



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

April 5, 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 March 2, 2021, 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, April 5, 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 March 1, 2021 CBPA Board Public Hearing. A motion was made by Mr. Jones and seconded by Mr. McCoy 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 MARCH 1, 2021 FINDINGS AND VARIANCE CONDITIONS ON APRIL 5, 2021 AS FOLLOWS.

YES	6	NO	0	ABSTAIN	0	ABSENT	3
BARRETT-MCDANIELS				YES			
DREPS				ABSENT			
FRANCE				ABSENT			
JESTER				YES			
JONES				YES			
MCCOY				YES			
STEIER				ABSENT			
WALLACE				YES			
YOUNG				YES			

All CBPA Board Members present voted as above with Mr. Dreps, Mr. France and Mr. Steier absent from the April 5, 2021 CBPA Board virtual public hearing.



Property Owner & Applicant **Steven Quisenberry**
Address **2069 Thomas Bishop Lane**
Public Hearing **April 5, 2021**
City Council District **Lynnhaven**

Agenda
Item

1

Parcel GPIN: 1499-66-9714
Accela Record: 2021-CBPA-00009
Applicant's Agent: Bob Simon - Waterfront Consulting, Inc
CBPA Board Action: APPROVED WITH 14 CBPA VARIANCE CONDITIONS ON APRIL 5, 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 proposed retaining walls are similar slope stabilization as both adjoining properties and may other properties on Thomas Bishop lane.
- 2) The variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because the lot was created before the adoption of the CBPA Ordinance.
- 3) The variance is the minimum necessary to afford relief because the proposed impervious cover is minimal, and that the revised CBPA Exhibit provides merit towards being the minimum necessary to afford relief with the elimination of the upland fill component from the variance request.
- 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 severity of the existing slope and associated land disturbance during construction warrants a construction methodology and stabilization measures specific to site characteristics and has provided the recommended conditions below for the CBPA Board's consideration.
- 5) The slope stabilization will reduce/halt sediment run off into Broad Bay as a means to manage towards a no net increase in nonpoint source pollution load. The Board is of the opinion that if executed properly and managed, both pre- and post- construction of the revised request offer a means towards managing the lot towards a no net increase in nonpoint pollution load.

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 detailed Sequence of Construction (SOC) providing and provided on the site plan. Said SOC shall address, but is not limited to marking of layout in the field, bank protection during construction, management of stormwater run-off during construction, excavation associated with the construction of the proposed improvements inclusive of ground compaction, stabilization of grade and phases to which stabilization will occur and long-term evaluation and management of any future erosion that occurs due to construction.
- 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.
- 4) 400 square feet of buffer restoration shall be installed. 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: 1 canopy trees, 2 understory trees, 2 large shrubs, and 3 small shrubs.

The required restoration shall be located in the Resource Protection Area, 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. Trees shall not be planted within 15 feet of the shoreline where such planting would result in 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) For all portions of the existing bank that are denuded daily by construction activity a temporary soil stabilization measures shall be applied at the end of each working day. All disturbed or denuded areas shall utilize temporary stabilization measures in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 6) For all portions of the existing bank that are regraded and the final grade established, an erosion and sediment control blanket, suitable for areas that require higher flow rates, steeper slopes, or longer-term use shall be installed over all areas of disturbed land both seaward and landward of the retaining wall. Said material shall be secured using a peg, staple or stake per manufacturer recommendations and a vegetive cover provided so that the areas of disturbance have a complete vegetative cover post-construction.

- 7) The area of land seaward of the retaining wall located along the top of bank shall remain in a “cover crop” vegetative cover such as grasses or perennial legumes that provides and active root system in the soil that holds the soil from water erosion while above ground growth shields soil movement from wind erosion and rainfall splatter to minimize soil movement.
- 8) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 9) 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.
- 10) 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.
- 11) Double 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.
- 12) Construction limits shall be contained within the limits of the silt fence.
- 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 \$192.04 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) The conditions and approval associated with this variance are based on the exhibit plan dated January 7, 2021 and revised March 1, 2021 prepared by Waterfront Consulting, Inc. 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.

Bob Simon - Waterfront Consulting, Inc appeared before the Board representing the applicant.

As an item of the consent agenda, 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.

AYE	6	NO	0	ABSTAIN	0	ABSENT	3
BARRETT-MCDANIELS		YES				MCCOY	YES
DREPS		ABSENT				STEIER	ABSENT
FRANCE		ABSENT				WALLACE	YES

JESTER
JONES

YES
YES

YOUNG

YES



Property Owner & Applicant **Jacob Krawitz & Blake Goldmerstein**
Address **2945 Lynnhaven Drive**
Public Hearing **April 5, 2021**
City Council District **Lynnhaven**

Agenda
Item

2

Parcel GPIN: 1499-28-2985
Accela Record: 2021-CBPA-00005
Applicant's Agent: Billy Garrington - Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 16 CBPA VARIANCE CONDITIONS ON APRIL 5, 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 this property is a corner lot and thus geometrically challenged. Neighbors to the south and east have built pools in a similar configuration to what is proposed here. The Board acknowledges the statement provided and does agree that multiple City requirements challenge the redevelopment of this lot however the encroachment request is within the 50-foot seaward buffer and should be evaluated based off site specific conditions that do not collectively negate the other findings of the CBPA Ordinance as follow.
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant because the lot was platted and developed long before the CBPA Ordinance was codified.
- 3) The variance is the minimum necessary to afford relief because the proposed improvements include a modest pool and a reasonable pool deck for the enjoyment of the owner, and a proposed fire pit in the location of the existing shed.
- 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 project will include mitigation measures like buffer restoration and bioretention planting bed BMP's, thus achieving an overall benefit to the Bay. The Board is of the opinion that the recommended conditions provided offer best management practices towards water quality and water quantity management that the lot does not currently provide.

- 5) The bioretention BMP's and buffer restoration will treat stormwater that runs off the property, untreated, today, and will provide environmental benefits to mitigate the project as a means to manage towards a no net increase in nonpoint source pollution load.

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) The maximum impervious cover of the lot shall not exceed 5,400 square feet. With the reduction of overall impervious cover of the lot, no further encroachment shall occur than shown on the 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) 2,800 square feet of buffer restoration shall be installed within the RPA buffer. At a minimum, 70 percent of the required buffer restoration square footage shall be located in the 50-foot seaward buffer with the remain amount situated on the lot to intercept stormwater sheet flow to the greatest extent practicable in areas that do not impact the critical root zones of the existing canopy trees.

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: 2 canopy trees, 7 understory trees 14 large shrubs and 21 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. 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 entire perimeter 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 entire perimeter 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) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
- 14) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$324.95 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) It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
- 16) The conditions and approval associated with this variance are based on the exhibit plan dated February 26, 2021, prepared by Clark Design Group, signed February 26, 2021 by Brad Martin. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

Billy Garrington and Brad Martin appeared before the Board representing 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.

AYE	6	NO	0	ABSTAIN	0	ABSENT	3
BARRETT-MCDANIELS		YES				MCCOY	YES
DREPS		ABSENT				STEIER	ABSENT
FRANCE		ABSENT				WALLACE	YES
JESTER		YES				YOUNG	YES
JONES		YES					



Property Owner & Applicant **Janet & Stephen Morris**
Address **2613 Heston Road**
Public Hearing **April 5, 2021**
City Council District **Lynnhaven**

Agenda
Item

3

Parcel GPIN: 1499-28-2985
Accela Record: 2021-CBPA-00006
Applicant's Agent: Billy Garrington - Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 17 CBPA VARIANCE CONDITIONS ON APRIL 5, 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 is a waterfront lot and the 100' CBPA buffer encumbers 65% of the lot. Neighbors to the east have built pools in a similar configuration to what is proposed here.
- 2) This variance request is not based upon conditions or circumstances that are or have been created by the applicant or predecessor in title because the lot was platted and developed long before the CBPA Ordinance was codified.
- 3) The variance is the minimum necessary to afford relief because the proposed overall impervious cover of the lot albeit similar to the amount of impervious cover on other developed lots within the neighborhood has provided a reduction to the overall impervious cover on the lot by approximately 393 square feet through the removal of existing 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 with the spot grade elevations provided on the CBPA Exhibit that the creation of a riparian buffer ecosystem within the 50-foot seaward buffer would provide substantial water quality benefits by slowing runoff velocities and allowing sediment and attached pollutants to infiltrate prior to discharge into the adjacent waterways.
- 5) The applicant's agent provides that the bioretention BMP's and buffer restoration will treat stormwater that runs off the property, untreated, today, and will provide environmental benefits to mitigate the project as a means to manage towards a no net increase in nonpoint source pollution load. The Board concurs and provides the recommended conditions below to support the statement provided by the applicant's agent.

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) 2,800 square feet of buffer restoration shall be installed within the RPA buffer. At a minimum 2,000 square feet of the required buffer restoration square footage shall be located in the 50-foot seaward buffer with the remain amount situated on the lot to intercept stormwater sheet flow to the greatest extent practicable in areas that do not impact the critical root zones of the existing canopy trees.

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: 7 canopy trees, 7 understory trees 14 large shrubs and 21 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. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

- 4) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 7) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.
- 8) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in

place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.

- 9) Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
- 10) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline (to the greatest extent practicable) of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 11) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
- 12) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 13) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
- 14) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$302.72 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 15) It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
- 16) The conditions and approval associated with this variance are based on the exhibit plan dated February 26, 2021, prepared by Clark Design Group, signed February 26, 2021 by Brad Martin. 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.
- 17) The proposed patio and deck area located at the rear yard shall be reduced by 165 square feet or a 650 square foot conversion of the concrete driveway to a permeable pavement system shall be provided. Said reduction or conversion shall be shown on the revised site plan.

Billy Garrington and Brad Martin appeared before the Board representing applicant.

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

AYE	6	NO	0	ABSTAIN	0	ABSENT	3
BARRETT-MCDANIELS		YES				MCCOY	YES
DREPS		ABSENT				STEIER	ABSENT
FRANCE		ABSENT				WALLACE	YES
JESTER		YES				YOUNG	YES
JONES		YES					



Property Owner & Applicant **Melton & Cheryl Woods**
Address **3737 Silina Dr**
Public Hearing **April 5, 2021**
City Council District **Rose Hall**

Agenda
Item

4

Parcel GPIN: 1486-49-9519
Accela Record: 2021-CBPA-00011
Applicant's Agent: Self-represented
CBPA Board Action: APPROVED WITH 14 CBPA VARIANCE CONDITIONS ON APRIL 5, 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 applicant's request is similar to other lots that have been developed within the neighborhood that are both adjacent to the man-made canal and those located in the Resource Management Area (RMA) that drain through the existing stormwater management pipe system and discharge into the man-made canal.
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because 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 recommended conditions address the overall impervious cover of the lot and if at any time land disturbance exceeds 2,500 square feet, Planning Department Staff may issue a stop work order. At that time, a full site development plan in compliance with local and State regulations shall be submitted for review and approval through the Development Services Center (DSC).
- 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 other homes on street backing to Thalia Creek have similar pools 3805 & 3809 Silina Drive.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load the recommended conditions address the limits of land disturbance, evaluates the overall impervious cover of the lot and conditions buffer restoration towards promoting stormwater run-off

infiltration as merit towards the variance request's management of nonpoint source pollution load.

Board Conditions:

- 1) The existing concrete pad located in the southwest corner of the lot shall be removed and the disturbed areas revegetated.
- 2) The overall impervious cover of the lot shall not exceed 3,320 square feet or 35 percent of the lot above water and wetlands.
- 3) 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 Small Projects 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. Land disturbance associated with the proposed improvements at any given time shall not exceeds 2,500 square feet. If at any time land disturbance exceeds 2,500 square feet, Planning Department Staff may issue a stop work order. At that time, a full site development plan in compliance with local and State regulations shall be submitted for review and approval through the Development Services Center (DSC).
- 4) 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.
- 5) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: 1,510 square feet x 200 percent = 3,020 square feet.

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: 4 canopy trees, 4 understory trees, 16 large shrubs, and 24 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.

- 6) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 7) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 8) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 9) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.
- 10) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed 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. All construction activities shall be within the limits of the silt fence.
- 11) 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.
- 12) 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.
- 13) The impervious cover associated with the swimming pool and associated pool surround shall be equal to a 16 foot by 34 foot swimming pool with a continuous 4 foot pool surround. The patio extension along the house remain the same.
- 14) It is the opinion of the Board that the variance is the maximum amount of impervious cover the lot can support.

** NOTE: The amount to be paid into the Lynnhaven River Oyster Heritage Fund may change based on the square footage of impervious cover shown on the final submitted site plan.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 113(E) of the Chesapeake Bay Preservation Area Ordinance.

Cheryl Woods appeared before the Board representing herself.

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

AYE 6 NO 0 ABSTAIN 0 ABSENT 3

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



Property Owner & Applicant **William & Helen Gradwell**
Address **3848 Prince Andrew Court**
Public Hearing **April 5, 2021**
City Council District **Lynnhaven**

Agenda
Item

5

Parcel GPIN: 1488-34-9313
Accela Record: 2021-CBPA-00012
Applicant's Agent: Self-represented
CBPA Board Action: APPROVED WITH 3 CBPA VARIANCE CONDITIONS ON APRIL 5, 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 this is a small project that will extend an existing porch. This will be far less intrusive to the RPA than other larger building requests.
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because 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 this request to extend our porch is on the landward side of the home and is not affecting the current condition of the RPA other than digging the necessary footing and refilling with block and native soil.
- 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 no changes are being made to the buffer between the home and the water. Our nearest neighbors are 50 yards on the landward side and this project will have no effect on the property whatsoever.
- 5) The applicant offers that "there is no nonpoint source pollution associated with this project. Any construction materials will be stored away from the RPA during construction" as a means to manage towards a no net increase in nonpoint source pollution load. Staff offer that the existing condition of the riparian buffer ecosystem and retention of the vegetated forested floor outboard of the proposed improvements provides substantial merit towards infiltrating and filtering runoff from the existing and proposed improvements.

Board Conditions:

- 1) The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Said exhibit and conditions shall be submitted to the Department of Planning, Zoning Division for review and approval prior to the issuance of a building permit. The Zoning Division and/or Permits and Inspections may require additional information that may affect the release of a building permit.
- 2) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 3) No perimeter fill is authorized outboard or seaward of the proposed improvements.

William Gradwell appeared before the Board representing himself.

As an item on the consent agenda, 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.

AYE	6	NO	0	ABSTAIN	0	ABSENT	3
BARRETT-MCDANIELS		YES				MCCOY	YES
DREPS		ABSENT				STEIER	ABSENT
FRANCE		ABSENT				WALLACE	YES
JESTER		YES				YOUNG	YES
JONES		YES					



Property Owner & Applicant **William & Donna Haycox**
Address **513 58th Street**
Public Hearing **April 5, 2021**
City Council District **Lynnhaven**

Agenda
Item

6

Parcel GPIN: 2419-60-5103
Accela Record: 2021-CBPA-00015
Applicant's Agent: Ann Stokes
CBPA Board Action: APPROVED WITH 11 CBPA VARIANCE CONDITIONS ON APRIL 5, 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 request is similar to other improvements within the neighborhood that have occurred in the RPA buffer.
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because 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 without maintenance, the shoreline hardening currently in place may fail, potentially endangering the primary structure. These improvements are necessary to avoid depriving the owners of a build-able, livable lot. To that end, the improvements involve, largely, replacing ground level patios with raised ones with pervious under-deck treatment.
- 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 these improvements are necessary to maintain the property, prevent erosion and degradation of the vegetative buffer and to allow the owners the reasonable use and enjoyment of an incredibly challenged lot developed decades prior to the adoption of the CBPA.
- 5) The applicant provides that "they (We) are increasing the planting density within the RPA, providing a stronger and more sustainable buffer to help filter any stormwater flowing towards the canal. This project does not require emplacement of any fill material" as a means to manage towards a no net increase in nonpoint source pollution load.

Board 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 Small Projects 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. Land disturbance associated with the proposed improvements at any given time shall not exceed 2,500 square feet. If at any time land disturbance exceeds 2,500 square feet, Planning Department Staff may issue a stop work order. At that time, a full site development plan in compliance with local and State regulations shall be submitted for review and approval through the Development Services Center (DSC).
- 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: **600 square feet x 200 percent = 1,200 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, 6 understory trees 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.

- 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 5 feet from improvements.
- 9) Construction limits along the seaward portion of the project shall lie a maximum of 5 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) Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under the wood deck and stairs.

Ann Stokes appeared before the Board representing applicant.

As an item of the consent agenda, 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.

AYE	6	NO	0	ABSTAIN	0	ABSENT	3
BARRETT-MCDANIELS		YES			MCCOY		YES
DREPS		ABSENT			STEIER		ABSENT
FRANCE		ABSENT			WALLACE		YES
JESTER		YES			YOUNG		YES
JONES		YES					



Property Owner & Applicant **Dean Cauley**
 Address **Roper Tract, Lot A-1, Lynnwood Drive**
 Public Hearing **April 5, 2021**
 City Council District **Lynnhaven**

Agenda
Item

7

Parcel GPIN: 1488-88-4048
Accela Record: 2021-CBPA-00016
Applicant’s Agent: Billy Garrington - Governmental Permitting Consultants
CBPA Board Action: DEFERRED AT THE APRIL 5, 2021 CBPA BOARD PUBLIC HEARING TO THE MAY 3, 2021 CBPA BOARD PUBLIC HEARING.

A motion was made by Ms. McDaniels, seconded by Mr. Jones to defer the variance request to the May 3, 2021 CBPA Board Public Hearing. All present voted for the motion.

AYE	6	NO	0	ABSTAIN	0	ABSENT	3
BARRETT-MCDANIELS		YES				MCCOY	YES
DREPS		ABSENT				STEIER	ABSENT
FRANCE		ABSENT				WALLACE	YES
JESTER		YES				YOUNG	YES
JONES		YES					



Property Owner & Applicant Todd B Perry Trust Address 3517 Byrn Brae Drive Public Hearing April 5, 2021 City Council District Kempsville	Agenda Item 8
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Parcel GPIN: 1446-99-1992
Accela Record: 2021-CBPA-00013
Applicant’s Agent: Keith Oliver, PLA
CBPA Board Action: DEFERRED AT THE APRIL 5, 2021 CBPA BOARD PUBLIC HEARING TO THE MAY 3, 2021 CBPA BOARD PUBLIC HEARING.

A motion was made by Ms. McDaniels, seconded by Mr. Jones to defer the variance request to the May 3, 2021 CBPA Board Public Hearing. All present voted for the motion.

AYE	6	NO	0	ABSTAIN	0	ABSENT	3
BARRETT-MCDANIELS	YES				MCCOY	YES	
DREPS	ABSENT				STEIER	ABSENT	
FRANCE	ABSENT				WALLACE	YES	
JESTER	YES				YOUNG	YES	
JONES	YES						



Property Owner & Applicant **Bertrand Ross & Susanne Hughes**
Address **1630 Arrowhead Point**
Public Hearing **April 5, 2021**
City Council District **Bayside**

Agenda
Item

9

Parcel GPIN: 1489-02-8555
Accela Record: 2021-CBPA-00017
Applicant's Agent: Robert Simon
CBPA Board Action: APPROVED WITH 15 CBPA VARIANCE CONDITIONS ON APRIL 5, 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 proposed improvements are in keeping with the development of the neighborhood and adjacent parcels and the location of the proposed improvements within the 50-foot landward buffer being adjacent to the existing residence and driveway to the greatest extent practicable provides merit towards the variance application not conferring upon the applicant any special privilege or convenience not accorded to other owners of property in the neighborhood.
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because 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 proposed improvements, as situated and proximity to the existing driveway for construction access and stockpiling of materials provides merit towards the variance request being the minimal necessary to afford relief.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels. The buffer restoration and BMPs will be placed to catch runoff to improve water quality.

- 5) Buffer restoration and bio-retention stormwater management will be placed between the proposed structures and the top of bank to capture and treat runoff prior to entering the bay as a means to manage towards a no net increase in nonpoint source pollution load.

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: 2,023 square feet x 200 percent = 4,046 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) 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) The proposed patio 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.
- 12) 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.
- 13) Gravel downspout intercepts and/or gravel dripline intercepts shall be provided as a means of erosion and sediment control for stormwater run-off from the proposed improvements.
- 14) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$463.60 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 January 21, 2021, prepared by Chesapeake Bay Site Solutions, Inc. 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.

Robert Simon appeared before the Board representing applicant.

As an item of the consent agenda, 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.

AYE 6 NO 0 ABSTAIN 0 ABSENT 3

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



Property Owner & Applicant **Robert & Sharon Reich**
Address **3013 Lynnhaven Drive**
Public Hearing **April 5, 2021**
City Council District **Lynnhaven**

Agenda
Item

10

Parcel GPIN: 1499-18-5457
Accela Record: 2021-CBPA-00018
Applicant's Agent: Billy Garrington - Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 12 CBPA VARIANCE CONDITIONS ON APRIL 5, 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 subdivision was recorded many years prior to the adoption of the Bay Act and as a result every waterfront home is significantly impacted by the ordinance. Since the enactment in 1991, numerous homes have made similar variance requests and been granted so the approval of this request will in no way confer any special privilege to the current owners.
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because the buffer zones were made a part of the Bay Act and these house were already in place when it was enacted and the hardship that is now on these properties will never go away.
- 3) The variance is the minimum necessary to afford relief because the size and location of the proposed improvements with minimal encroachment into the 50-foot seaward buffer, given that the lot predates the adoption of the Chesapeake Bay Act provides merit towards the variance is the minimum necessary to afford relief.
- 4) The applicant's agent offers that the purpose and intent of the ordinance is simply water quality, to prevent pollution of the Bay as a result of non-point source pollution. Most of these homes currently have no storm water treatment on site. As a result of this variance request the owner will install bioretention beds, buffer restoration in areas currently devoted to turf and even off-site treatment via the Lynnhaven Oyster Heritage Program all to benefit water quality in an effort to ensure that this variance request will be in harmony with the purpose and intent of the CBPA Ordinance, not injurious to the neighborhood, nor be of substantial detriment to water quality, or otherwise detrimental to the public welfare. The Board is of the opinion that the existing and proposed best management practices on the lot provide merit towards promoting infiltration of

stormwater, thereby furthering the intent of the CBPA Ordinance with the proposed redevelopment.

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

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: 618 square feet x 200 percent = 1,236 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, 6 understory trees 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.

- 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) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
- 8) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed
- 9) 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.
- 10) Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under the wood deck and stairs.
- 11) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized outboard or seaward of the proposed improvements.
- 12) The conditions and approval associated with this variance are based on the exhibit plan dated February 16, 2021, prepared by Gallup Surveyors & Engineers, signed February 16, 2021 by David R. Butler. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

Billy Garrington appeared before the Board representing applicant.

As an item of the consent agenda, 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.

AYE	6	NO	0	ABSTAIN	0	ABSENT	3
BARRETT-MCDANIELS		YES			MCCOY		YES
DREPS		ABSENT			STEIER		ABSENT
FRANCE		ABSENT			WALLACE		YES
JESTER		YES			YOUNG		YES
JONES		YES					