



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

**July 8, 2022**

Chair of the Chesapeake Bay Preservation Area (CBPA) Board, Mr. Jones called to order the CBPA Board Public Hearing at City Council Chambers, City Hall Building, Virginia Beach Municipal Center, on Friday, July 8, 2022 at 10:00 a.m.

The first order of business was to approve the findings and variance conditions of the June 6, 2022 CBPA Board Public Hearing. A motion was made by Mr. Wallace and seconded by Mr. McCune to approve the findings and variance conditions. All present voted for the motion accordingly. This vote also serves as the official roll call for this meeting.

**BOARD ACTION: THE CBPA BOARD VOTED TO APPROVE THE June 6, 2022 FINDINGS AND VARIANCE CONDITIONS ON July 8, 2022 AS FOLLOWS.**

<b>YES</b>	<b>6</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>3</b>
BARRETT-MCDANIELS				YES			
BURNETTE				ABSENT			
FRANCE				ABSENT			
JESTER				ABSENT			
JONES				YES			
MCCUNE				YES			
STEIER				YES			
WALLACE				YES			
YOUNG				YES			

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



Applicant & Property Owner **William F. Swinford & Dawn M. Freeman**  
Address **4043 N. Witchduck Road**  
Public Hearing **July 8, 2022**  
City Council District: **District 8**, formerly Bayside

Agenda  
Item

**1**

**Parcel GPIN:** 1488-08-8193  
**Accela Record:** 2022-CBPA-00026  
**Applicant's Agent:** Billy Garrington - Governmental Permitting Consultant  
**CBPA Board Action:** APPROVED WITH 13 CBPA VARIANCE CONDITIONS ON July 8, 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 primarily consist of additions to the existing single-family residence with all improvements being landward of the 50-foot seaward buffer.
- 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 this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act.
- 3) The proposed improvements offer merit towards the variance request being the minimum necessary to afford relief given the overall increase of impervious cover on the lot being under 20 percent of the lot above water or wetlands.
- 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 applicant will take means to minimize impacts in the RPA and will mitigate stormwater runoff with the use of bioretention planting beds and buffer restoration.
- 5) The existing rear lawn 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 canal 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: **885 square feet x 200 percent = 1,770 square feet.**

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

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

- 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) \*\* 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 \$202.81 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.
- 13) The conditions and approval associated with this variance are based on the exhibit plan dated April 15, 2022, prepared by WPL Landscape Architecture, signed May 26, 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. Deviation from said conditions during site plan review may require re-submittal for CBPA Board consideration.

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

<b>AYE</b>	<b>6</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>3</b>
BARRETT-MCDANIELS		YES				MCCUNE	YES
BURNETTE		ABSENT				STEIER	YES
FRANCE		ABSENT				WALLACE	YES
JESTER		ABSENT				YOUNG	YES
JONES		YES					



Applicant & Property Owner **Debra S. Warfield**  
Address **3108 Basin Court**  
Public Hearing **July 8, 2022**  
City Council District: **District 8**, formerly Lynnhaven

Agenda  
Item

**2**

**Parcel GPIN:** 1499-08-8306  
**Accela Record:** 2022-CBPA-00027  
**Applicant's Agent:** Robert Simon - Waterfront Consulting, Inc.  
**CBPA Board Action:** APPROVED WITH 13 CBPA VARIANCE CONDITIONS ON July 8, 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 typical imperviousness associated with the development of the residential lots in the early 1960's along Basin Court and Basin Road at a density equal to or greater than 4 dwelling units per acre, Staff is of the opinion that the proposed improvements will not convey any special privileges to the applicant should they agree to the recommended conditions recommended below by Staff due to the fact that all of the adjacent properties have rear yards encumbered by the 50-foot seaward buffer.
- 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.
- 3) The variance is the minimum necessary to afford relief because the recommended conditions will limit the amount of proposed overall impervious cover of the lot in relationship to the redevelopment pattern throughout the neighborhood and is more harmonious with the findings of the CBPA Ordinance than that was provided with the applicant's CBPA Exhibit.
- 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 introduction of stormwater management with a request that disturbs greater than 2,500 square feet of uplands, coupled with riparian buffer mitigation in an area with underlying soils that are moderately well drained, offers merit towards improving water quality.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load the provided BMPs provide merit to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater infiltration.

### **Board Conditions:**

- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) The area described as “proposed kitchen counter over pavers” shall be removed and a pool surround no wider than 4 feet may be installed along the eastern edge of the proposed swimming pool. All other dimensions shall remain as shown on the CBPA Exhibit.
- 3) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 4) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **675 square feet x 200 percent = 1,350 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: **2 canopy trees, 4 understory trees, 6 large shrubs, and 12 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

- 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) 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) \*\* 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 \$154.68 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.
- 13) The conditions and approval associated with this variance are based on the exhibit plan dated May 31, 2022, prepared by Chesapeake Bay Site Solutions, Inc. 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.

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

<b>AYE</b>	<b>6</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>3</b>
BARRETT-MCDANIELS		YES				MCCUNE	YES
BURNETTE		ABSENT				STEIER	YES
FRANCE		ABSENT				WALLACE	YES
JESTER		ABSENT				YOUNG	YES
JONES		YES					



Applicant & Property Owner **Jesse & Laura Kasper**  
Address **2109 Wake Forest Street**  
Public Hearing **July 8, 2022**  
City Council District: **District 8**, formerly Lynnhaven

Agenda  
Item

**3**

**Parcel GPIN:** 1499-69-4249  
**Accela Record:** 2022-CBPA-00028  
**Applicant's Agent:** Self-Represented  
**CBPA Board Action:** APPROVED WITH 5 CBPA VARIANCE CONDITIONS ON July 8, 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 is a specific request for a deck expansion for this specific property. Individual assessment is required for each property and the impervious structures build upon it.
- 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 Ordinance.
- 3) The expansion of the deck, given that there will be no expansion seaward, provides merit towards the variance request 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 this variance request will involve the deck expansion and the addition of a single post to support the deck expansion while still ensuring rainwater runoff into the marsh and erosion protection measures under the deck.
- 5) Construction materials will be cleaned up and maintained away from the RPA and post installation, grass will be added below the deck area to avoid water erosion and silt transfer into the RPA 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 buffer restoration shall be installed. Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **2 canopy trees, 2 understory trees, 4 large shrubs, and 6 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall be installed beginning in the seaward portion of the buffer and progressing landward and shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. The required trees shall be comprised of approximately 50 percent deciduous and 50 percent evergreen species and shall be evenly distributed within the RPA buffer. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

3. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
4. No perimeter fill is authorized outboard or seaward of the proposed improvements.
5. This variance and associated conditions **are in addition to** the conditions of the Chesapeake Bay Preservation Area (CBPA) Board variance granted January 26, 2015.

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

<b>AYE</b>	<b>6</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>3</b>
BARRETT-MCDANIELS	YES					MCCUNE	YES
BURNETTE		ABSENT				STEIER	YES
FRANCE		ABSENT				WALLACE	YES
JESTER		ABSENT				YOUNG	YES
JONES		YES					



Applicant & Property Owner **Amir Islam & Ariel Whitmire**  
 Address **1879 N. Great Neck Road**  
**Public Hearing July 8, 2022**  
 City Council District: **District 8**, formerly Lynnhaven

Agenda  
Item  
**4**

**Parcel GPIN:** 1499-55-3168  
**Accela Record:** 2022-CBPA-00029  
**Applicant’s Agent:** David Chewey, PLA - DCLA  
**CBPA Board Action:** DEFERRED AT THE July 8, 2022 CBPA BOARD PUBLIC HEARING TO THE Monday, August 1, 2022 CBPA BOARD PUBLIC HEARING.

**A motion was made by Mr. McCune, seconded by Ms. McDaniels, to defer the variance request to the August 1, 2022 CBPA Board Public Hearing. All present voted for the motion.**

<b>AYE</b>	<b>6</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>3</b>
BARRETT-MCDANIELS	YES			MCCUNE		YES	
BURNETTE	ABSENT			STEIER		YES	
FRANCE	ABSENT			WALLACE		YES	
JESTER	ABSENT			YOUNG		YES	
JONES	YES						



Applicant & Property Owner **Kenneth & Deanne Lindauer**  
Address **1641 Cutty Sark Road**  
Public Hearing **July 8, 2022**  
City Council District: **District 6**, formerly Lynnhaven

Agenda  
Item

**5**

**Parcel GPIN:** 2409-43-2898  
**Accela Record:** 2022-CBPA-00030  
**Applicant's Agent:** Billy Garrington - Governmental Permitting Consultant  
**CBPA Board Action:** APPROVED WITH 7 CBPA VARIANCE CONDITIONS ON July 8, 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 properties along this reach of the Lynnhaven River have redeveloped improvements above the top of bank in a similar approach as proposed with this variance request.
- 2) The applicant's agent provides that 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.
- 3) The variance is the minimum necessary to afford relief because the proposed improvements, as situated in the rear yard, utilizes redevelopment of the existing impervious cover to the greatest extent and has proposed a minimal increase in impervious cover. In addition, the new impervious cover will not displace any mature forested floor and occurs over an area current devoted to turf.
- 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 redevelop existing impervious cover within the buffer and given the method of construction provided by the applicant minimal land disturbance within an area currently devoted to turf.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load recommended conditions have been.

**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 buffer restoration shall be installed. Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **1 canopy trees, 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.

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 prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
5. Construction limits along the seaward portion of the project shall lie a maximum of 5 feet seaward of improvements.
6. Gravel downspout intercepts and/or gravel dripline intercepts shall be provided as a means of erosion and sediment control for stormwater run-off from the proposed roof associated with the outdoor kitchen area.
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. McCune, seconded by Ms. McDaniels, to approve the variance with the variance conditions as provided in the Staff report. All present voted for the motion.**

<b>AYE</b>	<b>6</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>3</b>
BARRETT-MCDANIELS		YES				MCCUNE	YES
BURNETTE		ABSENT				STEIER	YES
FRANCE		ABSENT				WALLACE	YES
JESTER		ABSENT				YOUNG	YES
JONES		YES					



Applicant & Property Owner **William & Kendall Mager**  
Address **1324 Chewink Court**  
Public Hearing **July 8, 2022**  
City Council District: **District 8**, formerly Bayside

Agenda  
Item

**6**

**Parcel GPIN:** 2418-22-2342  
**Accela Record:** 2022-CBPA-00031  
**Applicant's Agent:** Charles Wermers - Wd&a  
**CBPA Board Action:** APPROVED WITH 7 CBPA VARIANCE CONDITIONS ON July 8, 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 request is minimal and limits the encroachment into the Resource Protection Area to the greatest extent practicable given the desires of the current property owner to redevelop portion of the existing single-family residence built in 1985.
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's Ordinance.
- 3) The variance is the minimum necessary to afford relief because 200 square feet of new and redevelopment is less than a single buffer restoration unit.
- 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 minimal encroachment will have minimal affect and will be mitigated and the recommended conditions below as a means towards the variance request being in harmony with the purpose and intent of the CBPA Ordinance.
- 5) The applicant's agent provides that *"By providing buffer restoration as required"* offers merit as a means towards managing the variance request to be 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 buffer restoration shall be installed. Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **1 canopy trees, 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.

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 10 feet from improvements.
5. Construction limits along the seaward portion of the project shall lie a maximum of 10 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. McCune, seconded by Ms. McDaniels, to approve the variance with the variance conditions as provided in the Staff report. All present voted for the motion.**

<b>AYE</b>	<b>6</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>3</b>
BARRETT-MCDANIELS		YES				MCCUNE	YES
BURNETTE		ABSENT				STEIER	YES
FRANCE		ABSENT				WALLACE	YES
JESTER		ABSENT				YOUNG	YES
JONES		YES					



Applicant & Property Owner <b>Walter &amp; Amy Vest</b> Address <b>3946 &amp; 3948 Richardson Road</b> Public Hearing <b>July 8, 2022</b> City Council District: <b>District 8</b> , formerly Bayside	Agenda Item  <b>7</b>
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**Parcel GPIN:** 1488-16-6587 & 1488-16-6732  
**Accela Record:** 2022-CBPA-00032  
**Applicant’s Agent:** David Butler, P.E. - Gallup Surveyors and Engineers  
**CBPA Board Action:** APPLICATION WITHDRAWN ON July 8, 2022.

**A motion was made by Mr. McCune, seconded by Mr. Steier, to approve the withdrawal of the variance request for the property located at 3946 & 3948 Richardson Rd. All present voted for the motion.**

<b>AYE</b>	<b>6</b>	<b>NO</b>	<b>0</b>	<b>ABSTAIN</b>	<b>0</b>	<b>ABSENT</b>	<b>3</b>
BARRETT-MCDANIELS	YES			MCCUNE	YES		
BURNETTE	ABSENT			STEIER	YES		
FRANCE	ABSENT			WALLACE	YES		
JESTER	ABSENT			YOUNG	YES		
JONES	YES						