

The Chesapeake Bay Preservation Area Board  
Planning Department  
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**MINUTES**

**Chesapeake Bay Preservation Area  
Board**

**June 21, 2017 – 6:00 PM**

Human Resources Training Room

**Call to Order:** Chair Vickie Greene called the Chesapeake Bay Preservation Board meeting of June 21, 2017, to order at 6:00 p.m. in the Human Resources Training Room.

**Roll Call:**

**PRESENT**

Vickie Greene, Chair  
Stephen F. Nowak, Vice-Chair  
Henry Curling, Member  
William Spaur, Member  
Chris Wilson, Member  
Rusty Barath, Member  
John A. Sherman, Member  
John Klesch, Alternate Member  
Katie James, Alternate Member

**PLANNING DEPARTMENT STAFF PRESENT**

Michael Anaya, CBPA Planner  
Jennifer Joseph, CBPA Recording Secretary

**CITY ATTORNEY STAFF PRESENT**

Meredith Jacobi, Assistant City Attorney

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**APPROVAL OF MINUTES:**

The May 17, 2017 CBPA Board minutes were presented into the record for Board action.

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**CBPA BOARD ACTION:**

**MINUTES for the May 17, 2017 CBPA Board were APPROVED.**

(7-0; Curling/Spaur)

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**CBPA BOARD VOTE:**

Mr. Curling moved that the **MINUTES** for the **May 17, 2017 CBPA Board meeting** be **APPROVED**. Dr. Spaur seconded the motion. The motion was carried by a vote of 7 - 0.

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**CBPA APPLICATION:**

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1. **PLN-CBPA-2017-026**  
**PROJECT/LOCATION:** Storage Shed/1001 Cuervo Court  
**APPLICANT/AGENT:** Stephen G. Weaver & Sandra L. Achterman/David Dowdy, 3D Builders of VA, Inc.  
**PROPOSAL:** In accordance with Section 26-528 of the Chesapeake City Code, the applicant is seeking an **EXCEPTION** to construct a 192 SF shed within the 50-foot seaward portion of the 100-foot RPA buffer. A total of 192 SF of new impervious area is proposed (192 SF within RPA).  
**SUBDIVISION/LOT #:** 44 Las Gaviotas Ph. Two Sec. Two-C  
**WATERSHED:** Southern Branch of the Elizabeth River  
**TAX MAP SECTION/PARCEL:** 0583005000440

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**CBPA BOARD ACTION:**

**The CBPA Board APPROVED (7-0; Nowak/Spaur) PLN-CPBA-2017-026 for a period of two years.**

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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 1001 Cuervo Court. He stated the applicant seeks an **EXCEPTION** to construct a 192 SF shed within the 50-foot seaward portion of the 100-foot RPA buffer. The total proposed post-development impervious area is 3,224 SF, all of which lies within the RPA.

This application was reviewed by the CBPA Review Committee on May 2, 2017. Based on the CBPA Review Committee's findings, it is recommended that the exception requested in application PLN-CBPA-2017-026 be GRANTED for a period of two years.

Proponent:

Steve Weaver, 1001 Cuervo Court, Chesapeake, Virginia, appeared before the Board representing himself.

Board Discussion:

Ms. Greene asked the applicant if he would install a gravel path to the shed, and asked if there are plans to have a rain barrel or plantings around the shed. Mr. Weaver stated

that he would like a gravel or flagstone path, the property came with a rain barrel and they will be doing some planting.

Mr. Nowak asked if he was maintaining the trees in the area. Mr. Weaver stated yes, they love the trees and all will remain.

**CBPA BOARD VOTE:**

Mr. Nowak moved to **APPROVE PLN-CPBA-2017-026** based on the findings contained in the Chesapeake Bay Preservation Area Review Committee staff report. Dr. Spaur seconded the motion. The motion was carried by a vote of 7 – 0.

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**2. PLN-CBPA-2017-031**

**PROJECT/LOCATION:** Parcel Subdivision/1664 Dock Landing Road

**APPLICANT/AGENT:** Murray Homes, Inc./Two Day Properties

**PROPOSAL:** In accordance with Section 26-528 of the Chesapeake City Code, the applicant is seeking an **EXCEPTION** for a 5-lot subdivision. This exception is requested to provide relief from the requirement that lots created in the R-15s residential district shall have at least 75 percent of the required lot area located outside of the 100-foot RPA buffer per Chesapeake City Code Sec. 26-522(a)(1).

**SUBDIVISION/LOT #:** SURVEY OF PROP OF ELTON L PHELPS 2.62

**WATERSHED:** Western Branch of the Elizabeth River

**TAX MAP SECTION/PARCEL:** 0160000000410

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**CBPA BOARD ACTION:**

The CBPA Board **DENIED** the exception requested in PLN-CPBA-2017-031 (7-0; Spaur/Nowak) based on the following findings:

1. The requested exception is not the minimum necessary to afford relief;
2. Granting the exception would confer upon the applicant special privileges that are denied by Chesapeake City Code Chapter 26, Article IX to other property owners who are subject to its provisions and who are similarly situated;
3. The exception is not in harmony with the purpose and intent of Chesapeake City Code Chapter 26, Article IX and is of substantial detriment to water quality; and
4. The exception request is based upon conditions or circumstances that are self-created or self-imposed.

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 1664 Dock Landing Road. He stated the applicant seeks an **EXCEPTION** to subdivide the parcel into 5 lots. The exception is requested to provide relief from the requirement that lots created in the R-15s District shall have at least 75 percent of the required lot area located landward of the 100-foot RPA buffer. The exception requested is for subdivision of the parcel only. Development of the lots created by the subdivision will require separate CBPA approval for each lot. There is no development considered under this application and no vegetative mitigation is required.

This application was reviewed by the CBPA Review Committee on June 6, 2017. Based on the CBPA Review Committee's review, it is recommended that the exception requested in application PLN-CBPA-2017-031 be DENIED due to the following findings:

1. The requested exception to the criteria is NOT the minimum necessary to afford relief. The existing parcel provides developable area outside of the 100-foot RPA buffer. Subdivision of the parcel as proposed will force future development into the 100-foot RPA buffer.
2. The exception request IS based upon conditions or circumstances that are self-created or self-imposed. The existing parcel provides developable area outside of the 100-foot RPA buffer. Subdivision of the parcel as proposed will force future development into the 100-foot RPA buffer.

Proponent:

Jay Day, Atlantic Land Development, 100 Fairwind Drive # 108, Chesapeake, Virginia, appeared before the Board as the agent representing the applicant. Mr. Day stated that when initially looking into the area, the feature was not noted as a CBPA feature. They also have an approved erosion and sediment control plan.

Board Discussion:

Ms. Greene asked if Mr. Day knew when the lot was platted. Mr. Day stated he did not know.

Ms. Greene stated that historically, they have not approved creation of new lots within the RPA buffer and asked why they should not follow that precedent. Mr. Day stated that he has the approved erosion and sediment control plan and that is what they went by.

Ms. Greene asked Mr. Anaya to clarify the erosion sediment control plan. Mr. Anaya stated that the plan has no bearing on this process and is for construction. Mr. Wilson explained that whenever you build, you have to have the erosion and sediment control plan to ensure that during construction, runoff is not eroding and carrying sediment into

the waterway. Assistant City Attorney Meredith Jacobi confirmed that their plan is official; however, it does not absolve them from the requirements to comply with other city codes.

Mr. Anaya asked when the erosion and sediment control plan was approved. Mr. Day said it was approved in September of 2006, which makes it valid through September of 2019.

Dr. Spaur stated that we are accustomed to looking at lots and developments and this is the exception. We are looking at lots with a high velocity stream with a V-shape valley, so this is different from the typical situation.

**CBPA BOARD VOTE:**

Dr. Spaur moved to **DENY PLN-CPBA-2017-031** where the facts presented do not support the following findings:

- (1) The requested exception is not the minimum necessary to afford relief;**
- (2) Granting the exception would confer upon the applicant special privileges that are denied by Chesapeake City Code Chapter 26, Article IX to other property owners who are subject to its provisions and who are similarly situated;**
- (3) The exception is not in harmony with the purpose and intent of Chesapeake City Code Chapter 26, Article IX and is of substantial detriment to water quality; and**
- (4) The exception request is based upon conditions or circumstances that are self-created or self-imposed.**

Mr. Nowak seconded the motion. The motion was carried by a vote of 7 – 0.

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**OTHER BUSINESS:           Introduction of Katie James, new alternate member**

With no further business, the meeting was adjourned at 6:31 P.M.

Sincerely,

Jennifer Joseph  
Recording Secretary