MINUTES
CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
JANUARY 27, 2020

Chair Mr. Jester, called to order the **Chesapeake Bay Preservation Area Board** meeting in the City Council Chambers, City Hall Building, Virginia Beach Municipal Center, on Monday, January 27, 2020.

A motion was made by Mr. Wallace and seconded by Mr. France to approve the December 18, 2019 minutes. All voted for the motion except Mr. McCoy who abstained due to his absence from that meeting. This vote also serves as the official roll call for this meeting. All members were present except Mr. Jones.

BOARD ACTION: APPROVED DECEMBER 18, 2019 MINUTES ON JANUARY 27, 2020

AYE 7 NO 0 ABSTAIN 1 ABSENT 1

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

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

Applicant **Jeramy & Natalie Biggie** Address **409 Susan Constant Drive** Public Hearing **January 27, 2020** City Council District **Lynnhaven**	Agenda Item **1**

Parcel GPIN: 2419-61-4836
Accela Record: 2019-CBPA-00044
Applicant's Agent: Robert Simon
CBPA Board Action: DEFERRED ON JANUARY 27, 2020 UNTIL THE APRIL 6, 2020 CBPA BOARD PUBLIC HEARING

Robert Simon appeared before the Board representing the applicants.

There was no opposition present.

A motion was made by Mr. McCoy, seconded by Mr. Smith to defer the variance until the April 6, 2020 public hearing. All voted for the motion.

AYE 8 NO 0 ABSTAIN 0 ABSENT 1

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

City of Virginia Beach

Applicant **Krambias Properties, LLC**
Address **921 Bobolink Drive**
Public Hearing **January 27, 2020**
City Council District **Lynnhaven**

Agenda Item **2**

Parcel GPIN: 2418-22-7567
Accela Record: 2019-CBPA-00035
Applicant's Agent: Eddie Bourdon, Sykes Bourdon Ahern & Levy
CBPA Board Action: APPROVED WITH 16 CONDITIONS ON JANUARY 27, 2020

The variance of Krambias Properties, LLC located at 921 Bobolink Drive was granted with the following 16 reasonable and appropriate conditions offered towards preventing the variance from causing or contributing to a degradation of water quality based on the following findings, as required in Section 110(H) of the CBPA Ordinance:

Board's Findings:

1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated with the redevelopment of lot to correct the on-going shoreline erosion, removal of impervious cover from the 50-foot seaward buffer and recommended conditions provide merit towards the restoration of a riparian buffer ecosystem and do not confer upon the applicant any special privileges with the request to redevelop within the Resource Protection Area (RPA) buffer.

2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this lot are within the RPA.

3) The variance is the minimum necessary to afford relief given that the applicant has developed a CBPA exhibit that offers a respectable retreat of impervious cover within the most sensitive portion of the 50-foot seaward buffer. In addition to collaborating with Staff to reduce the overall proposed impervious cover within the RPA from 10,391 square feet to 8,985 square feet or 17.47 percent of site above water and wetlands, during the deferral process for this variance request.

4) The variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare given an impervious cover retreat from the 50-foot seaward buffer, redevelopment of the existing shoreline and a buffer restoration plan that restores trophic layers to the riparian buffer ecosystem offers merit to the redevelopment of this lot towards a no net increase in nonpoint source pollution load.

5) The Board is of the opinion, given the comments provided above within Staff's evaluation of the variance request and the original structure of the lot being built in 1950, that the environmental conditions – shoreline and canopy cover of this lot are aged and in decline. While the short-term improvements modify the majority of the natural features of the lot, Staff is if 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.

CBPA Variance Conditions:

1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.

2) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.

3) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **4,807 square feet x 200 percent = 9,614 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, 48 shrubs – large and small, and 72 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.

4) The redevelopment of shoreline as approved with the Joint Permit Application (JPA) specific to this lot shall be conducted prior to or concurrent with the redevelopment of the upland improvements.

5) Upland backfill material shall be limited to the establishment of the rip rap revetment/marsh sill associated with the JPA specific to this lot. Upland backfill material shall not exceed a slope of 1 percent from the elevation of the rip rap revetment and bulkhead terminating into existing grade.

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 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.

10) Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.

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) 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.

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 $1,101.60 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) The conditions and approval associated with this variance are based on the exhibit plan dated August 22, 2018, prepared by WPL, signed January 7, 2020 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.

Eddie Bourdon, Attorney with Sykes Bourdon Ahern & Levy appeared before the Board representing the applicant.

There was no opposition present.

As an item of the consent agenda, a motion was made by Mr. McCoy, seconded by Mr. Wallace to approve the variance request with the 16 conditions listed above. All voted for the motion.

AYE 8 NO 0 ABSTAIN 0 ABSENT 1

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

Applicant **Olympia Development** Address **Bonney Road** Public Hearing **January 27, 2020** City Council District **Lynnhaven**	Agenda Item **3**

Parcel GPIN: 1477-52-4516
Accela Record: 2019-CBPA-00048
Applicant's Agent: Billy Garrington of Governmental Permitting Consultants
CBPA Board Action: DEFERRED ON JANUARY 27, 2020 UNTIL THE FEBRUARY 24, 2020 PUBLIC HEARING

Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the applicant.

There was no opposition present.

A motion was made by Mr. McCoy, seconded by Mr. Smith to defer the variance until the February 24, 2020 public hearing. All voted for the motion.

AYE 8 NO 0 ABSTAIN 0 ABSENT 1

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

Applicant **Erik & Wei Chen** Address **1501 Quail Point Road** Public Hearing **January 27, 2020** City Council District **Beach**	Agenda Item **4**

Parcel GPIN: 2418-04-0096
Accela Record: 2019-CBPA-00055
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 16 CONDITIONS ON JANUARY 27, 2020

The variance of Erik and Wei Chen located at 1501 Quail Point Road was granted with the following 16 reasonable and appropriate conditions offered towards preventing the variance from causing or contributing to a degradation of water quality based on the following findings, as required in Section 110(H) of the CBPA Ordinance:

Board's Findings:

1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated given Staff reviews each variance application based on the unique features, location and scope of a project, with the Board being of the opinion that the recommend conditions below, specifically conditions 3, 4, and 13 offer the applicant the ability to redevelop the lot within the provisions of the CBPA Ordinance.

2) The applicant's agent provides that the encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather "*the buffer zones were made a part of the Bay Act and these houses were already in place when it was enacted and the hardship that is now on these properties will never go away*." The Board respects this point of view given the recordation of the lot prior to the adoption of the CBPA Ordinance and City records indicate that the structure was originally constructed in 1960. Staff is of the opinion that the redevelopment will provide needed restoration of the riparian buffer ecosystem on the lot to promote biological benefits within the RPA towards preventing sediment and nutrient erosion into the adjacent waterway.

3) Towards the minimum necessary to afford relief, the Board commends the applicant for proposing a restoration plan reflective of climate-related drivers such as relative

sea level rise, extreme weather events and existing topographic elevations while maintaining the overall impervious cover under 21 percent.

4) The Board is of the opinion that the variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because the proposed improvements offer an enhancement to stormwater management, will improve water quality with a potential to reduce stormwater runoff velocities from upland improvements, and will promote the infiltration of rainwater with the proper selection of indigenous ground cover adjacent to the existing riprap revetment (especially woody vegetation), all contributing towards preventing sediment and nutrient erosion into the adjacent waterway.

5) "*Strict erosion and sedimentation control measures do more to halt non-point source pollution, stock piling materials on existing hard surfaces, single point access way and revegetating any denuded areas all help to limit pollution from entering the adjacent waterways.*" The Board concurs that the construction sequencing for installing the proposed improvements and diligent management of erosion and sediment control measures during all construction activities contributes significantly towards limiting additional non-point source pollution load.

<u>CPBA Variance Conditions:</u>

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 in substantial compliance with the restoration plan dated January 8, 2020, prepared by J. Nelson Landscape Architects, signed January 8, 2020 by Jessica Nelson.

4) The proposed retaining wall shall not encroach into the 20-foot ingress and egress easement.

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 $701.47 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) The conditions and approval associated with this variance are based on the exhibit plan dated October 18, 2019, prepared by Gallup Surveyors and Engineers, signed October 18, 2019 by David Butler. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

Billy Garrington of Governmental Permitting Consultants appeared before the Board representing the applicants.

Betsy Reese of 1513 Quail Point Road appeared before the Board to make commentary.

A motion was made by Mrs. McDaniels, seconded by Mr. Wallace to approve the variance with the 16 conditions listed above. All voted for the motion.

AYE 8 NO 0 ABSTAIN 0 ABSENT 1

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

Applicant **Lynnhaven Area Properties, LLC** Address **Prop. of Allen E. Perrel, Lot 4 & closed portion of Wolfsnare Road & Wolfsnare Parcel B, Wolfsnare Road** Public Hearing **January 27, 2020** City Council District **Beach**	Agenda Item **5**

Parcel GPIN: 2407-09-4435, 2407-09-5412 and 2407-09-6257
Accela Record: 2018-CBPA-00063
Applicant's Agent: Lisa Murphy, Willcox Savage
CBPA Board Action: DEFERRED ON JANUARY 27, 2020 UNTIL THE FEBRUARY 24, 2020 PUBLIC HEARING

Lisa Murphy, Attorney with Willcox Savage appeared before the Board representing the applicant.

There was no opposition present.

A motion was made by Mr. McCoy, seconded by Mr. Smith to defer the variance until the February 24, 2020 public hearing. All voted for the motion.

AYE 8 NO 0 ABSTAIN 0 ABSENT 1

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

Applicant **Woodhouse Limited Partnership** Address **1805 Estates Court** Public Hearing **January 27, 2020** City Council District **Lynnhaven**	Agenda Item **6**

Parcel GPIN: 1499-14-5390
Accela Record: 2019-CBPA-00063
Applicant's Agent: Nathan Lahy
CBPA Board Action: DEFERRED ON JANUARY 27, 2020 UNTIL THE FEBRURAY 24, 2020 PUBLIC HEARING

Nathan Lahy of MSA, PC appeared before the Board representing the applicant.

Charles Malbon of 2904 Gaines Landing appeared before the Board in opposition.

A motion was made by Mr. McCoy, seconded by Mr. France to defer the variance until the February 24, 2020 public hearing. All voted for the motion.

AYE 8 NO 0 ABSTAIN 0 ABSENT 1

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

Applicant **Quail Roost 2011 Trust A/U** Address **1320 Chewink Court** Public Hearing **January 27, 2020** City Council District **Lynnhaven**	Agenda Item **7**

Parcel GPIN: 2418-22-3278
Accela Record: 2019-CBPA-00064
Applicant's Agent: Nathan Lahy
CBPA Board Action: DEFERRED ON JANUARY 27, 2020 UNTIL THE FEBRUARY 24, 2020 PUBLIC HEARING

Nathan Lahy of MSA, PC appeared before the Board representing the applicant.

There was no opposition present.

A motion was made by Mr. McCoy, seconded by Mr. Smith to defer the variance until the February 24, 2020 public hearing. All voted for the motion.

AYE 8 NO 0 ABSTAIN 0 ABSENT 1

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

City of Virginia Beach

Applicant **Gregory Law**
Address **1205 Kittiwake Court**
Public Hearing **January 27, 2020**
City Council District **Lynnhaven**

Agenda Item **8**

Parcel GPIN: 2418-42-4925
Accela Record: 2019-CBPA-00065
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 18 CONDITIONS ON JANUARY 27, 2020

The variance of Gregory Law located at 1205 Kittiwake Court was granted with the following 18 reasonable and appropriate conditions offered towards preventing the variance from causing or contributing to a degradation of water quality based on the following findings, as required in Section 110(H) of the CBPA Ordinance:

Board's Findings:

1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated given the year the plat was recorded for the neighborhood and the similarities of the shoreline with adjacent lots within the RPA.

2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because "*the property was platted in 1926 and the existing topography and buffers as required by the Chesapeake Bay Preservation Act require the property to seek variance approvals*." The Board concurs that the recordation date of the plat was well in advance of the adoption of the Chesapeake Bay Act; however, through the variance process, development can occur subject to conditions unique to each application. In this case, the restoration of the shoreline, specifically the eastern-most, low-lying area of the lot is particularly significant to promote future coastal ecosystem migration.

3) The variance is the minimum necessary to afford relief with the location of the proposed improvements, with exception of the driveway expansion, being landward of the 50-foot seaward buffer and with Staff providing the recommended conditions, specifically conditions 14 and 15, towards the variance being the minimum necessary to afford relief.

4) The variance is in harmony with the purpose and intent of this ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare with the nutrient management and discharge from upland improvements via structural and non-structural best management practices being implemented.

5) "*Redevelopment of the site is being used to the greatest practicable case. The proposed planting buffer restoration and bioretention stormwater management will be placed between the improvements ant the waterway to capture and treat run-ff discharge into the Bay*" as a means to manage towards a no net increase in nonpoint source pollution load. Given the existing grade elevation along the rip rap revetment and low-lying topography within the seaward buffer, the Board 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.

CBPA Variance Conditions:

1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.

2) The conditions of the existing Chesapeake Bay Preservation Area (CBPA) variances, specifically the required buffer restoration and stormwater management facilities shall be documented on the revised site plan. Documentation shall describe the health and functionality of said requirements. Prior restoration requirements shall be installed if not present.

3) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.

4) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,994 square feet x 200 percent = 3,988 square feet**.

   All of the required restoration shall be located in the 50-foot seaward buffer of the Resource Protection Area, in areas currently devoted to turf and transition landwards as needed to fulfill the required buffer restoration square footage. 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 to the greatest extent practicable. 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 areas will be reviewed by Staff prior to approval.

Buffer restoration areas shall be maintained and not removed or allowed to revert to turf in the future. 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.

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 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.

10) Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. 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) The proposed driveway expansion 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.

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 $456.95 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.

17) This variance and associated conditions **are in addition to** the conditions of the Board variance granted January 23, 2012.

18) The conditions and approval associated with this variance are based on the exhibit plan dated November 5, 2019, prepared by WPL Site Design, signed December 5, 2019 by Eric Gardner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

Billy Garrington with Governmental Permitting Consultants appeared before the Board representing the applicant.

There was no opposition present.

As an item of the consent agenda, a motion was made by Mr. McCoy, seconded by Mr. Wallace to approve the variance request with the 18 conditions listed above. All voted for the motion.

AYE	**8**	**NO**	**0**	**ABSTAIN**	**0**	**ABSENT**	**1**

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