



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

May 2, 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, May 2, 2022 at 10:00 a.m.

The first order of business was to approve the findings and variance conditions of the April 4, 2022 CBPA Board Public Hearing. A motion was made by Mr. Jones 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 April 4, 2022 FINDINGS AND VARIANCE CONDITIONS ON May 2, 2022 AS FOLLOWS.

YES	6	NO	0	ABSTAIN	1	ABSENT	2
BARRETT-MCDANIELS				ABSTAIN			
BURNETTE				YES			
FRANCE				YES			
JESTER				YES			
JONES				YES			
MCCUNE				YES			
STEIER				YES			
WALLACE				ABSENT			
YOUNG				ABSENT			

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 **Michael & Mariah Standing**
Address **925 Holladay Point**
Public Hearing **May 2, 2022**
City Council District: **District 6**, formerly Beach

Agenda
Item

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Parcel GPIN: 2418-54-3009
Accela Record: 2022-CBPA-00018
Applicant's Agent: Eddie Bourdon of Sykes, Bourdon, Ahern, Levy PC
CBPA Board Action: APPROVED WITH 15 CBPA VARIANCE CONDITIONS ON May 2, 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 property was platted in 1951 prior to the Chesapeake Bay Preservation Act. The proposed improvements are in keeping with the development of the neighborhood and adjacent parcels."* The Board concurs and offers that the encroachment into the 100-foot RPA with the accessory structure is similar to those in the neighborhood and the additions to the primary structure are minimal.
- 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 because *"the lot was originally platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance. The CBPA buffer covers over 97% of the lot."* The Board offers that the encroachment 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.
- 3) The variance is the minimum necessary to afford relief because *"the owners have designed the improvements in the area deemed to be the best area to minimize site impacts in the critical buffer area."* The Board is of the opinion that the applicant is proposing to construct the larger of the two building additions in the landward buffer as to minimize impacts to the more environmentally sensitive seaward buffer.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels, the site currently does not offer any stormwater mitigation for the bay, and if approved, the proposed redevelopment will be required to have treatment between the improvements and the Linkhorn Bay."* The Board acknowledges the

requirement to treat stormwater with the new impervious cover and land disturbance on this lot as a viable means towards providing water quality.

- 5) *“Bioretention stormwater management will be placed between the improvements and the waterway to capture and treat runoff prior to discharging into Linkhorn Bay”* as a means to manage towards a no net increase in nonpoint source pollution load. The Board concurs.

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: **1,200 square feet x 200 percent = 2,400 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, 12 understory trees, 18 large shrubs, and 18 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 15 feet from improvements.
- 9) Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 10) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 11) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
- 12) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 13) ****** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$275.00 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) This variance and associated conditions **are in addition to** the conditions of the Chesapeake Bay Preservation Area (CBPA) Board variance granted August 22, 1994.
- 15) The conditions and approval associated with this variance are based on the exhibit plan dated January 8, 2022, prepared by WPL, signed March 31, 2022 by Eric A. Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

As an item of the consent agenda, 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.

AYE	7	NO	0	ABSTAIN	0	ABSENT	2
BARRETT-MCDANIELS		YES				MCCUNE	YES
BURNETTE		YES				STEIER	YES
FRANCE		YES				WALLACE	ABSENT
JESTER		YES				YOUNG	ABSENT
JONES		YES					



Applicant & Property Owner **Jo B. & John B. Nowell, Jr.**
Address **2241 Leeward Shore Court**
Public Hearing **May 2, 2022**
City Council District: **District 8**, formerly Lynnhaven

Agenda
Item

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Parcel GPIN: 2409-19-3878
Accela Record: 2022-CBPA-00014
Applicant's Agent: Billy Garrington, Governmental Permitting Consultant
CBPA Board Action: APPROVED WITH 10 CBPA VARIANCE CONDITIONS ON May 2, 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 property was platted in 1958 prior to the Chesapeake Bay Preservation Act. The proposed improvements are in keeping with the development of the neighborhood and adjacent parcels."* The Board concurs and offers that the primary purpose of this variance request is to construct and addition to the existing principal structure that is located within the upper reach of the 100-foot RPA feature.
- 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 encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this lot was originally platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance. The CBPA buffers cover over 60% of the lot."* The Board offers that the encroachment 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.
- 3) The variance is the minimum necessary to afford relief because *"we have designed the improvements in the area deemed to be the best area to minimize site impacts in the critical buffer areas."* The Board is of the opinion that the owners have designed the layout of the proposed improvements to minimize impacts to the buffer by situating the improvements in the landward buffer and Resource Management Area with no encroachment into the seaward buffer.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because *"the proposed improvements are in keeping with the development*

of the neighborhood and adjacent parcels, the site currently has minimum buffer restoration and if approved, the proposed redevelopment will be required to install 2,660 sq. ft. of addition buffer restoration provided between the improvements and the canal.” The Board concurs and adds that the applicant is also installing sand/gravel underdeck treatment as addition measures to address rainwater infiltration and nonpoint source pollution load with this request.

- 5) *“The existing shoreline will be enhanced and expanded upon to compliment the site. If approved, 2,660 sq. ft. of addition buffer restoration will be placed between the improvements and the waterway prior to discharging into the river”* as a means to manage towards a no net increase in nonpoint source pollution load. The Board concurs and the applicant’s statement to the installation of buffer restoration within the RPA and sand/gravel underdeck treatment in association with the proposed wood deck, as provided in the WQIA as methods to ensure 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 plan dated March 28, 2022, prepared by WPL, signed March 30, 2022 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. 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).
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: **1,330 square feet x 200 percent = 2,660 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, 12 understory trees, 18 large shrubs, and 18 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. 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.
6. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
7. 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.
8. 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.
9. Under deck treatment of sand and gravel shall be installed.
10. ** 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 \$304.79 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.

As an item of the consent agenda, 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.

AYE	7	NO	0	ABSTAIN	0	ABSENT	2
BARRETT-MCDANIELS		YES				MCCUNE	YES
BURNETTE		YES				STEIER	YES
FRANCE		YES				WALLACE	ABSENT
JESTER		YES				YOUNG	ABSENT
JONES		YES					



Applicant & Property Owner Maryanne & Michael Miller Address 2708 Hood Circle Public Hearing May 2, 2022 City Council District: District 8 , formerly Lynnhaven	Agenda Item <h1>3</h1>
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Parcel GPIN: 1498-53-1417
Accela Record: 2022-CBPA-00015
Applicant’s Agent: Billy Garrington - Governmental Permitting Consultants
CBPA Board Action: DEFERRED AT THE May 2, 2022 CBPA BOARD PUBLIC HEARING TO THE Monday, June 6, 2022 CBPA BOARD PUBLIC HEARING.

A motion was made by Mr. McCune, seconded by Ms. McDaniels, to defer the variance request to the June 6, 2022 CBPA Board Public Hearing. All present voted for the motion.

AYE	7	NO	0	ABSTAIN	0	ABSENT	2
BARRETT-MCDANIELS	YES				MCCUNE	YES	
BURNETTE	YES				STEIER	YES	
FRANCE	YES				WALLACE	ABSENT	
JESTER	YES				YOUNG	ABSENT	
JONES	YES						



Applicant & Property Owner **Kirk & Tara Heath**
Address **1048 Bobolink Drive**
Public Hearing **May 2, 2022**
City Council District: **District 6**, formerly Lynnhaven

Agenda
Item

4

Parcel GPIN: 2418-15-8464
Accela Record: 2022-CBPA-00013
Applicant's Agent: Billy Garrington - Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 15 CBPA VARIANCE CONDITIONS ON May 2, 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 agent and their design team has utilized the areas of redevelopment within the 50-foot seaward buffer to the greatest extent practicable while reducing the amount of impervious cover with the 50-foot seaward buffer by approximately 160 square feet. In addition, the applicant proposed to redevelop the existing concrete driveway, approximately 4,340 square feet with permeable pavers.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but rather is necessitated by the fact that this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this lot are within the RPA.
- 3) The variance is the minimum necessary to afford relief because the proposed improvements redevelop impervious cover to promote infiltration of stormwater into the ground consistent with the use or development proposed through the incorporation of structural or nonstructural urban best management practices.
- 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 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. In addition to the bioretention planting beds and permeable pavers best management practices, the CBPA Exhibits provides a dry swale along the south side of the residence to abate stormwater runoff from the residence and public right-of-way. The Board is of the opinion that these practices coupled with the required buffer

restoration on this lot provides merit towards a no net increase in nonpoint source pollution load in the watershed.

- 5) Bioretention and permeable surfaces will be installed between the improvements and the waterway to achieve stormwater management requirements and will be placed to capture and treat runoff prior to discharging into the river” 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 in substantial compliance with the Master Plan provided with the CBPA Exhibit that delineated areas of lawn and planting areas. Buffer restoration in designated “planting areas” 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: **10 canopy trees, 10 understory trees, 20 large shrubs, and 50 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. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 10) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 11) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
- 12) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 13) Perimeter fill within the limits of construction shall be the minimum necessary to facilitate positive drainage away from the proposed improvements. Fill material for such development shall be limited to minimize disturbance of existing vegetation and contours to effectively maintain the integrity of the buffer area.
- 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 \$758.54 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 March 11, 2022, prepared by WPL, signed March 18, 2022, by Eric A. Garner. The conditions and

approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board.

Billy Garrington of Governmental Permitting Consultants representing the applicant of the property located at 1048 Bobolink Drive appeared before the Board.

A motion was made by Mr. McCune, 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	0	ABSENT	2
BARRETT-MCDANIELS		YES				MCCUNE	YES
BURNETTE		YES				STEIER	YES
FRANCE		YES				WALLACE	ABSENT
JESTER		YES				YOUNG	ABSENT
JONES		YES					



Applicant & Property Owner **Valerie & Kenneth Register**
Address **3157 Lynnhaven Drive**
Public Hearing **May 2, 2022**
City Council District: **District 8**, formerly Lynnhaven

Agenda
Item
5

Parcel GPIN: 1489-98-7424
Accela Record: 2022-CBPA-00016
Applicant's Agent: Billy Garrington - Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 14 CBPA VARIANCE CONDITIONS ON May 2, 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 proposed improvements are in keeping with the development of the neighborhood and adjacent parcels.
- 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 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.
- 3) The variance is the minimum necessary to afford relief because the entirety of the lot is encompassed by the Resource Protection Area and challenges the redevelopment for any proposed structures within the RPA. The modifications to the proposed improvements towards minimizing encroachment into the 50-foot seaward buffer and has provided in the 14 reasonable and appropriate conditions.
- 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 bulkhead 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: **3,360 square feet of buffer restoration.**

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: **9 canopy trees, 18 understory trees, 27 large shrubs, and 36 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. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 10) 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.
- 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) Perimeter fill within the limits of construction shall be the minimum necessary to facilitate positive drainage away from the proposed improvements. Fill material for such development shall be limited to minimize disturbance of existing vegetation and contours to effectively maintain the integrity of the buffer area.
- 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 \$380.41 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 March 8, 2022, prepared by Align Surveying & Design, P.C. 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 3157 Lynnhaven Drive appeared before the Board.

A motion was made by Mr. France, seconded by Ms. McDaniels, to approve the variance as amended, deleting recommended condition 1 as provided in the Staff report for a total of 14 reasonable and appropriate conditions associated with this variance. All present voted for the motion.

AYE 7 NO 0 ABSTAIN 0 ABSENT 2

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



Applicant & Property Owner **Lee Shearin**
 Address **913 Holladay Point**
 Public Hearing **May 2, 2022**
 City Council District: **District 6**, formerly Lynnhaven

Agenda
 Item
6

Parcel GPIN: 2418-53-4564
Accela Record: 2022-CBPA-00017
Applicant’s Agent: Billy Garrington - Governmental Permitting Consultants
CBPA Board Action: DEFERRED AT THE May 2, 2022 CBPA BOARD PUBLIC HEARING TO THE Monday, June 6, 2022 CBPA BOARD PUBLIC HEARING.

A motion was made by Mr. Jones, seconded by Mr. Burnette, to defer the variance request to the June 6, 2022 CBPA Board Public Hearing. All present voted for the motion.

AYE	7	NO	0	ABSTAIN	0	ABSENT	2
BARRETT-MCDANIELS	YES				MCCUNE	YES	
BURNETTE	YES				STEIER	YES	
FRANCE	YES				WALLACE	ABSENT	
JESTER	YES				YOUNG	ABSENT	
JONES	YES						