



**CHESAPEAKE BAY PRESERVATION AREA BOARD  
VIRGINIA BEACH, VIRGINIA**

**SEPTEMBER 10, 2020 PUBLIC HEARING  
APPROVED FINDINGS AND VARIANCE CONDITIONS**

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 Thursday, September 10, 2020 to hear 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. Jones and seconded by Mr. France to approve the August 3, 2020 CBPA Board findings and variance conditions. All present voted for the motion accordingly. This vote also serves as the official roll call for this meeting.

**BOARD ACTION: THE CBPA BOARD VOTED TO APPROVED THE AUGUST 3, 2020 FINDINGS AND VARIANCE CONDITIONS ON SEPTEMBER 10, 2020 AS FOLLOWS.**

**YES 7 NO 0 ABSTAIN 0 ABSENT 2**

<b>DREPS</b>	<b>YES</b>
<b>FRANCE</b>	<b>YES</b>
<b>JESTER</b>	<b>YES</b>
<b>JONES</b>	<b>YES</b>
<b>MCCOY</b>	<b>ABSENT</b>
<b>MCDANIELS</b>	<b>ABSENT</b>
<b>SMITH</b>	<b>YES</b>
<b>STEIER</b>	<b>YES</b>
<b>WALLACE</b>	<b>YES</b>

**Board Members Present: Dreps, France, Jester, Jones, Smith, Steier and Wallace**



Property Owner & Applicant **David & Stephany Moore**  
Address **2825 Timber Neck Trail**  
Public Hearing **September 10, 2020**  
City Council District **Beach**

Agenda  
Item

**1**

**Parcel GPIN:** 1497-47-6373  
**Accela Record:** 2020-CBPA-00033  
**Applicant's Agent:** Brad Martin, Clark Design Group  
**CBPA Board Action:** APPROVED WITH 15 CBPA VARIANCE CONDITIONS ON SEPTEMBER 10, 2020

**Board's Findings:**

The variance of David & Stephany Moore located at 2825 Timber Neck Trail was granted with the 15 reasonable and appropriate conditions offered towards preventing the variance from causing or contributing to a degradation of water quality as provided in the Staff report, 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 neighborhood is zoned at R-15 Residential District which requires minimum lot size of 15,000 square feet. This requirement specific to this lot, which is located on a cul-de-sac, situates the existing improvements within the 100-foot RPA buffer to accommodate the necessary square footage for a single-family residence while maintaining the required zoning front yard setback. As such, several lots within the neighborhood are challenged by the 50-foot seaward buffer making up the majority of the lots' rear yards.
- 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 house was built in the 1960's, prior to the enactment of the CBPA Ordinance, and the CPA buffer encompasses almost the entire parcel.
- 3) The variance is the minimum necessary to afford relief because it is a modest request for a small pool (314 square feet) and pool deck, plus a single parking space addition, and a home addition that is mostly out of the RPA and the location of the proposed improvements situates land disturbance associated with the construction of the improvements to portions of the lot that are more appropriate than others given the existing topography and vegetative cover.
- 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 project will be designed to achieve stormwater management; the proposed stormwater mitigation of the runoff which is not there today will improve water quality and the required buffer restoration will add to the long-term improvement of water quality with the introduction of young canopy trees in an established neighborhood.

- 5) The Board is of the opinion the BMP's will treat stormwater runoff as it enters Lynnhaven River as a means to manage towards a no net increase in nonpoint source pollution load and the redevelopment of this lot provides opportunity to treat and maintain a stormwater management system on a single-family lot that was not required when the residence was constructed.

**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: **2,000 square feet x 200 percent = 4,000 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: **5 canopy trees, 5 understory trees, 20 large shrubs and 30 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 10 feet from improvements.
- 9) Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
- 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 within the 50-foot seaward buffer.
- 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 \$458.33 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 August 3, 2020, prepared by Brad Martin, P.E. of Clark Design Group, LLC. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant's agent and presented to the Board, the application submitted and the sworn presentation to the Board.

**Brad Martin of Clark Design Group appeared before the Board and gave testimony for the variance request.**

A motion was made by Mr. Wallace, seconded by Mr. Jones to approve the variance with the variance condition as provided in the Staff report. Mr. Smith abstained from the vote, all other CBPA Board members present voted for the motion.

<b>AYE</b>	<b>6</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>1</b>	<b>ABSENT</b>	<b>2</b>
<b>DREPS</b>		<b>YES</b>					
<b>FRANCE</b>		<b>YES</b>					
<b>JESTER</b>		<b>YES</b>					
<b>JONES</b>		<b>YES</b>					
<b>MCCOY</b>		<b>ABSENT</b>					
<b>MCDANIELS</b>		<b>ABSENT</b>					
<b>SMITH</b>		<b>ABSTAIN</b>					
<b>STEIER</b>		<b>YES</b>					
<b>WALLACE</b>		<b>YES</b>					



Property Owner & Applicant **Joseph & Susan Martone**  
Address **4413 Jeanne Street**  
Public Hearing **September 10, 2020**  
City Council District **Lynnhaven**

Agenda  
Item

**2**

**Parcel GPIN:** 1477-68-7107  
**Accela Record:** 2020-CBPA-00031  
**Applicant's Agent:** Billy Garrington, Governmental Permitting Services  
Brad Martin, Clark Design Group  
**CBPA Board Action:** APPROVED WITH 13 CBPA VARIANCE CONDITIONS ON SEPTEMBER 10, 2020

**Board's Findings:**

The variance of Joe & Susan Martone located at 4413 Jeanne Street was granted with the 13 reasonable and appropriate conditions offered towards preventing the variance from causing or contributing to a degradation of water quality as provided in the Staff report, 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 is a smaller lot than many others in the area, but multiple nearby homeowners similarly situated in the neighborhood have been granted a CBPA variance to build a swimming pool."* While the Board acknowledges the statement provided by the applicant's agent, the Board reiterates that variance requests presented to the CBPA Board are reviewed individually for the merits provided by each application. The Board is of the opinion that the proposed improvements would not convey any special privileges to the applicant should they agree to the recommended conditions for this variance request. These conditions require that the applicant provide a means for stormwater management and riparian buffer mitigation that would not otherwise be required if the residential lot was located outside of the RPA Buffer.
- 2) Staff offers that the encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this lot are within the RPA.
- 3) The variance is the minimum necessary to afford relief because *"it is a modest request for a small pool (373 square feet) and pool deck."* The Board concurs and agrees with the applicant's opinion that *"the proposed improvements are situated in the most natural place in the back yard, close to the home."*

- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare with the introduction of stormwater management coupled with riparian buffer mitigation in an area with underlying soils that are moderately well drained offers merit towards providing water quality.
- 5) *“The BMP’s will treat stormwater runoff as it enters Thalia Creek”* to manage towards a no net increase in nonpoint source pollution load with the analysis and layout of the stormwater management facilities, if integrated with the layout of the retaining wall, provides merit towards nutrient reduction on a lot with existing improvements that currently does not treat stormwater run-off.

**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: **992 square feet x 200 percent = 1,984 square feet.**

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

The required restoration shall be located in 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. 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) A double row of 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 10 feet from improvements.
- 9) Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
- 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 within the 50-foot seaward buffer.
- 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 \$227.33 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) The conditions and approval associated with this variance are based on the exhibit plan dated August 3, 2020, prepared by Brad Martin, P.E. of Clark Design Group, LLC. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant's agent and presented to the Board, the application submitted and the sworn presentation to the Board.

**Billy Garrington of Governmental Permitting Services and Brad Martin of Clark Design Group appeared before the Board and gave testimony for the variance request.**

**Staff received an inquiry of opposition to the request for encroachment into the Resource Protection Area (RPA) to construction a swimming pool with associated pool surround. An official inquiry was not submitted via email or letter, but a request made to Staff to state the opposition at the public hearing.**

A motion was made by Mr. Wallace, seconded by Mr. France to approve the variance with the variance condition as provided in the Staff report. All present voted for the motion.

<b>AYE</b>	<b>7</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>2</b>
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<b>DREPS</b>	<b>YES</b>
<b>FRANCE</b>	<b>YES</b>
<b>JESTER</b>	<b>YES</b>
<b>JONES</b>	<b>YES</b>
<b>MCCOY</b>	<b>ABSENT</b>
<b>MCDANIELS</b>	<b>ABSENT</b>
<b>SMITH</b>	<b>YES</b>
<b>STEIER</b>	<b>YES</b>
<b>WALLACE</b>	<b>YES</b>



Applicant & Property Owner **Bo & Erin McConnell**  
 Address **1304 E. Bay Shore Drive**  
 Public Hearing **September 10, 2020**  
 City Council District **Lynnhaven**

Agenda  
Item  
**3**

**Parcel GPIN:** 2418-59-2357  
**Accela Record:** 2020-CBPA-00032  
**Applicant’s Agent:** Billy Garrington, Governmental Permitting Services  
 Brad Martin, Clark Design Group  
**CBPA Board Action:** DEFERRED AT THE SEPTEMBER 10, 2020 CBPA BOARD PUBLIC HEARING TO THE  
 OCTOBER 5, 2020 CBPA BOARD PUBLIC HEARING.

**Billy Garrington of Governmental Permitting Services and Brad Martin of Clark Design Group appeared before the Board and gave testimony for the variance request.**

**An email was received by Staff and provided to the CBPA Board during the informal session from Georgia and Jim Sherlock of 1245 E. Bay Shore Drive opposed to the variance request at 1304 E. Bay Shore Drive.**

**A motion was made by Mr. Smith, seconded by Mr. Wallace to defer the variance request to the October 5, 2020 CBPA Board Public Hearing. All present voted for the motion.**

**AYE 7 NO 0 ABSTAIN 0 ABSENT 2**

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



Applicant & Property Owner **Michael & Susan Hauser**  
 Address **Meetinghouse Road, GPIN 1489-13-7288**  
 Public Hearing **September 10, 2020**  
 City Council District **Lynnhaven**

Agenda  
 Item  
**4**

**Parcel GPIN:** 1489-13-7288  
**Accela Record:** 2020-CBPA-00030  
**Applicant’s Agent:** Billy Garrington, Governmental Permitting Services  
**CBPA Board Action:** DEFERRED AT THE SEPTEMBER 10, 2020 CBPA BOARD PUBLIC HEARING TO THE OCTOBER 5, 2020 CBPA BOARD PUBLIC HEARING.

**Billy Garrington of Governmental Permitting Services appeared before the Board and gave testimony for the variance request.**

**A motion was made by Mr. Jones, seconded by Mr. France to defer the variance request to the October 5, 2020 CBPA Board Public Hearing. All present voted for the motion.**

**AYE 7 NO 0 ABSTAIN 0 ABSENT 2**

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



Property Owner & Applicant **Charles R. Mehle II**  
Address **2217 Leeward Shore Drive**  
Public Hearing **September 10, 2020**  
City Council District **Lynnhaven**

Agenda  
Item

**5**

**Parcel GPIN:** 2409-19-8460  
**Accela Record:** 2020-CBPA-00035  
**Applicant's Agent:** Billy Garrington, Governmental Permitting Services  
**CBPA Board Action:** APPROVED WITH 1 CBPA VARIANCE CONDITION ON SEPTEMBER 10, 2020

**Board's Findings:**

The variance of Charles R. Mehle, II located at 2217 Leeward Shore Drive was granted with the 1 reasonable and appropriate conditions offered towards preventing the variance from causing or contributing to a degradation of water quality as provided in the Staff report, 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 riprap only condition was imposed on all CBPA plans without regard to practicability or with regard to site characteristics or constraints. The site conditions warrant placing the riprap in excess of the landward alignment of the existing structure as imposed by the condition.
- 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 a required condition for the CBPA variance approval in 2013 without regard to actual site conditions and the exposed height of the bulkhead out of the bottom.
- 3) The request to redevelop the existing shoreline is the minimum necessary to afford relief with the methodology for accessing the existing shoreline proposed from the uplands to construct the vinyl bulkhead with no long-term impacts to the existing upland vegetation proposed.
- 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 existing buffer restoration is well vegetated and functioning and the proposed vinyl bulkhead is 8-8.5' EH. This would require the removal of up to 16' of the existing shoreline, and line the north side of the navigation canal with riprap.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, "the is no increase in impervious cover.

**CPBA Variance Conditions:**

- 1) A This variance is in addition to the conditions of the CBPA Board variance granted September 24, 2014 and August 26, 2013 removing condition 8 of said 2013 CBPA variance that states *“If and when the shoreline is rehardened, a rip-rap revetment shall be constructed in lieu of a vertical retaining structure (vinyl, timber or steel bulkhead). The toe of said revetment shall lie at or landward of mean high water or tidal vegetated wetlands, unless the Wetlands Board determines that site specific conditions warrant a more seaward alignment.”*.

**Billy Garrington of Governmental Permitting Services appeared before the Board and gave testimony for the variance request.**

**An email was received by Staff and provided to the CBPA Board during the informal session from James D. Oliver of 2208 Windward Shore Drive opposed to the variance request at 2217 Leeward Shore Drive.**

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

**AYE 7 NO 0 ABSTAIN 0 ABSENT 2**

<b>DREPS</b>	<b>YES</b>
<b>FRANCE</b>	<b>YES</b>
<b>JESTER</b>	<b>YES</b>
<b>JONES</b>	<b>YES</b>
<b>MCCOY</b>	<b>ABSENT</b>
<b>MCDANIELS</b>	<b>ABSENT</b>
<b>SMITH</b>	<b>YES</b>
<b>STEIER</b>	<b>YES</b>
<b>WALLACE</b>	<b>YES</b>



Property Owner & Applicant **Peter & Katherine Bosma**  
Address **1952 Twin Cove Road**  
Public Hearing **September 10, 2020**  
City Council District **Lynnhaven**

Agenda  
Item

**6**

**Parcel GPIN:** 1499-16-5042  
**Accela Record:** 2020-CBPA-00029  
**Applicant's Agent:** Billy Garrington, Governmental Permitting Services  
**CBPA Board Action:** APPROVED WITH 18 CBPA VARIANCE CONDITION ON SEPTEMBER 10, 2020

**Board's Findings:**

The variance of Peter & Katherine Bosma located at 1952 Twin Cove Road be granted with the 18 reasonable and appropriate conditions, as amended and offered towards preventing the variance from causing or contributing to a degradation of water quality as provided in the Staff report, 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 additions will be commensurate with other waterfront properties in the area. The upgrades include additions to the main dwelling, wood decking, an attached garage and parking area and a pool and hot tub."* The Board concurs that the redevelopment of this lot is consistent with other CBPA variances within the surrounding 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 although portions of the new impervious cover encroach into the 50-foot seaward buffer, approximately 80 percent of the lot will remain in a pervious condition with approximately 722 linear feet of the 50-foot seaward buffer remaining undisturbed.
- 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 existing home built so long before the Bay Act, the applicants have very few options to upgrade the residence. The applicant feels the project will not lead to a degradation of water quality. In fact, with the mitigation measures that will be included, the applicant feels the water quality will be enhanced post construction. The applicant will be including stormwater treatment where there is none presently, they will be including additional buffer restoration and leaving significant natural buffer in place and off-site mitigation will take place through the LOHF program, all to ensure non-point source pollution does not increase here.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load, 80 percent overall post-construction cover of the lot will remain in a pervious condition, the installation of both structural and non-structural best management practices for stormwater treatment will be utilized, and approximately 722 linear feet of the 50-foot seaward buffer will remain in a natural state.

**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) Those portions of the 50-foot seaward buffer and 50-foot landwards buffer currently in a natural state shall remain. Buffer restoration shall be installed along the top of bank feature within the 50-foot seaward buffer in areas currently devoted to turf. Buffer restoration beds shall extend landward of the top of bank feature for a minimum width of 10 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, 58 large shrubs, and 87 small shrubs.**

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) 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) Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under the wood deck and stairs.
- 14) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
- 15) \*\* As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$1,334.89 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 16) 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.
- 17) The conditions and approval associated with this variance are based on the exhibit plan prepared by Gaddy Engineering Services, LLC signed July 31, 2020 by Michael S. Gaddy. 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 area of wood deck shall be reduced by 20 percent and be reduced in an easterly direction with the intent to be away from the edge of water.

**Billy Garrington of Governmental Permitting Services and Peter Bosma appeared before the Board and gave testimony for the variance request.**

**A motion was made by Mr. Smith, seconded by Mr. France to approve the variance, as amended with the 18 variance condition as provided above. All present voted for the motion.**

**AYE 7 NO 0 ABSTAIN 0 ABSENT 2**

<b>DREPS</b>	<b>YES</b>
<b>FRANCE</b>	<b>YES</b>
<b>JESTER</b>	<b>YES</b>
<b>JONES</b>	<b>YES</b>
<b>MCCOY</b>	<b>ABSENT</b>
<b>MCDANIELS</b>	<b>ABSENT</b>
<b>SMITH</b>	<b>YES</b>
<b>STEIER</b>	<b>YES</b>
<b>WALLACE</b>	<b>YES</b>



Property Owner & Applicant **Trevor & Randi Dunlap**  
Address **1304 Wren Place**  
Public Hearing **September 10, 2020**  
City Council District **Lynnhaven**

Agenda  
Item

**7**

**Parcel GPIN:** 2418-23-1334  
**Accela Record:** 2020-CBPA-00038  
**Applicant's Agent:** Billy Garrington, Governmental Permitting Services  
**CBPA Board Action:** APPROVED WITH 16 CBPA VARIANCE CONDITION ON SEPTEMBER 10, 2020

**Board's Findings:**

The variance of Trevor & Randi Dunlap located at 1304 Wren Place was granted with the 16 reasonable and appropriate conditions offered towards preventing the variance from causing or contributing to a degradation of water quality as provided in the Staff report, 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 the lot is reasonable as the property was that was platted in 1926, with the original structure built in 1935 which is clearly decades prior to the adoption of the CBPA Ordinance in 1991. Furthermore, the geometry of the lot places approximately 80 percent of the parcel within the RPA buffer. Based on these facts, the Board concludes that the request does not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas.
- 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.
- 3) The variance is the minimum necessary to afford relief because *"the majority of the development is over existing decks, house, and walkways and the proposed location is the best areas for expansion and redevelopment for the property as shown."* The Board concurs given the minimal amount of new impervious cover requested within the RPA.
- 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, if approved, additional planting buffer restoration will be placed between the improvements and the shoreline prior to discharging into the Little Neck Creek.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load, additional planting buffer restoration will be placed between the improvements and the shoreline prior to discharging into the Little Neck Creek.

**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 buffer restoration and stormwater management facilities shall be documented on the revised site plan. Documentation shall describe the health and functionality of said requirements. Prior restoration requirements shall be installed if not present.
- 3) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 4) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **590 square feet x 200 percent = 1,180 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **3 canopy trees, 3 understory trees, 6 large shrubs, and 9 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 10 feet from improvements.
- 10) Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
- 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) Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under the wood deck and stairs.
- 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 within the 50-foot seaward buffer.
- 15) \*\* As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$135.20 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 16) The conditions and approval associated with this variance are based on the exhibit plan dated September 29, 2019, prepared by WPL, signed July 31, 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. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

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

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

<b>AYE</b>	<b>7</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>2</b>
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<b>DREPS</b>	<b>YES</b>
<b>FRANCE</b>	<b>YES</b>
<b>JESTER</b>	<b>YES</b>
<b>JONES</b>	<b>YES</b>
<b>MCCOY</b>	<b>ABSENT</b>
<b>MCDANIELS</b>	<b>ABSENT</b>
<b>SMITH</b>	<b>YES</b>
<b>STEIER</b>	<b>YES</b>
<b>WALLACE</b>	<b>YES</b>



Property Owner & Applicant **Benjamin & Holly Proto**  
Address **2709 Shorehaven Drive**  
Public Hearing **September 10, 2020**  
City Council District **Lynnhaven**

Agenda  
Item

**8**

**Parcel GPIN:** 1498-59-6508  
**Accela Record:** 2020-CBPA-00034  
**Applicant's Agent:** Billy Garrington, Governmental Permitting Services  
**CBPA Board Action:** APPROVED WITH 15 CBPA VARIANCE CONDITION ON SEPTEMBER 10, 2020

**Board's Findings:**

The variance of Benjamin & Holly Proto located at 2709 Shorehaven Drive was granted with the 15 reasonable and appropriate conditions offered towards preventing the variance from causing or contributing to a degradation of water quality as provided in the Staff report, 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 dwelling and associated improvements are in keeping with 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 originally platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance.
- 3) The variance is the minimum necessary to afford relief because the owners have designed the proposed improvements to minimize the impact to the Chesapeake Bay, the new home has been placed toward the front setback line and shifted around on the site to minimize site impacts and avoid development in the 50' seaward portion of the site.
- 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 dwelling and 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 existing natural riparian buffer will be enhanced and expanded upon to enhance the site. Bioremediation stormwater management will be placed between the improvements and the waterway to capture and treat runoff prior to discharging into the bay as a means to manage towards a no net increase in nonpoint source pollution load.

**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 and limits of turf shall be in substantial compliance with the Design Plan prepared by WPL dated July 28, 2020 and on file with the Department of Planning and Community Development.

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.

- 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.
- 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) \*\* 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 \$1,802.16 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.
- 14) Mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal shore and existing forest floor within the 50-foot seaward buffer. Areas of maintenance shall be discussed with Staff during the preconstruction meeting and authorized before performed. Maintenance activities shall be performed consistent with the horticultural practices described in the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation regarding woodlot management.
- 15) The conditions and approval associated with this variance are based on the exhibit plan dated September 29, 2019, prepared by WPL, signed July 31, 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. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

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

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

**AYE 7 NO 0 ABSTAIN 0 ABSENT 2**

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



Property Owner & Applicant **Freedom Operations LLC**  
Address **2809 Crusader Circle**  
Public Hearing **September 10, 2020**  
City Council District **Rose Hall**

Agenda  
Item

**9**

**Parcel GPIN:** 1495-48-7777  
**Accela Record:** 2020-CBPA-00036  
**Applicant's Agent:** Brian Owens, MSA PC  
Bob Brush, Freedom Operations LLC  
**CBPA Board Action:** APPROVED WITH 5 CBPA VARIANCE CONDITION ON SEPTEMBER 10, 2020

**Board's Findings:**

The variance of Freedom Operations LLC located at 2809 Crusader Circle was granted with the 5 reasonable and appropriate conditions offered towards preventing the variance from causing or contributing to a degradation of water quality as provided in the Staff report, 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 particular area is zoned I2 / heavy industrial and is designed for this type of business. Commercial businesses are greatly limited to certain locations in which to operate as I-1 or I-2 in Virginia Beach. Furthermore, many areas also carry an APZ designation which further limits what businesses can do in certain areas. This property was purchased with the intent of using the entire 2.5 acres to support business operations. There is no advantage over other businesses in this industrial area, the location of the property is more than 1/2 mile from any tributary to the bay and the company has taken extensive measures to prevent water from leaving the property through improvements to the BMP.
- 2) The Board offers that this finding is intended to ensure that an exception request would not give the applicant something that has been denied others in similar situations, and addresses the equity, fairness, and arbitrary and capricious aspects of any exception request and decision. Given the zoning use of the lot and similar developments within the area, Staff is of the opinion that the proposed improvements associated with the after-the-fact variance request will not confer upon the applicant any special privileges because of the applicant's effort to develop this lot with a stormwater management plan in place on site, coupled with Staff's recommended conditions below.
- 3) The variance is the minimum necessary to afford relief because *"the addition to the existing building (that is also in part of the seaward RPA) will satisfy the current needs of the company and further improvements in the RPA are not needed to operate the business at this time."* The Board is of the opinion that the redevelopment of the lot from an approximately 7,200 square foot

stockpile and storage lot to a 900 square foot building addition reintroduces approximately 6,300 square feet of pervious cover into the RPA.

- 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 2809 Crusader Circle is zoned I-2 and is intended for the heaviest of industrial uses. The previous owner conducted this type of activity. Freedom Operations and its affiliate Point One intend to use the property for light fabrication and therefore have improved the use of the land considerably compared to its past owners. This fact, in addition to the newest improvements that will take place to include much improved landscaping and turf areas will greatly improve the water quality and help better protect the bay.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, extensive improvements to storm water runoff in a new BMP created as a result of new construction currently taking place on the property and improved landscaping and turf areas as a result of the new construction.

**CPBA Variance Conditions:**

- 1) Inclusive of the required Plan Revision for the after-the-fact building addition, a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements shall be submitted for review and approval associated with the after-the-fact variance request. 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.
- 2) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **900 square feet x 200 percent = 1,800 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: **5 canopy trees, 10 understory trees and 15 large shrubs.**

The required restoration shall be located in the Resource Protection Area 50 -foot seaward buffer in areas currently devoted to turf. 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. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

- 3) **\*\*** 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 \$371.25 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.

- 4) Upon granting of a variance, a post-plan revision shall be reviewed by the Department of Planning, Development Services Center and approved within 60 days from the date of this hearing. Once the plans have been approved, **CBPA / CIVIL permit** must be obtained within 30 days. All required restoration must be installed or in the process of installation within 45 days after issuance of the building permit. Failure to comply with this condition may result in a show cause hearing.
  
- 5) The conditions and approval associated with this variance are based on the exhibit plan dated May 30, 2019, prepared by NDI Engineering Company, signed August 20, 2020 by William E. Uebelhoer. 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, Brian Owens of MSA PC and Bob Brush of Freedom Operations LLC appeared before the Board and gave testimony for the variance request.**

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

**AYE    7        NO    0        ABSTAIN    0        ABSENT    2**

<b>DREPS</b>	<b>YES</b>
<b>FRANCE</b>	<b>YES</b>
<b>JESTER</b>	<b>YES</b>
<b>JONES</b>	<b>YES</b>
<b>MCCOY</b>	<b>ABSENT</b>
<b>MCDANIELS</b>	<b>ABSENT</b>
<b>SMITH</b>	<b>YES</b>
<b>STEIER</b>	<b>YES</b>
<b>WALLACE</b>	<b>YES</b>



Restoration Hearing **Freedom Operations LLC**  
 Address **2809 Crusader Circle**  
 Public Hearing **September 10, 2020**  
 City Council District **Rose Hall**

Agenda  
 Item  
**10**

**Parcel GPIN:** 1495-48-7777  
**Accela Record:** 2020-CBPV-00001  
**Applicant’s Agent:** Bob Brush, Freedom Operations LLC  
**CBPA Board Action:** APPROVED THE SEPTEMBER 10, 2020 AFTER-THE-FACT CBPA VARIANCE, AGENDA ITEM 9 AS THE RESTORATION HEARING ORDERED BY THE CBPA BOARD AT THE SHOW CAUSE HEARING HELD JUNE 22, 2020

**Bob Brush of Freedom Operations LLC appeared before the Board and gave testimony for the variance request.**

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

**AYE 7 NO 0 ABSTAIN 0 ABSENT 2**

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