



**CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
November 7, 2022**

Attendee Name	Title	Status	Arrived
June Barrett-McDaniels	Member	Present	9:13 AM
William R. Burnette	Member	Present	9:12 AM
David France	Member	Present	9:13 AM
David Jester	Member	Present	9:12 AM
Casey Jones	Secretary	Present	9:12 AM
James F.N. McCune	Member	Present	9:11 AM
Michael Steier	Member	Present	9:12 AM
Al Wallace	Member	Present	9:13 AM
Dell Young	Member	Absent	

APPROVAL OF THE MINUTES

1. Approval of the October 3, 2022 Hearing Minutes

Chair of the Chesapeake Bay Preservation Area (CBPA) Board, Mr. Jester called to order the CBPA Board Public Hearing at City Council Chambers, City Hall Building, Virginia Beach Municipal Center, on Monday, November 7, 2022 at 10:00 a.m.

The first order of business was to approve the findings and variance conditions of the October 3, 2022 CBPA Board Public Hearing. A motion was made by Mr. Jones and seconded by Mr. Burnette 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 October 3, 2022 FINDINGS AND VARIANCE CONDITIONS ON November 7, 2022 AS FOLLOWS.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Casey Jones, Secretary
SECONDER:	William R. Burnette, Member
AYES:	Barrett-McDaniels, Burnette, France, Jester, Jones, McCune, Steier, Wallace
ABSENT:	Young

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



Administrative Agenda Item
Chesapeake Bay Preservation Area Board
Policies and Rules of Procedures

Public Hearing **November 7, 2022**

Agenda Item

1

The policies and procedures are adopted by the Chesapeake Bay Preservation Area Board of the City of Virginia Beach, to facilitate the performance of its duties and the exercise of its powers as set forth in the City's Chesapeake Bay Preservation Area Ordinance (Appendix F). Authority for the adoption and or modification of these policies and procedures is specifically set forth in Section 110(G) of the Chesapeake Bay Preservation Area Ordinance.

Revised Policies and Rules of Procedures of the Chesapeake Bay Preservation Area Board

- A. Motion to Proceed with the Show Cause
 - Process for substitute motions

- B. Motion to the Restoration Hearing
 - Process for After-the-Fact CBPA variance requests submitted with Restoration Order

- C. Chesapeake Bay Preservation Area Board Meeting

Date of Adoption

Adopted	November 22, 1999
Amended	June 28, 2004
Amended	January 23, 2006
Amended	March 26, 2007
Amended	August 27, 2007
Amended	September 22, 2014
Amended	August 3, 2020

A motion was made by Mr. McCune, seconded by Mr. Jones, to Amend the Policies and Procedures as stated above. All voted for the motion.

RESULT:	VOTE COMPLETE [UNANIMOUS]
MOVER:	James F.N. McCune, Member
SECONDER:	Casey Jones, Secretary
AYES:	Barrett-McDaniels, Burnette, France, Jester, Jones, McCune, Steier, Wallace
ABSENT:	Young



Applicant & Property Owner **1600 Arnold Circle, LLC**
Address **1600 Arnold Circle**
Public Hearing **November 7, 2022**
City Council District **District 6**, formerly Lynnhaven

Agenda
Item

2

Parcel GPINs: 2409-82-3546
Accela Record: 2022-CBPA-00047
Applicant's Agent: Billy Garrington - Governmental Permitting Consultant
CBPA Board Action: DEFERRED AT THE November 7, 2022 CBPA BOARD PUBLIC HEARING TO THE Monday, January 23, 2023 CBPA BOARD PUBLIC HEARING.

A motion was made by Mr. McCune, seconded by Mr. Burnette, to defer the variance request to the January 23, 2023 CBPA Board Public Hearing. All present voted for the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	James F.N. McCune, Member
SECONDER:	William R. Burnette, Member
AYES:	Barrett-McDaniels, Burnette, France, Jester, Jones, McCune, Steier, Wallace
ABSENT:	Young



Applicant & Property Owner Chanticleer Associates Limited Partnership & Pennsylvania Reality Group VA II, Inc.
Address 1416 Taureau Court, 1478 Petite Court & Ackiss Land, Sec B, Lots N, O, P, & Q
Public Hearing November 7, 2022
City Council District District 6, formerly Beach

Agenda Item
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Parcel GPINs: 2417-08-3383, 2417-17-3946, 2417-17-4910, 2417-17-4976 & 2417-17-5942
Accela Record: 2022-CBPA-00053
Applicant's Agent: Evan Waagen - MSA, P.C.
CBPA Board Action: DEFERRED INDEFINITELY AT THE November 7, 2022 CBPA BOARD PUBLIC HEARING.

A motion was made by Mr. Jones, seconded by Mr. McCune, to defer the variance request indefinitely. All present voted for the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Casey Jones, Secretary
SECONDER:	James F.N. McCune, Member
AYES:	Barrett-McDaniels, Burnette, France, Jester, Jones, McCune, Steier, Wallace
ABSENT:	Young



Applicant & Property Owner **Lawrence J. Goldrich Marital Trust**
Address **1325 Kingfisher Court**
Public Hearing **November 7, 2022**
City Council District **District 6**, formerly Lynnhaven

Agenda
Item

4

Parcel GPIN: 2418-12-7693
Accela Record: 2022-CBPA-00056
Applicant's Agent: Gerald F. Martin - Martin & Martin Architecture, Inc.
CBPA Board Action: APPROVED WITH 6 CBPA VARIANCE CONDITIONS ON November 7, 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 removal of these trees is due to hazards to the structures on the property or them being dead/diseased/dying.
- 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 natural integrity of dead or decaying trees specified in request are due to environmental conditions which cannot be attributed to the applicant. Natural decay/death is a part of the ecosystem's life cycle.
- 3) The variance is the minimum necessary to afford relief given the applicant's preservation of the remaining canopy trees on the lot coupled with the recommended condition of this variance request.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because the removal of dead/decaying trees will improve the property and not harm the integrity of the neighborhood or nearby water sources. This removal is in harmony with the purpose of this ordinance.
- 5) Post removal of request trees will amount in replacement canopy and underbrush trees, which would result in a net decrease in nonpoint source pollution as a means to manage towards a no net increase in nonpoint source pollution load.

Board Conditions:

- 1) A Landscape 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 landscape plan shall detail location, number, and species of vegetation to be installed as per the buffer restoration requirements. The landscape 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) The following trees or tree clusters as described on the CBPA Exhibit shall be preserved.
 - Tree(s) numbered 9, 14, 15, 16, 24, 25, 27, 29 and 31
- 4) Mitigation options for the trees requested to be removed due to being hazardous or impacting future driveway redevelopment as described on the CBPA Exhibit by a red dot shall be required as follow.
 - 3:1 ratio (18 new canopy trees to be planted)
 - or-
 - 9 canopy trees and 18 understory trees

The required mitigation shall be located in the RPA to the greatest extent practicable. 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 release of the utility/right of way permit.

Minimum size at installation for replacement trees shall be as listed below:

- Canopy tree (matures to a height greater than 35') 1 ½" – 2" caliper at time of installation.
 - Understory TREE (matures to a height of 12' to 35') ¾" – 1 ½" caliper at time of installation.
- 5) For the 9 trees located in the public right-of-way (ROW) the required mitigation options are as follow.
 - 3:1 ratio (27 new canopy trees to be planted on the lot)
 - or-
 - Payment to Landscape Management Division in the amount of \$7,695.00 (\$855.00 per tree to be removed). Payment will be accepted at the approval of the landscape plan and prior to the release of the landscape plan by the DSC for issuance of a building permit.
 - 6) A pre-construction meeting shall be held with the CBPA Inspector prior to tree removal. All trees approved for removal shall be marked in the field prior to the preconstruction meeting.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 110(E) of the Chesapeake Bay Preservation Area Ordinance.

Gerald F. Martin with Martin & Martin Architecture, Inc. of the property located at 1325 Kingfisher Court appeared before the CBPA Board.

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

RESULT:	VOTE COMPLETE [UNANIMOUS]
MOVER:	James F.N. McCune, Member
SECONDER:	Al Wallace, Member
AYES:	Barrett-McDaniels, Burnette, France, Jester, Jones, McCune, Steier, Wallace
ABSENT:	Young



Applicant & Property Owner Christopher Wright
Address 2104 W. Kendall Circle
Public Hearing November 7, 2022
City Council District **District 8**, formerly Lynnhaven

Agenda
Item

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Parcel GPIN: 1499-79-3790
Accela Record: 2022-CBPA-00057
Applicant's Agent: Robert Simon, Waterfront Consulting, Inc.
CBPA Board Action: APPROVED WITH 13 CBPA VARIANCE CONDITIONS ON November 7, 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 and approximately 9 CBPA variances have been granted for other owners of property within this manmade canal for similar encroachments within the 50-foot seaward buffer. Given the size of these residential lot encroachment into the 50-foot seaward buffer is unavoidable when redeveloping these lots that were platted prior to the adoption of the CBPA Ordinance.
- 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 overall impervious cover on lots within this neighborhood ranges from approximately 22 percent to 45 percent of the lot above water and wetland. The improvements associated with this increase in impervious cover vary from additions to primary structures, driveway expansions and accessory structures.
- 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 on the lot currently is offering no water quality benefits to the watershed due to the lack of canopy cover. If approved, the required buffer restoration would further enhance the riparian buffer, therefore aiding in rainwater interception and infiltration towards water quality benefits.

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

Board Conditions:

- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) The proposed new impervious cover within the 50-foot seaward buffer shall be reduced by 5 percent.
- 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: **2,792 square feet x 200 percent = 5,584 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: **7 canopy trees, 14 understory trees, 28 large shrubs, and 42 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. Trees shall not be planted within 15 feet of the shoreline where such planting would 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) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 11) Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under the wood deck and stairs.
- 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 \$1,613.75 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 August 27, 2022, prepared by Waterfront Consulting, Inc. and Align Surveying & Design, P.C., signed August 27, 2022 by Robert Simon. 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.

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

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 110(E) of the Chesapeake Bay Preservation Area Ordinance.

Billy Garrington with Governmental Permitting Consultant of the property located at 2104 W. Kendall Circle appeared before the CBPA Board.

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

RESULT:	VOTE COMPLETE [UNANIMOUS]
MOVER:	James F.N. McCune, Member
SECONDER:	Al Wallace, Member
AYES:	Barrett-McDaniels, Burnette, France, Jester, Jones, McCune, Steier, Wallace
ABSENT:	Young



Applicant & Property Owner **Abrams Living Trust**
Address **844 St. Martin Drive**
Public Hearing **November 7, 2022**
City Council District **District 8**, formerly Bayside

Agenda
Item

6

Parcel GPIN: 1478-83-9502
Accela Record: 2022-CBPA-00058
Applicant's Agent: A Build Above, LLC
CBPA Board Action: APPROVED WITH 6 CBPA VARIANCE CONDITIONS ON November 7, 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 to expand the existing wood deck is similar to other improvements on adjacent lots that are encumbered by the 100-foot Resource Protection Area (RPA).
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because the encroachment into the RPA on this lot 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 property are within the RPA.
- 3) The variance is the minimum necessary to afford relief because *"the proposed deck will be off of the existing deck and will not encroach within the seaward buffer."* Staff concurs and offers that the applicant has provided a layout that is cognitive of the existing confined conditions of the lot, zoning setbacks, and delineated RPA feature within the neighborhood, which appears to be consistent with the findings of the Chesapeake Bay Preservation Area (CBPA) Ordinance.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because the conditioned buffer restoration associated with the proposed improvements, under deck treatment, and retention of existing vegetation of the lot provide merit towards water quality benefits.
- 5) We will install silt fence around the area we are excavating and will be digging 10 12x24 footers, hauling away the removed material the same day as well as pouring the footers that same day 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 within the RPA. 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 Chesapeake Bay Preservation Area (CBPA) Inspector prior to any land disturbance, including demolition.
4. Construction limits along the seaward portion of the project shall lie a maximum of 10 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 proposed improvements.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 110(E) of the Chesapeake Bay Preservation Area Ordinance.

James Abrams of the property located at 844 St. Martin Drive appeared before the CBPA Board.

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

RESULT:	VOTE COMPLETE [UNANIMOUS]
MOVER:	James F.N. McCune, Member
SECONDER:	Al Wallace, Member
AYES:	Barrett-McDaniels, Burnette, France, Jester, Jones, McCune, Steier, Wallace
ABSENT:	Young



Applicant & Property Owner **Johnathan Schrieber & Elizabeth Kulas**
Address **416 Goodspeed Road**
Public Hearing November 7, 2022
City Council District **District 6**, formerly Lynnhaven

Agenda
Item

7

Parcel GPIN: 2419-60-3857
Accela Record: 2022-CBPA-00059
Applicant's Agent: Jason Thomas - Painted Fern Landscape Architects
CBPA Board Action: APPROVED WITH 18 CBPA VARIANCE CONDITIONS ON November 7, 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 similar improvements have been afforded to other property owners within the CBPA overlay district in this area.
- 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 proposed improvements provide an overall retreat within the 50' Seaward Buffer. The placement of improvements is due to the proximity of their home within the RPA. While proposed improvements increase the overall impervious surface in the RPA, all occur in areas currently dedicated to lawn, overgrown shrubbery or existing impervious cover. In this regard, the proposed improvements are in the most logical locations and are a minimum amount to gain usable space within their lot.
- 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 existing RPA buffer on this lot is comprised of turf grass, canopy trees, and impervious cover within the 50' Seaward Buffer. All proposed improvements inside the 50' Seaward Buffer show an overall retreat and proposed impervious areas are sited adjacent to the existing residence and/or impervious surfaces. This request will benefit water quality by reducing erosion and promoting infiltration through the installation of retaining walls and buffer plantings. This proposal requires establishment of additional vegetation within the buffer to help address any runoff from the proposed improvements. The proposed request is

not expected to be injurious to the public welfare and is not of substantial detriment of water quality.

- 5) Although there is a net decrease of impervious surface on the lot, landscaping will be installed to mitigate the impact of the additional impervious surface within the RPA Buffer. Additional landscape beds along with retaining walls, will aid in slowing the velocity of stormwater leaving the site while allowing for the absorption of any additional runoff. The applicant has submitted a conceptual landscape plan that is consistent with the Riparian Buffers Modification and Mitigation Manual and identifies an appropriate quantity of canopy trees, understory trees, and shrubs within the RPA buffer as a means to manage towards a no net increase in nonpoint source pollution load.

Board Conditions:

- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) The conditions of the existing Chesapeake Bay Preservation Area (CBPA) variance, specifically the required buffer restoration and stormwater management facilities shall be documented on the revised site plan. Documentation shall describe the health and functionality of said requirements. Prior restoration requirements shall be installed if not present.
- 3) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 4) **2,555 square feet** of buffer restoration shall be installed on the lot as depicted on the CBPA Exhibit provided for the CBPA Variance request. 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 to the greatest extent practicable.

The restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

- 5) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.

- 6) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 7) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. Said areas of land disturbance shall be quantified on revised site plan submittals.
- 8) The construction access way, staging area, stockpiling area and contractor parking area shall be noted on the site plan. **Said areas shall be quantified as land disturbance if not occurring on a paved or graveled surface.**
- 9) Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the 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 not included with this variance request.
- 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) Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under the wood deck and stairs.
- 15) 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.
- 16) Gravel downspout intercepts and/or gravel dripline intercepts shall be provided as a means of erosion and sediment control for stormwater run-off from the proposed improvements.
- 17) This variance and associated conditions **are in addition to** the conditions of the CBPA Board variance granted July 25, 2006.

18) The conditions and approval associated with this variance are based on the exhibit plan dated September 29, 2022, prepared by Painted Fern Landscape Architecture, signed September 29, 2022 by Jessica L. Nelson. 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.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 110(E) of the Chesapeake Bay Preservation Area Ordinance.

Billy Garrington with Governmental Permitting Consultant of the property located at 416 Goodspeed Road appeared before the CBPA Board.

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

RESULT:	VOTE COMPLETE [UNANIMOUS]
MOVER:	James F.N. McCune, Member
SECONDER:	Al Wallace, Member
AYES:	Barrett-McDaniels, Burnette, France, Jester, Jones, McCune, Steier, Wallace
ABSENT:	Young



Applicant & Property Owner Peer & Pernille Bjerring
Address 2204 Kendall Street
Public Hearing November 7, 2022
City Council District **District 8**, formerly Lynnhaven

Agenda
Item

8

Parcel GPIN: 1590-70-1632
Accela Record: 2022-CBPA-00060
Applicant's Agent: Self-Represented
CBPA Board Action: APPROVED WITH 7 CBPA VARIANCE CONDITIONS ON November 7, 2022.

The Chesapeake Bay Preservation Area Board variance request was granted with the following reasonable and appropriate conditions offered towards preventing the variance from causing or contributing to a degradation of water quality as provided in the Staff report, based on the following findings, as required in Section 110(H) of the CBPA Ordinance:

Board's Findings:

- 1) Granting the variance will not confer upon the applicant any special privilege or convenience not accorded to other owners of property in the Chesapeake Bay Preservation Areas who are subject to the provisions of this Ordinance and are similarly situated because the redevelopment of lots within this neighborhood are challenged by the dimensions of these residential lots, typically averaging a depth of 150 feet along the manmade canal.
- 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 swimming pool is smaller than the average size of a residential swimming pool and is placed in the most reasonable location on the lot given the fact that the seaward buffer takes up the entirety of the rear yard.
- 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 provide merit towards being the minimal necessary to afford relief coupled with land disturbance being less than 2,500 square feet.
- 5) In addition to the proposed addition of vegetation, the house is equipped with gutters and we're setting up rainwater harvesting as a means to manage towards a no net increase in nonpoint source pollution load. The Board is of the opinion that the added rainwater harvesting as a best management practice towards stormwater management provides merit to

minimize erosion and sedimentation potential, reduce land application of nutrients, and toxins, and maximize rainwater infiltration.

Board Conditions:

1. The conditions and approval associated with this variance are based on the exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. A Landscape Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit. Land disturbance associated with the proposed improvements at any given time shall not exceed 2,500 square feet. If at any time land disturbance exceeds 2,500 square feet, Planning Department Staff may issue a stop work order. At that time, a full site development plan in compliance with local and State regulations shall be submitted for review and approval through the Development Services Center (DSC).
2. The landscape plan shall detail location, number, and species of vegetation to be installed as per the buffer restoration requirements. The landscape 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: **596 square feet x 200 percent = 1,192 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **3 canopy trees, 3 understory trees, 6 large shrubs, and 9 small shrubs.**

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

4. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
5. Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until

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

6. Construction limits along the seaward portion of the project shall lie a maximum of 10 feet seaward of improvements.

7. No perimeter fill is authorized outboard or seaward of the proposed improvements.

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 110(E) of the Chesapeake Bay Preservation Area Ordinance.

Pernille Bjerring of the property located at 2204 Kendall Street appeared before the CBPA Board.

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

RESULT:	VOTE COMPLETE [UNANIMOUS]
MOVER:	James F.N. McCune, Member
SECONDER:	Al Wallace, Member
AYES:	Barrett-McDaniels, Burnette, France, Jester, Jones, McCune, Steier, Wallace
ABSENT:	Young



Applicant & Property Owner Joshua & Sarah Haggerty
Address 1133 Ivy Drive
Public Hearing November 7, 2022
City Council District **District 6**, formerly Lynnhaven

Agenda
Item

9

Parcel GPIN: 2418-77-0280
Accela Record: 2022-CBPA-00061
Applicant's Agent: Billy Garrington, Governmental Permitting Consultant, Inc.
CBPA Board Action: APPROVED WITH 15 CBPA VARIANCE CONDITIONS ON November 7, 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 1952 decades prior to the Chesapeake Bay Preservation Act. The home on this heavily treed lot is now located in the RPA Buffer and the applicants are simply making modifications to the previously approved pool layout to fit the new owners family and lifestyle.
- 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 applicant has demonstrated an understanding of the CBPA Ordinance findings with the proposed 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 because the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels, the site offers minimum stormwater mitigation for the bay. If approved, the proposed stormwater mitigation will be increased and installed between the improvements and the bay as well as enhancements to the existing natural buffer.
- 5) The existing shoreline will be enhanced and expanded upon to compliment the site. Bioretention stormwater management will be placed behind the new pool to capture and achieve the stormwater management requirements prior to discharging into the creek/ditch

along the rear portion 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: **1,760 square feet x 200 percent = 3,520 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 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. 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 11 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 not included with this variance request.
- 12) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 13) Perimeter fill within the limits of construction shall be the minimum necessary to facilitate positive drainage away from the proposed improvements. Fill material for such development shall be limited to minimize disturbance of existing vegetation and contours to effectively maintain the integrity of the buffer area.
- 14) ** As offered by the applicant, payment shall be made to the Lynnhaven Oyster Heritage Program concurrent with site plan approval. Payment shall be in the amount of \$403.33 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 August 25, 2022, prepared by WPL Landscape Architecture, signed September 30, 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.

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

***NOTE: The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 110(E) of the Chesapeake Bay Preservation Area Ordinance.

Eddie Bourdon of the property located at 1133 Ivy Drive appeared before the CBPA Board.

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

RESULT:	VOTE COMPLETE [UNANIMOUS]
MOVER:	James F.N. McCune, Member
SECONDER:	Al Wallace, Member
AYES:	Barrett-McDaniels, Burnette, France, Jester, Jones, McCune, Steier, Wallace
ABSENT:	Young



Applicant & Property Owner **Joseph & Judith Harvey**
Address **2804 River Road**
Public Hearing **November 7, 2022**
City Council District **District 8**, formerly Lynnhaven

Agenda
Item

10

Parcel GPIN: 1499-51-2768
Accela Record: 2022-CBPA-00062
Applicant's Agent: Billy Garrington, Governmental Permitting Consultant, Inc.
CBPA Board Action: APPROVED WITH 18 CBPA VARIANCE CONDITIONS ON November 7, 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 home was built in the 1950s and the conditions of the existing improvements warrants redevelopment. As proposed the encroachments into the 100-foot RPA offers merit towards the applicant's ability to redevelop the lot without being given any special privileges given the location of the proposed improvements and minimal expansion of new impervious cover within areas of the lot that are not environmental sensitive.
- 2) The encroachment into the RPA on this lot is challenged based of the existing residence being constructed prior to the adoption of the City's Chesapeake Bay Preservation Area (CBPA) Ordinance and the existing residence being retained with this variance request.
- 3) The variance is the minimum necessary to afford relief because the proposed improvements over existing structures to the greatest extent practicable to maximize the redevelopment and to minimize site impacts of which this request does include 7,547 square feet of redevelopment over existing impervious cover and the majority of the new impervious cover with this variance request falls within the variable width buffer and resource management area (RMA) of the Chesapeake Bay watershed.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because the proposed improvements are in keeping with the development of the neighborhood and adjacent parcels, the site currently does not offer any stormwater mitigation except for the portion of the site that has existing wooded riparian buffers. However, if approved, the proposed redevelopment will be required to have treatment

provided between the improvements and the bay as well as enhancements to the existing natural buffer.

- 5) As a means to manage towards a no net increase in nonpoint source pollution load the conceptual planting plan, redevelopment of the existing impervious covers with structural best management practices, and general woodlot management of the existing canopy cover offers merit 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 Conceptual Planting Plan submitted with this variance request prepared by WPL. The restoration shall have a mulch layer of organic material 4 inches to 6 inches in depth. Said mulched restoration areas shall be maintained and not removed or allowed to revert to turf in the future. Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures. Salt and flood tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.
- 4) Turf shall be limited to 4,200 square feet on the lot, specific to the areas of turf shown on the Conceptual Planting Plan.
- 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 not included with this variance request.
- 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) Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under the wood deck and stairs.
- 15) 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.
- 16) ** 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 \$1,054.62 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.
- 17) Mature trees exist adjacent to tidal waters, the select removal of lower tree limbs shall be performed thereby permitting sunlight to interface with tidal fringe marsh.
- 18) The conditions and approval associated with this variance are based on the exhibit plan dated May 11, 2022, prepared by WPL Landscape Architecture, signed September 30, 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.
- 19)

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

*****NOTE:** The applicant is responsible for removal of the Chesapeake Bay Preservation Area Variance Signs posted on the property. Said signs shall be removed within 5 days after the Board renders a final decision on the variance request. Failure to remove the signs within 5 days is a violation of Section 110(E) of the Chesapeake Bay Preservation Area Ordinance.

Billy Garrington with Governmental Permitting Consultant, Inc. of the property located at 2804 River Road appeared before the CBPA Board.

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

RESULT:	VOTE COMPLETE [UNANIMOUS]
MOVER:	James F.N. McCune, Member
SECONDER:	Al Wallace, Member
AYES:	Barrett-McDaniels, Burnette, France, Jester, Jones, McCune, Steier, Wallace
ABSENT:	Young



Applicant & Property Owner **Doan Van Nguyen**
Address **3525 N Crestline Drive**
Public Hearing **November 7, 2022**
City Council District **District 1**, formerly Kempsville

Agenda
Item

11

Parcel GPINs: 1456-29-0579
Accela Record: 2022-CBPA-00063
Applicant's Agent: Self-Represented
CBPA Board Action: DEFERRED AT THE November 7, 2022 CBPA BOARD PUBLIC HEARING TO THE Monday, December 5, 2022 CBPA BOARD PUBLIC HEARING.

A motion was made by Mr. Wallace, seconded by Mr. Jones, to defer the variance request to the December 5, 2022 CBPA Board Public Hearing. All present voted for the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Al Wallace, Member
SECONDER:	Casey Jones, Secretary
AYES:	Barrett-McDaniels, Burnette, France, Jester, Jones, McCune, Steier, Wallace
ABSENT:	Young