



**CHESAPEAKE BAY PRESERVATION AREA BOARD  
VIRGINIA BEACH, VIRGINIA  
June 26, 2023**

<b>Attendee Name</b>	<b>Title</b>	<b>Status</b>
Stephen Ballard	Board Member	Present
June Barrett-McDaniels	Member	Present
William R. Burnette	Secretary	Present
David France	Chairman	Present
Casey Jones	Vice Chairman	Present
James F.N. McCune	Member	Absent
Michael Steier	Member	Absent
Al Wallace	Member	Present
Dell Young	Member	Present

**APPROVAL OF THE MINUTES**

1. Approval of the May 22, 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, June 26, 2023 at 10:00 a.m.

The first order of business was to approve the findings and variance conditions of the May 22, 2023 CBPA Board Public Hearing. A motion was made by Ms. McDaniels and seconded by Mr. Wallace to approve the findings and variance conditions. All present voted for the motion accordingly. This vote also serves as the official roll call for this meeting.

**BOARD ACTION: THE CBPA BOARD VOTED TO APPROVE THE May 22, 2023 FINDINGS AND VARIANCE CONDITIONS ON June 26, 2023 AS FOLLOWS.**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	June Barrett-McDaniels, Member
<b>SECONDER:</b>	Al Wallace, Member
<b>AYES:</b>	Burnette, France, Wallace, Young
<b>ABSENT:</b>	McCune, Steier
<b>ABSTAIN:</b>	Ballard, Jones

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

1. Agenda Item 2. Joseph & Debra Martino located at 584 Ingram Road  
Recommendation – Approve as conditioned.
2. Agenda Item 3. Dean Kent & August Armstrong located at 3733 Lynnfield Drive  
Recommendation – Amend recommended condition 3 to the Staff report to read 9 canopy trees, 9 understory trees, and 51 large shrubs.
3. Agenda Item 4. John W. Drescher located at 410 52nd Street  
Recommendation – Approve as conditioned.
4. Agenda Item 6. Aileen Tiro & Liam O’Connor located at 701 Donham Court  
Recommendation – Approve as conditioned.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Al Wallace, Member
<b>SECONDER:</b>	Casey Jones, Vice Chair
<b>AYES:</b>	Ballard, Barrett-McDaniels, Burnette, France, Young
<b>ABSENT:</b>	McCune, Steier

## FORMAL HEARING

5. Agenda Item 1. Andrew & Elaine Vanderpoll located at 2320 Windward Shore Drive  
Recommendation – Strike condition #3 and amend condition #4 to 1250 sq. ft., 2510 buffer restoration and recalculate canopy and understory per amended buffer restoration.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Casey Jones, Vice Chair
<b>SECONDER:</b>	June Barrett-McDaniels, Member
<b>AYES:</b>	Ballard, Burnette, France, Wallace, Young
<b>ABSENT:</b>	McCune, Steier

6. Agenda Item 5. Randall & Donna Stickley located at 1698 S. Woodside Lane  
Recommendation – Add a condition, condition 17 that *“the proposed parking area expansion shall be constructed of a permeable pavement system. A detail of the specific permeable paver system and subbase construction shall be provided on the site plan submitted to the Development Services Center for review and approval. Said construction of the area shall follow the Virginia Department of Environmental Quality (DEQ) Stormwater Design Specification 7 for permeable pavement system installation.”*

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Al Wallace, Member
<b>SECONDER:</b>	Casey Jones, Vice Chair
<b>AYES:</b>	Ballard, Barrett-McDaniels, Burnette, France, Young
<b>ABSENT:</b>	McCune, Steier



Applicant & Property Owner Andrew & Elaine Vanderpoll  
Address 2320 Windward Shore Drive  
Public Hearing June 26, 2023  
City Council District **District 8**, formerly Lynnhaven

Agenda Item

1

**Parcel GPIN:** 1499-98-7770  
**Accela Record:** 2023-CBPA-00027  
**Applicant's Agent:** Billy Garrington - Governmental Permitting Consultants  
**CBPA Board Action:** APPROVED WITH 14 CBPA VARIANCE CONDITIONS ON June 26, 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 proposed improvements are located within the upper reaches of the 100-foot buffer and are in harmony with similar variance requests granted to adjacent properties in the 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 subject to the recommended conditions below.
- 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 due to the recommended conditions and by the proposed improvements being in keeping with the development of the neighborhood and adjacent parcels, the buffer restoration and BMPs will be placed to catch runoff to improve water quality.
- 5) Buffer restoration and bio-retention stormwater management will be placed between the proposed structures and the top of bank to capture and treat runoff prior to entering the bay as a means to manage towards a no net increase in nonpoint source pollution load.

**Board Conditions:**

- 1) 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: **1,255 square feet x 200 percent = 2,510 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs, and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **6 canopy trees, 6 understory trees, 12 large shrubs, and 24 small shrubs.**

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

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

- 9) Construction limits along the seaward portion of the project shall lie a maximum of 15 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) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 12) 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.
- 13) **\*\* 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 \$165.00 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.**
- 14) The conditions and approval associated with this variance are based on the exhibit plan dated March 23, 2023, prepared by Stone Green Consulting, LLC, signed by Sean E. Green. 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.

**Billy Garrington of Governmental Permitting Consultants, representing the applicant of the property located at 2320 Windward Shore Drive, appeared before the Board.**

**A motion was made by Mr. Jones, seconded by Ms. McDaniels, to amend the following recommended conditions of the Staff report.**

- **Strike recommended condition 3 – “The proposed patio shall be reduced to 720 square feet and limited to the area adjacent to the existing residence without further encroaching into the RPA buffer.”**
- **Amend recommended condition 4 to reflect the increase in buffer restoration based off the submitted CBPA Exhibit – 1250 square feet of new impervious cover within the RPA requiring 2,510 square feet of buffer restoration and re-calculate canopy and understory per amended buffer restoration.**

**All present voted for the motion as follow.**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Casey Jones, Vice Chair
<b>SECONDER:</b>	June Barrett-McDaniels, Member
<b>AYES:</b>	Ballard, Burnette, France, Wallace, Young
<b>ABSENT:</b>	McCune, Steier



Applicant & Property Owner Joseph & Debra Martino  
Address 584 Ingram Road  
**Public Hearing** June 26, 2023  
City Council District **District 8**, formerly Lynnhaven

Agenda Item

2

**Parcel GPIN:** 1497-49-2935  
**Accela Record:** 2023-CBPA-00029  
**Applicant's Agent:** Eddie Bourdon - Sykes, Bourdon, Ahern & Levy, P.C.  
**CBPA Board Action:** APPROVED WITH 8 CBPA VARIANCE CONDITIONS ON June 26, 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 proposed improvements are similar to adjacent properties.
- 2) This variance request is not based upon conditions or circumstances that are or have been created or imposed by the applicant or predecessor in title because the lot was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance.
- 3) The variance is the minimum necessary to afford relief because the disturbance within the buffer is minimal and the 100-foot buffer falls on the majority of the lot and the location of the proposed improvements have been situated so as to avoid encroachment within the most environmentally sensitive portions of the 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 this request ensures there is minimal disturbance within the buffer that does not encroach upon the large percentage of the lot.
- 5) The state of the existing buffer with significant tree canopy will be maintained. There will be minimal runoff from this project because the limits of disturbance and amount of proposed impervious is small and the required stormwater treatment will be utilized. Roof downspouts will be discharged on grade and will be treated by the existing buffer 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 plan dated May 5, 2023, prepared by American Engineering Associates, signed May 5, 2023 by Edward F. Rudiger, Jr. 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. 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: **1,294 square feet x 200 percent = 2,588 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, 6 understory trees, 9 large shrubs, and 12 small shrubs.**

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall 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. 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.

6. Construction limits along the seaward portion of the project shall lie a maximum of 15 feet seaward of improvements.
7. 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.
8. 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.

**Eddie Bourdon of Sykes, Bourdon, Ahern, Levy PC, representing the applicant of the property located at 584 Ingram Road, appeared before the Board.**

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

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Al Wallace, Member
<b>SECONDER:</b>	Casey Jones, Vice Chair
<b>AYES:</b>	Ballard, Barrett-McDaniels, Burnette, France, Young
<b>ABSENT:</b>	McCune, Steier



Applicant & Property Owner **Dean Kent & August Armstrong**  
Address **3733 Lynnfield Drive**  
**Public Hearing** June 26, 2023  
City Council District **District 8**, formerly Lynnhaven

Agenda Item

**3**

**Parcel GPIN:** 1489-40-2308  
**Accela Record:** 2023-CBPA-00030  
**Applicant's Agent:** Billy Garrington - Governmental Permitting Consultant  
**CBPA Board Action:** APPROVED WITH 15 CBPA VARIANCE CONDITIONS ON June 26, 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 location of the proposed improvements within the RPA are similar to other lots developed in the neighborhood.
- 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 this variance request includes no encroachment within the 50-foot seaward buffer and almost half of the new impervious cover with the request situated in the variable width buffer on the 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 applicant has brought forth a request that avoids encroachment into the 50-foot seaward buffer and limits the amount of new impervious cover within the 100-foot buffer.
- 5) Bio-retention planting beds, strict erosion, and sedimentation control measures, and revegetating any denuded areas with buffer restoration all help to limit pollution from entering the adjacent waters as a means to manage towards a no net increase in nonpoint source pollution load.

**Board Conditions:**

- 1) A Single-Family RPA Site Plan shall be submitted to the Department of Planning and Community Development, Development Services Center (DSC) for review and approval prior to the issuance of a building permit.
- 2) Submitted concurrent with the site plan shall be a separate planting / buffer restoration plan detailing location, number, and species of vegetation to be installed as per the buffer restoration requirements. The planting / buffer restoration plan shall clearly delineate existing naturalized area (forest floor), planting beds, turf zones and areas of shoreline vegetation to be managed permitting sunlight to interface with tidal fringe marsh.
- 3) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **3,311 square feet x 200 percent = 6,622 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: **9 canopy trees, 9 understory trees, and 51 large shrubs.**

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

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

established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.

- 9) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 10) 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 \$758.77 and is based on 25 percent of the proposed impervious cover within the Resource Protection Area (RPA). Said payment shall be utilized solely for activities that support the restoration or enhancement of oyster habitats in the City's watersheds, including oyster reefs, oyster beds, or similar related activities that are directly related to restoration or enhancement of oyster habitat in the City.
- 15) The conditions and approval associated with this variance are based on the exhibit plan dated March 16, 2023, prepared by Gallup Surveyors & Engineers, signed March 16, 2023 by David R. Butler. The conditions and approval associated with this variance are based on the CBPA Board exhibit prepared by the applicant and presented to the CBPA Board, the application submitted and the sworn presentation to the CBPA Board. Deviation from said conditions during site plan review may require re-submittal for CBPA Board consideration.

**Billy Garrington of Governmental Permitting Consultant, representing the applicant of the property located at 3733 Lynnfield Drive, appeared before the Board.**

**As an item of the consent agenda, a motion was made by Mr. Wallace, seconded by Mr. Jones, to amend the following recommended conditions of the Staff report.**

- Amend recommended condition 3 from 18 canopy trees, 34 understory trees, and 51 large shrubs of required buffer restoration plantings to 9 canopy trees, 9 understory trees and 51 large shrubs.

All present voted for the motion.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Al Wallace, Member
<b>SECONDER:</b>	Casey Jones, Vice Chair
<b>AYES:</b>	Ballard, Barrett-McDaniels, Burnette, France, Young
<b>ABSENT:</b>	McCune, Steier



Applicant & Property Owner John W. Drescher  
Address 410 52nd Street  
**Public Hearing** June 26, 2023  
City Council District **District 6**, formerly Lynnhaven

Agenda Item

4

**Parcel GPIN:** 2409-29-0640  
**Accela Record:** 2023-CBPA-00031  
**Applicant's Agent:** Billy Garrington - Governmental Permitting Consultant  
**CBPA Board Action:** APPROVED WITH 5 CBPA VARIANCE CONDITIONS ON June 26, 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 proposed minimal improvements are in keeping with the development of the neighborhood and adjacent parcels and existing environmental features and is mindful of the conditions of previous CBPA Variances obtained for this lot by past owners.
- 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, but rather is necessitated by the fact that this lot was originally platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance.
- 3) The variance is the minimum necessary to afford relief because the small patio and walkway have been designed to be minimal in size and as close to the building as possible and to avoid the 50' seaward buffer.
- 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 within the neighborhood and additional buffer restoration will be installed to provided additional water quality benefit.
- 5) The existing shoreline will be enhanced and expanded upon to compliment the site. Over 850 square feet of buffer restoration will be installed within the seaward buffer to remove the remaining turf 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 plan dated June 5, 2023, prepared by WPL, signed June 5, 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. 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. 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: **416 square feet x 200 percent = 832 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs, and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **2 canopy trees, 4 understory trees, 6 large shrubs, and 8 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. For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
5. This variance and associated conditions **are in addition to** the conditions of the Board variance granted August 25, 2003.

**Billy Garrington of Governmental Permitting Consultant, representing the applicant of the property located at 410 52<sup>nd</sup> Street, appeared before the Board.**



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

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Al Wallace, Member
<b>SECONDER:</b>	Casey Jones, Vice Chair
<b>AYES:</b>	Ballard, Barrett-McDaniels, Burnette, France, Young
<b>ABSENT:</b>	McCune, Steier



Applicant & Property Owner **Randall & Donna Stickley**  
Address **1698 S. Woodside Lane**  
**Public Hearing** June 26, 2023  
City Council District **District 8**, formerly Lynnhaven

Agenda Item

**5**

**Parcel GPIN:** 1499-33-2431  
**Accela Record:** 2023-CBPA-00032  
**Applicant's Agent:** Billy Garrington - Governmental Permitting Consultants  
**CBPA Board Action:** APPROVED WITH 17 CBPA VARIANCE CONDITIONS ON June 26, 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 proposed improvements are in keeping with the development of the neighborhood and adjacent parcels.
- 2) The encroachment into the RPA on this lot is not based upon conditions or circumstances that are or have been created or imposed by the applicant, but 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 applicant has demonstrated an understanding towards the findings of the CBPA Ordinance and has included heavy redevelopment with this request and has situated the majority of the new impervious cover outboard of the 100-foot RPA buffer.
- 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 would not pose a substantial detriment to water quality given the location of the majority of the new impervious cover with the request being outboard of the 100-foot RPA buffer and the presence of a mature forest floor seaward of the proposed improvements.
- 5) Bio-retention planting beds will be installed between the improvements and the waterway to achieve stormwater management requirements and will be placed to capture and treat runoff prior to discharging into the river 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: **1,030 square feet x 200 percent = 2,060 square feet.**

Said restoration shall achieve the full complement of vegetation consisting of canopy trees, understory trees, shrubs, and groundcovers consistent with the Riparian Buffers Modification & Mitigation Guidance Manual, prepared by Virginia Department of Conservation & Recreation, Chesapeake Bay Local Assistance: **5 canopy trees, 5 understory trees, 10 large shrubs, and 15 small shrubs.**

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

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

prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.

- 9) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**
- 10) 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) Under deck treatment of sand and gravel shall be installed. Said treatment shall be installed under the wood deck and stairs.
- 14) 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.
- 15) \*\* 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 \$342.14 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.
- 16) The conditions and approval associated with this variance are based on the exhibit plan dated August 10, 2022, prepared by WPL, signed June 25, 2023 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.
- 17) The proposed parking area expansion shall be constructed of a permeable pavement system. A detail of the specific permeable paver system and subbase construction shall be provided on the site plan submitted to the Development Services Center for review and approval. Said construction of

the area shall follow the Virginia Department of Environmental Quality (DEQ) Stormwater Design Specification 7 for permeable pavement system installation.

**Billy Garrington of Governmental Permitting Consultants, representing the applicant of the property located at 1698 S Woodside Lane, appeared before the Board.**

**A motion was made by Mr. Wallace, seconded by Mr. Jones, to amend the recommended conditions in the Staff report, adding a 17<sup>th</sup> condition as provided above.**

**All present voted for the motion.**

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Al Wallace, Member
<b>SECONDER:</b>	Casey Jones, Vice Chair
<b>AYES:</b>	Ballard, Barrett-McDaniels, Burnette, France, Young
<b>ABSENT:</b>	McCune, Steier



Applicant & Property Owner Aileen Tiro & Liam O'Connor  
Address 701 Donham Court  
**Public Hearing** June 26, 2023  
City Council District **District 8**, formerly Lynnhaven

Agenda Item

6

**Parcel GPIN:** 1488-20-6952  
**Accela Record:** 2023-CBPA-00033  
**Applicant's Agent:** Billy Garrington - Governmental Permitting Consultant  
**CBPA Board Action:** APPROVED WITH 15 CBPA VARIANCE CONDITIONS ON June 26, 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 granting a variance request in this circumstance would not confer privileges to the applicant which have been denied 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 the proposed improvements utilize redevelopment of the existing impervious cover on the lot to the greatest extent practicable and removes impervious cover from 100-foot RPA buffer, while introducing minimal new impervious cover.
- 4) The variance is in harmony with the purpose and intent of this Ordinance and not injurious to the neighborhood, not of substantial detriment to water quality, or otherwise detrimental to the public welfare because this request introduces little impervious cover within the 100-foot buffer and utilizes redevelopment over existing impervious cover while providing new best management practices and buffer restoration on the lot.
- 5) The best management practices coupled with the required buffer restoration provides merit towards a no net increase in nonpoint source pollution load with this variance request.

**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) **1,435 square feet** of buffer restoration shall be installed within the RPA on the lot.

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

The required restoration shall be located in the Resource Protection Area, in areas currently devoted to turf or where impervious cover is removed. The restoration shall 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 prior to any land disturbance and shall remain in place until such time as vegetative cover is established. Said silt fence shall be installed as delineated per the CBPA Variance Exhibit.
- 9) Construction limits shall be contained within the limits of the delineated silt fence per the CBPA Variance Exhibit. **Within the RPA, exclusive of limits of construction, areas of existing landscaped**

**beds, trees, areas of existing leaf litter or forest floor, and other naturalized areas, such as shoreline vegetation, may not be removed.**

- 10) 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 \$156.97 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 May 1, 2023, prepared by Painted Fern Landscape Architecture, signed May 1, 2023 by Jason M. Thomas. 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.

**Billy Garrington of Governmental Permitting Consultant, representing the applicant of the property located at 701 Donham Court, appeared before the Board.**

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



<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Al Wallace, Member
<b>SECONDER:</b>	Casey Jones, Vice Chair
<b>AYES:</b>	Ballard, Barrett-McDaniels, Burnette, France, Young
<b>ABSENT:</b>	McCune, Steier