

Chesapeake Bay Preservation Area Board

Public Hearing Minutes – August 19, 2020 City Council Chambers – 6:00 P.M.

Call to Order: Vice-Chairman Henry Curling called the Chesapeake Bay Preservation Area (CBPA) Board meeting of August 19, 2020, to order at 6:00 p.m. in City Council Chambers.

Roll Call:

PRESENT

Chris Wilson, Chair
Henry Curling, Vice-Chair
Vickie Greene, Member
Kaite James, Member
John Klesch, Member
William Spaur, Member
Cristan Connito, Alternate Member
Karen Toida, Alternate Member

EXCUSED

Stephen F. Nowak, Member

PLANNING DEPARTMENT STAFF PRESENT

Ethan Hoar, CBPA Planner
James McNamara, Assistant Planning Director
Lewis Martinez, CBPA Recording Secretary

CITY ATTORNEY STAFF PRESENT

Meredith Jacobi, Assistant City Attorney

APPROVAL OF MINUTES:

MINUTES for the August 19, 2020 CBPA Board were **APPROVED**. (6 – 0; Curling/Spaur)

CBPA BOARD ACTION:

Mr. Curling moved that the **MINUTES** for the **August 19, 2020 CBPA Board meeting** be **APPROVED**. Dr. Spaur seconded the motion. The motion was carried by a vote of 6 – 0.

CBPA APPLICATION:

1. **PLN-CBPA-2020-033**
PROJECT/LOCATION: 1718 Rockwood Drive
APPLICANT: Jesse Walker
PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an **EXCEPTION** to construct a single family home within the 50-foot seaward portion of the 100-foot RPA buffer. The total proposed impervious area will be 1,424 SF (1,424 SF in RPA).
SUBDIVISION/LOT #: Parkview Section 2 Resub of Lots 9 and 10
WATERSHED: Southern Branch of the Elizabeth River
TAX MAP SECTION/PARCEL: 0344002004060
(This application is a rehearing from the August 19, 2020 public hearing.)
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CBPA BOARD ACTION:

The CBPA Board **APPROVED THE EXCEPTION** requested in PLN-CBPA-2020-033 with the following stipulations:

1. Provide one (1) small canopy tree in the RPA to mitigate the impact of the proposed impervious area within the RPA. Per Sec. VII(B) of the Chesapeake Bay Preservation Area Ordinance Specifications Manual, the tree canopy coverage requirement for encroachment into the RPA buffer is fifty percent (50%). See Appendix A of the Chesapeake Landscape Specifications Manual for recommended tree species.
 2. Remove at a minimum 120 SF of the existing patio paver/brick surface that will not be developed over by the proposed screened in porch and covered patio area.
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Staff Presentation:

Mr. Hoar presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. Pictures of the site at 1718 Rockwood Drive were presented. The Board was informed that the applicant is seeking an approval to construct a single family home within the 50-foot seaward and 50-foot landward portions of the 100-foot RPA buffer. The CBPA Review Committee reviewed this application on July 21, 2020, and recommended approval. The lot was recorded in 1954.

Proponent:

Brad Martin, 824 West 21st Street, Norfolk, Virginia, Agent

Jesse Walker, 1718 Rockwood Drive, Chesapeake, Virginia, applicant.

Board Discussion:

CBPA BOARD VOTE:

Ms. Toida moved to **APPROVE PLN-CBPA-2020-033** based on the findings contained in the Chesapeake Bay Preservation Act Review Committee staff report. Mr. Curling seconded the motion. The motion was carried by a vote of 5 – 2; Greene and Spaur opposed, Nowak excused.

CBPA APPLICATION:

2. **PLN-CBPA-2020-009**
PROJECT/LOCATION: 5428 Royal Tern Court
APPLICANT: Tony Cropper
PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an after-the-fact **EXCEPTION** for a shed and the construction of a sunroom within the 50-foot seaward and 50-foot landward portions of the 100-foot RPA buffer. The total proposed additional impervious area will be 256 SF (256 SF in RPA).
SUBDIVISION/LOT #: Lakes of Jolliff Lot 20
WATERSHED: Western Branch of the Elizabeth River
TAX MAP SECTION/PARCEL: 0221004000200
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CBPA BOARD ACTION:

The CBPA Board **APPROVED THE EXCEPTION** requested in PLN-CBPA-2020-009 with the following stipulation:

Move the existing shed out of the seaward buffer and into the landward buffer.

Staff Presentation:

Mr. Hoar presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. Pictures of the site at 5428 Royal Tern Court were presented. The Board was informed that the applicant is seeking an approval for a shed and the construction of a sunroom within the 50-foot seaward and 50-foot landward portions of the 100-foot RPA buffer. The CBPA Review Committee reviewed this application on August 18, 2020, and recommended approval. The lot was recorded in 2009.

Proponent:

CBPA BOARD VOTE:

Ms. Greene moved to **APPROVE PLN-CBPA-2020-009** based on the findings contained in the Chesapeake Bay Preservation Act Review Committee staff report. Mr. Curling seconded the motion. The motion was carried by a vote of 7 – 0; Nowak excused.

CBPA APPLICATION:

3. **PLN-CBPA-2020-032**
PROJECT/LOCATION: 100 Commonwealth Avenue
APPLICANT: Donnie Corsner
PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an **EXCEPTION** to construct a shed within the 50-foot landward portion of the 100-foot RPA buffer. The total proposed additional impervious area will be 160 SF (160 SF in RPA).
SUBDIVISION/LOT #: Tanglewood Section 2 Lot 64
WATERSHED: Eastern Branch of the Elizabeth River
TAX MAP SECTION/PARCEL: 013200300640
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CBPA BOARD ACTION:

The CBPA Board **APPROVED THE EXCEPTION** requested in PLN-CBPA-2020-032 with the following stipulation

Provide one (1) small canopy tree in the RPA to mitigate the impact of the proposed impervious area within the RPA. Per Sec. VII(B) of the Chesapeake Bay Preservation Area Ordinance Specifications Manual, the tree canopy coverage requirement for encroachment into the RPA buffer is fifty percent (50%). See Appendix A of the Chesapeake Landscape Specifications Manual for recommended tree species.

Staff Presentation:

Mr. Hoar presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. Pictures of the site at 100 Commonwealth Avenue were presented. The Board was informed that the applicant is seeking an approval for the authorization to construct a shed within the 50-foot landward portion of the 100-foot RPA buffer. The CBPA Review Committee reviewed this application on August 4, 2020, and recommended approval. The lot was recorded in 1956.

Proponent:

Donnie Corsner, 100 Commonwealth Avenue, Chesapeake, Virginia, applicant.

Board Discussion:

CBPA BOARD VOTE:

Ms. Toida moved to **APPROVE PLN-CBPA-2020-032** based on the findings contained in the Chesapeake Bay Preservation Act Review Committee staff report. Dr. Spaur seconded the motion. The motion was carried by a vote of 7 – 0; Nowak excused.

CBPA APPLICATION:

4. **PLN-CBPA-2020-036**
PROJECT/LOCATION: 1108 Inland Road
APPLICANT: Barend Von Schlichting
PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an **EXCEPTION** to construct a deck addition within the 50-foot seaward portion of the 100-foot RPA buffer. The total proposed additional impervious area will be 300 SF (300 SF in RPA).
SUBDIVISION/LOT #: B SUB LT 1 & 2 JJ Halstead Prop 0.604 AC
WATERSHED: Southern Branch of the Elizabeth River
TAX MAP SECTION/PARCEL: 0461001000020
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CBPA BOARD ACTION:

The CBPA Board **DENIED THE EXCEPTION** requested in PLN-CBPA-2020-036 due to the following findings:

1. The granting of the exception **WOULD** confer upon the applicant special privileges that are denied by this article to other property owners who are subject to its provisions and who are similarly situated.

2. **The exception is NOT in harmony with the purpose and intent of the Chesapeake Bay Preservation Act and IS of substantial detriment to water quality.**
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Staff Presentation:

Mr. Hoar presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. Pictures of the site at 1108 Inland Road were presented. The Board was informed that the applicant is seeking an approval for the authorization to construct a deck addition within the 50-foot seaward portion of the 100-foot RPA buffer. The CBPA Review Committee reviewed this application on August 18, 2020, and recommended approval. The lot was recorded in 1993.

Proponent:

Barend Von Schlichting, 1108 Inland Road, Chesapeake, Virginia, applicant.

Matt Hamel, 901 Anna Joy Court, Chesapeake, Virginia, self.

Board Discussion:

CBPA BOARD VOTE:

Ms. Greene moved to **DENY PLN-CBPA-2020-036** where the facts presented support the following finding: granting of the exception WOULD confer upon the applicant special privileges that are denied by this article to other property owners who are subject to its provisions and who are similarly situated and the exception is NOT in harmony with the purpose and intent of the Chesapeake Bay Preservation Act and IS of substantial detriment to water quality. Dr. Spaur seconded the motion. The motion was carried by a vote of 7 – 0, Nowak excused.

CBPA APPLICATION:

5. **V-20-02(v)**
LOCATION: 712 Greenwing Drive
SHOWCAUSE VIOLATION: Unpermitted addition to an existing deck and tree clearing within the Resource Protection Area (RPA).
SUBDIVISION/LOT #: Wingfield Pointe Lot 60
WATERSHED: Southern Branch of the Elizabeth River
TAX MAP SECTION/PARCEL: 0346010000600

CBPA BOARD ACTION:

The CBPA Board CONTINUED THE VIOLATION in V-20-02(v) to give staff additional time to contact property owner.

Staff Presentation:

Mr. Hoar presented the application to the Board, along with the findings and recommendations. He presented pictures of the site at 712 Greenwing Drive. He stated that the violation was for an unpermitted addition to an existing deck and tree clearing within the Resource Protection Area (RPA). He stated upon the discovery of the violation the property owner was sent two certified letters on March 31, 2020 and August 3, 2020.

Proponent:

Brad Martin, 824 West 21st Street, Norfolk, Virginia, agent. Mr. Martin stated the application has come before the CBPA Board twice before, however, he feels this is a much improved plan. He stated the house was approved for a 10 foot variance which would pull the house further away from the CBPA feature.

Mr. Martin stated that using the 10 feet, a 3 to 1 slope which would put the house at a 6 foot slope, which would be more environmentally sound than a retaining wall surrounding the property. He stated the landscaping proposed also meets or exceeds the City's requirements. Mr. Martin stated there will a bio-retention planting bed along the property to help filter any runoff into the Chesapeake Bay.

Board Discussion:

Mr. Klesch questioned if the Zoning Variance was approved.

Mr. Hoar stated that the Zoning Variance was approved, the variance would place the front of the house 20 feet from the property line instead of 30 feet.

Mr. Klesch questioned why there is a difference in the canopy coverage from the previous applications.

Mr. Hoar stated that according to section seven of the CBPA specifications manual, it states that tidal and subaqueous square footage of lots are not to be included in the canopy calculations. He stated for this lot you would only calculate what is above the tidal and subaqueous area which is 3,812 square feet which would calculate to 1,900 square feet of canopy coverage.

Ms. Toida questioned if the proposed driveway and walkway were concrete.

Mr. Hoar confirmed they would be concrete a driveway and walkway.

Ms. Greene questioned how the elevation would be increased for the slope to raise.

Mr. Martin stated that there would be 3 feet of fill in order to increase the slope of the house.

Ms. Greene questioned if the BMP would just be vegetation planted on the slope.

Mr. Martin stated that they would dig down 18 inches of specialized dirt and fertilizer mixture in order to assist with the runoff. Rain barrels and a French Drain will also be used to assist in pulling the water away from the Chesapeake Bay.

Ms. Toida questioned how much of the lot would be raised by 3 feet.

Mr. Martin stated only under the footprint of the house and the driveway would be raised.

Mr. Klesch questioned if there could be a stipulation that would state there could be no more development applications, this site plan would be the final approval on the property.

Ms. Jacobi stated the CBPA Board cannot put forward a stipulation to limit the amount of development requested by the homeowner.

Ms. Connito questioned if there could be a stipulation to put the house on stilts.

Mr. Martin stated that it was researched to put the house on stilts, however, the area between the house and the concrete driveway would be difficult to manage. He stated that less impervious pavers were also researched instead of a concrete driveway, however, considering the safety of the homeowners, a concrete driveway proved to be safer than pavers.

CBPA BOARD VOTE:

Dr. Spaur moved to **DENY PLN-CBPA-2020-033** where the facts presented support the following finding: The exception is NOT in harmony with the purpose and intent of the Chesapeake Bay Preservation Act and IS of substantial detriment to water quality. Ms. Greene seconded the motion. The motion was carried by a vote of 6-0, Wilson, James and Nowak excused.

OTHER BUSINESS:

- **None**

ADJOURNMENT:

With no further business, the meeting was adjourned at 7:53 P.M.

Sincerely,

Lewis Martinez,
Recording Secretary

EH/lm

APPROVED: October 21, 2020