

Chesapeake Bay Preservation Area Board

Public Hearing Minutes – January 18, 2023 City Council Chambers – 6:00 P.M.

Call to Order: Chairman Weckworth called the Chesapeake Bay Preservation Board meeting of January 18, 2023, to order at 6:00 p.m. in the City Council Chambers.

Roll Call:

PRESENT

Bruce Weckworth, Chair
John Klesch, Member
Jillian Sunderland, Member
Victoria Thomas, Member
Karen Toida, Member
Rick Underhill, Alternate Member

EXCUSED

Kimberly Koelsch, Vice Chair
Chris Wilson, Alternate Member

PLANNING DEPARTMENT STAFF PRESENT

Ethan Hoar, CBLP, CBPA Planner
Sherry Carawan, CBPA Recording Secretary
Gilbert Bostwick, AICP, Current Planning Administrator

CITY ATTORNEY STAFF PRESENT

Meredith Jacobi, Assistant City Attorney
Joshua Johnson, Assistant City Attorney

APPROVAL OF MINUTES:

The December 21, 2022, CBPA Board minutes were presented into the record for Board action.

CBPA BOARD ACTION:

MINUTES for the December 21, 2022, CBPA Board were APPROVED by unanimous consent.

CBPA APPLICATION:

1. PLN-CBPA-2022-006

PROJECT/LOCATION: Burrow Avenue

APPLICANT: Gerald Hanssen

OWNER: Richmond Sign Company

AGENCY: Glasser & Macon, P.C.

PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an **EXCEPTION** to construct a storage facility and associated parking lots within the 50-foot landward and 50-foot seaward portions of the 100-foot Resource Protection Area (RPA) buffer. The total proposed additional impervious area will be 15,172 square feet (SF) (15,172 SF in RPA).

SUBDIVISION/LOT #: PT 1-13 PC Water Lots 38 Raleigh Heights

WATERSHED: Southern Branch of the Elizabeth River

TAX MAP PARCEL: 1580000000690

CBPA BOARD ACTION:

The CBPA Board CONTINUED PLN-CPBA-2022-006 to the March 15, 2023, CBPA Board Meeting. (6 - 0; Toida/Thomas, Koelsch and Wilson excused)

Staff Presentation:

Mr. Hoar read PLN-CBPA-2022-006 into the record for the Board's review and action. Mr. Hoar presented the CBPA Review Committee's findings and recommendations and presented pictures of the site.

Proponent:

Gerald Hanssen, 4205 1st Street, Chesapeake, applicant. Mr. Hanssen provided background information and will stand by for questions.

Clay Macon, 1121 S. Military Highway, Chesapeake, agent. Mr. Macon provided background information and will stand by for questions.

James Bradford, 3452 Cricket Hollow Lane, Chesapeake, consultant. Mr. Bradford provided background information and will stand by for questions.

Board Discussion:

Ms. Toida asked if there were any additional plantings on rear of the building along the river. Mr. Hoar stated there were no additional plantings.

Ms. Sunderland asked Mr. Hoar if the south of the building was as close to the set back as possible. Mr. Hoar stated that it was.

Mr. Weckworth asked Mr. Hoar if there will be a bulkhead on the shoreline. Mr. Hoar stated that no hardened structures on the shoreline were proposed as a part of this application.

Ms. Toida asked Mr. Hoar what materials the building would be constructed of. Mr. Hoar stated that he was not sure of the construction materials, but it is proposed to be a storage building.

Mr. Klesch asked Mr. Hoar if the property was located within the Intensely Developed Area (IDA) where the recommended impervious percentage for properties is 52%. Mr. Hoar stated that the property is not located within the IDA District. Mr. Klesch asked Mr. Hoar if the Review Committee had concerns about this project. Mr. Hoar stated that the committee was concerned about the lack of mitigation for stormwater run-off between the proposed building and the water feature itself. However, the applicant is proposing underground stormwater mitigation in the form of retention but there is some apprehension whether the solution is feasible given site conditions.

Mr. Klesch asked Mr. Hanssen if he had given any consideration to combining all three lots to bring the building closer to Bainbridge Blvd. Mr. Hanssen stated that one of the parcels has a different zoning and M-1 is what he wanted for the proposed industrial building.

Mr. Underhill asked Mr. Hanssen if he was aware the property was in the CBPA district when purchased. Mr. Hanssen stated that a title search was done, but that he was not aware of the CBPA conditions when the property was purchased.

Ms. Sunderland asked Mr. Hanssen if he would be willing to change the footprint of the building to allow room for additional landscaping between the building and the waterway. Mr. Hanssen stated he was willing to compromise in order to develop the property.

Mr. Sunderland asked Mr. Bradford about underground storage of rainwater depicted in the parking lot areas. Ms. Sunderland shared her concerns that the water table is too high for this proposal to be successful. Mr. Bradford stated that the intention of the design would be the voids would be filled in during a storm and run-off would be released at a very slow rate so that it meets nutrient reduction levels according to the stormwater management criteria.

Mr. Underhill asked Mr. Bradford if there were any exploratory wells placed on the property to see where the groundwater table is currently located. Mr. Bradford stated no wells had been drilled on the property.

Ms. Toida asked Mr. Bradford what materials will be used to make the building structurally sound. Mr. Bradford stated a geotechnical engineer would be hired later in the development process to address those types of design questions.

Mr. Bradford stated that he understands this is a permitted use. Ms. Jacobi said that the CBPA ordinance deals with vegetation and the footprints of proposed impervious areas. This Board is not approving or limiting a property regarding the zoning law, it is simply approving or limiting impervious area associated with the development of the property.

Ms. Toida asked if the proposal could be changed. Ms. Jacobi stated the applicant is bound to the submitted site plan if the plan were to be approved.

Mr. Bradford asked if they maintain a minimum of 10-foot to 15-foot between the building and the shoreline area for plantings and scale back the building footprint, would that require a continuance in order for the Board to review the final plans.

Ms. Weckworth stated that a continuance would be requested to review the final plan.

Mr. Macon stated that they would like to request a continuance for 60-days to revise the submitted site plan.

CBPA BOARD VOTE:

Karen Toida moved to **CONTINUE PLN-CBPA-2022-006** to the **March 15, 2023, CBPA Board meeting**. Victoria Thomas seconded the motion. The motion was carried by a vote of 6 – 0. Board members Koelsch and Wilson were excused.

CBPA APPLICATION:

2. PLN-CBPA-2022-025

PROJECT/LOCATION: 2876 Martins Point Way

APPLICANT/OWNER: Curtis Williams and Deborah Kulnis

AGENCY: Hassell & Folkes, P.C.

PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an **EXCEPTION** to construct a swimming pool and garage within the 50-foot landward portion of the 100-foot Resource Protection Area (RPA) buffer. The total proposed additional impervious area will be 1,407 square feet (SF) (335 SF in RPA).

SUBDIVISION/LOT #: Martins Point / Lot 20

WATERSHED: Western Branch of the Elizabeth River

TAX MAP PARCEL: 0101016000200

CBPA BOARD ACTION:

The CBPA Board **GRANTED THE EXCEPTION** requested in **PLN-CBPA-2022-025** with the following stipulation: (6 – 0; Thomas/Underhill, Koelsch and Wilson excused)

- 1. The submitted landscape plan titled, “Planting Plan Curtis Williams Residence Lot 20, Martins Point Way, Chesapeake, Virginia” completed by Elizabeth Design Build dated November 14, 2022, shall be implemented as depicted.**
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Staff Presentation:

Mr. Hoar read PLN-CBPA-2022-025 into the record for the Board's review and action. Mr. Hoar presented the CBPA Review Committee's findings and recommendations and presented pictures of the site.

Proponent:

Curtis Williams 2876 Martins Point Way, Chesapeake, Virginia, applicant. Mr. Williams presented background information and will stand by for questions.

Deborah Kulnis 2876 Martins Point Way, Chesapeake, Virginia, applicant. Ms. Kulnis provided background information and will stand by for questions.

Board Discussion:

Ms. Sunderland asked about setback requirements. Mr. Hoar stated that the setback requirements have been successfully met and have been confirmed by the Zoning Department.

Mr. Underhill asked about the reduction of total impervious area. Mr. Hoar stated they are reducing the total impervious footprint 400 square feet from 1,807 to 1,407 with a 115 square feet reduction in the RPA buffer. All encroachment is proposed to be in the landward portion of the buffer.

Mr. Klesch asked Ms. Kulnis if she was still working with the Elizabeth River Project. Ms. Kulnis stated they are still working on a plan.

Mr. Underhill asked if the owner had any details on the recommendations of what type of plants will be used in the plan designed by the Elizabeth River Project. Mr. Weckworth stated that they are still working on the plan, and those specifics are not yet available.

Ms. Sunderland asked Mr. Hoar about additional canopy coverage. Mr. Hoar stated that a landscape plan is still being proposed as mitigation by the applicant. If the Board moves toward approval, the landscape plan could be stipulated as a condition of approval.

CBPA BOARD VOTE:

Ms. Thomas moved to **GRANT THE EXCEPTION requested in PLN-CBPA-2022-025** with the stipulation as recommended by the CBPA Review Committee. Mr. Underhill seconded the motion. The motion was carried by a vote of 6 – 0. Board members Koelsch and Wilson were excused.

CBPA APPLICATION:

3. PLN-CBPA-2022-027

PROJECT/LOCATION: 5432 Royal Tern Court

APPLICANT/OWNER: Samantha and Nicholas Lindstrom

PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an **EXCEPTION** to construct a swimming pool within the 50-foot landward and 50-foot seaward portions of the 100-foot Resource Protection Area (RPA) buffer. The total proposed additional impervious area will be 708 square feet (SF) (708 SF in the RPA).

SUBDIVISION/LOT #: Lakes of Jolliff / Lot 19 Phase 1

WATERSHED: Western Branch of the Elizabeth River

TAX MAP PARCEL: 0221004000190

CBPA BOARD ACTION:

The CBPA Board **GRANTED THE EXCEPTION** requested in **PLN-CBPA-2022-027** with the following stipulations: (6 – 0; Underhill/Toida, Koelsch and Wilson excused)

1. In addition to the 11 large canopy trees (LCT) depicted on the submitted site plan, a six (6) foot wide mulched planting bed shall be installed along the entirety of the western property boundary. Species of the plantings to be located within the mulched bed shall be chosen from the “Riparian Buffers Modification and Mitigation Manual” Appendix A.
 2. The total impervious area shall be reduced from 30.3% of the lot area to the ISHED recommended amount of 28% for the Southern Branch of the Elizabeth River watershed. The revised total impervious area shall be no more than 3,138 SF.
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Staff Presentation:

Mr. Hoar read PLN-CBPA-2022-027 into the record for the Board’s review and action. Mr. Hoar presented the CBPA Review Committee’s findings and recommendations and presented pictures of the site.

Proponent:

Allen Whitmore, 1500 Alameda Avenue, #115, Norfolk, Virginia, agent. Mr. Whitmore presented background information and will stand by for questions.

Nicholas Lindstrom, 5432 Royal Tern Court, Chesapeake, Virginia, applicant. Mr. Lindstrom presented background information and will stand by for questions.

Samantha Lindstrom, 5432 Royal Tern Court, Chesapeake, Virginia, applicant. Ms. Lindstrom presented background information and will stand by for questions.

Board Discussion:

Mr. Underhill asked if there were additional plantings around the mulch bed. Mr. Hoar stated that thirteen (13) small canopy trees and three (3) large canopy trees are proposed as mitigation vegetation and do not currently exist.

Mr. Klesch asked Mr. Hoar if there is a door on the back of the home. Mr. Hoar stated that there is a back door leading to the deck.

Mr. Underhill asked what size pool is recommended for therapy. Ms. Lindstrom stated that an 11 x 28 size pool is recommended for therapy. The current proposed pool size is 14 x 28.

Ms. Toida stated the pool should be the minimum size to afford relief.

CBPA BOARD VOTE:

Mr. Underhill moved to **GRANT THE EXCEPTION requested in PLN-CBPA-2022-027** with the following stipulations as recommended by the CBPA Review Committee. Ms. Toida seconded the motion. The motion was carried by a vote of 6 – 0. Board members Koelsch and Wilson were excused.

CBPA APPLICATION:

4. PLN-CBPA-2022-028

PROJECT/LOCATION: 1776 Rockwood Drive

APPLICANT/OWNER: Trenton Walker

AGENCY: American Engineering

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 and 50-foot landward portions of the 100-foot Resource Protection Area (RPA) buffer. The total proposed additional impervious area will be 3,381 square feet (SF) (3,381 SF in RPA).

SUBDIVISION/LOT #: Parkview Section 2 / Lot 16 Block 7

WATERSHED: Southern Branch of the Elizabeth River

TAX MAP PARCEL: 0344002003750

CBPA BOARD ACTION:

The CBPA Board **GRANTED THE EXCEPTION requested in PLN-CBPA-2022-028 with the following stipulations:** (5 – 0; Toida/Underhill, Weckworth abstained, Koelsch and Wilson excused)

- 1. In addition to the 11 large canopy trees (LCT) depicted on the submitted site plan, a six (6) foot wide mulched planting bed shall be installed along the entirety of the western property boundary. Species of the plantings to be located within the mulched bed shall be chosen from the “Riparian Buffers Modification and Mitigation Manual” Appendix A.**
 - 2. The total impervious area shall be reduced from 30.3% of the lot area to the ISHED recommended amount of 28% for the Southern Branch of the Elizabeth River watershed. The revised total impervious area shall be no more than 3,138 SF.**
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Staff Presentation:

Mr. Hoar read **PLN-CBPA-2022-028** into the record for the Board’s review and action. Mr. Hoar presented the CBPA Review Committee’s findings and recommendations and presented pictures of the site.

Proponent:

Trenton Walker, 1208 Spratley Street, Portsmouth, Virginia, applicant. Mr. Walker provided background information and will stand by for questions.

Opponent:

Justin Jackson, 1779 Rockwood Drive, Chesapeake, Virginia, citizen. Mr. Jackson stated his concern about the flooding in the area and the large size of the home proposed for the lot.

Board Discussion:

Ms. Toida asked about the reduction of impervious area from the previously approved plan to the proposed plan. Mr. Hoar stated there was about 300 square feet of impervious area reduction. The newly proposed plan depicts 3,381 square feet and the previous was 3,678 square feet.

Mr. Underhill asked about the percentage of the impervious area located in the seaward buffer. Mr. Hoar stated that they are proposing 1,316 square feet to be in the 50-foot landward area of the buffer and 2,065 square feet to be in the seaward portion of the buffer.

Mr. Klesch asked if the lot will be clear cut and fill brought in to raise the elevation of the lot. Mr. Walker stated his intention is to maintain the current trees that are there and will only be clearing the area where the home is built.

Ms. Toida stated the attached garage is pushed to the back of the home and it could be moved forward and some of it could be moved into the 500-foot landward portion of the buffer.

Mr. Underhill asked about the seaward portion of this property and the reasons for the Review Committees approval. Mr. Hoar stated there was an approval in 2017 and that approval was for a larger footprint and the committee felt the mitigation was suffice for what was being shown and what was originally approved in 2017.

Ms. Sunderland asked about the reduction of impervious cover and addition to the Review Committees recommendation to include the 6 feet planting bed along the western boundary.

Ms. Toida questioned the size of the deck. Mr. Hoar stated it was 12 x 34.

Ms. Sunderland stated that it may be appropriate to include a stipulation in reduction in the impervious area whether to make the deck smaller and the relocation of the garage. Mr. Hoar stated that the CBPA Board has the authority to create a stipulation that would be specific about those proposed reductions. Mr. Hoar stated that the stipulations would be provided to the applicant and the applicant would have the site plan revised to satisfy all stipulations. Once that is completed the project can move forward in the development process.

Mr. Klesch asked about the recommended ished percentage of 28%, while the proposed structure is 33 percent. Mr. Klesch asked about the length of the driveway. Mr. Walker stated that they are proposing a one car garage and since there is no on street parking, the attached garage was being proposed.

Ms. Toida stated that she would like to see the garage moved forward as it could create a substantial reduction.

Assistant City Attorney Jacobi provided the following language to use for the Chesapeake Bay Preservation Area Board to enter a closed session in accordance with Virginia code section 2.2-3711A8 for the purpose of consultation of legal counsel employed by the public body regarding specific legal matters in order to obtain legal advice about the fact of the prior application for 1776 Rockwood Drive on a current application.

Board member Underhill, on a motion seconded by Board Member Toida, moved approval of the Closed Meeting. There was no discussion. Voting yes, Board member Toida, Thomas, Sunderland, Klesch and Underhill. Voting no: None (Board Member Weckworth abstained)

Assistant City Attorney Jacobi asked Madam Chairman if there is a motion to certify to the best of the members knowledge only public business matters lawfully exempt under Virginia code section 2.2-3711A8 for the purpose of conversation with legal counsel that were identified in the motion or discussed in the closed session.

Ms. Sunderland responded so moved on a motion seconded by Board Member Toida . Voting yes Board Members Toida, Thomas, Sunderland, Klesch, and Underhill. Voting no: None (Board Member Weckworth abstained).

Ms. Toida stated that prior to entering the closed session, the board discussed reducing the proposed footprint of the structure to meet the recommended ished number of 28 percent and asked Mr. Hoar what the previously approved stipulations were. Mr. Hoar presented the 2017 stipulations as follows: 10 large canopy trees planted and installed in the RPA and the second stipulation that a bioretention planting bed be continuously maintained and kept in proper functioning condition. Ms. Toida stated that she would like to include those with the new stipulations.

Ms. Sunderland stated that the Review Committee had a different stipulation as follows: In addition to the eleven (11) large canopy trees depicted on the site plan a 6-foot-wide mulched planting bed be installed along entirety of the western property boundary.

CBPA BOARD VOTE:

Ms. Toida moved to **GRANT THE EXCEPTION requested in PLN-CBPA-2022-028** with stipulations as recommended by the CBPA Review Committee. Mr. Underhill seconded the motion. The motion was carried by a vote of 5 – 0; Weckworth abstained. Board members Koelsch and Wilson were excused.

OTHER BUSINESS:

- City Attorney's office provided a staffing update
- Ms. Sunderland provided Board members with information regarding regional CBPA outreach and education completed by the Hampton Roads Planning District Commission

ADJOURNMENT:

With no further business, the meeting was adjourned at 8:28 PM
Sincerely,

Sherry Carawan
Recording Secretary

EH/sc

APPROVED: March 15, 2023