

Chesapeake Bay Preservation Area Board

Public Hearing Minutes – November 18, 2020 City Council Chambers – 6:00 P.M.

Call to Order: Chairman Chris Wilson called the Chesapeake Bay Preservation Area (CBPA) Board meeting of November 18, 2020, to order at 6:00 p.m. in City Council Chambers.

Roll Call:

PRESENT

Chris Wilson, Chair
Vickie Greene, Member
Kaite James, Member
John Klesch, Member
Cristan Connito, Alternate Member
Karen Toida, Alternate Member

EXCUSED

Henry Curling, Vice-Chair
Stephen F. Nowak, Member
William Spaur, Member

PLANNING DEPARTMENT STAFF PRESENT

Ethan Hoar, CBPA Planner
Gilbert Bostwick, Assistant Planning Director
Lewis Martinez, CBPA Recording Secretary

CITY ATTORNEY STAFF PRESENT

Meredith Jacobi, Assistant City Attorney

APPROVAL OF MINUTES:

The October 21, 2020, CBPA Board minutes were presented into the record for CBPA action.

CBPA BOARD ACTION:

Minutes for the October 21, 2020 CBPA Board were APPROVED by unanimous consent (Greene/Connito).

CBPA APPLICATION:

1. **PLN-CBPA-2018-033**

PROJECT/LOCATION: 1200 George Washington Highway

APPLICANT/AGENT: Larry Johnson/Stokes Environmental

PROPOSAL: An extension of time of the previously approved exception request for authorization to construct 13,210 SF of surface parking, of which 5,746 SF will encroach into the 50-foot landward portion of the 100-foot RPA buffer.

SUBDIVISION/LOT #: PARCEL 1 RESUB A & B PORTION OF GENEVA CORP 1.3067

WATERSHED: Southern Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 0251001000164

CBPA BOARD ACTION:

The CBPA Board APPROVED THE EXCEPTION requested in PLN-CBPA-2018-033 for a period of two (2) years for the previously approved exception.

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 1200 George Washington Highway were presented. The Board was informed that the applicant is seeking an extension of time of the previously approved exception request for authorization to construct 13,210 SF of surface parking, of which 5,746 SF will encroach into the 50-foot landward portion of the 100-foot RPA buffer. The CBPA Review Committee reviewed this application on February 5, 2019, and recommended approval. The lot was recorded in 1964.

Proponent:

Mary Stokes, 4101 Granby Street, Suite 404, Norfolk, Virginia, Agent. Ms. Stokes stated that the Corona Virus pandemic has effected the owner's ability to market and develop the property. The owner is requesting additional time to develop and market the property. She stated that an extension of at least a year is requested.

Larry Johnson, 4101 Granby Street, Suite 404, Norfolk, Virginia, applicant. Mr. Johnson stated that he would be available for questions, if any, from the CBPA Board.

Board Discussion:

Chairman Wilson questioned if there has been a request for a specific time for the extension to last.

Mr. Hoar stated that the applicant has not requested a specific timeframe for the extension, but the applicant is present and they may have specifics on the extension of time requested.

Ms. Greene stated that this applicant is the original owner and their ownership pre-dated the CBPA ordinance.

Mr. Klesch stated he would like to see location of the dumpster moved to a shared location with the neighboring business.

Chairman Wilson questioned how much progress has been made on the property.

Ms. Stokes stated there hasn't been any progress in the development of the property.

Mr. Klesch questioned if there was a customer lined up to move into the property.

Ms. Stokes stated there is not a specific customer as of right now. She stated the Corona virus has hindered the owner's ability to market the property.

Ms. Toida questioned if a customer is found would the site plan have to change if the customer found this site plan did not fit their needs.

Mr. Hoar stated that if the site plan did change it would have to come back to the board.

Ms. Jacobi stated if the exterior of the property does not change it would not have to come back before the board. The use of the property would dictate if a new application has to come before the board.

Chairman Wilson questioned if an extension request has previously come before the board.

Ms. Greene stated that extensions are rare, but she feels the ongoing issues with the Corona virus are a valid reason to seek an extension. She questioned what the regulations are for the time period of granting the extension request.

Ms. Jacobi stated the code says extensions granted by the board shall expire two years after the date of issuance.

CBPA BOARD VOTE:

Ms. Greene moved to **APPROVE PLN-CBPA-2018-033** based on the findings contained in the Chesapeake Bay Preservation Act Review Committee staff report. Ms. Connito seconded the motion. The motion was carried by a vote of 6 – 0; Curling, Nowak and Spaur excused.

CBPA APPLICATION:

2. **PLN-CBPA-2020-042**
PROJECT/LOCATION: 1507 Odman Drive
APPLICANT: Chris and Valorie Lacey
PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an **EXCEPTION** to construct an in-ground pool and associated pool house within the 50-foot seaward portion of the 100-foot RPA buffer. The total proposed additional impervious area will be 1,471 SF (1,471 SF in RPA).
SUBDIVISION/LOT #: Dock Landing Section 4 Phase 7 / Lot 72
WATERSHED: Western Branch of the Elizabeth River
TAX MAP SECTION/PARCEL: 0154001000370
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CBPA BOARD ACTION:

The **CBPA Board DENIED** requested in **PLN-CBPA-2020-042** with the following findings:

1. **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 proposed development would be a 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 1507 Odman Drive were presented. The Board was informed that the applicant is seeking an approval to construct an in-ground pool and associated pool house within the 50-foot seaward portion of the 100-foot RPA buffer. He stated that a previous approval of a pool was granted, but the pool was never installed. The CBPA Review Committee reviewed this application on October 20, 2020, and recommended approval. The lot was recorded in 1999.

Proponent:

Davis Debord, 952 Newell Avenue, Norfolk, Virginia, Agent. He stated that when the pool is built, additional landscaping will help offset the impervious area of the pool. Mr. Debord stated that the site plan and the submitted landscape plan show that they are keeping within the spirit of the CBPA ordinance while giving the homeowner's an area they can use for themselves. They plan to eliminate grass around the pool and use a plantings and a mulch bed to assist in better filtering water runoff into the Chesapeake Bay.

Valorie Lacey, 1507 Odman Drive, Chesapeake, Virginia, Applicant. Ms. Lacey stated they purchased the home and found there was an approval for a pool from the previous owner. She stated that they are not trying to harm the Chesapeake Bay, they are seeking the exception to improve the house and to entertain.

Chris Lacey, 1507 Odman Drive, Chesapeake, Virginia, Applicant. Mr. Lacey stated that he will work to make the property look better and not damage the Chesapeake Bay.

Board Discussion:

Ms. Toida questioned if the pool on the original site plan was located in a previous location.

Mr. Hoar confirmed the location of the pool has been moved on the new site plan.

Chairman Wilson questioned if the current owners are the original owners.

Mr. Debord stated his clients are not the original owners of the property, they purchased the property in January 2020, with the assumption that the previously approved exception for the pool would be granted.

Ms. Toida questioned if the trees shown on the site plan would be able to survive if they are planted close together as shown on the site plan.

Mr. Debord stated that the trees shown were selected to be able to grow under the conditions shown on the site plan.

Mr. Klesch stated that the previous exception granted has long expired and the shore line has changed from that time as well. He questioned if there was a way to move the pool closer to the house.

Mr. Debord stated that there has been changes made to the site plan in order to limit the amount of pervious area and move the pool closer to the house.

Chairman Wilson stated that the deck shown on the approved site plan does not match the deck that is currently built on the property. He questioned if the amount of trees that were shown on the approved site plan does not match the amount of trees that are currently planted on the property, would there be a violation.

Mr. Hoar stated that they are 1300 square feet deficient of the 50% canopy coverage required in the RPA.

Ms. Jacobi stated that the lot is in violation, however, if the application is approved the canopy coverage would have to meet the regulations.

Ms. Greene stated the purpose of the board is to improve and maintain water quality not the aesthetic look of property.

CBPA BOARD VOTE:

Ms. Greene moved to **DENY PLN-CBPA-2020-042** based on the findings contained in the Chesapeake Bay Preservation Act Review Committee staff report. Ms. James seconded the motion. The motion was carried by a vote of 6 – 0; Curling, Nowak and Spaur excused.

CBPA APPLICATION:

3. **PLN-CBPA-2020-048**
PROJECT/LOCATION: 1877 Millville Road
APPLICANT: Laura Sisson
PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an **EXCEPTION** to construct a two-story garage addition and deck within the 50-foot seaward and 50-foot landward portions of the 100-foot RPA buffer. The total proposed additional impervious area will be 1,172 SF (1,172 SF in RPA).
SUBDIVISION/LOT #: Parcel B subdivision of All-State Development Corp.
WATERSHED: Southern Branch of the Elizabeth River
TAX MAP SECTION/PARCEL: 0350000000151

CBPA BOARD ACTION:

The CBPA Board APPROVED THE EXCEPTION requested in PLN-CBPA-2020-048 with the following stipulations:

- 1. The deck is to be uncovered.**
 - 2. A pervious vegetated area is to remain under the deck.**
 - 3. The deck shall be constructed to allow rainwater to drain through the slots of the selected building material.**
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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 1877 Millville Road Avenue were presented. The Board was informed that the applicant is seeking approval to construct a two-story garage addition and deck within the 50-foot seaward and 50-foot landward portions of the 100-foot RPA buffer. The CBPA Review Committee reviewed this application on October 20, 2020, and recommended approval. The lot was recorded in 1975.

Proponent:

Laura Sisson, 1877 Millville Road, Chesapeake, Virginia, applicant. Ms. Sisson stated that it would be a covered deck. She stated after sitting down with their designer that noticed that did not seek approval for the deck on their previous application. She stated that her property has lots of trees and is willing to plant more to improve the water quality.

Christin Sisson, 1877 Millville Road, Chesapeake, Virginia, applicant. Ms. Sisson stated she is not sure what would be placed under the deck and would abide by what the board recommends.

Board Discussion:

Ms. Toida questioned if the above ground pool and surrounding deck were counted as part of the impervious area.

Mr. Hoar stated that it was and that the pool and deck were approved as part of an after-the-fact exception.

Ms. Toida questioned what would be under the deck.

Ms. Greene questioned if the land below the deck would be left open and have vegetation underneath it.

Ms. Laura Sisson confirmed that the property underneath the deck would be left open.

Ms. Toida questioned if the deck would be covered.

Ms. Laura Sisson stated that the plan is to have it covered, but they would have it uncovered if the board recommended it to be uncovered.

Chairman Wilson stated that an uncovered deck with a slotted floor would be better for water runoff compared to a covered deck where runoff would flow in specific directions.

Chairman Wilson questioned why the deck is being proposed on the addition and not on the house in order to keep it out of the 50 foot RPA.

Ms. Christin Sisson stated that she will be living in the addition and would like an area to open up and look out to the water.

Chairman Wilson stated that in his opinion the only way to approve this application is to have the deck uncovered so water can runoff and be properly filtered before going into the Chesapeake Bay.

CBPA BOARD VOTE:

Ms. Greene moved to **APPROVE PLN-CBPA-2020-048** based on the findings contained in the Chesapeake Bay Preservation Act Review Committee staff report. Ms. James seconded the motion. The motion was carried by a vote of 6 – 0; Curling, Nowak and Spaur excused.

OTHER BUSINESS:

- **Election of Board Officers was CONTINUED to the December 16, 2020 CBPA Board Meeting was voted on and approved by unanimous consent (Greene/James).**

ADJOURNMENT:

With no further business, the meeting was adjourned at 7:33 P.M.

Sincerely,

Lewis Martinez,
Recording Secretary

LM/eh