

**APPROVED**

***Chesapeake Bay Preservation Area Board***

**Public Hearing Minutes – April 19, 2023  
City Council Chambers – 6:00 P.M.**

**Call to Order:** Chair Weckworth called the Chesapeake Bay Preservation Board meeting of April 19, 2023, to order at 6:00 p.m. in the City Council Chambers.

**Roll Call:**

**PRESENT**

Bruce Weckworth, Chair  
Kimberly Koelsch, Vice Chair  
John Klesch, Member  
Jillian Sunderland, Member  
Victoria Thomas, Member  
Karen Toida, Member  
Chris Wilson, Alternate Member  
VACANT, Alternate Member

**EXCUSED**

Rick Underhill, 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**

Joshua Johnson, Assistant City Attorney

**APPROVAL OF MINUTES:**

The March 15, 2023, CBPA Board minutes were presented into the record for Board action.

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**CBPA BOARD ACTION:**

**MINUTES for the March 15, 2023, CBPA Board were APPROVED by unanimous consent.**  
(Underhill excused)

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**CBPA APPLICATION:**

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1. **PLN-CBPA-2023-004**

**PROJECT/LOCATION:** 1880 Ames Circle

**APPLICANT/OWNER:** John and Kelley McKee

**AGENCY:** Chesapeake Bay Site Solutions, Inc.

**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 portion of the 100-foot Resource Protection Area (RPA) buffer. The total proposed additional impervious area will be 1,509 square feet (SF) (996 SF in RPA).

**SUBDIVISION/LOT #:** Raleigh Place / Lot 150 Section 4

**WATERSHED:** Western Branch of the Elizabeth River

**TAX MAP PARCEL:** 0164004001500

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**CBPA BOARD ACTION:**

**The CBPA Board GRANTED THE EXCEPTION requested in PLN-CBPA-2023-004 as submitted.** (7 – 0; Wilson/Koelsch, Underhill excused)

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Staff Presentation:

Mr. Hoar read PLN-CBPA-2023-004 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:

Mr. John McKee, 1880 Ames Circle West, Chesapeake, Virginia, applicant. Mr. McKee provided background information and will standby for questions.

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**CBPA BOARD VOTE:**

Mr. Wilson moved to **GRANT THE EXCEPTION** requested in **PLN-CBPA-2023-004** as submitted. Ms. Koelsch seconded the motion. The motion was carried by a vote of 7 – 0. Board member Rick Underhill was excused.

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**CBPA APPLICATION:**

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**2. PLN-CBPA-2023-008**

**PROJECT/LOCATION:** 2865 Martins Point Way

**APPLICANT/OWNER:** Sandra and Milton Brown

**AGENCY:** Hassell & Folkes, P.C.

**PROPOSAL:** In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an **EXCEPTION** for a swimming pool within the 50-foot landward portion of the 100-foot Resource Protection Area (RPA) buffer. The total proposed additional impervious area will be 1,034 square feet (SF) (977 SF in RPA).

**SUBDIVISION/LOT #:** Martins Point / Lot 24

**WATERSHED:** Southern Branch of the Elizabeth River

**TAX MAP PARCEL:** 0101016000240

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**CBPA BOARD ACTION:**

**The CBPA Board DENIED THE EXCEPTION** requested in **PLN-CBPA-2023-008**. (4 - 3; Wilson/Toida, Weckworth, Koelsch and Klesch opposed, Underhill excused)

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**Staff Presentation:**

Mr. Hoar read PLN-CBPA-2023-008 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:**

Mr. Lynn Evans, Hassell & Folkes, 325 Volvo Parkway, Chesapeake, Virginia, agent. Mr. Evans provided background information and will stand by with questions.

**Board Discussion:**

Ms. Toida asked Mr. Hoar if the existing trees would be disturbed and if it was sand depicted on the Landscape plan along the shoreline. Mr. Hoar stated that it is shown on the plan to remain as lawn and Mr. Hoar is not aware of any associated disturbance along the shoreline.

Chairman Weckworth asked Mr. Hoar about the 10-foot drop to the water. Mr. Hoar stated that the topography of the site had a substantial drop from the backyard into the water feature.

Mr. Klesh asked Mr. Hoar about the size of the pool. Mr. Hoar stated that the pool was proposed to be 16' x 32' with a four-foot paver apron.

Ms. Koelsch asked Mr. Hoar if the applicant was aware of the Review Committees decision prior to the Board meeting. Mr. Hoar stated that the action letter was sent to the agent/applicant the day of the Review Committee meeting, so the applicant was aware of the committee's recommendation of denial.

Ms. Sunderland asked Mr. Hoar about a pool in the aerial view that is two lots south and what the Board's decision was for that pool. Mr. Hoar stated that it was approved by the Board as an exception request, along with two additional exceptions for swimming pools within the Martins Point neighborhood.

Ms. Toida asked Mr. Evans why the landscape area by the water was colored differently on the landscape plan than the rest of the lawn. Mr. Evans stated he did not know. Ms. Toida asked Mr. Evans about the pool location and why it was six (6) feet off the structure. Mr. Evans stated that was because the applicant intended to use those six feet as an area for landscaping.

Ms. Sunderland asked Mr. Evans what will remain and what will be disturbed on the landscape plan. Mr. Evans stated that there were multiple scrub brush shrubs and small immature trees, some three (3) inches in diameter at best, and that all the existing vegetation was to be left undisturbed. The only disturbance of vegetation associated with the installation of the pool was removal of managed turf grass.

Mr. Hoar provided information to the Board regarding the three other exceptions that had been approved by the Board in the same neighborhood.

Mr. Wilson asked Mr. Hoar about the recommendation of denial from the Review Committee for this application in relation to the other exception applications that had been submitted and approved by the Board in Martins Point. Mr. Hoar stated that the committee had recommended denial of all the exception applications that had been submitted in this neighborhood.

Mr. Klesch stated that he would like to see the applicant work with the Elizabeth River Project and would not want to see any extension of the lawn down by the river.

Ms. Toida asked Mr. Johnson if the Board is allowed to stipulate anything in the RMA. Mr. Johnson stated that you can stipulate reasonable mitigation for impervious surface area within the RPA if the Board is only mitigating those areas that it has jurisdiction over. Ms. Toida asked Mr. Johnson if the Board had jurisdiction in the RMA. Mr. Johnson stated that the Board is free to consider any mitigation within the RMA as the RMA and RPA both make up the CBPA District.

Ms. Koelsch asked Mr. Evans if there was any consideration given to doing pervious pavers or landscaping around the pool. Mr. Evans stated that they will be using pervious pavers.

Ms. Koelsch asked Mr. Evans If the applicant would be willing to work with City staff to reduce some of the impervious square footage for this plan. Mr. Evans stated that the applicant would be willing to do so.

The Board discussed the specifics of the application including the idea that the value of the property should not affect the way exception applications are reviewed and ultimately decided.

Ms. Thomas stated her concern that the entire pool is in the RPA and there is no other feasible location on the property to move it out of the RPA.

Mr. Wilson moved to deny the application PLN-CBPA-2023-008 because the facts do not support the findings required to grant the exception in the CBPA Ordinance. The requested exemptions are not enough to afford the necessary relief. Ms. Toida seconded the motion.

Ms. Koelsch asked about the process for the homeowner if the application is denied. Mr. Hoar stated they can wait one year and reapply, or as the ordinance states a substantial reduction in the RPA buffer could be made.

**CBPA BOARD VOTE:**

Mr. Wilson moved to **DENY THE EXCEPTION** requested in **PLN-CBPA-2023-008**. Ms. Toida seconded the motion. The motion was carried by a vote of 4 – 3. Board members Weckworth, Koelsch and Klesch opposed. Board member Rick Underhill was excused.

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**OTHER BUSINESS:**

There was no other business discussed at the meeting.

**ADJOURNMENT:**

With no further business, the meeting was adjourned at 6:51 PM.

Sincerely,

Sherry Carawan,  
Recording Secretary

EH/sc

**APPROVED: May 17, 2023**