



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

**April 4, 2022**

Chair of the Chesapeake Bay Preservation Area (CBPA) Board, Mr. Jester called to order the CBPA Board Public Hearing at City Council Chambers, City Hall Building, Virginia Beach Municipal Center, on Monday, April 4, 2022 at 10:00 a.m.

The first order of business was to approve the findings and variance conditions of the March 7, 2022 CBPA Board Public Hearing. A motion was made by Mr. Wallace and seconded by Mr. McCune 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 7, 2022 FINDINGS AND VARIANCE CONDITIONS ON April 4, 2022 AS FOLLOWS.**

<b>YES</b>	<b>5</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>3</b>	<b>ABSENT</b>	<b>1</b>
BARRETT-MCDANIELS				ABSENT			
BURNETTE				ABSTAIN			
FRANCE				ABSTAIN			
JESTER				YES			
JONES				YES			
MCCUNE				YES			
STEIER				ABSTAIN			
WALLACE				YES			
YOUNG				YES			

**All CBPA Board Members present voted as above. CBPA Board Members abstaining from the vote were absent from the previous month's public hearing.**



Applicant & Property Owner **Haversham LLC**  
Address **2393 Haversham Close**  
Public Hearing **April 4, 2022**  
City Council District: **District 5**, formerly Lynnhaven

Agenda  
Item

**1**

**Parcel GPIN:** 2409-14-6639  
**Accela Record:** 2022-CBPA-00004  
**Applicant's Agent:** Billy Garrington - Governmental Permitting Consultants  
**CBPA Board Action:** APPROVED WITH 18 CBPA VARIANCE CONDITIONS ON April 4, 2022.

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 neighborhood was developed prior to the Bay Act and all waterfront property owners are equally impacted when utilizing the RPA.
- 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 property are within the RPA.
- 3) The variance is the minimum necessary to afford relief because the applicant has provided a layout that is cognitive of the existing confined conditions of the lot, zoning setbacks, and delineated RPA feature within the neighborhood, which appears to be consistent with the findings of the CBPA Ordinance.
- 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 conditioned buffer restoration associated with the proposed improvements, under deck treatment, and retention of existing vegetation of the lot provide merit towards water quality benefits.
- 5) All non-biodegradable debris will be collected and disposed of daily. Filter fabric, sand backfill, and proper grading will mitigate potential erosion 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 areas shall be in substantial compliance with the Buffer Restoration Plan exhibit plan dated March 25, 2022, prepared by WPL.
- 4) The proposed access/walkway to the pier shall be a permeable material to allow for rainwater infiltration and shall be built into the existing grade. Steps may be used for transitioning the existing grade and the width of the access/walkway shall not exceed 5 feet in width.
- 5) When redeveloped, the following areas of the existing driveway shall be constructed out of a permeable pavement system.
  - The circular portion of the existing driveway located at the front of the residence.

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) 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 5 feet.
  - Along the remaining portions of the property the required silt fence shall be installed 10 feet from all proposed improvements.
- 7) 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.
- 8) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 9) A pre-construction meeting shall be held with the CBPA Inspector, CBPA Staff, Waterfront Operations Inspector, 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.

- 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) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 12) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
- 13) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 14) No perimeter fill, other than the minimum necessary to facilitate positive drainage away from the proposed improvements is authorized 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 \$782.83 and is based on 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) It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.
- 17) This variance and associated conditions **will supersede** the Board variance granted April 27, 2009 except for condition 6 that *"stormwater runoff from existing and proposed impervious cover shall be conveyed to stormwater management facilities. All stormwater treatment facilities shall be installed prior to the release of the building permit."*
- 18) The conditions and approval associated with this variance are based on the exhibit plan dated January 3, 2022, 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.

**Billy Garrington of Governmental Permitting Consultants representing the applicant of the property located at 2393 Haversham Close appeared before the Board.**

**A motion was made by Mr. McCune, seconded by Mr. Wallace, to approve the variance as modified, modifying condition 5 as provided above. All present voted for the motion.**

AYE	7	NO	0	ABSTAIN	1	ABSENT	1
BARRETT-MCDANIELS		ABSENT			MCCUNE	YES	
BURNETTE		YES			STEIER	YES	
FRANCE		ABSTAIN			WALLACE	YES	
JESTER		YES			YOUNG	YES	
JONES		YES					

**Mr. France abstained from the vote. Mr. France is an employee at Kimley-Horn. His firm provides services to the Applicant, listed as Haversham LLC, with managing member identified in the Disclosure Statement as Stephen B. Ballard.**



Applicant & Property Owner **Jonathan & Ashley McAchran**  
Address **933 Queen Elizabeth Drive**  
Public Hearing **April 4, 2022**  
City Council District: **District 8**, formerly Lynnhaven

Agenda  
Item

**2**

**Parcel GPIN:** 1488-44-9313  
**Accela Record:** 2022-CBPA-00006  
**Applicant's Agent:** Billy Garrington - Governmental Permitting Consultants  
**CBPA Board Action:** APPROVED WITH 16 CBPA VARIANCE CONDITIONS ON April 4, 2022.

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 house was built prior to the Bay Act now with limited areas to build that are not within the 100-foot RPA. The proposed plan is the minimal necessary as most of the proposed project is redevelopment of existing conditions.
- 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 most of the work is redevelopment of existing conditions. New development is at a minimum and the homeowner has also converted over 600 square feet of impervious cover to pervious 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 heavily wooded lot is an ideal natural filter. Additional stormwater mitigation of existing stormwater runoff will improve overall water quality. The Board acknowledges the statement provided by the applicant's agent and is of the opinion that the redevelopment of the lot as proposed, and the recommended conditions provided by Staff provides merit towards the variance request 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 applicant's agent is of the opinion that the heavily wooded lot is an ideal natural filter and together with BMPs and additional plantings.

**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) Specific to tree removal with the redevelopment of this lot, all trees to be preserved and the trees requested to be removed as shown on the CBPA Exhibit that are below the top of bank shall be preserved except for those trees located within the footprint of the existing driveway. Removal of trees within the City right-of-way requires authorization from Landscape Management during formal site plan review.
- 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.

All area within the 50-foot seaward buffer and seaward of the existing driveway shall be left in a natural state. Buffer restoration within the RPA shall consist of **2 canopy trees, 8 understory trees, 16 large shrubs, and 24 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) Construction limits associated with the proposed redevelopment of the lot shall lie a maximum of 10 feet outboard of the improvements.
- 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) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline 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 \$401.72 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) 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. Moderate maintenance 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 to remove invasive vines species that are shading vegetative undergrowth and out competing native plant species within the RPA buffer
- 16) The conditions and approval associated with this variance are based on the exhibit plan dated March 18, 2022, prepared by Clark Design Group, Inc., signed by Walter T. McKenna. 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 of Governmental Permitting Consultants representing the applicant of the property located at 933 Queen Elizabeth Drive appeared before the Board.**



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

**AYE 7 NO 0 ABSTAIN 1 ABSENT 1**

BARRETT-MCDANIELS	ABSENT	MCCUNE	YES
BURNETTE	YES	STEIER	ABSTAIN
FRANCE	YES	WALLACE	YES
JESTER	YES	YOUNG	YES
JONES	YES		

**Mr. Steier abstained from the vote. Mr. Steier has a business partnership with the property owner Jon McAchran – Investors Title Group LLC.**



Applicant & Property Owner **Christianne Harmon**  
Address **5272 Beaumont Drive**  
Public Hearing **April 4, 2022**  
City Council District: **District 1**, formerly Kempsville

Agenda  
Item

**3**

**Parcel GPIN:** 1466-45-5610  
**Accela Record:** 2022-CBPA-00010  
**Applicant's Agent:** Self-Represented  
**CBPA Board Action:** APPROVED WITH 6 CBPA VARIANCE CONDITIONS ON April 4, 2022.

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 improvements are consistent with other homes within the neighborhood along this channel with the average existing impervious cover for properties in the vicinity ranging from approximately 35 percent to 52 percent.
- 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 property are within the RPA.
- 3) The variance is the minimum necessary to afford relief because the swimming pool with associated pool surround is located landward of the 50-foot seaward buffer and adjacent to the residence.
- 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 increase in impervious cover on the site will not significantly increase stormwater runoff from the site given the required buffer restoration measures and minimal land disturbance associated with this request.
- 5) The existing vegetation along the ditch, flat topography of the lot, and minimal increase in impervious cover for the proposed improvements provides merit towards limiting the 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. 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. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,525 square feet x 200 percent = 3,050 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **4 canopy trees, 4 understory trees, 8 large shrubs, and 12 small shrubs.**

The required restoration shall be located in the Resource Protection Area, 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.

3. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
4. A 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.
5. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
6. This variance and associated conditions **are in addition to** the conditions of the CBPA Board variance granted June 7, 2021.

**As an item of the consent agenda, a motion was made by Mr. Jones, seconded by Mr. Burnette, 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		ABSENT		MCCUNE		YES	
BURNETTE		YES		STEIER		YES	
FRANCE		YES		WALLACE		YES	
JESTER		YES		YOUNG		YES	
JONES		YES					



Applicant & Property Owner **Jonathan L Schreiber & E. D. Kulas**  
Address **500 Goodspeed Road**  
Public Hearing **April 4, 2022**  
City Council District: **District 6**, formerly Lynnhaven

Agenda  
Item

**4**

**Parcel GPIN:** 2419-31-6360  
**Accela Record:** 2022-CBPA-00011  
**Applicant's Agent:** Eddie Bourdon - Sykes, Bourdon, Ahern, Levy PC  
**CBPA Board Action:** APPROVED WITH 11 CBPA VARIANCE CONDITIONS ON April 4, 2022.

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 to redevelopment this lot will reduce the overall impervious cover of the 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 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.
- 3) The variance is the minimum necessary to afford relief because the proposed improvements provide a reduction of impervious cover within the 50-foot seaward buffer, an overall reduction in impervious cover for the lot, and redevelops the existing shoreline.
- 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 encroachment request for this lot provides a substantial reduction of impervious cover within the 50-foot seaward buffer and redevelop 3,768 square feet of uplands into a rip rap revetment with 628 square feet of living shoreline as a means to abate the ongoing shoreline erosion.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load the extent of buffer restoration provided with this variance request and the existing underlying soil condition all contribute to the opportunity for a reduction in annual nutrient load into the waterway.

### **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) 2,744 square feet of buffer restoration shall be installed within the Resource Protection Area. 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 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) Fill material shall have the necessary biogeochemical characteristics, including sufficient organic content, to support the growth of vegetation and adequate permeability to allow infiltration.
- 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) A double row of 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.
- 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 conditions and approval associated with this variance are based on the exhibit plan dated October 26, 2021, prepared by Gallup Surveyors & Engineers, signed October 26, 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.

**Eddie Bourdon of Sykes, Bourdon, Ahern, Levy PC representing the applicant of the property located at 500 Goodspeed Road appeared before the Board.**

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

<b>AYE</b>	<b>6</b>	<b>NO</b>	<b>2</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>1</b>
BARRETT-MCDANIELS		ABSENT			MCCUNE		YES
BURNETTE		NO			STEIER		YES
FRANCE		YES			WALLACE		YES
JESTER		YES			YOUNG		NO
JONES		YES					



Applicant & Property Owner **David & Michelle Adams**  
Address **437 Susan Constant Drive**  
Public Hearing **April 4, 2022**  
City Council District: **District 6**, formerly Lynnhaven

Agenda  
Item

**5**

**Parcel GPIN:** 2419-51-9976  
**Accela Record:** 2022-CBPA-00012  
**Applicant's Agent:** Billy Garrington - Governmental Permitting Consultants  
**CBPA Board Action:** APPROVED WITH 6 CBPA VARIANCE CONDITIONS ON April 4, 2022.

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 redevelopment is a minimal request.
- 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 lot was platted prior to the adoption of the CBPA act and the City's CBPA ordinance and that the home was constructed in 1964, therefore this lot falls within the Resource Protection Area.
- 3) The variance is the minimum necessary to afford relief because there is minimal room for parking and turn around with our existing driveway. We would like to expand our patio and upgrade to match 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 because this request is warranted given the state of the existing driveway and that the slight increase in impervious cover will be offset by buffer restoration plantings in areas currently devoted to turf.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load additional buffer restoration measures will further prevent any 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: **1,056 square feet x 200 percent = 2,112 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, 10 large shrubs, and 15 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) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 5) 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.
- 6) Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.

**As an item of the consent agenda, a motion was made by Mr. Jones, seconded by Mr. Burnette, 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		ABSENT		MCCUNE		YES	
BURNETTE		YES		STEIER		YES	
FRANCE		YES		WALLACE		YES	
JESTER		YES		YOUNG		YES	
JONES		YES					