



**CHESAPEAKE BAY PRESERVATION AREA BOARD
VIRGINIA BEACH, VIRGINIA
May 22, 2023**

Attendee Name	Title	Status	Arrived
Stephen Ballard	Board Member	Absent	8:49 AM
June Barrett-McDaniels	Member	Present	8:48 AM
William R. Burnette	Secretary	Present	8:49 AM
David France	Chairman	Present	8:48 AM
Casey Jones	Vice Chairman	Absent	8:47 AM
James F.N. McCune	Member	Absent	8:47 AM
Michael Steier	Member	Present	8:47 AM
Al Wallace	Member	Present	8:48 AM
Dell Young	Member	Present	8:48 AM

APPROVAL OF THE MINUTES

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

The first order of business was to approve the findings and variance conditions of the April 24, 2023 CBPA Board Public Hearing. A motion was made by Mr. Wallace 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 April 24, 2023 FINDINGS AND VARIANCE CONDITIONS ON May 22, 2023 AS FOLLOWS.

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

1. Agenda Item 5. Christina Minton - 2212 Leeward Shore Drive

Recommendation – Defer to the July 24, 2023 Hearing.

RESULT:	DEFERRED [UNANIMOUS]	Next: 7/24/2023 10:00 AM
MOVER:	Al Wallace, Member	
SECONDER:	Michael Steier, Member	
AYES:	Barrett-McDaniels, Burnette, France, Steier, Wallace, Young	
ABSENT:	Ballard, Jones, McCune	

FORMAL HEARING

2. Agenda Item 1. Steven Kissel – 2600 Long Creek Drive

Recommendation – Amend Condition #2 – deleting 16x16, leaving just 256 sq. ft.

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

3. Agenda Item 2. Jack Ross – 118 Pinewood Road # B

Recommendation – Approve as Conditioned.

RESULT:	APPROVED [5 TO 1]
MOVER:	Al Wallace, Member
SECONDER:	June Barrett-McDaniels, Member
AYES:	Barrett-McDaniels, Burnette, France, Steier, Wallace
NAYS:	Young
ABSENT:	Ballard, Jones, McCune

4. Agenda Item 3. Charis Properties, LLC – 465 Goodspeed Road

Recommendation – Approve as Conditioned.

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

5. Agenda Item 4. Cavalier Golf & Yacht Club – 1052 Cardinal Road

Recommendation – Approve as Conditioned.

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



Applicant & Property Owner **Steven Kissel**
Address **2600 Long Creek Drive**
Public Hearing **May 22, 2023**
City Council District **District 8**, formerly Lynnhaven

Agenda Item

1

Parcel GPIN: 1499-78-2845
Accela Record: 2023-CBPA-00020
Applicant's Agent: Billy Garrington - Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 7 CBPA VARIANCE CONDITIONS ON May 22, 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 R-10 zoning for this lot limits the space available to construct improvements within the lot without encroaching into the RPA feature on a pre-Chesapeake Bay Act lot.
- 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 parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, therefore placing portions of this property within the RPA.
- 3) The variance is the minimum necessary to afford relief subject to the recommended conditions in the staff report which reduces the proposed structure to approximately 256 square feet.
- 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 subject to the recommended conditions below as a means for redevelopment on this lot to be in harmony with the purpose and intent of the CBPA Ordinance.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, bio-retention planting beds along the eastern property line, in addition to the required buffer restoration, shall provide additional benefit on the lot towards intercepting and infiltration of stormwater runoff.

Board Conditions:

1. Remove the proposed stone fire pit and wall. Said area shall be restored to pervious area and incorporated into the required buffer restoration area.
2. Reduce the size of the proposed open-air pavilion to 256 square feet.
3. 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.
4. 1,340 square feet of buffer restoration shall be installed within the RPA on the lot in substantial compliance with the buffer restoration plan submitted with this variance request.

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.

5. A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
6. No perimeter fill is authorized outboard or seaward of the proposed improvements.
7. It is the opinion of the Board that the approval granted is the maximum impervious cover the site can support.

***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 Consultants representing the applicant of the property located at 2600 Long Creek Drive appeared before the Board.

A motion was made by Mr. Burnette, seconded by Mr. Wallace, to approve the variance with the variance conditions provided in the staff report with condition #2 amended – reduction of proposed open-air pavilion to 256 square feet. All present voted for the motion.

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



Applicant & Property Owner **Jack Ross**
Address **118 Pinewood Road #B**
Public Hearing **May 22, 2023**
City Council District **District 6**, formerly Beach

Agenda Item

2

Parcel GPIN: 2418-62-9745
Accela Record: 2023-CBPA-00022
Applicant's Agent: Billy Garrington - Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 12 CBPA VARIANCE CONDITIONS ON May 22, 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 current property owner is only associated with this request and the 2013 CBPA Variance. The revised swimming pool layout on the lot has been situated and sized to minimize encroachment into the RPA and the 50-foot seaward buffer encompasses the majority of the existing residence and any new development on the lot would be located within this 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 the predecessor in title recorded the lot after the adoption of the CBPA Ordinance therefore placing a hardship on the current property owner's ability to redevelop or improve conditions on the subject lot.
- 3) The applicant has brought forth a request with the proposed improvements representing the minimum size necessary to afford relief and have situated the improvements directly off the primary residence to minimize land disturbance within the 50-foot seaward buffer 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 given the recommended conditions in the Staff report accounting for all previous variances as a means to prevent the variance request from being injurious to the neighborhood and a substantial detriment to water quality.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, the applicant will install bioretention planting beds landward of the proposed retaining walls as well as several areas of new buffer restoration as stated in the Water Quality Impact Assessment (WQIA).

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. As offered by the applicant **3,045 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: **8 canopy trees, 8 understory trees, 10 large shrubs, and 13 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. The conditions of the existing Chesapeake Bay Preservation Area (CBPA) variance, specifically the following 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.
 - Condition 1 of the January 25, 1993 Chesapeake Bay Preservation Area (CBPA) Variance – *“The applicant shall provide a twenty-foot buffer along the channel ward edge of the southern half of the property. This buffer shall be planted in accordance with the “Buffer area establishment and mitigation Guidelines” available in the Planning Department.”*
 - Condition 2 of the November 22, 1999 CBPA Variance – *“All stormwater associated with impervious cover shall be conveyed to a structural treatment facility.”*
 - Condition 11 and 12 of the June 24, 2013 CBPA Variance requiring *“The area of existing vegetation (i.e., established planting beds) displaced by the proposed patio shall be restored. Buffer restoration shall be installed equal to the amount of existing vegetation displaced (300 sq. ft.) and shall be located in the Resource Protection Area, in areas currently devoted to turf”* and

“Buffer restoration shall be installed equal to 200% of the proposed new impervious cover within the RPA (300 sq. ft. x 200% = 600 sq. ft.) and 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 Dept. of Conservation & Recreation, Chesapeake Bay Local Assistance.”

5. Stormwater treatment shall be provided equal to 100 percent of the proposed new impervious cover associated with this variance request.
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 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.
10. 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.
11. 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
12. This variance and associated conditions **are in addition to** the conditions of the CBPA Board variances granted January 25, 1993 and November 22, 1999.

***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 Consultants representing the applicant of the property located at 118 Pinewood Road # B appeared before the Board.

A motion was made by Mr. Wallace, seconded by Ms. McDaniels, to approve the variance provided in the staff report. All present voted for the motion.

RESULT:	APPROVED [5 TO 1]
MOVER:	Al Wallace, Member
SECONDER:	June Barrett-McDaniels, Member
AYES:	Barrett-McDaniels, Burnette, France, Steier, Wallace
NAYS:	Young
ABSENT:	Ballard, Jones, McCune



Applicant & Property Owner **Charis Properties LLC**
Address **465 Goodspeed Road**
Public Hearing **May 22, 2023**
City Council District **District 8**, formerly Lynnhaven

Agenda Item

3

Parcel GPIN: 2419-41-8184
Accela Record: 2023-CBPA-00024
Applicant's Agent: Billy Garrington - Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 12 CBPA VARIANCE CONDITIONS ON May 22, 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) The applicant's agent provides that 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 request limits the amount of fill material to a portion of the existing lot and does not propose to remove any mature canopy trees from the lot.
- 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 originally platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance and prior to the impacts of the subsidence and sea level rise.
- 3) The variance is the minimum necessary to afford relief because the depth of the proposed fill material and the attempt to meet existing grade elevation along the perimeter of the fill material area and minimal alteration to the existing slope within the area provides merit towards being the minimal necessary to afford relief.
- 4) The applicant's agent provides that 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 proposed limits of fill have been reduced and adjusted to be well away from the adjoining property owners and with amended fill soils and the creation of the proposed wetland area, the water quality should be enhanced and there will not be a detriment to the adjacent parcels.
- 5) The incorporation of natural measures, such as planting of wetlands vegetation provides merit towards the ecological benefit and restoration of the coastal ecosystem as a means to manage 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) Buffer restoration shall be in substantial compliance with the PPR Overlay Diagram submitted with the Chesapeake Bay Preservation Area (CBPA) application.

Buffer restoration areas shall be maintained and not removed or allowed to revert to turf in the future. Large canopy trees shall not be planted within 30 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) 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 landward portion of the existing *Spartina patens* upland marsh area prior to any land disturbance and shall remain in place until such time as vegetative cover is established.
- 9) 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.

- 10) For all trees to be preserved outboard of the limits of construction that are encroached upon, replacement of existing vegetation shall be provided at a 3 to 1 ratio for all unauthorized (damaged or removed) vegetation impacts.
- 11) Permanent and / or temporary soil stabilization measures shall be applied to all disturbed / denuded area(s) prior to a final building inspection or certificate of occupancy. All disturbed or denuded areas shall be stabilized in accordance with the Virginia Erosion and Sediment Control Law and Regulations.
- 12) The conditions and approval associated with this variance are based on the exhibit plan dated March 14, 2023, prepared by WPL.

***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 113(E) of the Chesapeake Bay Preservation Area Ordinance.

Billy Garrington of Governmental Permitting Consultants representing the applicant of the property located at 465 Goodspeed Road appeared before the Board.

A motion was made by Mr. Wallace, seconded by Ms. McDaniels, to approve the variance provided in the staff report. All present voted for the motion.

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



Applicant & Property Owner **Cavalier Golf & Yacht Club**
Address **1052 Cardinal Road**
Public Hearing **May 22, 2023**
City Council District **District 6**, formerly Lynnhaven

Agenda Item

4

Parcel GPIN: 2418-24-6584
Accela Record: 2023-CBPA-00023
Applicant's Agent: Billy Garrington - Governmental Permitting Consultants
CBPA Board Action: APPROVED WITH 18 CBPA VARIANCE CONDITIONS ON May 22, 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 applicant has demonstrated an understanding to the finds of the CBPA Ordinance by working within the constraints of the site with regard to the existing conditions – golf course, parking, and maintenance facilities while keeping the overall impervious cover of the parcel under 18 percent.
- 2) The original parcel was platted prior to the adoption of the Chesapeake Bay Preservation Act and the City's CBPA Ordinance, and the encroachment into the RPA on this parcel is based upon circumstances that are or have been created by the applicant. However, given the recommended conditions below, the request meets the performance standards set forth in Section 106(B) of the CBPA Ordinance, as the associated land disturbance would be the minimum necessary to provide for the proposed use or development.
- 3) The variance is the minimum necessary to afford relief subject to the recommended conditions below, which reduces the overall encroachment within the 50-foot 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 purpose of the CBPA regulations is to protect water quality and reducing the amount of new impervious cover is the appropriate vehicle coupled with the applicant's agent's layout of erosion and sediment control measure for determining whether water quality will be adequately protected.
- 5) As a means to manage towards a no net increase in nonpoint source pollution load, the recommended conditions ensure that water quality is protected, and that the function of the undisturbed RPA remains to the greatest extent practicable.

Board Conditions:

- 1) The proposed pickleball court seaward of the existing hard surface court area shall be removed and the only portion of encroachment into the Resource Protection Area (RPA) buffer shall be associated with the area necessary to rotate the layout of the existing tennis court as depicted in the Chesapeake Bay Preservation Area (CBPA) Exhibit.
- 2) A Commercial 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.
- 3) The conditions of the existing 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.
- 4) 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.
- 5) Buffer restoration shall be installed equal to 200 percent of the proposed new impervious cover within the RPA: **3,516 square feet x 200 percent = 7,032 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: **18 canopy trees, 18 understory trees, 36 large shrubs, and 54 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.

- 6) Stormwater management shall comply with the requirements set forth within the Code of Ordinances, Appendix D – Stormwater Management.
- 7) A pre-construction meeting shall be held with the CBPA Inspector prior to any land disturbance, including demolition.
- 8) 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.
- 9) 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.**
- 10) 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.

- 11) 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.**
- 12) 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.
- 13) 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.
- 14) 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.
- 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 \$805.75 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.
- 17) This variance and associated conditions **are in addition to** the conditions of the Board variance granted November 25, 1996; April 22, 2002; May 23, 2005 and May 24, 2010 and November 22, 2017.
- 18) The conditions and approval associated with this variance are based on the exhibit plan dated March 20, 2023, prepared by Gallup Surveyors & Engineers, signed March 30, 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.

** 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 of Governmental Permitting Consultants representing the applicant of the property located at 1052 Cardinal Road appeared before the Board.

A motion was made by Ms. McDaniels, seconded by Mr. Wallace, to approve the variance provided in the staff report. All present voted for the motion.

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



Applicant & Property Owner **Christina Minton**
 Address **2212 Leeward Shore Drive**
 Public Hearing **May 22, 2023**
 City Council District **District 8**, formerly Lynnhaven

Agenda Item

5

Parcel GPINs: 2409-29-0640
Accela Record: 2023-CBPV-00003 and 2022-CBPV-00005
Applicant’s Agent: George T. Dillon, Esq.
CBPA Board Action: DEFERRED AT THE May 22, 2023 CBPA BOARD PUBLIC HEARING TO THE Monday, July 24, 2023 CBPA BOARD PUBLIC HEARING.

A motion was made by Mr. Wallace, seconded by Mr. Steier, to defer the variance request to the July 24, 2023 CBPA Board Public Hearing. All present voted for the motion.

RESULT:	DEFERRED [UNANIMOUS]	Next: 7/24/2023 10:00 AM
MOVER:	Al Wallace, Member	
SECONDER:	Michael Steier, Member	
AYES:	Barrett-McDaniels, Burnette, France, Steier, Wallace, Young	
ABSENT:	Ballard, Jones, McCune	