



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

June 6, 2022

Chair of the Chesapeake Bay Preservation Area (CBPA) Board, Mr. France called to order the CBPA Board Public Hearing at City Council Chambers, City Hall Building, Virginia Beach Municipal Center, on Monday, June 6, 2022 at 10:00 a.m.

The first order of business was to approve the findings and variance conditions of the May 2, 2022 CBPA Board Public Hearing. A motion was made by Mr. Jones and seconded by Ms. McDaniels 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 May 2, 2022 FINDINGS AND VARIANCE CONDITIONS ON June 6, 2022 AS FOLLOWS.

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

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 **Lee Shearin**
Address **913 Holladay Point**
Public Hearing **June 6, 2022**
City Council District: **District 6**, formerly Lynnhaven

Agenda
Item

1

Parcel GPIN: 2418-53-4564
Accela Record: 2022-CBPA-00017
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 19 CBPA VARIANCE CONDITIONS ON June 6, 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 given the recommended conditions below that mitigate for the proposed improvements and conditions of the April 2009 CBPA Variance.
- 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 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 and re-platted to vacate an existing lot line and delineate the rear of the lot described by mean low water.
- 3) The variance is the minimum necessary to afford relief providing the recommended conditions in the Staff report that address a reduction to the overall new impervious cover within the 50-foot landward buffer as a means towards the variance being the minimum 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* conditions associated with this variance request collaborates the stormwater requirements of the 2009 CBPA Variance, mitigates for the new impervious cover within the RPA associated with this variance request, and offers a reduction to the new impervious cover within the RPA as a means to manage the redevelopment of lot.
- 5) *"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"* as a means to manage towards a no net increase in nonpoint source pollution load. The Board concurs and

adds that the applicant's agent has provided specific limits to land disturbance and limits of construction as shown on the CBPA Exhibit.

Board Conditions:

- 1) This variance and associated conditions will supersede the conditions of the Chesapeake Bay Preservation Area (CBPA) Board Variance granted April 27, 2009, with the exception of the following.
 - Stormwater runoff from proposed impervious cover associated with the April 27, 2009, CBPA Variance shall be conveyed to stormwater management facilities. Stormwater facilities shall be installed prior to the certificate of occupancy or release of the building permit.
- 2) 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.
- 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 (no mow zone), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 4) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **5,288 square feet x 200 percent = 10,576 square feet.**

Buffer 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: **15 canopy trees, 15 understory trees, 30 large shrubs, and 90 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf. 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. 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) In addition to the above buffer restoration requirements the following mitigation shall be installed associated with the tree removal request received by the Department of Planning & Community Development dated December 16, 2021.

- Mitigation for the trees to be removed is required at a 3:1 ratio (6 new canopy trees to be planted). Minimum size at installation for replacement trees shall be as listed – Canopy tree (matures to a height greater than 35') 1 ½" – 2" caliper.
- 6) The area of the proposed patio adjacent to the existing swimming pool and associated walkway adjacent to the existing single-family residence shall reduce by 800 square feet.
 - 7) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
 - 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) 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 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.
 - 13) 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.
 - 14) 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.
 - 15) 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.
 - 16) 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.

- 17) ****** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$1,395.16 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.

- 18) The conditions and approval associated with this variance are based on the exhibit plan dated January 13, 2022, prepared by Gallup Surveyors & Engineers, signed January 13, 2022, by David R. Butler. The conditions and approval associated with this variance are based on the CBPA Board exhibit prepared by the applicant and presented to the CBPA Board, the application submitted and the sworn presentation to the CBPA Board.

- 19) Buffer restoration of 11,761 sq. ft. conditioned by the April 27, 2009 CBPA Variance shall be installed which is equal to 100% of the proposed impervious cover and shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers. The required restoration shall be in areas currently devoted to turf and shall have a mulch layer of organic material 4" – 6" in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The existing mown high marsh along the northwestern portion of the project shall remain and shall not be a component of the required 11,761 of restoration. Said no mow area shall be identified on the required landscape / buffer restoration plan.

Billy Garrington of Governmental Permitting Consultants representing the applicant of the property located at 913 Holladay Point appeared before the Board.

A motion was made by Mr. Burnette, seconded by Ms. McDaniels, to approve the variance as amended adding condition 19 requiring the total amount of buffer restoration to be 22,337 square feet of buffer restoration . All present voted for the motion.

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



Applicant & Property Owner **Maryanne & Michael Miller**
Address **2708 Hood Circle**
Public Hearing **June 6, 2022**
City Council District: **District 8**, formerly Lynnhaven

Agenda
Item

2

Parcel GPIN: 1498-53-1417
Accela Record: 2022-CBPA-00015
Applicant's Agent: Billy Garrington, Governmental Permitting Consultant
CBPA Board Action: APPROVED WITH 15 CBPA VARIANCE CONDITIONS ON June 6, 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 Board is of the opinion that the peninsula shape and overall width of the property challenges the redevelopment of this lot. As such, the applicant and their design team have provided a means to redevelop the lot that minimizes impacts to the existing riparian buffer ecosystem by preserving the existing canopy cover to the greatest extent practicable and utilizing more existing impervious cover than proposed new impervious cover towards the proposed improvements associated with this variance request.
- 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 improvement are over existing structures to the greatest extent practicable to maximize the redevelopment and to minimize site impacts.
- 4) The redevelopment of the lot is in harmony with the purpose and intent of the CBPA Ordinance providing a means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater infiltration with the preservation of vegetation on the lot and use of materials associated with the redevelopment of existing impervious cover.
- 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 adjacent waterway 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 Design 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: **7 understory trees, 14 large shrubs, and 21 small shrubs.**

The required restoration 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 10 feet from improvements.

- 9) Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
- 10) Prior to clearing, grading, demolition or construction, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline **(to the greatest extent practicable)** of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- 11) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
- 12) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 13) Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under the wood deck and stairs.
- 14) ** 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 \$712.93 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 25, 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	8	NO	0	ABSTAIN	0	ABSENT	1
BARRETT-MCDANIELS		YES				MCCUNE	YES
BURNETTE		YES				STEIER	YES
FRANCE		YES				WALLACE	YES
JESTER		ABSENT				YOUNG	YES
JONES		YES					



Applicant & Property Owner **Jimmy & Margaret Chapman**
Address **2105 Farmington Court**
Public Hearing **June 6, 2022**
City Council District: **District 6**, formerly Beach

Agenda
Item

3

Parcel GPIN: 2407-16-7210
Accela Record: 2022-CBPA-00023
Applicant's Agent: Billy Garrington, Governmental Permitting Consultant
CBPA Board Action: APPROVED WITH 12 CBPA VARIANCE CONDITIONS ON June 6, 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 1960 prior to the Chesapeake Bay Preservation Act. 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 necessitated by the lot being 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 applicant has demonstrated an understanding towards the findings of the CBPA Ordinance with the proposed size and layout of the improvements.
- 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 given the location of the lot within the RPA of the Chesapeake Bay watershed and the presence of a mature forest floor seaward of the proposed improvements. In addition, this variance request has minimal land disturbance to the lot and with the proposed mitigation methods, this project provides additional benefits to the water quality of the Chesapeake Bay.
- 5) The existing rear forested area will be enhanced and expanded upon to compliment the site. Bioretention stormwater management will be placed between the improvements and the waterway to capture and treat runoff prior to discharging into the creek in the rear of the site 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: **1,031 square feet x 200 percent = 2,062 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) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 7) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**

- 8) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
- 9) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 10) 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) The conditions and approval associated with this variance are based on the exhibit plan dated April 29, 2022, prepared by WPL Landscape Architecture, signed Eric A. Garner by April 29, 2022. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. Deviation from said conditions during site plan review may require re-submittal for Board consideration.

As an item 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	8	NO	0	ABSTAIN	0	ABSENT	1
BARRETT-MCDANIELS		YES				MCCUNE	YES
BURNETTE		YES				STEIER	YES
FRANCE		YES				WALLACE	YES
JESTER		ABSENT				YOUNG	YES
JONES		YES					



Applicant & Property Owner **Debra M. Smith**
Address **509 Wilder Road**
Public Hearing **June 6, 2022**
City Council District: **District 6**, formerly Beach

Agenda
Item

4

Parcel GPIN: 2418-68-5937
Accela Record: 2022-CBPA-00024
Applicant's Agent: Billy Garrington, Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 11 CBPA VARIANCE CONDITIONS ON June 6, 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 given the recommended conditions below that mitigate for the proposed improvements.
- 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 by the fact the 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 provided the recommended conditions in the Staff report.
- 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 conditions associated with this variance mitigate for the new impervious cover within the RPA.
- 5) 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 as a means to manage towards a no net increase in nonpoint source pollution load. The Board concurs and adds that the applicant's agent has provided specific limits to land disturbance and limits of construction as shown on the CBPA Exhibit.

Board Conditions:

1. This variance and associated conditions will supersede the conditions of the Chesapeake Bay Preservation Area (CBPA) Board Variance granted September 22, 2014, with the exception of the following.
 - 995 square feet of buffer restoration associated with the September 22, 2014, CBPA Variance shall be verified on the revised site plan associated with this variance request when submitted to the Development Services Center (DSC) for review and approval. Should the required buffer restoration associated with the 2014 CBPA Variance not be present, it shall be calculated in addition to the buffer restoration conditioned with this variance request.
2. 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.
3. Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
4. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **252 square feet x 200 percent = 504 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: **1 canopy trees, 1 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 or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

5. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.

6. 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.
7. 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.**
8. 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.
9. 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.
10. No perimeter fill is authorized outboard or seaward of the proposed improvements.
11. The conditions and approval associated with this variance are based on the exhibit plan dated April 11, 2022, prepared by WPL, signed April 27, 2022, by Eric A. Garner. The conditions and approval associated with this variance are based on the CBPA Board exhibit prepared by the applicant and presented to the CBPA Board, the application submitted and the sworn presentation to the CBPA Board.

Billy Garrington of Governmental Permitting Consultants representing the applicant of the property located at 509 Wilder 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.

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



Applicant & Property Owner **Suneel & Meghan Bhat**
Address **801 Bobolink Drive**
Public Hearing **June 6, 2022**
City Council District: **District 6**, formerly Lynnhaven

Agenda
Item

5

Parcel GPIN: 2418-31-8124
Accela Record: 2022-CBPA-00019
Applicant's Agent: Self-represented
CBPA Board Action: APPROVED WITH 5 CBPA VARIANCE CONDITIONS ON June 6, 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 currently has no dry storage space or garage (only flooding basements) – most other similar situated property owners have some dry space as proposed.
- 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 house/property was built in 1928 without a garage/storage area, and with basements, prior to the existence of the ordinance.
- 3) The variance is the minimum necessary to afford relief because the variance request for a small shed is the smallest size necessary to shift storage/workshop activities out of the flooding basements.
- 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 construction of the shed with this variance should improve the quality of the local water by reducing oils, residues, and chemicals entering the water from the flooding basements, and so is consistent with the intent of the ordinance.
- 5) A decrease in non-point source pollution load should occur, as storage and activity will shift from an area that floods periodically to the dry structure in an area which will distribute rainwater from the small roof to the adjacent tree roots requested in this variance 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. 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. 400 square feet of new buffer restoration/planting bed area shall be installed in the Resource Protection Area, in areas currently devoted to turf. Said buffer restoration area shall be planted with **1 canopy trees, 1 understory trees, 2 large shrubs, and 3 small shrubs.**

The restoration shall have a 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. Construction limits along the seaward portion of the project shall lie a maximum of 5 feet seaward of improvements.
4. 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.
5. This variance and associated conditions **are in addition to** the conditions of the Board variance granted January 26, 2009.

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



Applicant & Property Owner **Steve Borcharding**
Address **2700 Canal Road**
Public Hearing **June 6, 2022**
City Council District: **District 8**, formerly Lynnhaven

Agenda
Item

6

Parcel GPIN: 1499-57-8389
Accela Record: 2022-CBPA-00020
Applicant's Agent: Robert Simon, Waterfront Consulting
CBPA Board Action: APPROVED WITH 6 CBPA VARIANCE CONDITIONS ON June 6, 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 timber deck is an acceptable size, adjacent to the residence and situated as far away from the tidal feature as possible given the circumstances.
- 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 Chesapeake Bay Preservation Act and the City's CBPA Ordinance.
- 3) The variance is the minimum necessary to afford relief because the applicant is not requesting additional impervious cover for a walkway around the residence or proposed timber deck and intends to utilize the existing walkway for access.
- 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 given the method of construction provided by the applicant' agent and minimal land disturbance.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load the Board is of the opinion that this lot and would benefit from buffer restoration coupled with the flat topography of the lot providing pervious cover for run-off produced from the proposed improvements to sheet-flow across before draining into tidal waters.

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. 512 square feet of new buffer restoration/planting bed area shall be installed in the Resource Protection Area, in areas currently devoted to turf. Said buffer restoration area shall be planted with **1 canopy trees, 2 understory trees, 4 large shrubs, and 6 small shrubs.**

The restoration shall have a 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. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
5. 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.
6. Under deck treatment of sand and gravel shall be installed under the timber deck for the area over existing pervious lawn area.

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



Applicant & Property Owner **Brian A. Roberts**
Address **477 Goodspeed Road**
Public Hearing **June 6, 2022**
City Council District: **District 6**, formerly Lynnhaven

Agenda
Item

7

Parcel GPIN: 2419-41-5154
Accela Record: 2022-CBPA-00021
Applicant's Agent: Robert Simon, Waterfront Consulting
CBPA Board Action: APPROVED WITH 15 CBPA VARIANCE CONDITIONS ON June 6, 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 because the 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 layout of the proposed improvements are situated to minimize impacts to the riparian buffer by solely falling within the landward buffer of the RPA.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels. 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) The three trees (18-inch Pine, 24-inch Pine and 24-inch Pine) within the 50-foot seaward buffer shown on the CBPA Exhibit to be removed shall be preserved.
- 2) 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.
- 3) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 4) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **1,611 square feet x 200 percent = 3,222 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, 8 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. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

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

such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 10 feet from improvements.

- 10) Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.
- 11) 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) ** 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 \$369.18 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 April 27, 2022, 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.

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



Applicant & Property Owner **Kenneth & Heather Lewis**
Address **3117 Lynnhaven Drive**
Public Hearing **June 6, 2022**
City Council District: **District 8**, formerly Lynnhaven

Agenda
Item

8

Parcel GPIN: 1499-08-5604
Accela Record: 2022-CBPA-00022
Applicant's Agent: Eddie Bourdon, Sykes, Bourdon, Ahern & Levy, PC
CBPA Board Action: APPROVED WITH 12 CBPA VARIANCE CONDITIONS ON June 6, 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 this Subdivision was recorded and this Lot developed decades prior to the adoption of the Bay Act and as a result every waterfront property is significantly impacted by the Ordinance. Since the enactment in 1991, numerous developed lots have made similar variance requests to redevelop and elevate in order to meet or exceed current finished floor elevations and enhance resiliency. The approval of this request will be consistent with existing precedent and will in no way confer any special privilege to the current owners.
- 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 RPA Buffer created with the 1991 adoption of the Bay Act covers 65% of this existing, developed lot which significantly restricts the developable area of this relatively small (12,900 sf) pre-existing developed residential building lot. Obviously neither the applicants, nor their predecessors in title had anything to do with this legislative imposition.
- 3) The variance is the minimum necessary to afford relief because the minimum necessary is a very subjective concept, however, given the existing grade elevations on site of between 3½ to 4 feet above sea level in the area outside the seaward 50 foot buffer, and the flooding risks present with sea level rise, subsidence and increases in rain volumes it is a necessity to create a resilient redevelopment of this site that a part of the Lot is filled. The size of this proposed house and inground pool is consistent with the size and character of homes which have been constructed in Lynnhaven Colony in the last 15/20 years. The home will be sited at the 30-foot front yard setback minimizing the size of the improvements located in the 50-foot landward portion of the Buffer. The pool is reasonably sized with the standard recommended pool deck dimensions. Even though 1,146 SF of the driveway is entirely in the RMA (outside the RPA

Buffer), the Applicants are proposing use of permeable pavers to increase infiltration and reduce the effective percentage of impervious surface on the entire site by 458 SF to a net impervious surface of 4,383.6 SF or 33.9%.

- 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 purpose and intent of the Ordinance is to protect/enhance water quality to prevent pollution of the Bay as a result of non-point source pollution. This site currently has no stormwater treatment on site. As a result of this variance request, the owner will install bioretention beds, plant buffer restoration in areas currently devoted to turf and even off-site treatment via the Lynnhaven Oyster Heritage Program, all to benefit water quality.
- 5) 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 area, along with treating all stormwater generated and creating a riparian buffer within a large portion of the RPA (as described in 4 above), all help to limit pollution from entering the adjacent waters 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: **973 square feet x 200 percent = 1,946 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) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 5) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 6) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 7) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
- 8) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
- 9) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 10) 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 driveway 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) The conditions and approval associated with this variance are based on the exhibit plan dated April 20, 2022, prepared by Gallup Surveyors & Engineers, signed April 20, 2022, 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.

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



Applicant & Property Owner **Charles & Mary White**
Address **813 Coverdale Lane**
Public Hearing **June 6, 2022**
City Council District: **District 8**, formerly Lynnhaven

Agenda
Item

9

Parcel GPIN: 1488-12-9936
Accela Record: 2022-CBPA-00025
Applicant's Agent: Self-represented
CBPA Board Action: APPROVED WITH 7 CBPA VARIANCE CONDITIONS ON June 6, 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 other lots in the neighborhood have developed in a similar fashion with encroachment.
- 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 in 1977 and the house was built in 1979.
- 3) The variance is the minimum necessary to afford relief because "similar projects can be found throughout the neighborhood and the applicant has provided a smaller sized pool and surrounding wood decking.
- 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 riparian buffer mitigation on this lot will offer merit towards providing water quality benefits and the minimal land disturbance associated with this request will not be a substantial detriment to water quality.
- 5) The Board is of the opinion that the access to the proposed improvements, minimal land disturbance, and location of the project on the lot provides merit towards not be an increase in nonpoint source pollution.

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: **1,200 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: **6 canopy trees, 6 understory trees, 12 large shrubs, and 24 small shrubs** to the greatest extent practicable.

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. 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) 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.
- 5) Construction limits along the seaward portion of the project shall lie a maximum of 5 feet seaward of improvements.
- 6) Under deck treatment of sand and gravel shall be installed.
- 7) No perimeter fill is authorized outboard or seaward of the proposed improvements.

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