

MINUTES

**Chesapeake Bay Preservation Area
Board**

August 15, 2018 – 6:00 PM

Human Resources Training Room

Call to Order: Chair Stephen Nowak called the Chesapeake Bay Preservation Area Board meeting of August 15, 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
William Spaur, Member
John Sherman, Member
John Klesch, Alternate Member

EXCUSED

Rusty Barath, Member
Henry Curling, Member
Kaite James, Alternate Member

PLANNING DEPARTMENT STAFF PRESENT

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

CITY ATTORNEY STAFF PRESENT

Ellen Bergren, Assistant City Attorney

APPROVAL OF MINUTES:

The July 18, 2018 CBPA Board minutes were presented into the record for Board action.

CBPA BOARD ACTION:

MINUTES for the July 18, 2018 CBPA Board were **APPROVED** by unanimous consent as amended.

CBPA BOARD VOTE:

Ms. Greene moved that the **MINUTES** for the **July 18, 2018 CBPA Board meeting** be **APPROVED**. Dr. Spaur seconded the motion. The motion was carried by a vote of 6 - 0.

CBPA APPLICATIONS:

1. **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
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CBPA BOARD ACTION:

The CBPA Board CONTINUED PLN-CPBA-2018-016 to the September 19, 2018 CBPA Board Meeting. (6 – 0, Greene/Sherman)

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 September 19, 2018.

CBPA BOARD VOTE:

Ms. Greene moved to **CONTINUE PLN-CBPA-2018-016** to the **September 19, 2018 CBPA Board meeting**. Mr. Sherman seconded the motion. The motion was carried by a vote of 6 – 0; Curling, Barath and James were excused.

2. 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 **GRANTED THE EXCEPTION** requested in PLN-CBPA-2018-017 with the following stipulation:

Provide two (2) large canopy trees within the 100-foot RPA buffer to mitigate the impact of the new impervious area within the 100-foot RPA buffer. 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 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. The lot was recorded in 2003. The CBPA Review Committee reviewed this application 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 with the stipulation that the applicant provide one (1) large canopy tree within the 100-foot RPA buffer to mitigate the impact of the new impervious area within the 100-foot RPA buffer.

Proponent:

Scott Merriman, 2225 Angler Lane, Chesapeake, Virginia, appeared before the Board as the applicant for PLN-CBPA-2018-017.

Board Discussion:

Mr. Merriman introduced himself to the Board and explained that he will be planting two large canopy trees within the RPA buffer to provide shade in his backyard.

Mr. Wilson asked the applicant how old the house on the lot was.

Mr. Merriman responded that the house was approximately ten years old.

Mr. Wilson questioned whether the applicant had lived on the lot since the house was built. He mentioned that it appears the lot was likely cleared and should have been in the jurisdiction of the CBPA ordinance at the time, but cannot confirm what previously occurred.

Mr. Merriman advised that he purchased the house from a previous owner.

Mr. Wilson questioned whether the deck boards for the pergola would be spaced in such a way that would allow water to penetrate through the floor. He also asked what material would be used for the deck floor.

Mr. Merriman advised that the wood decking will be raised off of the ground with blocks underneath and will be spaced to allow water to penetrate.

Mr. Nowak confirmed with the applicant that he had no objections to amending the recommended stipulation to include two large canopy trees instead of one.

Mr. Sherman explained to the applicant that he will be required to maintain two trees on the lot if the stipulation is changed.

Mr. Merriman stated that he had no objection to amending the stipulations, as his yard has very little shade at the present time.

CBPA BOARD VOTE:

Ms. Greene moved to **GRANT THE EXCEPTION** requested in **PLN-CBPA-2018-017** with the stipulation that two large canopy trees be provided within the 100-foot RPA buffer to mitigate the impact of the new impervious area within the 100-foot RPA buffer. Dr. Spaur seconded the motion. The motion was carried by a vote of 6 – 0; Curling, Barath and James were excused.

3. 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 **GRANTED THE EXCEPTION** requested in **PLN-CBPA-2018-019** with the following stipulation:

Provide a total of forty-five (45) large canopy trees on the site, with no less than forty (40) to be located 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 shall be preserved as depicted on the plan, and may be 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.

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 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 lot was recorded in 2013. The application was reviewed by the CBPA Review Committee on June 19, 2018. Based on the CBPA Review Committee's findings, it is recommended that the requested exception be granted for a period of two years with the following stipulations: Provide forty (40) 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 shall be preserved as depicted on the plan, and may be counted toward this requirement. Also, provide five (5) large canopy trees within the Resource Management Area (RMA) to mitigate the impact of the new impervious area within the RMA.

Proponent:

Mark Warner, 1413 Emma Avenue, Suffolk, Virginia, appeared before the Board as the applicant for PLN-CBPA-2018-019.

Board Discussion:

Mr. Sherman requested that Mr. Anaya return to an aerial photograph of the site and questioned how many trees are currently on the lot.

Mr. Anaya commented that he has not counted the trees, but he did supply the existing lot lines to provide a visual of the amount of trees currently on the lot.

Mr. Sherman questioned if the applicant would have enough room for the house as well as 20 plus additional trees. Mr. Anaya proceeded to show on the aerial photograph where additional plantings could be installed.

Ms. Greene confirmed that the lot was platted in 2013. She asked Mr. Anaya for clarification as to why, if this was a newly platted lot, they were having an issue fitting the proposed house without going into the 50-foot seaward or landward portion.

Mr. Anaya commented that the proposed home is only encroaching into 50-foot landward portion. He added that the lot was recorded in accordance with the ordinance, which requires a lot 12,000 square feet or greater to have 75% of the minimum required lot area, based on the zoning district, located landward of the RPA buffer. According to the plat recorded on October 1, 2013, the applicant has well exceeded the 75% requirement.

Ms. Greene added that the shape of lot is unusual, which is why this is being presented to the Board.

Mr. Klesch asked Mr. Anaya to repeat the information regarding the ordinance. He stated that his concern is that the lot appears to be sitting in the river and tidal land.

Mr. Anaya showed Mr. Klesch on the photograph where the tidal land ends to address his concern. He then clarified the minimum lot size requirements based on the zoning district.

Mr. Warner introduced himself to the Board and explained that he would like to build a home on this lot as it is a beautiful neighborhood. He noted that it has been more difficult to fit everything onto the lot than he imagined. He feels that Mr. Layne has done a fantastic job locating the ranch style home within the boundaries, being that the lot is such an unusual shape. He added that they are doing their best to keep vehicles off of the street, as well as keep the neighborhood clean. He advised the Board members that there is currently heavy growth along the water's edge, which he plans to preserve. The applicant also advised that he did previously obtain approval to remove two trees that presented fall hazards, one between the attached and detached garage and one that was close to the structure of the house.

Ms. Greene asked the applicant if he has counted the trees on the lot. She explained to the applicant the difference between trees and shrubs. She added that there are limitations to cutting the native shrubs down as they are a part of the protective vegetation.

Mr. Warner advised that he has not counted the trees, but he does believe there are more than 20 trees currently on the lot. He added that he is trying to preserve the large oak tree in the front yard. He added that he does not plan to remove any vegetation along the water's edge, as it prevents erosion. He added that he would like to trim a few limbs back to see out to the water

Ms. Greene commented that the applicant would be able to trim the limbs. She questioned if the applicant felt he could fit ten additional trees in the back yard or if he had any objection to the stipulations.

Mr. Warner stated he had no issue with the stipulations and asked if someone would be willing to come to the property to assist him with tree placement.

Ms. Greene suggested that the applicant contact the Elizabeth River Project to assist with plantings as well as preservation of current vegetation.

Mr. Wilson questioned where the five large canopy trees would need to be planted.

Mr. Anaya explained they would need to be planted anywhere within the RMA. He explained to the applicant that the large oak tree can be counted towards that requirement.

Mr. Warner commented that he may be able to fit one or two additional trees, however, there is not a lot of space in the front yard for multiple large canopy trees due to the proposed driveway.

Ms. Greene asked Mr. Anaya if it matters whether the five canopy trees are placed in the RMA or the RPA.

Mr. Anaya commented that he feels it would be acceptable for the trees to be planted in the RPA, as the applicant has gone to great lengths to avoid impacts to the RPA buffer. He feels that preserving the large oak and planting one or two larger trees in the front yard would still accomplish the intent of the ordinance.

Dr. Spaur mentioned that the property bordering the water is very high, five to six feet above high tide. He added that the remainder of the property is even higher and the Board should be pleased to see this.

Ms. Greene advised the applicant to contact the Elizabeth River Project to come out to the property before construction begins in order to properly protect the large oak tree. Mr. Nowak added that the statute requires the trees to be maintained, therefore, if a tree is ever lost, it must be replaced. The applicant understood.

Ms. Greene confirmed that the applicant is able to trim and prune the plantings in order to have a visual of the water. Mr. Anaya added that it is defined in the code if the applicant were to ever have a question.

Mr. Warner asked for clarification as to where the RPA and RMA buffers are in order to understand where the trees will need to be planted. Ms. Greene explained that the Board is giving the applicant flexibility in planting more of the trees in the RPA. Mr. Wilson added that the trees being planted in the RPA is better for water quality purposes.

CBPA BOARD VOTE:

Ms. Greene moved to **GRANT THE EXCEPTION requested in PLN-CBPA-2018-019** with the stipulation that a total of forty-five (45) large canopy trees be provided on the site, with no less than forty (40) to be located 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 shall be preserved as depicted on the plan, and may be counted toward this requirement. Mr. Wilson seconded the motion. The motion was carried by a vote of 6 – 0; Curling, Barath and James were excused.

4. **PLN-CBPA-2018-020**

PROJECT/LOCATION: Storage Shed/2220 Decatur Street

APPLICANT: Joel Taggart

PROPOSAL: In accordance with Section 26-528 of the Chesapeake City Code, the applicant is seeking an **EXCEPTION** for authorization to construct a new storage shed within the 50-foot landward portion of the 100-foot RPA buffer. A total of 144 SF of new impervious area is proposed (144 SF within RPA). **SUBDIVISION/LOT #:** PT MEWHITE PROP .493

WATERSHED: Southern Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 1400000000240

CBPA BOARD ACTION:

The CBPA Board **GRANTED THE EXCEPTION** requested in PLN-CBPA-2018-020 with the following stipulation:

Provide one (1) large canopy tree within the 100-foot RPA buffer to mitigate the impact of the new impervious area within the 100-foot RPA buffer. 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 2220 Decatur Street. He stated that the applicant is seeking an exception for authorization to construct a new storage shed within the 50-foot landward portion of the 100-foot RPA buffer. The lot was recorded in 1981. The application was reviewed by the CBPA Review Committee on July 17, 2018. Based on the CBPA Review Committee's findings, it is recommended that the exception requested be granted for a period of two years with the following stipulation: Provide one (1) large canopy tree within the 100-foot RPA buffer to mitigate the impact of the new impervious area within the 100-foot RPA buffer.

Proponent:

Joel Taggart, 2220 Decatur Street, Chesapeake, Virginia, appeared before the Board as the applicant for PLN-CBPA-2018-020.

Christina Misch, 2220 Decatur Street, Chesapeake, Virginia, appeared before the Board in support of the applicant for PLN-CBPA-2018-020.

Board Discussion:

Mr. Taggart introduced himself and advised the Board that he has already planted a Mimosa tree centered at the back of the property.

Ms. Greene advised Mr. Taggart that a Mimosa is not considered a large canopy tree. The applicant commented that he will plant another tree that is considered to be large canopy.

Mr. Anaya commented that he would be happy to provide the applicant with a list of acceptable large canopy trees.

Mr. Nowak commented that certain resources available to the applicants would be very helpful in this process.

Mr. Wilson commented that in the photograph showing the driveway, the newly planted trees should be set back further away from the driveway and paved road to avoid future damage caused by the tree's roots.

Ms. Greene questioned if the trees were dogwoods.

Mr. Taggart mentioned that the builder provided the trees, so he is uncertain what type they are. Ms. Mische commented that the builder did provide a card with information on what type of trees were provided. She added that she believes they will grow to be large.

Ms. Greene noted that the trees are still small enough to be moved further back, but recommended waiting until October or November when it is cooler.

Mr. Sherman also advised the applicant to pay close attention to the water and sewer lines on the property when planting any trees.

Ms. Greene advised the applicant to contact the Elizabeth River Project to assist with additional plantings.

CBPA BOARD VOTE:

Mr. Wilson moved to **GRANT THE EXCEPTION requested in PLN-CBPA-2018-020** with the stipulation that one (1) large canopy tree be provided within the 100-foot RPA buffer to mitigate the impact of the new impervious area within the 100-foot RPA buffer. Mr. Sherman seconded the motion. The motion was carried by a vote of 6 – 0; Curling, Barath and James were excused.

OTHER BUSINESS:

- The Board was advised that Ellen Bergren will no longer be representing the CBPA Board after August. Beginning in September, Meredith Jacobi will be returning to represent the CBPA Board.
- Discussion of informational material being available for the applicants in regards to contacts in the field that would be beneficial for them.
- Discussion on the new Meeting Rules and Procedures. It was confirmed that the speaking time limits were amended and the new Meeting Rules and Procedures were posted on the City of Chesapeake website, as well as e-mailed to the Board members.

ADJOURNMENT:

With no further business, the meeting was adjourned at 6:50 P.M.

Sincerely,

Allison Gurkin,
Recording Secretary

APPROVED: September 19, 2018