



**MINUTES
CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
FEBRUARY 24, 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, February 24, 2020.

A motion was made by Mr. McCoy and seconded by Mr. Wallace to approve the January 27, 2020. All voted for the motion except Mr. Jones who was abstained due to his absence from that meeting. This vote also serves as the official roll call for this meeting. All members were present.

BOARD ACTION: APPROVED JANUARY 27, 2020 MINUTES ON FEBRUARY 24, 2020

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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

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



Property Owner **City of Virginia Beach**
 Applicant **Olympia Development**
 Address **Bonney Road**
 Public Hearing **February 24, 2020**
 City Council District **Lynnhaven**

Agenda
Item
1

Parcel GPIN: 1477-52-4516
Accela Record: 2019-CBPA-00048
Applicant’s Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: DEFERRED ON FEBRUARY 24, 2020 UNTIL THE MARCH 23, 2020 CBPA PUBLIC HEARING

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

Brad Martin with Clark Design Group, LLC and Cecil Cutchins with Olympia Development appeared before the Board to make commentary.

There was no opposition present.

A motion was made by Mr. McCoy, seconded by Mr. France to defer the variance to the March 23, 2020 public hearing. All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Property Owner & Applicant **Lynnhaven Area Properties, LLC**
Address **The Property of Allen E. Perrel, Lot 4 & closed portion
of Wolfsnare Road & Wolfsnare Parcel B, Wolfsnare Road**
Public Hearing **February 24, 2020**
City Council District **Beach**

Agenda
Item

2

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: APPROVED WITH 18 CONDITIONS ON FEBRUARY 24, 2020

Board's Findings:

The variance of Lynnhaven Area Properties, LLC located at Lot 4 and portion of Wolfsnare Road and Wolfsnare Parcel B, Wolfsnare Road 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:

- 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 City Council acted in 1968 with the rezoning of the lot that a strip of land along Wolfsnare Road, with the depth of a typical residential lot along Wolfsnare Road, remain zoned for single-family development.
- 2) The encroachment into the RPA on this parcel is not based upon conditions or circumstances that are or have been created or imposed by the applicant or rather necessitated by the fact that this property was platted prior to the adoption of the CBPA Ordinance, which placed a large portion of the buildable property within the RPA.
- 3) The variance is the minimum necessary to afford relief, because the proposed development were only the net addition 842 square feet of impervious cover in the RPA, 794 square feet of this is existing impervious to remain. All of the structures have been located within the variable width buffer. There is only a small portion of one drive way encroaching into the landward buffer and acknowledgement of the BZA action to uphold the Zoning Administrator's determination that the A18 portion

of this parcel GPIN: 2407-09-6257 cannot be developed with multifamily dwellings as a means for the variance request being the minimal necessary to afford relief.

- 4) With minimal encroachment into the 100-foot RPA, the variance request provides merit towards bringing harmony with the purpose and intent of this ordinance, coupled with the City Council action in 1968 provides merit for the variance request not being injurious to the neighborhood. And the retention of the 100-foot buffer offers merit to the variance request not being a substantial detriment to the water quality based on the retention of the 100-foot buffer and other nutrient removal activities that will be required to perform for the DSC review.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, the proposed development, includes the preservations of the existing riparian buffer, the implementation of buffer creation and restoration, and the implementation of stormwater management facilities. Along with the removal of existing concrete pads in the RPA will provide a means to manage towards a no net increase in nonpoint source pollution load.

CPBA Variance Conditions:

- 1) A Multi-Lot 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: **4,024 square feet x 200 percent = 8,048 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: **10 canopy trees, 10 understory trees, 20 large shrubs, and 30 small shrubs.**

The required restoration shall be located in areas currently devoted to turf or where impervious cover is removed. The restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. 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. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

- 4) All proposed improvements associated with the 5 single-family residences shall be located within the R10 zoning district and shall not encroach any further seaward than represented on the CBPA Exhibit for this variance request.
- 5) Exclusive of the driveway apron for proposed Unit 4, there shall be no grading or placement of fill material within the 100-foot RPA buffer associated with the proposed improvements.
- 6) The proposed driveway for Unit 5 shall meet the Public Works Specifications and Standards for residential entrances for single-family developments.
- 7) The proposed driveways for all 5 units 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.
- 8) The limits of construction and associated land disturbance for the removal of the existing concrete within the RPA buffer shall be contained within the footprint of the existing concrete with 1 single point of access permitted. The single point of access shall be achieved through the shortest linear distance through the RPA buffer to minimize impacts to the existing forest floor to the greatest extent practicable.
- 9) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 10) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 11) 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.**

- 12) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. Silt fence shall be installed along the landward side of the delineated limits of construction and shall remain in place until such time as vegetative cover is established. **All areas outside limits of construction shall be left in a natural state to include the forest floor (leaf litter) left intact. Said condition shall be so noted on the site plan.**
- 13) 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.
- 14) 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.
- 15) 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.
- 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 \$922.16 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 17) The conditions and approval associated with this variance are based on the exhibit plan dated October 30, 2019, prepared by MSA, PC, signed October 30, 2019 by Nathan Lahy. 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.

18) The applicant will perform an engineering analysis of the storm water outfall on Westminster Lane to determine its accuracy and will work with the City Public Works Department to address any identified deficiencies in that outfall.

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

Chris Wood, applicant and Scott Acey with MSA, PC appeared before the Board to make commentary.

Jimmy Frost of 2240 Windom Place appeared before the Board to make commentary.

Nancy Neal of 401 and 405 Biltmore Court and Jean Marquis of 408 Cadbury Circle appeared before the Board in opposition.

A motion was made by Mr. France, seconded by Mrs. McDaniels to approve the variance with the 18 conditions as amended (Added Condition 18). All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Property Owner & Applicant Woodhouse Limited Partnership Address 1805 Estates Court Public Hearing February 24, 2020 City Council District Lynnhaven	Agenda Item 3
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Parcel GPIN: 1499-14-5390
Accela Record: 2019-CBPA-00063
Applicant’s Agent: Nathan Lahy, MSA PC
CBPA Board Action: DENIED APPLICATION ON FEBRUARY 24, 2020

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

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

A motion was made by Mr. France, seconded by Mr. Jones to deny the application. All voted for the motion except Mr. Smith who voted no.

AYE	8	NO	1	ABSTAIN	0	ABSENT	0
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DREPS	AYE
FRANCE	AYE
JESTER	AYE
JONES	AYE
MCCOY	AYE
MCDANIELS	AYE
SMITH	NO
STEIER	AYE
WALLACE	AYE



Property Owner & Applicant **Quail Roost 2011 Trust U/A**
Address **1320 Chewink Court**
Public Hearing **February 24, 2020**
City Council District **Lynnhaven**

Agenda
Item

4

Parcel GPIN: 2418-22-3278
Accela Record: 2019-CBPA-00064
Applicant's Agent: Nathan Lahy, MSA PC
CBPA Board Action: APPROVED WITH 14 CONDITIONS ON FEBRUARY 24, 2020

The variance of Quail Roost 2011 Trust U/A located at 1320 Chewink Court was granted with the following 14 reasonable and appropriate conditions offered towards preventing the variance from causing or contributing to a degradation of water quality based on the following findings, as required in Section 110(H) of the CBPA Ordinance:

Board's Findings:

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because the proposed encroachment is similar in nature to the encroachments on the nearby properties and in many cases is less intensive than the neighbors, many of which encroach into the 50' Seaward Buffer. Riparian buffer restoration and stormwater management will be provided, and these requirements are consistent with requirements for similarly situated properties.
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because but rather is necessitated by the fact that this parcel was platted prior to the adoption of the CBPA Ordinance. The unique shape of the parcel and the location of the existing residential structure with regards to the 50' landward buffer restricts the areas of the property where accessory structures can be developed without encroaching. The existing swimming pool and patio currently encroach within the 50' landward buffer.
- 3) The variance is the minimum necessary to afford relief because the proposed swimming pool and amenity space upgrades are due to the shape of the lot, the location of the existing residential structure, the location of the existing pool and the recordation of the plat prior to the adoption of the CBPA Ordinance, all of which are existing conditions that limit the location of the proposed improvements. The

proposed improvements are an update to the existing outdoor amenities and meant to modernize these amenities for the 21st Century. These improvements have been limited to the 50' landward buffer; which is currently encroached upon.

- 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 encroachment is similar in nature to encroachments on nearby properties. The proposed development is of a similar character to the surrounding single-family residences and will not be injurious or detrimental to the neighborhood or public welfare. Water Quality will be managed by Riparian Buffer Restoration and Best Management Practices for stormwater.
- 5) The proposed development will include both riparian buffer restoration, turf reduction, and new stormwater management facilities as a means to manage towards a no net increase in nonpoint source pollution load.

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 2,297 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 consisting of a minimum **3 canopy trees, 6 understory trees and 9 small shrubs.**

The required restoration shall be located in the Resource Protection Area as shown on the CBPA Exhibit. The restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. 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) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
- 7) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed 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.
- 8) 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.**
- 9) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
- 10) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 11) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
- 12) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$124.66 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds,

including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.

13) This variance and associated conditions **are in addition to** the conditions of the Board variance granted June 1, 1992.

14) The conditions and approval associated with this variance are based on the exhibit plan dated January 30, 2020, prepared by MSA, P.C., signed January 30, 2020 by Nathan A. Lahy. 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.

Nathan Lahy with MSA, PC 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. Jones, seconded by Mr. France to approve the variance request with the 14 conditions listed above. All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Property Owner & Applicant **The Old Beach Village Company, LLC**
Address **2800 & 2901 Baltic Avenue**
Public Hearing **February 24, 2020**
City Council District **Beach**

Agenda
Item

5

Parcel GPIN: 2418-91-3040; 24191-3390 and 2418-91-7293
Accela Record: 2020-CBPA-00001
Applicant's Agent: RJ Nutter, Troutman Sanders
CBPA Board Action: DEFERRED ON FEBRUARY 24, 2020 UNTIL THE APRIL 6, 2020 CBPA PUBLIC HEARING

RJ Nutter, Attorney with Troutman Sanders appeared before the Board representing the applicant.

Jeff Ainslie with the Ainslie Group appeared before the Board to make commentary.

Joe Romero, Attorney with Vandeventer Black appeared before the Board representing Old Beach Village Condo Association who are in opposition.

Steve Gibson of 6200 Ocean Front Avenue, Kim Forbes of 2950 Baltic Avenue and Brian Donley appeared before the Board in opposition.

A motion was made by Mr. Smith, seconded by Mr. France to approve the variance with 16 conditions. A substitute motion was made by Mrs. McDaniels, seconded by Mr. Wallace to defer the application to April 6, 2020 public hearing. All voted for except Mr. Jones, Mr. McCoy, Mr. Smith, and Mr. Steier who voted no.

AYE 5 NO 4 ABSTAIN 0 ABSENT 0

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



Property Owner & Applicant **South Bay Shore LLC**
Address **1047 S Bay Shore Drive**
Public Hearing **February 24, 2020**
City Council District **Lynnhaven**

Agenda
Item

6

Parcel GPIN: 2418-36-2690
Accela Record: 2020-CBPA-00002
Applicant's Agent: Eddie Bourdon, Sykes Bourdon, Ahern & Levy
CBPA Board Action: APPROVED WITH 17 CONDITIONS ON FEBRUARY 24, 2020

The variance of South Bay Shore, LLC located at 1047 S Bay Shore Drive was granted with the following 17 reasonable and appropriate conditions offered towards preventing the variance from causing or contributing to a degradation of water quality based on the following findings, as required in Section 110(H) of the CBPA Ordinance:

Board's Findings:

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because this subdivision was recorded many years prior to the adoption of the Bay Act and as a result every waterfront home is significantly impacted by the Ordinance. Since the enactment in 1991, numerous homes have made similar variance requests and been granted so the approval of this request will in no way confer any special privilege to the current owners.
- 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 originally platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore placing portions of this property within the RPA and has been further encumbered with development restrictions thus limiting the location of improvements with the lot to the given areas shown on the CBPA Exhibit.
- 3) The variance is the minimum necessary to afford relief given that the best areas for development of this property is as shown to help avoid additional impacts to the resource. The proposed improvements have been limited to the landward buffer except for minor encroachment for a stairway and steppingstone path.

- 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.
- 5) The Board is of the opinion that providing needed maintenance to the preserved riparian buffer and mitigating addition plant material into the riparian buffer offers a management practice that aids in a no net increase in nonpoint source pollution coupled with the recommended conditions in the Staff report for structural best management practices in addition to buffer restoration.

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) A maximum of 2,500 square feet of turf is permitted for this property. Said turf shall not be permitted within the 50-foot seaward buffer. All remaining pervious area shall be areas of buffer restoration. Buffer restoration areas shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance to the greatest extent practicable consisting of **11 understory trees, 44 large shrubs, and 66 small shrubs.**

The required restoration shall be installed beginning in the upper limits of 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. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration

shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

- 4) The proposed circular driveway shall not encroach seaward of the delineated top of bank feature.
- 5) The proposed circular driveway, exclusive of the portions adjacent to the garage 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.
- 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 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.
- 11) 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.
- 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 \$2,040.72 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) The conditions and approval associated with this variance are based on the exhibit plan dated November 27, 2019, prepared by WPL, signed January 3, 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. Jones, seconded by Mr. France to approve the variance request with the 17 conditions listed above. All voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

**DREPS AYE
FRANCE AYE
JESTER AYE
JONES AYE**

MCCOY	AYE
MCDANIELS	AYE
SMITH	AYE
STEIER	AYE
WALLACE	AYE