

The Chesapeake Bay Preservation Area Board
Planning Department
306 Cedar Road
PO Box 15225
Chesapeake, Virginia 23328
(757) 382-6176
FAX: (757) 382-6406

MINUTES

**Chesapeake Bay Preservation Area
Board**

April 19, 2017 – 6:00 PM

Human Resources Training Room

Call to Order: Chair Vickie Greene called the Chesapeake Bay Preservation Area Board meeting of April 19, 2017, to order at 6:01 p.m. in the Human Resources Training Room.

Roll Call:

PRESENT

Vickie Greene, Chair
Stephen F. Nowak, Vice-Chair
William Spaur, Member
John Klesch, Alternate Member

EXCUSED

Chris Wilson, Member
Rusty Barath, Member
John A. Sherman, Member

ABSENT

Henry Curling, Member

PLANNING DEPARTMENT STAFF PRESENT

Michael Anaya, CBPA Planner
Jennifer Joseph, CBPA Recording Secretary

CITY ATTORNEY STAFF PRESENT

Meredith Jacobi, Assistant City Attorney

APPROVAL OF MINUTES:

The March 15, 2017 CBPA Board minutes were presented into the record for Board action.

CBPA BOARD ACTION:

MINUTES for the March 15, 2017 CBPA Board were APPROVED.
(4-0; Nowak/Spaur, Wilson, Barath, and Sherman were excused, and Curling absent)

CBPA BOARD VOTE:

Mr. Nowak moved that the **MINUTES** for the **March 15, 2017 CBPA Board meeting** be **APPROVED** as written. Dr. Spaur seconded the motion. The motion was carried by a vote of 4 - 0.

CBPA APPLICATIONS:

1. **PLN-CBPA-2017-013**

PROJECT/LOCATION: Storage Shed/1326 Pinecroft Lane

APPLICANT/AGENT: Brian Lee/The Plan Shoppe, LLC

PROPOSAL: In accordance with Section 26-528 of the Chesapeake City Code, the applicant is seeking an **EXCEPTION** to construct a 336 SF shed within the 50-foot landward portion of the 100-foot RPA buffer. A total of 336 SF of new impervious area is proposed (336 SF within RPA).

SUBDIVISION/LOT #: Lot 39 Woods of Deep Creek Sec 2

WATERSHED: Southern Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 0343023000390

CBPA BOARD ACTION:

The CBPA Board **APPROVED PLN-CBPA-2017-013** (4 – 0, Nowak/Spaur, Wilson, Barath, and Sherman excused, Curling absent) **for a period of two years with the following stipulation:**

1. **Please provide one (1) small canopy tree within the RPA, as depicted on the plan, to mitigate the impact of the proposed shed within the RPA. Per City of Chesapeake Code Sec. 26-520(b)(3), the RPA landscaping requirement is a minimum fifty (50) percent tree canopy coverage, calculated in accordance with the CBPA Specifications Manual. See Appendix A of the Chesapeake Landscape Specifications Manual for recommended tree species.**
-

Staff Presentation:

Mr. Anaya presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. He presented pictures of the site at 1326 Pinecroft Lane. He stated the applicant seeks an **EXCEPTION** to construct a 336 SF shed within the 50-foot landward portion of the 100-foot RPA buffer. The total proposed post-development impervious area is 2,719 SF, with 1,361 SF of which lies within RPA buffer. The lot was recorded in 1998. One small canopy tree is required in the RPA. A stormwater management pond was included in the plat for the subdivision that is located on the back of their property. Due to the stormwater BMP location and the layout of the rear yard, the shed will be located on the eastern side of the property for easier access from the front yard. He stated that the CBPA Review Committee has

recommended that the application be granted with the stipulation that 1 small canopy tree is provided within the RPA buffer to mitigate the impact of the proposed shed.

Proponent:

Melissa Lee, 1326 Pinecroft Drive, Chesapeake, Virginia, appeared before the Board on behalf of PLN-CBPA-2017-013 representing herself.

Brian Lee, 1326 Pinecroft Drive, Chesapeake, Virginia, appeared before the Board on behalf of PLN-CBPA-2017-013 representing himself.

Board Discussion:

Mr. Lee asked if there were any suggestions on what type of tree he should plant. Mr. Anaya stated that he can assist and the approval letter will include a reference to the City Landscape Specifications Manual that will have recommendations of trees species for a variety of projects.

Mr. Klesch asked if there is any intention for a driveway leading to the proposed shed. Mr. Lee said no, that it will only be used for storage.

CBPA BOARD VOTE:

Mr. Nowak moved to **APPROVE PLN-CBPA-2017-013** based on the findings contained in the Chesapeake Bay Preservation Act Review Committee staff report, including the conditions and stipulations recommended by the Review Committee in the report. Dr. Spaur seconded the motion. The motion was carried by a vote of 4 – 0.

2. PLN-CBPA-2017-014

PROJECT/LOCATION: New Single Family Home/1104 Inland Road

APPLICANT/AGENT: Bennett Thomas/Marine Engineering

PROPOSAL: In accordance with Section 26-528 of the Chesapeake City Code, the applicant is seeking an **EXCEPTION** to demolish an existing single-family home and construct a new single-family home within the 50-foot landward and 50-foot seaward portions of the 100-foot RPA buffer. A total of 4,982 SF of post-development impervious area is proposed (4,982 SF within RPA).

SUBDIVISION/LOT #: A SUB LT 1 & 2 JJ Halstead Property 1.109 AC

WATERSHED: Southern Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 0461001000010

CBPA BOARD ACTION:

The CBPA Board APPROVED PLN-CBPA-2017-014 (4 – 0; Nowak/Klesch, Wilson, Barath, and Sherman excused, and Curling absent) for a period of two years with the following stipulations:

- 1. Please provide twenty-five (25) large canopy trees within the RPA to mitigate the impact of the proposed development within the RPA. Per City of Chesapeake Code Sec. 26-520(b)(3), the RPA landscaping requirement is a minimum fifty (50) percent tree canopy coverage, calculated in accordance with the CBPA Specifications Manual. Existing trees on site shall be preserved to the greatest extent practicable and may be counted toward this requirement. See Appendix A of the Chesapeake Landscape Specifications Manual for recommended tree species.**
- 2. Grid and/or modular pavement, permeable asphalt, or other semi-permeable or permeable materials shall be used to construct the proposed driveway.**

Staff Presentation:

Mr. Anaya presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. He presented pictures of the site at 1104 Inland Road. He stated the applicant seeks an **EXCEPTION** to demolish an existing single-family home and construct a new single-family home within the 50-foot landward and 50-foot seaward portions of the 100-foot RPA buffer. The total proposed post-development impervious area is 4,982 SF, all of which lies within RPA buffer. The lot was recorded in 1993 and the total lot area is slightly over an acre. Calculations are based on the lot area landward of the RPA feature. The lot area landward of the RPA feature is under one half of an acre. Mr. Anaya stated that the applicant is trying to level and align the proposed house with neighboring homes, and to keep the house away from the bulkhead to the greatest extent practicable. Based on the CBPA Review Committee's findings, it is recommended that the exception be granted with the stipulations that the applicant provide twenty-five (25) large canopy trees within the RPA to mitigate the impact of the proposed development within the RPA, and that grid and/or modular pavement, permeable asphalt, or other semi-permeable or permeable materials shall be used to construct the proposed driveway.

Proponent:

Bennett Thomas, 1112 Inland Road, Chesapeake, Virginia, appeared before the Board

on behalf of CBPA-2017-014 representing himself.

David Kledzik, Marine Engineering, 4212 Dougherty Court, Virginia Beach, Virginia, appeared before the Board on behalf of CBPA-2017-014 representing the agent.

Board Discussion:

Ms. Greene asked if there was a boat ramp/public access at the end of the road. Mr. Anaya confirmed that there is. Mr. Bennett stated that the ramp is for kayaks and canoes, but larger boats are not allowed.

Ms. Greene asked when the house was built. Mr. Anaya stated that the lot was recorded in 1993 because the owners vacated a parcel line to create a new lot. After 1992 you cannot create a lot that is entirely within the RPA buffer, but vacating or adjusting property lines is allowed. Mr. Bennett said that he bought the lot from the owners and it dated back to the 1940's. They did not demolish the old house, but put the new house on top of the old house. Mr. Anaya stated that there was an addition proposed and approved in 2001, but no records prior to that.

Mr. Klesch asked where the proposed underground water storage would be located. Mr. Thomas stated that it would be a cistern underground. The driveway would extend under the house and the cistern would be underneath the concrete base under the house.

Mr. Kledzik stated that the whole lot is low and receives stormwater from the adjacent property and the river; therefore, they are asking for a raised causeway to extend from the road to the house. They are also requesting a pipe underneath the driveway so the stormwater can retreat away from the river and back into the City's drainage system to filter out sediments.

Ms. Greene questioned the efficacy of the drainpipe keeping runoff out of the Inland Waterway. Mr. Anaya clarified that they are trying to use the drainage system within the right of way. Directing the water through the City's drainage system filters out the sediments and pollutants.

Mr. Klesch asked what the cistern is being used for as it collects water from the roof. Mr. Thomas stated that the cistern is massive and the water in it would be used to wash cars, clean boats, etc., so use of City water would not be necessary. He is using it on his current property and has had no issues. This property is the lowest property in the area, and he will elevate the proposed home by putting it on pilings.

Ms. Greene asked how high the home will be elevated. Mr. Thomas stated that it will be raised about 14 feet so they can park underneath it. She stated that it appears that the increase in impervious area on the site is not so much due to the proposed home, but rather the proposed driveway.

Mr. Kledzik stated that the driveway will be raised about a foot. Ms. Greene inquired how that would affect the neighbor's yard. Mr. Kledzik explained that the neighbor's water will be collected to the left of the proposed driveway and flow toward Deepwater Drive. Everything to the right of the proposed driveway will be left as is.

Ms. Greene asked what he is going to do with the existing shed in the front yard. Mr. Thomas stated that he is going to get rid of the storage shed. Ms. Greene asked if it was included in the calculations. Mr. Anaya stated that it was.

Dr. Spaur stated that the bulkhead is not very high. Between normal tides, full moon, and new moon, and wakes from large motoring yachts and boats, it receives high wave energy.

Mr. Kledzik stated that we have already been through the Joint Permit Application (JPA) process to create a living shoreline, and to the left of the home. The marsh is completely devastated by large wakes. The shoreline is very irregular and they would like to plant spartina and to stabilize the area and would have liked to continue the living shoreline down to Camp Young, but there is a City road in between and they could not accomplish that.

Dr. Spaur stated that Camp Young has great erosion and not much is protecting the shoreline from erosion.

Mr. Kledzik stated that the JPA for the living shoreline went to the VMRC in Newport News and was approved unanimously.

Ms. Greene, inquired about the stability of the existing bulkhead. Mr. Anaya stated that the vinyl sheet piles and all of the backfill appear to be in good condition. The wood decking on top of the bulkhead is deteriorating. Mr. Kledzik stated the sheet piles are vinyl and the wood decking on the bulkhead deteriorated and needs attention. He also stated that the entire shoreline was approved for redevelopment including the bulkhead.

Ms. Greene asked if there was a driveway there. Mr. Kledzik stated that it has been grown over with dirt and sediment and their numbers reflect what you can see.

Mr. Nowak asked what permeable surface is being considered for the driveway. Mr. Bennett stated that he likes pavers that allow grass to grow in the middle. That is what he would prefer to install.

Mr. Nowak stated that we are not increasing pervious area and with buried concrete driveway, we are improving it. Ms. Greene stated that the house is sitting in the old foot print and if he does a pervious area, the significant change is the foot and a half fill.

Dr. Spaur said the pictures showed the google earth photo and two pictures were of the river, messy river bottom. Also, during windy days, there is about a half a mile of fetch at

that location. The bulkhead is not high enough above the water level to keep water from coming onto the lot. It is not a suitable lot to have an elevated house on it.

Mr. Klesch inquired how the proposed fill area will be stabilized. Mr. Kledzik responded that the fill will have a 3 to 1 slope in order to keep it stable. Where there is sunlight, Bermuda turf grass is proposed on the on slope. Mr. Klesch stated that the staff recommendation is to require 25 trees, and the existing trees on the lot could be counted toward that. He asked if they have a plan for where the trees will be placed. Mr. Kledzik stated the trees will be in the RPA and should have no issues meeting that requirement. Essentially, they will advance the existing tree line toward the water. Ms. Greene suggested planting of Bald Cypress and Wax Myrtles.

Mr. Nowak asked whether the existing trees would be considered large or small canopy trees. Mr. Anaya stated it appears that they would be considered large canopy trees depending on the species, but a site visit would be needed to make that determination.

Mr. Anaya stated that if the application is approved and the applicant has difficulty selecting trees, they may contact him and he can provide them with further guidance and resources.

Mr. Nowak stated that the overall impervious area does not change significantly considering the removal of the existing shed and use of pervious material for the driveway. Ms. Greene added that he is proposing a living shoreline and catching rain water with a cistern, which are nice features to improve the area and work to improve and protect water quality.

CBPA BOARD VOTE:

Mr. Nowak moved to approve **PLN-CBPA-2017-014** based on the findings contained in the Chesapeake Bay Preservation Act Review Committee staff report including the conditions and stipulations recommended by the Review Committee in the report. Mr. Klesch seconded the motion. The motion was carried by a vote of 4 – 0.

OTHER BUSINESS:

- The lot at 249 Deepwater Drive, **PLN-CBPA-2016-024** approved June 2016, and the lot foundation has been built; however, nothing has been done since then. Ms. Greene asked there is an approval period for two years, but when the CBPA time period begins and ends. Ms. Jacobi stated that “All exceptions granted by the Board shall expire two years from the day of issuance unless the use building or structure is completed within the two years or extended by the Board. Mr. Nowak stated that it was granted June 15, 2016. Ms. Greene stated they are within their first year. Dr. Spaur asked what is holding up the construction. Mr. Anaya stated that he is aware that the applicant was cited by The Army Corps of Engineers for stockpiling soil and filled in a portion of a jurisdictional ditch, but unaware of any city correspondence.
- Ms. Greene asked if there was any action taken regarding PLN-CBPA-2016-058. Ms. Jacobi stated that no action has been taken at the moment. Mr. Anaya stated that the applicant has been speaking with VMRC and ACOE and trying to make a proposal for a new revetment. Dr. Spaur observed that erosion comes from water carrying particles of soil out, and the only way to prevent that is to properly construct a revetment with filter cloth, core stone, and armor stone. Mr. Anaya agreed, adding that piling additional armor stone onto an improperly constructed revetment will not resolve issues.
- Mr. Nowak asked about the trees planted on Bells Mill Road by the church activity center and noted that quite a few are dead. Mr. Anaya stated that they have called and they said that there have been crews out there. Ms. Greene stated no crews have been out there. Mr. Nowak stated that based on testimony to City Council, when they were first told to replace what vegetation they had removed, it was eight years from the time they were instructed and complied. The reason they complied was because they were trying to get approval for the Elder House project. Mr. Anaya stated that it had nothing to do with the Elder House, that the parcels were cleared and vacant. The owner was instructed to provide a restoration plan and plantings while Mr. Anaya has been with the City. Ms. Greene and Mr. Nowak stated that no one has been there working. Mr. Anaya stated that they did flag trees that needed to be replaced. Ms. Greene stated that they planted at a bad time and three quarters of them have died and the others are crooked. Mr. Anaya stated that during the Elder House review, the same engineer was possibly involved in the restoration plan and were very quick to get the trees planted. Afterwards, restoration plantings were inspected in the field, and unsatisfactory trees were flagged to be staked or replaced. Ms. Greene asked if it becomes a violation at some point. Mr. Anaya stated that if they have not meet the canopy requirement and if 75% of the restoration plantings failed, then it is still in violation.
- Mr. Klesch asked about the Appendix A tree list and what the applicants receive or are they referred to the list. Mr. Anaya stated that there is a list and that it is up

to the applicant what they plant, but the list does have a list of trees generally appropriate for the area.

ADJOURNMENT:

With no further business, the meeting was adjourned at 7:05 P.M.

Sincerely,

Jennifer Joseph,
Recording Secretary