



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

March 1, 2021

In accordance with Virginia Code § 2.2-3708.2, Virginia Code § 15.2-1413 and the City's Continuity of Government Ordinance adopted on September 15, 2020, and Chapter 1289 of the 2020 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, March 1, 2021, at 10:00 am by electronic communication means which was held virtually with CBPA Board Members, Staff and citizens participating via video/audio conference.

The first order of business was to approve the finding and variance conditions of the February 1, 2021 CBPA Board Public Hearing. A motion was made by Mr. McCoy and seconded by Mr. Jones to approve the 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 APPROVE THE FEBRUARY 1, 2021 FINDINGS AND VARIANCE CONDITIONS ON MARCH 1, 2021 AS FOLLOWS.

YES	7	NO	0	ABSTAIN	1	ABSENT	1
BARRETT-MCDANIELS				YES			
DREPS				ABSENT			
FRANCE				YES			
JESTER				YES			
JONES				YES			
MCCOY				YES			
STEIER				ABSTAIN			
WALLACE				YES			
YOUNG				YES			

All CBPA Board Members present voted as above. Mr. Steier was absent from the February 1, 2021 CBPA Board virtual public hearing and abstained from this vote.



Property Owner & Applicant **Skyline Trust**
Address **3146 Inlet Road**
Public Hearing **March 1, 2021**
City Council District **Lynnhaven**

Agenda
Item

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Parcel GPIN: 1489-97-2449
Accela Record: 2021-CBPA-00009
Applicant's Agent: Eddie Bourdon - Sykes, Bourdon, Ahern & Levy, P.C.
CBPA Board Action: APPROVED WITH 19 CBPA VARIANCE CONDITIONS ON MARCH 1, 2021

The Chesapeake Bay Preservation Area Board variance request was granted with the following 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:

Board's Findings:

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated by granting the variance with conditions from a site-specific perspective that would require minimal modifications to the variance request, as submitted. The Board is of the opinion that the conditions in the Staff report provide merit towards the variance request not conferring upon the applicant any special privilege or convenience not accorded to other owners of property in the neighborhood based off the extent of redevelopment proposed to the existing conditions of this lot.
- 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 because the retention of the existing single-family residence challenging the expansion of existing accessory structures, currently located within the 50-foot seaward buffer of the lot and redevelopment accounting for approximately 49 percent of the overall impervious 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 requirement to treat stormwater with the redevelopment of this lot is a viable means towards providing water quality coupled with the value of establishing a riparian buffer and amended soil profile within the 50-foot seaward buffer equally beneficial towards stormwater management. And the use of structural best management practices – permeable pavers provides merit towards this variance being in harmony with the purpose and intent of the CBPA Ordinance.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load the redevelopment of the existing driveway with the use of permeable pavers provides merit towards a series of best management practices managing nonpoint source pollution load over the entire lot.

Board 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 in substantial compliance with the conceptual site plan dated January 29, 2020 prepared by WPL as follow.
 - Lawn area shall be a maximum of 5,900 square feet
 - Buffer restoration areas shall be equal to 21,320 square feet and shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance to the greatest extent practicable consisting of 10 canopy trees, 15 understory trees, 60 large shrubs, and 90 small shrubs.

The required restoration shall be installed beginning in the upper limits of the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

- 4) The maximum impervious cover of the parcel shall not exceed 28,000 square feet of the lot above water and wetlands. Of the 693 square foot reduction in impervious cover, 300 square feet of impervious cover reduction shall occur within the 50-foot seaward buffer.
- 5) The following areas of the existing driveway shall be constructed out of a permeable pavement system.
 - The stem portion of the existing driveway from Inlet Road to the proposed circular driveway.
 - The parking area adjacent to the existing garage and driveway to the existing boat ramp as shown on the conceptual site plan dated January 29, 2020 prepared by WPL.

A detail of the specific permeable paver system and subbase construction shall be provided site plan submitted to the Development Services Center for review and approval.

- 6) The new impervious cover and the areas of redeveloped impervious cover shall be constructed concurrent.
- 7) A double row of wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be provided and installed as follows:
 - Along the seaward portion of the project the required silt fence shall be staked in the field by the applicant's agent prior to scheduling the preconstruction meeting with Civil Inspections. Said silt fence shall be installed no further seaward of the proposed improvements than 10 feet.
 - Along the remaining portions of the property the required silt fence shall be installed 15 feet from all proposed improvements.
- 8) All construction activity inclusive of land disturbance shall be contained within the limits of the required silt fence with all areas outboard of the silt fence left in a natural state.
- 9) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 10) A pre-construction meeting shall be held with the CBPA Inspector, CBPA Staff, the applicant's design team (Engineer of Record and Landscape Architect) and the Contractor(s) hired for the construction of the proposed improvements to review the approved site plan and sequence of construction in the field prior to any land disturbance, including demolition.
- 11) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.
- 12) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline (to the greatest extent practicable) of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 13) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
- 14) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 15) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.

- 16) **** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$1,458.64 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) It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
- 18) This variance and associated conditions will supersede the Board variance granted April 26, 1991.
- 19) The conditions and approval associated with this variance are based on the exhibit plan dated May 15, 2020, prepared by WPL, signed January 29, 2021 by Eric A. Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

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

Dave France, Vice Chairman, abstained from voting due to his company, Kimley-Horn located at 4525 Main St Suite 1000, Virginia Beach, VA 23462, having performed work for the applicant.

A motion was made by Mr. Jones, seconded by Mr. Wallace to approve the variance with the variance conditions as provided in the Staff report. All present voted for the motion. Mr. McCoy left during the formal session of the virtual public hearing and was marked absent for this vote.

AYE	5	NO	1	ABSTAIN	1	ABSENT	2
BARRETT-MCDANIELS		NO			MCCOY	ABSENT	
DREPS		ABSENT			STEIER	YES	
FRANCE		ABSTAIN			WALLACE	YES	
JESTER		YES			YOUNG	YES	
JONES		YES					



Applicant & Contract Purchaser **Charis Properties LLC**
 Address **465 Goodspeed Road**
 Public Hearing **March 1, 2021**
 City Council District **Lynnhaven**

Agenda
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Parcel GPIN: 2419-41-8184
Accela Record: 2021-CBPA-00003
Applicant’s Agent: Billy Garrington - Governmental Permitting Consultants
CBPA Board Action: DEFERRED AT THE MARCH 1, 2021 CBPA BOARD PUBLIC HEARING TO THE MAY 3, 2021 CBPA BOARD PUBLIC HEARING.

Staff read into record two letters of opposition submitted via email. The first letter of opposition was received from Mr. Jesse King, resident at 469 Goodspeed Road. The second letter of opposition was received from Ms. Cathryn Parker, resident at 463 Goodspeed Road.

A motion was made by Mr. France, seconded by Ms. Barrett-McDaniels to defer the variance request to the May 3, 2021 CBPA Board Public Hearing. All present voted for the motion. Mr. McCoy left during the formal session of the virtual public hearing and was marked absent for this vote.

AYE 7 NO 0 ABSTAIN 0 ABSENT 2

BARRETT-MCDANIELS	YES
DREPS	ABSENT
FRANCE	YES
JESTER	YES
JONES	YES
MCCOY	ABSENT
STEIER	YES
WALLACE	YES
YOUNG	YES



Applicant & Contract Purchaser **Steven Quisenberry**
 Address **2069 Thomas Bishop Lane**
 Public Hearing **March 1, 2021**
 City Council District **Lynnhaven**

Agenda
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Parcel GPIN: 1499-66-9714
Accela Record: 2021-CBPA-00004
Applicant’s Agent: Billy Garrington - Governmental Permitting Consultants
 Bob Simon - Waterfront Consulting, Inc.
CBPA Board Action: DEFERRED AT THE MARCH 1, 2021 CBPA BOARD PUBLIC HEARING TO THE APRIL 5, 2021 CBPA BOARD PUBLIC HEARING.

A motion was made by Mr. Jones, seconded by Mr. McCoy to defer the variance request to the April 5, 2021 CBPA Board Public Hearing. All present voted for the motion.

AYE	8	NO	0	ABSTAIN	0	ABSENT	1
BARRETT-MCDANIELS		YES			MCCOY		YES
DREPS		ABSENT			STEIER		YES
FRANCE		YES			WALLACE		YES
JESTER		YES			YOUNG		YES
JONES		YES					



Applicant & Contract Purchaser Jacob Krawitz & Blake Goldmerstein Address 2945 Lynnhaven Drive Public Hearing March 1, 2021 City Council District Lynnhaven	Agenda Item <h1>4</h1>
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Parcel GPIN: 1499-28-2985
Accela Record: 2021-CBPA-00005
Applicant's Agent: Billy Garrington - Governmental Permitting Consultants
CBPA Board Action: DEFERRED AT THE MARCH 1, 2021 CBPA BOARD PUBLIC HEARING TO THE APRIL 5, 2021 CBPA BOARD PUBLIC HEARING.

A motion was made by Mr. Jones, seconded by Mr. McCoy to defer the variance request to the April 5, 2021 CBPA Board Public Hearing. All present voted for the motion.

AYE	8	NO	0	ABSTAIN	0	ABSENT	1
BARRETT-MCDANIELS	YES				MCCOY		YES
DREPS		ABSENT			STEIER		YES
FRANCE		YES			WALLACE		YES
JESTER		YES			YOUNG		YES
JONES		YES					



Applicant & Contract Purchaser **Janet & Stephen Morris**
 Address **2613 Heston Road**
 Public Hearing **March 1, 2021**
 City Council District **Lynnhaven**

Agenda
Item
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Parcel GPIN: 1499-79-1287
Accela Record: 2021-CBPA-00006
Applicant’s Agent: Billy Garrington - Governmental Permitting Consultants
CBPA Board Action: DEFERRED AT THE MARCH 1, 2021 CBPA BOARD PUBLIC HEARING TO THE APRIL 5, 2021 CBPA BOARD PUBLIC HEARING.

A motion was made by Mr. Jones, seconded by Mr. McCoy to defer the variance request to the April 5, 2021 CBPA Board Public Hearing. All present voted for the motion.

AYE	8	NO	0	ABSTAIN	0	ABSENT	1
BARRETT-MCDANIELS		YES				MCCOY	YES
DREPS		ABSENT				STEIER	YES
FRANCE		YES				WALLACE	YES
JESTER		YES				YOUNG	YES
JONES		YES					



Property Owner & Applicant **James & Amanda Vallos**
Address **605 Reasor Drive**
Public Hearing **March 1, 2021**
City Council District **Kempsville**

Agenda
Item

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Parcel GPIN: 1466-26-2703
Accela Record: 2021-CBPA-00010
Applicant's Agent: Billy Garrington, Governmental Permitting Consultant
CBPA Board Action: APPROVED WITH 15 CBPA VARIANCE CONDITIONS ON MARCH 1, 2021

The Chesapeake Bay Preservation Area Board variance request was granted with the following 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:

Board's Findings:

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because the property was platted in 1972 prior to the Chesapeake Bay Preservation Act and the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels. In addition, limiting the proposed improvements with the introduction of a retaining wall and primarily focusing the improvements landward of the top of bank feature; given the unique geometry of the lot provides merit towards not conferring upon the applicant any special privilege.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because the property was platted in 1972 and the existing topography and buffers as required by the Chesapeake Bay Preservation Act require the property to seek variance approvals.
- 3) The variance is the minimum necessary to afford relief because the owners have designed the improvement over existing structures to the greatest extent practicable to maximize the redevelopment and to minimize site impacts above the top of bank.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels, the site currently does not offer any stormwater mitigation for the bay, however if approved, the proposed redevelopment will be required to have treatment provided between the improvements and the river.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load the existing shoreline will be enhanced and expanded upon to compliment the site. Bioretention stormwater

management will be placed between the improvements and the waterway to capture and treat runoff prior to discharging into the river.

Board 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: 771 square feet x 200 percent = 1,542 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 understory trees 8 large shrubs and 12 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) 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) The conditions and approval associated with this variance are based on the exhibit plan dated September 16, 2020, prepared by WPL, signed January 29, 2021 by Eric 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.

As an item of the consent agenda motion was made by Ms. Barrett-McDaniels, seconded by Mr. Steier to approve the variance with the variance conditions as provided in the Staff report. All present voted for the motion.

AYE	8	NO	0	ABSTAIN	0	ABSENT	1
BARRETT-MCDANIELS		YES			MCCOY		YES
DREPS		ABSENT			STEIER		YES
FRANCE		YES			WALLACE		YES
JESTER		YES			YOUNG		YES
JONES		YES					