

MINUTES

Chesapeake Bay Preservation Area Board

July 18, 2018 – 6:00 PM

Human Resources Training Room

Call to Order: Chair Stephen Nowak called the Chesapeake Bay Preservation Board meeting of July 18, 2018, to order at 6:00 p.m. in the Human Resources Training Room.

Roll Call:

PRESENT

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

EXCUSED

Chris Wilson, Vice-Chair

PLANNING DEPARTMENT STAFF PRESENT

Michael Anaya, CBPA Planner
Jennifer Joseph, CBPA Recording Secretary
Allison Gurkin, CBPA Recording Secretary

CITY ATTORNEY STAFF PRESENT

Meredith Jacobi, Assistant City Attorney
Ellen Bergren, Assistant City Attorney

APPROVAL OF MINUTES:

The May 16, 2018 CBPA Board minutes were presented into the record for Board action.

CBPA BOARD ACTION:

MINUTES for the May 16, 2018 CBPA Board were APPROVED.
(7-0; Curling/Spaur – Wilson was excused)

CBPA BOARD VOTE:

Mr. Curling moved that the **MINUTES** for the **May 16, 2018 CBPA Board meeting** be **APPROVED**. Dr. Spaur seconded the motion. The motion was carried by a vote of 7 - 0.

CBPA APPLICATION:

1. PLN-CBPA-2018-011

PROJECT/LOCATION: Shed/817 Hidden Harbor Court

APPLICANT/AGENT: Iuliana Kiliment/David Epstein

PROPOSAL: In accordance with Section 26-528 of the Chesapeake City Code, the applicant is seeking an **EXCEPTION** for authorization to construct a new shed within the 50-foot landward and 50-foot seaward portions of the 100-foot RPA buffer. A total of 192 SF of new impervious area is proposed (192 SF within RPA).

SUBDIVISION/LOT #: 14 HARBOR LANDING

WATERSHED: Southern Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 0473004000140

CBPA BOARD ACTION:

The CBPA Board APPROVED (7-0; Sherman/Spaur) PLN-CBPA-2018-011 for a period of two years.

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 817 Hidden Harbor Court. He stated that the applicant seeks an exception for authorization to construct a new shed within the 50-foot landward and 50-foot seaward portions of the 100-foot RPA buffer. The lot was recorded in 1993. The CBPA Review Committee reviewed the application and recommended a revision to the proposed location of shed, so that it is located outside of the 7.5' private drainage easement along the side property line, and advised the applicant that the proposed shed must be constructed in compliance

with the Floodplain Management Ordinance. The revised plan was reviewed by the CBPA Review Committee on June 5, 2018. Based on the CBPA Review Committee's findings, it is recommended that the exception requested in application PLN-CBPA-2018-011 be granted for a period of two years.

Proponent:

David Epstein, 817 Hidden Harbor Court, Chesapeake, VA, 23322, appeared before the Board on behalf of the applicant for PLN-CBPA-2018-011..

Board Discussion:

Mr. Klesch stated that on the Google street view, there are several trees in the easement area. Mr. Anaya explained that the applicant has not proposed any removal of vegetation. He is not sure that all of the trees along the drainage easement area are on the applicant's property.

Ms. Greene noted that there were previously trees there along the line, but she is not sure when they were cut. Mr. Anaya recommended asking the applicant.

Mr. Anaya stated that there was a previous tree removal violation, but that has been resolved. Ms. Greene stated that may have been what she was thinking of.

Mr. Epstein introduced himself and confirmed that there are no plans for tree removal. He stated that there is one tree near the fence line that prevents the shed from moving farther seaward, but they are proposing the shed farther landward in order to preserve the tree.

Mr. Curling questioned why the existing trees were not on the site plan. He asked for confirmation as to whether the trees were on the property or not. Mr. Epstein stated that as of thirty minutes ago when he left the home, the trees were there. He was not aware that existing trees needed to be shown on the site plan.

Mr. Klesch questioned if the shed would be between the pine trees closest to the street. Mr. Epstein proceeded to the front of the room in order to clarify the placement of the shed on the aerial photo.

CBPA BOARD VOTE:

Mr. Sherman moved to **APPROVE PLN-CBPA-2018-011** for a period of two years. Dr. Spaur seconded the motion. The motion was carried by a vote of 7 – 0, Wilson was excused.

2. PLN-CBPA-2018-015

PROJECT/LOCATION: Resubdivision/4116 & 4120 Sunkist Road

APPLICANT: Hassel & Folkes, P.C.

PROPOSAL: In accordance with Section 26-528 of the Chesapeake City Code, the applicant is seeking an **EXCEPTION** to adjust a lot line to better align with existing structures on the lots. This exception is requested to provide relief from the requirement that lots created in the R-8S residential district shall have at least 80 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 #: 43 CEDAR GROVE ACRES; 41 & 42 CEDAR GROVE ACRES

WATERSHED: Western Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 0231005000430; 0231005000410

CBPA BOARD ACTION:

The CBPA Board APPROVED (7-0; Greene/Sherman) PLN-CBPA-2018-015 for a period of two years.

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 4116 and 4120 Sunkist Road. He stated that the applicant is seeking an exception to adjust a lot line to better align with existing structures on the lots. An exception is requested to provide relief from the requirement that lots created in the R-8S residential district shall have at least 80 percent of the required lot area located outside of the 100-foot RPA buffer. The lots were recorded in 1953. Mr. Anaya explained that no new development is proposed in this application, therefore, no vegetative mitigation is required. The application was reviewed by the CBPA Review Committee on June 5, 2018. Based on the CBPA Review Committee's findings, it is recommended that the exception requested be granted for a period of two years.

Proponent:

Timothy Fallon, Hassell & Folkes, P.C., 325 Volvo Parkway, Chesapeake, VA appeared before the Board on behalf of the applicant for PLN-CBPA-2018-015.

Board Discussion:

Ms. Greene asked how the two year timeframe applies if the lot line adjustment is permanent. Mr. Anaya explained that the applicant would need to have the Resubdivision

process recorded within the two year timeframe or they would need to submit a new CBPA Exception application.

Ms. Greene asked whether the same person owns both lots. Mr. Fallon introduced himself and stated that he is the agent that prepared the subdivision plat to correct the encroachment. He clarified Ms. Greene's question by stating that the lots are not owned by the same individual. McMillian Homes owns 43A and Mr. Goodrich owns 42A. He added that as it exists now, the garage is over the recorded property line, therefore it is an encroachment into the side yard setback. They are correcting that by completing the Resubdivision plat. He added that if the application is granted, he should have the Resubdivision recorded within thirty days.

Mr. Sherman asked Mr. Fallon if he represents the lot on the left or the lot on the right. Mr. Fallon stated that he was originally involved with 43A. McMillian homes purchased the lot and it has been vacant since it was recorded in 1953. He stated that they received CBPA Review Committee approval for the construction of a new single-family home. In the process of surveying and engineering for 43A, it was discovered that the garage on proposed lot 42A crosses the property line. McMillian homes wishes to have the issue cleared up so that whoever they sell the house to will have a clear title with no encroachments.

Mr. Klesch commented that the lot on the right, 43A 4116 Sunkist Road, came before the Review Committee already, not the CBPA Board. Mr. Klesch requested clarification as to why the Review Committee did not approve the 4120 property line adjustment. Ms. Greene clarified that the Review Committee did not know about, as it was not discovered until they surveyed the property.

Mr. Klesch questioned why the application for the single-family home on lot 43A did not come before the board for approval. Mr. Anaya explained that since the lot was recorded in 1953, the principal structure proposed within the 50' landward portion of buffer is only subject to the CBPA Review Committee review. CBPA Board authorization is not required. That lot was recorded in 1953 when the committee reviewed the application and approved the plan.

Ms. Greene stated that she believes this proposed lot line adjustment is just a cleanup with no significant impact on the RPA buffer.

Mr. Klesch thanked the Board for their information and clarification.

CBPA BOARD VOTE:

Ms. Greene moved to **APPROVE PLN-CBPA-2018-015** for a period of two years. Mr. Sherman seconded the motion. The motion was carried by a vote of 7 – 0, Wilson was excused.

3. **PLN-CBPA-2018-016**

PROJECT/LOCATION: Chicken Coop/437 Shell Road

APPLICANT: Nicholas Deitz

PROPOSAL: In accordance with Section 26-528 of the Chesapeake City Code, the applicant is seeking an **EXCEPTION** for authorization to construct a new chicken coop within the 50-foot landward portion of the 100-foot RPA buffer. A total of 30 SF of new impervious area is proposed (30 SF within RPA).

SUBDIVISION/LOT #: PAR 2 SUBD PROP OF FAITH ALIVE CH OF GOD .5178AC

WATERSHED: Southern Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 0340000001220

CBPA BOARD ACTION:

The CBPA Board CONTINUED (7 – 0; Greene/Sherman) PLN-CPBA-2018-016 to the August 15, 2018 CBPA Board Meeting.

Staff Presentation:

Mr. Anaya presented a brief summary of the application to the Board for the site at 437 Shell Road. He stated that the applicant is seeking an exception for authorization to construct a new chicken coop within the 50-foot landward portion of the 100-foot RPA buffer. He explained to the Board that the applicant has not submitted the adjacent property owner list or stamped, addressed envelopes as required by Chesapeake City Code sec. 26-528 (f), therefore, staff recommends application PLN-CBPA-2018-016 be continued to the CBPA Board meeting scheduled for August 15, 2018.

CBPA BOARD VOTE:

Ms. Greene moved to **CONTINUE PLN-CBPA-2018-016** to the **August 15, 2018 CBPA Board meeting**. Mr. Sherman seconded the motion. The motion was carried by a vote of 7 – 0, Wilson was excused.

4. **PLN-CBPA-2018-017**

PROJECT/LOCATION: Pergola/2225 Angler Lane

APPLICANT: Scott & Alona Merriman

PROPOSAL: In accordance with Section 26-528 of the Chesapeake City Code, the applicant is seeking an **EXCEPTION** for authorization to construct a new pergola within the 50-foot landward portion of the 100-foot RPA

buffer. A total of 120 SF of new impervious area is proposed (120 SF within RPA).

SUBDIVISION/LOT #: 62 MILL CREEK HARBOR PH 2

WATERSHED: Southern Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 0462004000620

CBPA BOARD ACTION:

The CBPA Board CONTINUED (7 – 0; Greene/Spaur) PLN-CBPA-2018-017 to the August 15, 2018 CBPA Board Meeting.

Staff Presentation:

Mr. Anaya presented a brief summary of the application to the Board for the site at 2225 Angler Lane. He stated that the applicant is seeking an exception for authorization to construct a new pergola within the 50-foot landward portion of the 100-foot RPA buffer. He advised the Board that the applicant has not submitted the adjacent property owner list or stamped, addressed envelopes as required by Chesapeake City Code sec. 26-528 (f), therefore, staff recommends that application PLN-CBPA-2018-017 be continued to the CBPA Board meeting scheduled for August 15, 2018.

CBPA BOARD VOTE:

Ms. Greene moved to **CONTINUE PLN-CBPA-2018-017** to the **August 15, 2018 CBPA Board meeting**. Dr. Spaur seconded the motion. The motion was carried by a vote of 7 – 0, Wilson was excused.

5. **PLN-CBPA-2018-019**
PROJECT/LOCATION: New Single-Family Home/3908 Walkers Bend Drive
APPLICANT/AGENT: Mark & Blesilda Warner/Parrish-Layne Design Group
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, portions of which encroach into the 50-foot landward portion of the 100-foot RPA buffer. A total of 7,161 SF of new impervious area is proposed (244 SF within RPA).

SUBDIVISION/LOT #: LOT 14 WALKERS BEND PH 2

WATERSHED: Western Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 0164017000140

CBPA BOARD ACTION:

The CBPA Board CONTINUED (7 – 0, Greene/Sherman) PLN-CPBA-2018-019 to the August 15, 2018 CBPA Board Meeting.

Staff Presentation:

Mr. Anaya presented a brief summary of the application to the Board for the site at 3908 Walkers Bend Drive. He stated that the applicant is seeking an exception for authorization to construct a new single-family home, portions of which encroach into the 50-foot landward portion of the 100-foot RPA buffer. The CBPA Board Bylaws require that an applicant be present in order for the Board to take action on a CBPA Exception application. Due to this requirement, staff recommends the application be continued.

CBPA BOARD VOTE:

Ms. Greene moved to **CONTINUE PLN-CBPA-2017-019** to the **August 15, 2018 CBPA Board meeting**. Mr. Sherman seconded the motion. The motion was carried by a vote of 7 – 0, Wilson was excused.

Ms. Greene moved that the CBPA Board go into a closed session in accordance with Virginia Code Section 2.2-3711 (A) (7) for the purpose of consultation with legal counsel and staff pertaining to actual or probable litigation concerning the 805 Heritage Point CBPA Appeal, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. (7-0; Greene/Spaur)

OTHER BUSINESS:

- Closed Session: 6:29 P.M. - 7:10 P.M.
- Introduction of new Recording Secretary, Allison Gurkin
- Discussion and adoption of new CBPA Board meeting rules and procedures with revisions to speaker time limits (7-0; Greene/Sherman, Wilson excused)

ADJOURNMENT:

With no further business, the meeting was adjourned at 7:27 P.M.

Sincerely,

Allison Gurkin,
Recording Secretary

APPROVED: August 15, 2018