MINUTES
CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
AUGUST 3, 2020

The Chair of the Virginia Beach Chesapeake Bay Preservation Area (CBPA) Board called to order a public hearing in the City Council Chambers, City Hall Building, Virginia Beach Municipal Center, on Monday, August 3, 2020 to heard variance requests to the CBPA Ordinance. In light of the COVID-19 Pandemic, staff facilitated public comment both in person and virtually via Webex, and the meeting was streamed online.

A motion was made by Mr. McCoy and seconded by Ms. June Barrett-McDaniels to approve the July 6, 2020 CBPA Variance conditions. All present voted for the motion accordingly. This vote also serves as the official roll call for this meeting.

BOARD ACTION: APPROVED JULY 6, 2020 MINUTES ON AUGUST 3, 2020

YES 6 NO 0 ABSTAIN 3 ABSENT 0

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

Board Members Present: All present for the August 3, 2020 Public Hearing

Administrative Agenda Item

Chesapeake Bay Preservation Area Board Policies and Rules of Procedures

Public Hearing **August 3, 2020**

The policies and rules of procedures are adopted by the Chesapeake Bay Preservation Area Board of the City of Virginia Beach, to facilitate the performance of its duties and the exercise of its powers as set forth in the City's Chesapeake Bay Preservation Area Ordinance (Appendix F). Authority for the adoption and or modification of these policies and procedures is specifically set forth in Section 100(G) of the Chesapeake Bay Preservation Area Ordinance.

Policies and Rules of Procedures of the Chesapeake Bay Preservation Area Board

Article I	Meetings
Article II	Applications to the Board
Article III	Policies Pertaining to Land Disturbing Activities and Specified Structures
Article IV	Show Cause Procedures

Date of Adoption

Adopted	November 22, 1999
Amended	June 28, 2004
Amended	January 23, 2006
Amended	March 26, 2007
Amended	August 27, 2007
Amended	September 22, 2014

A motion was made by Mr. McCoy, seconded by Mr. Jones to approve the City of Virginia Beach Chesapeake Bay Preservation Area Board's Policies and Rules of Procedures as amended on August 3, 2020. 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**

City of Virginia Beach

Property Owner & Applicant **Jeramy & Natalie Biggie**
Address **409 Susan Constant Drive**
Public Hearing **August 3, 2020**
City Council District **Lynnhaven**

Agenda Item **1**

Parcel GPIN:	2419-61-4826
Accela Record:	2019-CBPA-00044
Applicant's Agent:	Billy Garrington, Governmental Permitting Services Bob Simon, Watefront Consulting
CBPA Board Action:	APPROVED WITH 17 CONDITIONS ON August 3, 2020

Board's Findings:

The variance of Jeramy & Natalie Biggie located at 701 Suffolk 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 conditioned not to exceed 26.8 percent of the lot, and consistent with the redevelopment of the neighborhood. The entire peninsula is bisected by the 50-foot seaward buffer with the balance encompassed by the 50-foot landward buffer.

2) This variance request is not based upon conditions or circumstances that are or have been created because the lot was recorded in 1964 and the single-family residence was constructed in 1969. The original platting and development of this site in no way conforms to the CBPAO as adopted in 1990.

3) The variance is the minimum necessary to afford relief because the subject request is reasonable in that it is conditioned that the overall impervious cover not exceed 26.8 percent and primarily associated with redevelopment of existing impervious cover. The Board recognizes that the peninsula-shaped lot creates challenges, as encroachment into the 50-foot seaward buffer is likely with any proposed redevelopment requests for a single-family residence on this lot.

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 site is not currently served by any BMPs and the entire site drains to Stratton's Creek unabated. With this plan, BMPs will be installed downslope of all improvements with the redevelopment of the lot being accomplished through buffer restoration in harmony with the existing environmental condition of the RPA as a significant component in stormwater runoff, as well as erosion control.

5) As a means to manage towards a no net increase in nonpoint source pollution load, BMPs are proposed and the installation of 200 percent of buffer restoration is essential to towards establishment of a riparian ecosystem, further ensuring a significant reduction in stormwater runoff, and to enhance erosion control.

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 overall maximum impervious cover of the lot shall not exceed 11,260 square feet or 26.8 percent of the lot. Said limits of impervious cover shall not be increased within the 50-foot seaward buffer as shown on the submitted CBPA Exhibit.

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: **2,790 square feet x 200 percent = 5,580 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 7 canopy trees, 7 understory trees, 28 large shrub, and 42 small shrubs. Said buffer restoration is in addition to the 1:1 replacement ratio for the 12 trees removed with the Wetlands Board approval to reharden the shoreline. Both mitigation requirements shall be shown on the CBPA Site Plan, Buffer Restoration Plan for a total of **19 canopy trees, 7 understory trees, 28 large shrub, 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 along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.

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

11) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

12) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.

13) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.

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

15) The proposed paver path, exiting the north side of the proposed garage and all portion of the redeveloped driveway within the 50-foot seaward buffer of the RPA 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.

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 $639.37 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 June 8, 2020, and revised July 9, 2020 prepared by Chesapeake Bay Site Solutions, Inc., signed July 15, 2020 by Gregory O. Milstead. 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.

As an item on the consent agenda, Billy Garrington appeared before the Board and gave testimony for the variance request.

A motion was made by Mr. Jones, seconded by Mr. McCoy to approve the variance with the 17 condition as provided 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 **Ryan & Corinne Angold** Address **1257 Hebden Cove** Public Hearing **August 3, 2020** City Council District **Lynnhaven**	Agenda Item **2**

Parcel GPIN: 1488-35-7862
Accela Record: 2020-CBPA-00026
Applicant's Agent: David Chewey, Visionscapes Land Design, Inc.
CBPA Board Action: APPROVED WITH 8 CONDITIONS ON August 3, 2020

Board's Findings:
The variance of Ryan & Corinne Angold located at 1257 Hebden Cove 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 redevelopment of lot occurring within the 50-foot landward buffer, with a minimal increase in new impervious cover coupled with the recommended condition specific to buffer restoration provide merit towards the request not confer upon the applicant any special privileges to redevelop within the Resource Protection Area (RPA) buffer.

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

3) The variance is the minimum necessary to afford relief because the applicant has developed a CBPA exhibit that offers a respectable request of impervious cover within the 100-foot RPA buffer while retaining the existing conditions of the most sensitive portion of the 100-foot buffer – the 50-foot seaward buffer.

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 area within the 50-foot seaward buffer is the most valuable portion of the lot for providing long-term ecological and biological benefits for non-propriety stormwater management and water quality and said area has been conditioned to provide buffer restoration for ecological management of the natural shoreline.

5) As a means to manage towards a no net increase in nonpoint source pollution load the proposed improvements will maintain the natural condition of the shoreline thus promoting the future adaptation of the coastal ecosystem and establishes future resiliency for the benefit of both the

resource protection area and management of nonpoint source pollution loads via uptake and filtering through a natural environment.

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. 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 with all areas below the 5-foot contour and currently devoted turf. Said areas shall be restored to a suitable wetland community based on elevation (i.e. high marsh, transition, shrub, upland, etc.). Required restoration shall specify perennial, shrub and tree species and provide the required form / size (i.e. bare root, container, etc.) for each. 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) 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 5 feet from improvements.

6) Construction limits along the seaward portion of the project shall lie a maximum of 5 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**

7) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.

8) No perimeter fill is authorized outboard or seaward of the proposed improvements.

As an item on the consent agenda, David Chewey and the applicant, Ryan Angold appeared before the Board and gave testimony for the variance request.

A motion was made by Mr. Jones, seconded by Mr. McCoy to approve the variance with the 8 condition as provided 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**