



**CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
August 28, 2023**

Attendee Name	Title	Status	In	Out
Stephen Ballard	Board Member	Present	10:00 AM	11:46 AM
June Barrett-McDaniels	Board Member	Present	10:00 AM	11:46 AM
William R. Burnette	Secretary	Present	10:00 AM	11:46 AM
David France	Chairman	Present	10:00 AM	11:46 AM
Casey Jones	Vice Chairman	Present	10:00 AM	11:46 AM
James F.N. McCune	Board Member	Present	10:00 AM	11:46 AM
Michael Steier	Board Member	Present	10:00 AM	11:46 AM
Al Wallace	Board Member	Present	10:00 AM	11:46 AM
Dell Young	Board Member	Present	10:00 AM	11:46 AM

APPROVAL OF THE MINUTES

1. Approval of the July 24, 2023 Hearing Minutes

Chair of the Chesapeake Bay Preservation Area (CBPA) Board, Mr. France called to order the CBPA Board Public Hearing at City Council Chambers, City Hall Building, Virginia Beach Municipal Center, on Monday, August 28, 2023 at 10:00 a.m.

The first order of business was to approve the findings and variance conditions of the July 24, 2023 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 July 24, 2023 FINDINGS AND VARIANCE CONDITIONS ON August 28, 2023 AS FOLLOWS.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Casey Jones, Vice Chairman
SECONDER:	William R. Burnette, Secretary
AYES:	Ballard, Barrett-McDaniels, Burnette, France, Jones, McCune, Steier, Wallace, 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.

CONSENT AGENDA

Agenda Item 3 - Shaozhou Ma at 6612 Pinewood Court

Agenda Item 4 - Gregory N. Stillman Trust at 600 55th Street

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

FORMAL HEARING

Agenda Item 1 - The CBPA Board FY 2023 Annual Report

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Casey Jones, Vice Chairman
SECONDER:	June Barrett-McDaniels, Member
AYES:	Ballard, Barrett-McDaniels, Burnette, France, Jones, McCune, Steier, Wallace, Young

Agenda Item 2 - Justin & Marcia Wheeler at 2228 Windward Shore Drive

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

SHOW CAUSE HEARING

Agenda Item 5 - Nilkanth and Kalpana Patel at 909 Hall Haven Drive

Recommendation – Defer 60 Days to the October 23, 2013 hearing.

RESULT:	DEFERRED [UNANIMOUS]
MOVER:	William R. Burnette, Secretary
SECONDER:	Al Wallace, Member
AYES:	Ballard, Barrett-McDaniels, Burnette, France, Jones, McCune, Steier, Wallace, Young



ADMINISTRATIVE BUSINESS AGENDA

Approval of the Chesapeake Bay Preservation Area Board FY 2023 Annual Report to City Council

The annual report reports City Council and overview of the following items.

- Chesapeake Bay Preservation Area Board Executive Summary
- Mission Statement
- Accomplishment of Goals and Objectives
- Membership and Attendance of Board Members
- City Council Liaisons and Department Staff Liaisons
- Volunteer Hours Report
- Goals and Objectives for the Coming Year
- Recommendations to City Council

A motion was made by Mr. Jones, seconded by Ms. McDaniels, to approve the annual report provided. All present voted for the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Casey Jones, Vice Chairman
SECONDER:	June Barrett-McDaniels, Member
AYES:	Ballard, Barrett-McDaniels, Burnette, France, Jones, McCune, Steier, Wallace, Young



Applicant & Property Owner: **Justin & Marcia Wheeler**
Address: **2228 Windward Shore Drive**
Public Hearing: **August 28, 2023**
City Council District: **District 8**

Agenda Item

2

Parcel GPIN: 2409-19-2203
Accela Record: 2023-CBPA-00038
Applicant's Agent: Self-represented
CBPA Board Action: APPROVED WITH 7 CBPA VARIANCE CONDITIONS ON August 28, 2023.

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 similarly situated homeowners with existing swimming pools have similar accessory structures in the rear yard.
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore portions of this lot fall within the RPA.
- 3) The variance is the minimum necessary to afford relief because the proposed improvements are situated in the upper reaches of the 50-foot landward buffer and include no encroachment seaward of the existing 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 applicant has taken means to minimize impacts in the RPA, including keeping all improvements above the top of bank, no proposed tree removals, and keeping the new impervious cover out of the seaward buffer on the lot.
- 5) Required buffer restoration will be placed within the RPA on the lot as 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. If required, revised plans and calculations shall be submitted to the Planning Administration Chesapeake Bay Board team 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. A planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements shall be submitted to the City CBPA staff prior to the issuance of a building permit. 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: **715 square feet x 200 percent = 1,430 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 16 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 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. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
5. Construction limits along the seaward portion of the project shall lie a maximum of **10** feet seaward of improvements.
6. 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.
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.

Justin Wheeler of the property located at 2228 Windward Shore Drive appeared before the CBPA Board.

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

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



Applicant & Property Owner: **Shaozhou Ma**
Address: **6612 Pinewood Court**
Public Hearing: **August 28, 2023**
City Council District: **District 1**

Agenda Item

3

Parcel GPIN: 1447-81-4494
Accela Record: 2023-CBPA-00041
Applicant's Agent: Jim Barletto - Academy Enterprises Construction
CBPA Board Action: APPROVED WITH 8 CBPA VARIANCE CONDITIONS ON August 28, 2023.

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 it is an addition of a small front porch which is being requested in a manner that is available to anyone within the Chesapeake Bay Preservation Area.
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because this lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore, this lot falls within the RPA.
- 3) The variance is the minimum necessary to afford relief because the applicant has utilized the redevelopment of the drive as part of the addition to the primary structure to the greatest extent practicable.
- 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 situated in the landward buffer of the Resource Protection Area and there is no encroachment seaward with this request.
- 5) The Board is of the opinion that the applicant has utilized redevelopment over existing impervious cover for the majority of this project and keeping new impervious cover at a minimum 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. Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **315 square feet x 200 percent = 630 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, 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. 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. 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.

7. 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.

John Reid of the property located at 2113 E Admiral Drive appeared before the CBPA Board.

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

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



Applicant & Property Owner: **Gregory N. Stillman Trust**
Address: **600 55th Street**
Public Hearing: **August 28, 2023**
City Council District: **District 6**

Agenda Item

4

Parcel GPIN: 2418-69-3503
Accela Record: 2023-CBPA-00042
Applicant's Agent: Billy Garrington - Governmental Permitting Consultant, Inc.
CBPA Board Action: APPROVED WITH 4 CBPA VARIANCE CONDITIONS ON August 28, 2023.

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 1956 prior to the Chesapeake Bay Preservation Act. The proposed improvements are in keeping with the development of the neighborhood and adjacent parcels.
- 2) This variance request 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 size of the proposed improvements offer 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 the greenhouse is the minimum size necessary for the needs of the applicant.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, with the buffer restoration and using a rain barrel as a method of capturing stormwater runoff, this greenhouse will not contribute to pollution in the Chesapeake Bay.

Board Conditions:

1. The conditions and approval associated with this variance are based on the exhibit plan dated July 27, 2023, prepared by WPL, signed July 27, 2023 by Eric Garner. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. 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. 300 square feet of buffer restoration shall be installed per the CBPA Exhibit. 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 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. Salt and flood tolerant plant species shall be planted below the five foot contour to ensure greater survival of the plantings. Said restoration shall be installed prior to the issuance of the certificate of occupancy or release of the building permit.

3. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
4. Construction limits along the seaward portion of the project shall lie a maximum of 5 feet seaward of 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.

Billy Garrington of Governmental Permitting Consultant, Inc. representing the property located at 600 55th Street appeared before the CBPA Board.

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

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



Applicant & Property Owner: Nilkanth and Kalpana Patel
Address: 909 Hall Haven Drive
Public Hearing: August 28, 2023
City Council District: District 8

Agenda Item

5

Parcel GPIN: 1498-42-6983
Accela Record: 2022-CBPV-00004
Applicant's Agent: Tom Baroway - Architect
CBPA Board Action: DEFERRED AT THE August 28, 2023 CBPA BOARD PUBLIC HEARING TO THE Monday, October 23, 2023 CBPA BOARD PUBLIC HEARING.

A motion was made by Mr. Burnette, 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:	DEFERRED [UNANIMOUS]
MOVER:	William R. Burnette, Secretary
SECONDER:	Al Wallace, Member
AYES:	Ballard, Barrett-McDaniels, Burnette, France, Jones, McCune, Steier, Wallace, Young