreement	Subdivision Variance
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	License Agreement	

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Page 1 of 7

<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<sup>1</sup> or affiliated business entity<sup>2</sup> relationship with the Applicant: *(Attach list if necessary)*

See next page for information pertaining to footnotes<sup>1</sup> and <sup>2</sup>

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## SECTION 2 / PROPERTY OWNER DISCLOSURE

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

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### 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	Mike Turley
<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)	Chase Bank
<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 J. PAWLAK	8/20/2019
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