



**MINUTES
CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
JUNE 22, 2020**

In accordance with Virginia Code Virginia § 2.2-3708.2(A)(3), Virginia Code § 15.2-1413 and the City's Continuity of Government Ordinance adopted on March 31, 2020, and Chapter 854 of the 2019 Acts of Assembly as amended, the chair of the Virginia Beach Chesapeake Bay Preservation Area (CBPA) Board called a special meeting for a public hearing to be held on Monday, June 22, 2020, at 10:00 am BY ELECTRONIC COMMUNICATION MEANS which was held virtually with CBPA Board Members, Staff and citizens participating via video/audio conference.

A motion was made by Mr. McCoy and seconded by Mr. Jones to approve the June 1, 2020 CBPA Variance conditions. All voted for the motion. This vote also serves as the official roll call for this meeting.

BOARD ACTION: APPROVED JUNE 1, 2020 MINUTES ON JUNE 22, 2020

YES 9 NO 0 ABSTAIN 0 ABSENT 0

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

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



Property Owner & Applicant **Daniel A & Sara Bailey**
Address **3725 Albacore Key**
Public Hearing **June 22, 2020**
City Council District **Lynnhaven**

Agenda
Item

1

Parcel GPIN: 1487-49-2578
Accela Record: 2020-CBPA-00014
Applicant's Agent: Self-represented
CBPA Board Action: APPROVED WITH 3 CONDITIONS ON JUNE 22, 2020

Board's Findings:

The variance of Daniel A & Sara Bailey located at 3725 Albacore Key was granted with the following 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 because, the majority of driveway is single lane, 7 foot wide and the majority of homes in Kings Forest have double lane driveways.
- 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 property are within the RPA.
- 3) The variance is the minimum necessary to afford relief because the proposed expansion is a minimal request, a 5-foot wide expansion to the drive aisle of the driveway resulting in less than 450 square feet of new impervious cover on a lot with an overall impervious cover less than 17 percent of the land above water and wetland.
- 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 redevelopment of the driveway will improve the conditions explained by the applicant and does not impact any riparian buffer canopy cover or mature forest floor located along the shoreline of the lot.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, the construction access will occur from a single point, land disturbance will be minimal, and all denuded areas will be stabilized post construction as conditioned below.

CPBA Variance Conditions:

- 1) The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.
- 2) 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.**
- 3) 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.

Daniel Bailey appeared before the Board to give testimony.

A motion was made by Mr. Jones, seconded by Mr. McCoy to approve the variance with the 3 condition as stated in the Staff report. All present voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Property Owner & Applicant **Alan & Julie Faneca**
Address **1321 Five Point Road**
Public Hearing **June 22, 2020**
City Council District **Lynnhaven**

Agenda
Item

2

Parcel GPIN: 1498-67-9106
Accela Record: 2020-CBPA-00015
Applicant's Agent: Billy Garrington – Governmental Permitting Services
CBPA Board Action: APPROVED WITH 20 CONDITIONS ON JUNE 22, 2020

Board's Findings:

The variance of Alan & Julie Faneca located at 1321 Five Point Road was granted with the following 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 because the depth of the platted lots along the west side of Five Points Road ranges from approximately 120 linear feet to 178 linear feet measured from the City right-of-way to the edge of water or wetlands. Six of the lots along the west side of Five Points Road, exclusive of this lot, have both primary and accessory structures within the 100-foot RPA of which all 6 of the lots contain swimming pools. The Board provides that the intention of this exception is intended to make sure that the variance request *"would not give the applicant something that has been denied to others in similar situations, and gets to the equity, fairness, and arbitrary and capricious aspects of any exception request and decision."*
- 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 parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore placing the entire lot within the RPA.
- 3) The Board is of the opinion that the minimum necessary to afford relief allows Staff to work with the applicant to balance a variance request with the performance standards of the CBPA Ordinance. In some situation, the dimensions of the lot and existing environment features, such as topography add additional challenges towards situating improvements while being cognitive to *"the minimum necessary to afford relief."* Staff offers that a retreat of impervious cover from the 50-foot seaward buffer, redevelopment of existing impervious cover within the 50-foot landward provides merit toward 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 purpose and intent of the ordinance is simply water quality, to prevent pollution of the Bay as a result of non-point source pollution. Most of these homes currently have no storm water treatment on site. As a result of this variance request the owner will install bioretention beds, buffer restoration in areas currently devoted to turf and even off-site treatment via the Lynnhaven Oyster Heritage Program all to benefit water quality.”* Staff offers the recommended conditions below, specific to this variance request as a means towards the variance request being in harmony with the purpose and intent of the CBPA Ordinance.

- 5) *“Strict erosion and sediment control measures do more to halt non-point source pollution, stock piling materials on existing hard surfaces, single point access way and revegetating and denuded areas all help to limit pollution from entering the adjacent waters”* as a means to manage towards a no net increase in nonpoint source pollution load.

CPBA 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) All remaining pervious area within the 100-foot RPA buffer and existing areas of landscape beds within the Variable Width buffer shall be restored to buffer mitigation or supplemented with vegetation to create a riparian buffer ecosystem.

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 to the greatest extent practicable. The required 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) In-lieu of the infiltration trenches shown on the CBPA Exhibit, infiltration wells shall be utilized as a means to manage stormwater and minimize land disturbance within the critical root zones of trees outboard the limits of construction.

- 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) 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) The brick portion of the existing driveway shall be redeveloped with 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.
- 16) 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.
- 17) **** 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 \$1,028.50 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.

- 18) It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
- 19) This variance and associated conditions **will supersede** the conditions of the Board variance granted July 26, 2004.
- 20) The conditions and approval associated with this variance are based on the exhibit plan dated December 3, 2019, prepared by Gallup Surveyors & Engineers, signed March 19, 2020 by David R. 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 with Governmental Permitting Services appeared before the Board representing the applicant.

A motion was made by Mr. Smith, seconded by Mr. Jones to approve the variance with the 20 condition as stated in the Staff report. All present voted for the motion.

AYE	9	NO	0	ABSTAIN	0	ABSENT	0
DREPS		YES					
FRANCE		YES					
JESTER		YES					
JONES		YES					
MCCOY		YES					
MCDANIELS		YES					
SMITH		YES					
STEIER		YES					
WALLACE		YES					



Property Owner & Applicant **Todd Matthew Ehrenzeller Trust**
Address **3858 Little Neck Point**
Public Hearing **June 22, 2020**
City Council District **Lynnhaven**

Agenda
Item

3

Parcel GPIN: 1489-43-9290 & 1489-43-6188
Accela Record: 2020-CBPA-00016
Applicant's Agent: Eddie Bourdon – Sykes, Bourdon, Ahern & Levy, PC
CBPA Board Action: APPROVED WITH 16 CONDITIONS ON JUNE 22, 2020

Board's Findings:

The variance of Todd Matthew Ehrenzeller Trust located at 3858 Little Neck Point was granted with the following 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 because these two (2) legally created building lots on this peninsula of land were subdivided in 1975, some 16 years before Virginia Beach adopted the CBPA Ordinance. Both of these existing building lots are now entirely within the RPA (i.e. they have been and are significantly impacted by the Ordinance). Since our adoption of the CBPA Ordinance in 1991, numerous owners of existing lots have made variance requests to develop their property consistent with the character of the communities in which they are located and been granted the necessary relief. Approval of this request will in no way confer and special privilege to the current owners. In fact, these owners, by proposing to combine the (2) lots and redeveloping the property as a single family residence with a guest house, are significantly reducing the existing, necessary and justified encroachment into the 50' seaward portion of the RPA and significantly reducing the amount of impervious surface below that which would exist if both of the existing lots were to be developed as separate home sites.
- 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 contract purchaser as indicated in the response concerning required finding #1 above, the existing conditions and circumstances of these two (2) building lots, the long shared driveway access and existing improvements preceded adoption of the CBPA Ordinance and its imposition of the RPA buffer on the entirety of the 2.85 acres of high land (above the 3' contour) on the combined lots.
- 3) The variance is the minimum necessary to afford relief because the minimum necessary is a very subjective and arbitrary concept, which necessarily involves a comparative evaluation of the level of improvements upon similarly sized and situated parcels in the same zoning district and vicinity. The Board has consistently granted variances for the development of residential homesites with the general understanding that the total impervious cover on a site not exceed

30% of the land area, which leaves a substantial amount of land to be used for buffer restoration, bioretention beds and other techniques for addressing the performance standards adopted in the furtherance of the Act's goals of protecting and enhancing water quality. By combining these two (2) building lots, and redeveloping Site A-2, the applicants will both (a) reduce the total impervious surface within the 50' seaward buffer; and (b) reduce dramatically, the total impervious surface on the combined 2.85 acres of high land (above the 3' contour), that would occur if both existing sites were developed. At 30% impervious cover on the two (2) lots the total impervious surface would be 37,372 square feet. Given the lengthy shared driveway access, the 30% impervious surface would be reached, and likely exceeded, with a development of both lots.

- 4) The applicant's agent provides that the purpose and intent of the Ordinance is [to] simply protect water quality in the Bay and its tributaries by preventing pollution of the Bay as a result of non-point source discharge. Like the home and improvements on Site A-2, a very significant percentage of existing homes currently have little or no onsite stormwater treatment. Consequently, these applicants will install biorientation beds, extensive buffer restoration in areas within the 50' seaward buffer currently devoted to turf along with creating canopy cover. In addition, offsite treatment will be aided by contribution to the Lynnhaven Oyster Heritage Program.
- 5) Strict erosion and sediment control measures do more to halt non-point source pollution, stock piling materials on existing hard surfaces, single point access way and revegetating and denuded areas all help to limit pollution from entering the adjacent waters as a means to manage towards a no net increase in nonpoint source pollution load.

CPBA 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: **12,235 square feet x 200 percent = 24,470 square feet.**

All 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.

- 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 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.
- 9) 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.**
- 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) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
- 14) ****** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$2,803.62 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.
- 15) This variance and associated conditions **will supersede** the conditions of the Board variance granted July 22, 1996 and September 26, 2011.

16) The conditions and approval associated with this variance are based on the exhibit plan dated April 3, 2020, prepared by Gallup Surveyors & Engineers, signed June 8, 2020 by David R. 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.

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

A motion was made by Mr. Jones, seconded by Mr. McCoy to approve the variance with the 16 condition as stated in the Staff report. All present voted for the motion.

AYE	9	NO	0	ABSTAIN	0	ABSENT	0
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DREPS	YES
FRANCE	YES
JESTER	YES
JONES	YES
MCCOY	YES
MCDANIELS	YES
SMITH	YES
STEIER	YES
WALLACE	YES



Property Owner & Applicant **Patricia Laney Clarke**
Address **128 Pinewood Road**
Public Hearing **June 22, 2020**
City Council District **Beach**

Agenda
Item

4

Parcel GPIN: 2418-53-9402
Accela Record: 2020-CBPA-00017
Applicant's Agent: Billy Garrington – Governmental Permitting Service
CBPA Board Action: APPROVED WITH 15 CONDITIONS ON JUNE 22, 2020

Board's Findings:

The variance of Patricia Laney Clarke located at 128 Pinewood Road was granted with the following 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 because, the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels and the redevelopment request for this lot does not exceed those variances that have been granted to other owners of property within this neighborhood.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this lot are within the RPA.
- 3) The variance is the minimum necessary to afford relief with the majority of the variance request is redevelopment of existing impervious cover and with the overall impervious cover of the lot increasing less than 1,500 square feet, the overall impervious cover for the lot remains below 15 percent of the lot area above water or wetlands.
- 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 or buffer restoration provided between the improvements and the bay. In addition, the restoration of the riparian ecosystem along the existing shoreline offers merit towards improving water quality and not being detrimental to the public welfare.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load the applicant's agent provides that, planting buffer restoration and/or bio-retention stormwater

management will be placed between the improvements and the river to capture and treat runoff prior to discharging into the bay. The owner has also voluntarily opened an enclosed pond to the tidal waters to alleviate and help flooding, and the shorelines have been constructed of several hundred feet of living shoreline and riprap.

CPBA 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: **2,832 square feet x 200 percent = 5,664 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **7 canopy trees, 14 understory trees, 28 large shrubs, and 42 small shrubs.** As a component of the required restoration, areas of created marsh may be counted towards a portion of the vegetative restoration requirement.

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) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
- 14) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$649.004 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.
- 15) The conditions and approval associated with this variance are based on the exhibit plan dated February 12, 2020, prepared by WPL, signed February 12, 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.

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

A motion was made by Mr. Jones, seconded by Mr. McCoy to approve the variance with the 15 condition as stated in the Staff report. All present voted for the motion.

AYE	9	NO	0	ABSTAIN	0	ABSENT	0
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DREPS	YES
FRANCE	YES
JESTER	YES
JONES	YES
MCCOY	YES
MCDANIELS	YES
SMITH	YES
STEIER	YES
WALLACE	YES



Property Owner & Applicant **Arthur G Wilson Jr., & et al**
Address **605 E. Lynn Shore Circle**
Public Hearing **June 22, 2020**
City Council District **Lynnhaven**

Agenda
Item

5

Parcel GPIN: 1487-19-4625
Accela Record: 2020-CBPA-00021
Applicant's Agent: Billy Garrington – Governmental Permitting Service
CBPA Board Action: APPROVED WITH 15 CONDITIONS ON JUNE 22, 2020

Board's Findings:

The variance of Arthur G Wilson Jr., & et al located at 605 E. Lynn Shore Circle was granted with the following 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 because the applicant is not requesting further encroachment into the RPA. The entire site is within the variable width buffer and the entirety of the structure is within the 100' RPA. The homeowners would like to renovate the existing structure to house aging parents. Due to the site conditions, additional impervious within the RPA is unavoidable. Proposed improvements are located on the most landward portion of the structure. The Board concurs and is of the opinion that the redevelopment of the lot is in harmony with other variances within the neighborhood.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this lot are within the RPA.
- 3) The variance is the minimum necessary to afford relief with the additional impervious surface that is proposed on the front of the home which is the adjacent area furthest from the feature. A BMP is proposed to capture runoff and promote infiltration and mitigation is provided to offset the development and reestablish the trophic layers. The Board concurs and offers that the majority of improvements proposed are located within the upper reach of the RPA feature.
- 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, this site will have greater environmental benefits after the proposed improvements by capturing and treating more stormwater and promoting greater infiltration to improve water quality and reduce the overall load on infrastructure through the use of stormwater bmp and installation of buffer mitigation.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load the applicant's agent provides that an infiltration channel and rain garden is proposed as well as a shoreline buffer to capture and treat runoff. Staff is of the opinion that reestablishing the ecological benefits of the riparian buffer offers substantial benefit towards coastal ecosystem mitigation as well as sediment capture and nutrient recycling through the decomposition of organic material produced annual from healthy woody ecosystems.

CPBA 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: **1,779 square feet x 200 percent = 3,558 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: **9 canopy trees, 9 understory trees, 18 large shrubs, and 27 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) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
- 14) ****** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$407.68 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.
- 15) The conditions and approval associated with this variance are based on the exhibit plan dated May 1, 2020, prepared by Painted Fern, signed May 2, 2020 by Jessica Nelson. 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 with Governmental Permitting Services appeared before the Board representing the applicant.

A motion was made by Mr. Jones, seconded by Mr. McCoy to approve the variance with the 15 condition as stated in the Staff report. All present voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Property Owner & Applicant **David & Jessica Flage**
Address **2225 Spinnaker Circle**
Public Hearing **June 22, 2020**
City Council District **Lynnhaven**

Agenda
Item

6

Parcel GPIN: 1488-37-2894
Accela Record: 2020-CBPA-00018
Applicant's Agent: Self-represented
CBPA Board Action: APPROVED WITH 5 CONDITIONS ON JUNE 22, 2020

Board's Findings:

The variance of David & Jessica Flage located at 2225 Spinnaker Circle was granted with the following 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 because the proposed improvements are similar to redeveloped lots within the neighborhood that have encroached into 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 lot was not platted prior to the adoption of the CBPA ordinance.
- 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 decks within the upper reach of the 100-foot RPA buffer, the Board 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 be a drip through deck and will include the proposed vegetation, shrubbery, trees, to ensure water quality is maintained. Additionally, the bio-retention beds will be planted to collect any rain-off from the deck.
- 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.

CPBA Variance 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: **758 square feet x 200 percent = 1,516 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) Under deck treatment of sand and gravel shall be installed.

David Flage appeared before the Board to give testimony.

A motion was made by Mr. Jones, seconded by Mr. McCoy to approve the variance with the 15 condition as stated in the Staff report. All present voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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



Property Owner & Applicant **Morgan Wise**
Address **1333 W. Little Neck Road**
Public Hearing **June 22, 2020**
City Council District **Lynnhaven**

Agenda
Item

7

Parcel GPIN: 1488-37-2894
Accela Record: 2020-CBPA-00020
Applicant's Agent: Billy Garrington – Governmental Permitting Services
CBPA Board Action: APPROVED WITH 17 CONDITIONS ON JUNE 22, 2020

Board's Findings:

The variance of Morgan Wise located at 1333 W. Little Neck Road was granted with the following 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 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 therefore the development of the lot with the proposed encroachments into the 100-foot RPA buffer does not convey a special privilege to the applicant given the extent of redevelopment on adjacent lots within the neighborhood.
- 2) The applicant 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 *“the buffer zones were made part of the Bay Act and these houses were already in place when The Act was enacted and that the hardship is now on this lot and will never go away.”* The Board acknowledges the statement provided by the applicant's agent and offers that the original structure, specific to this lot was constructed in 1958, granted an addition to the primary structure by the CBPA Board in 1995 which could have been granted administratively had the request not been after-the-fact, and did not have any improvements proposed with the 1996 CBPA Board variance to subdivide the original lot.
- 3) The Board is of the opinion that the amount of development that is proposed with the variance request with an overall impervious cover less than 15 percent, coupled with the encroachments into the upper reaches of the 100-foot RPA buffer, provides merit towards 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 situated in areas currently devoted to turf and does not require the removal of any mature vegetation within the riparian buffer.

- 5) The applicant's agent provides that *"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 and denuded areas all help to limit pollution from entering the adjacent waters"* as a means to manage towards a no net increase in nonpoint source pollution load. The Board concurs that providing needed maintenance to the preserved riparian buffer and mitigating with the installation of addition plant material into the riparian buffer both offers a management practice that aids in a no net increase in nonpoint source pollution. These are also coupled with the recommended conditions below and the use of non-structural best management practices as provided on the CBPA Exhibit.

CPBA 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) variance, specifically the required drywells associated with the 1995 CBPA Variance for 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: **2,693 square feet x 200 percent = 5,386 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **7 canopy trees, 7 understory trees, 28 large shrubs, and 42 small shrubs.**

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

- 5) 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. **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.**
- 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) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
- 14) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$617.14 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.
- 15) 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.
- 16) This variance and associated conditions **are in addition to** the conditions of the Board variance granted May 22, 1995 and August 26, 1996.

17) The conditions and approval associated with this variance are based on the exhibit plan dated May 1, 2020, prepared by Gallup Surveyors and Engineers, signed May 1, 2020 by David R. 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 with Governmental Permitting Services appeared before the Board representing the applicant.

A motion was made by Mr. Jones, seconded by Mr. Smith to approve the variance with the 17 condition as stated in the Staff report. All present voted for the motion.

AYE	9	NO	0	ABSTAIN	0	ABSENT	0
DREPS		YES					
FRANCE		YES					
JESTER		YES					
JONES		YES					
MCCOY		YES					
MCDANIELS		YES					
SMITH		YES					
STEIER		YES					
WALLACE		YES					



Address of Noncompliance **2809 Crusader Circle**
 Property Owner **Freedom Operations, LLC**
 Public Hearing **June 22, 2020**
 City Council District **Rose Hall**

Agenda
Item
8

Parcel GPIN: 1495-48-7777
Accela Record: 2020-CBPV-00001
Property Owner’s Agent: Bob Bridges – Freedom Operations, LLC

Board’s Action:

The Board found with the testimony presented at the Show Cause Hearing that the activity, unauthorized construction – development within the Resource Protection Area buffer with the construction of a building storage addition – constitutes a noncompliance of the provisions of the Chesapeake Bay Preservation Area Ordinance.

Based on the testimony at the public hearing, the Board found the environmental impact to the features of the RPA and water quality as LOW and the degree of deviation or non-compliance as MEDIUM.

A civil charge of \$2,500 was imposed and a restoration hearing ordered for September 7, 2020.

Bob Bridges with Freedom Operations, LLC appeared before the Board and gave testimony.

A motion was made by Mr. Jones, seconded by Mrs. Barrett-McDaniels. All present voted for the motion.

AYE 9 NO 0 ABSTAIN 0 ABSENT 0

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