

MINUTES

**Chesapeake Bay Preservation Area
Board**

March 21, 2018 – 6:00 PM

Human Resources Training Room

Call to Order: Chair Stephen Nowak called the Chesapeake Bay Preservation Board meeting of March 21, 2018 to order at 6:00 p.m. in the Human Resources Training Room.

Roll Call:

PRESENT

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

PLANNING DEPARTMENT STAFF PRESENT

Michael Anaya, Senior Planner, CBPA Review Committee Chair
Deondra Morales, CBPA Board Recording Secretary
Jennifer Joseph, Office Coordinator

CITY ATTORNEY STAFF PRESENT

Dana Sanford, Assistant City Attorney

APPROVAL OF MINUTES:

The February 21, 2018 CBPA Board minutes were presented into the record for Board action.

CBPA BOARD ACTION:

MINUTES for the February 21, 2018 CBPA Board were **APPROVED** by unanimous consent.

CBPA BOARD VOTE:

Mr. Curling moved that the **MINUTES** for the **February 21, 2018 CBPA Board meeting** be **APPROVED**. Mr. Spaur seconded the motion. The motion was carried by a vote of 6 – 0 - 1. Ms. Greene abstained.

CBPA APPLICATION:

1. PLN-CBPA-2018-005

PROJECT/LOCATION: Single-Family Home/901 Aberdeen Lane

APPLICANT/AGENT: Florence Laurene Joseph/Pennoni

PROPOSAL: In accordance with Section 26-528 of the Chesapeake City Code, the applicant is seeking an **EXCEPTION** for authorization to construct a new single-family home, a portion of which encroaches into the 50-foot landward portion of the 100-foot RPA buffer. A total of 4,517 SF of new impervious area is proposed (1,504 SF within RPA).

SUBDIVISION/LOT #: LOT 2B SUBD LOT 2 PROPERTY OF ARNOLD SHANDS .685AC

WATERSHED: Southern Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 0471000001022

CBPA BOARD ACTION:

The **CBPA Board APPROVED** (7-0; Curling/Spaur) **PLN-CBPA-2018-005** with the following stipulations:

1. Provide twenty-five (25) large canopy trees within the 100-foot RPA buffer to mitigate the impact of the new impervious area within the 100-foot RPA buffer. Existing trees on site may be preserved and counted toward this requirement. 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.
2. Provide four (4) large canopy trees within the Resource Management Area (RMA) to mitigate the impact of the new impervious area within the RMA. Existing trees on site may be preserved and counted toward this requirement. Per City of Chesapeake Code Sec. 26-520(b)(3), the RMA landscaping requirement is a minimum twenty (20) 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 901 Aberdeen Lane. He stated that the applicant seeks an exception for authorization to construct a new single family home, 1,504 square feet of which lies within 50-foot landward portion of the 100-foot RPA buffer. The application was reviewed by the CBPA Review Committee on February 20, 2018. It was recommended that the exception requested in application PLN-CBPA-2018-005 be granted for a period of two years, with the following stipulations: provide twenty-five (25) large canopy trees within the 100-foot RPA buffer to mitigate the impact of the new impervious area within the 100-foot RPA buffer and four (4) large canopy trees within the Resource Management Area (RMA) to mitigate the impact of the new impervious area within the RMA.

Proponent:

Tim Fletcher, 349 Southport Circle, Suite 100, Virginia Beach, Virginia, agent. Mr. Fletcher appeared before the Board on behalf of CBPA-18-05 representing Pennoni for Florence Lawrence Joseph. Mr. Fletcher spoke on the history of the lot and explained that the parcel was resubdivided around 2008 or 2009. Mr. Fletcher conducted his own survey and found that a portion of wetlands to the north of the property extends farther west than shown on the recorded plat. He explained that the buffer based on his survey indicates that more of property is encumbered by the RPA buffer than what was shown on the recorded plat. The buffer depicted on the recorded plat was based on a delineation which found the limits of the RPA feature to be farther east and allowed the parcel to meet the minimum area requirement outside of the RPA buffer.

Chavon Fryske, Custom Homes of Virginia, 3345 Bridge Road #912C, Suffolk, Virginia, developer. Ms. Fryske stated that she advises buyers as they prepare to build their homes.

Board Discussion:

Ms. Greene asked what type of trees were already present on the site. Mr. Anaya stated that there is a mixture of native trees as identified on the survey.

Mr. Nowak asked if the revised site plan differed enough from the original submittal included in the Board package, and whether it needed to be reviewed by the CBPA Review Committee again. Mr. Anaya stated that it did not because it was revised only to show specifically what trees they were preserving and additional proposed landscaping.

Ms. Greene asked if the house could be moved out of the RPA. Mr. Anaya stated that they have located the proposed home and driveway as far as they can into the

southwestern corner of the lot and outside of the RPA to the maximum extent practicable while meeting their required zoning setbacks.

Mr. Klesch asked to clarify the limits of the RPA buffer on the site plan. Mr. Anaya pointed out the 100-foot RPA buffer limits and the limits of the 50-foot seaward portion of the buffer.

Ms. Greene asked if the lot was resubdivided in compliance with the CBPA Ordinance. Mr. Anaya stated that it was resubdivided rather recently and is not familiar with the history of the resubdivision case. Mr. Fletcher introduced himself and spoke to the history of the resubdivision case. Mr. Anaya stated the he did go back and research the recorded plat and that it is based on a delineation of the RPA feature that shows its limits farther to the east. At the time of the resubdivision, the parcel met the minimum area requirement for lot area outside of the 100-foot RPA buffer.

Ms. Greene asked if the plat was recorded legally. Mr. Anaya confirmed that it was recorded legally and added that there was a different RPA feature delineation than what Mr. Fletcher was presenting.

Ms. Greene asked to clarify that the shaded green area on the plan will not be cleared. Mr. Fletcher confirmed that the shaded area will not be cleared.

Ms. Greene also asked if there were shrubs in the area. Mr. Anaya stated that there were some shrubs visible on the aerial photo. Mr. Fletcher stated that they were not going to clear beyond the limits of clearing shown on the plan. Mr. Fletcher also explained that there is a ditch through the property which has a check dam at the east end. This was apparently constructed when the lot was resubdivided to improve drainage. He stated that the area where the house is proposed has already been cleared. Mr. Fletcher also stated that they have located the house as far to the outside of the 100-foot RPA buffer as practicable while meeting the required zoning setbacks.

Ms. Green asked if a garage and deck is included in the plan. Mr. Fletcher stated that it was already included.

Ms. Green asked if the house would be a spec house. Mr. Fletcher stated that this home already has a contract buyer who would like to close in April depending on the results of the CBPA Board.

Ms. Greene asked if Mr. Fletcher had educated the buyers on the limits of the development on the lot. Mr. Fletcher stated he has not had a direct conversation with the new homeowner but has made it clear to the developer that there will be no disturbance into the buffer.

Ms. Greene stated that they would not be able to put in a swimming pool. Mr. Fletcher stated that anything that they the homeowners would want to do would have to go through the CBPA review process again, if it is not on the site plan, they cannot do it.

Mr. Wilson asked if the 24 existing trees would be kept. Mr. Anaya stated there would actually be 25 existing that would be preserved and 1 additional tree planted to replace the one they would be removing for the driveway.

Mr. Nowak asked whether there was a representative from the builder present. Mr. Sherman stated that he had comment from the survey perspective that the shape of the lot looks unusual.

Mr. Wilson asked who owns the adjacent lot to left and if it was known who owns the lot and if there was something going to be done with it. Mr. Fletcher stated the lot to the west was already sold but is not developed. Based on the criteria approved for the recorded plat from 2014, they have been granted a variance on reduced frontage in order to connect to public utilities. He also stated that the lot was a rather unusual shape, but cannot speak what occurred during the review process.

Mr. Wilson stated that if it is acceptable to zoning, then it really was not a concern. Mr. Fletcher stated that he agreed and that it was just wide enough to allow for a driveway to access the property.

Mr. Spaur commented that he visited the property and it looks like the shaded green area on site plan has perhaps been used as a recreational area for the neighborhood and is not a heavily disturbed area. Mr. Fletcher stated that it looks like it has been informally used by the neighborhood and that some care has been placed in the property to construct a well-defined ditch with the check dam to improve drainage.

Mr. Nowak asked if there were any additional questions or comments. He also asked the second speaker introduce herself.

Mr. Nowak asked if it was going to be necessary to raise the level of the ground at the site. Mr. Fletcher stated that it would not, that he has already specified that the garage slab would be 6 inches above existing ground. Mr. Fletcher stated that the elevation will be approximately 6-1/2 inches, and no fill material will be needed other than the backfill under the slab of the house itself or behind the foundation walls.

Mr. Nowak stated that there should be no impact on existing trees. Mr. Fletcher confirmed that Mr. Nowak was correct. The only trees what would be disturbed would be the two in the way of the driveway, which will be replaced.

Ms. Greene asked Ms. Fryske if she had educated the buyers on limitations of the property. Ms. Fryske stated that she is not a real estate agent and that she has not spoken directly to the buyers. Ms. Greene stated that it is not required but she is requesting that people have appropriate expectation for CBPA encumbered lots. She stated that people often have expectations of adding a shed or other recreational amenities within the RPA buffer, when the area should remain vegetated. Ms. Fryske suggested that she could get with the buyers real estate agent to have a discussion on future development items.

Mr. Nowak stated the trees are protected and, if removed, have to be replaced on a 1:1 basis. He also stated that in order to keep the Chesapeake Bay as much of an attraction

as it is, the CBPA Board tries to communicate to as many people as possible, the importance of the biological processes performed by the 100-foot RPA buffer. Mr. Fletcher stated that he had a crew rough stake the house location and place several stakes along the RPA buffer line as well as the limits of disturbance.

Mr. Sherman asked if Ms. Fryske was not representing the builder but the buyer. Ms. Fryske stated that she represents the builder. She stated that her role is to assist and advise the buyer as they prepare to build their homes.

Mr. Sherman asked if there was any discussion about the buyers wanting to add in a pool. Ms. Fryske answered that there was not.

Mr. Nowak asked if there were any other questions for the guest and for a motion.

CBPA BOARD VOTE:

Mr. Curling moved to **APPROVE PLN-CBPA-2018-005** with the following stipulation: Mr. Spaur seconded the motion. The motion was carried by a vote of 7 – 0.

OTHER BUSINESS:

- Introduction of new Recording Secretary, Deondra Morales.
- Discussion on educating the public on CBPA guidelines.

ADJOURNMENT:

With no further business, the meeting was adjourned at 6:45 P.M.

Sincerely,

Deondra Morales,
Recording Secretary