



**CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
September 25, 2023**

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

APPROVAL OF THE MINUTES

1. Approval of the August 28, 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, September 25, 2023 at 10:00 a.m.

The first order of business was to approve the findings and variance conditions of the August 28, 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 August 28, 2023 FINDINGS AND VARIANCE CONDITIONS ON September 25, 2023 AS FOLLOWS.

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

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

DEFERRALS

Agenda Item 3. Shane & Maria Sullivan at 1508 McCullough Lane

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

CONSENT AGENDA

Agenda Item 1. Randall & Carolyn Crutchfield at 6309 Jonathans Cove Drive

Agenda Item 2. Richard & Kathy France at 4216 N. Witchduck Road

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



Applicant & Property Owner: **Randall & Carolyn Crutchfield**
Address: **6309 Jonathans Cove Drive**
Public Hearing: **September 25, 2023**
City Council District: **District 1**

Agenda Item

1

Parcel GPIN: 1457-40-1108
Accela Record: 2023-CBPA-00044
Applicant's Agent: Billy Garrington - Governmental Permitting Consultant
CBPA Board Action: APPROVED WITH 8 CBPA VARIANCE CONDITIONS ON September 25, 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 these proposed improvements have been similarly afforded with the similar requests throughout the neighborhood.
- 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 proposed improvements are modest and necessary due to the state of the existing accessory structures in the rear yard.
- 3) The variance is the minimum necessary to afford relief because the variance request utilizes redevelopment to the greatest extent and the new impervious cover will consist of permeable pavers that allow for rainwater infiltration.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because given the use of materials and the minimal land disturbance associated with the request, the variance request will not be of substantial detriment to water quality given the recommended conditions provided in this staff report.
- 5) Buffer restoration coupled with the flat topography of the lot providing pervious cover for run-off produced from the proposed improvements to sheet-flow across and infiltrating before draining into the tidal waters is 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 plan dated June 30, 2023, prepared by Gallup Surveyors & Engineers by David R. Butler. The conditions and approval associated with this variance are based on the Board exhibit prepared by the applicant and presented to the Board, the application submitted and the sworn presentation to the Board. 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. Buffer restoration shall be installed in substantial compliance with the Landscape Plan View – Outdoor Living exhibit prepared by Visionscapes Landscape Design & Installation, dated May 1, 2023.

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. Canopy 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 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.**

6. Under deck treatment of sand and gravel shall be installed.

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

8. This variance and associated conditions **are in addition to** the conditions of the Board variance granted April 25, 1994.

***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 representing the property located at 6309 Jonathans Cove Drive Court appeared before the CBPA Board.

As an item of the consent agenda, a motion was made by Mr. Burnette, 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:	William R. Burnette, Secretary
SECONDER:	Casey Jones, Vice Chairman
AYES:	Burnette, France, Jones, Steier, Wallace, Young
ABSENT:	Ballard, Barrett-McDaniels, McCune



Applicant & Property Owner: **Richard & Kathy France**
Address: **4216 N. Witchduck Road**
Public Hearing: **September 25, 2023**
City Council District: **District 9**

Agenda Item

2

Parcel GPIN: 1478-86-8319
Accela Record: 2023-CBPA-00045
Applicant's Agent: Danny Ngo – Beach Builders
CBPA Board Action: APPROVED WITH 4 CBPA VARIANCE CONDITIONS ON September 25, 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 similar improvements are found on adjacent properties in the neighborhood.
- 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 owners are new to the area and were not associated with the prior variance request and wish to construct the proposed improvements to accommodate their family needs.
- 3) The variance is the minimum necessary to afford relief because the proposed improvements are outboard of the RPA.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because the proposed improvements are not located within the RPA and fall within the RMA on the lot and is of the opinion that the improvements will not be of substantial detriment to water quality.
- 5) All scope of work is to be performed outboard of the RPA and in area of rear of property 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. Wire reinforced 36-inch silt fence, for erosion and sedimentation control measures, shall be installed along the seaward portion of the project prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Along the seaward portion of the project the required silt fence shall be installed 15 feet from improvements.
3. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
4. This variance and associated conditions **are in addition to** the conditions of the Board variance granted June 24, 2002.

***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.

Danny Ngo of Beach Builders representing the property located at 4216 N. Witchduck Road appeared before the CBPA Board.

As an item of the consent agenda, a motion was made by Mr. Burnette, 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:	William R. Burnette, Secretary
SECONDER:	Casey Jones, Vice Chairman
AYES:	Burnette, France, Jones, Steier, Wallace, Young
ABSENT:	Ballard, Barrett-McDaniels, McCune



Applicant & Property Owner **Shane & Maria Sullivan**
Address **1508 McCullough Lane**
Public Hearing **September 25, 2023**
City Council District **District 6**

Agenda Item

3

Parcel GPINs: 2409-91-7263
Accela Record: 2023-CBPV-00004
Applicant's Agent: Billy Garrington - Governmental Permitting Consultant
CBPA Board Action: DEFERRED AT THE September 25, 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. Jones, to defer the variance request to the October 23, 2023 CBPA Board Public Hearing. All present voted for the motion.

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