

Chesapeake Bay Preservation Area Board

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

Call to Order: Chairman Weckworth called the Chesapeake Bay Preservation Board meeting July 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
Victoria Thomas, Member
Karen Toida, Member
Rick Underhill, Member
Chris Wilson, Alternate Member
VACANT, Alternate Member

EXCUSED

Jillian Sunderland, Member

PLANNING DEPARTMENT STAFF PRESENT

Gilbert Bostwick, AICP, Current Planning Administrator
Sherry Carawan, CBPA Recording Secretary
William Miller, CZA, Principal Planner

CITY ATTORNEY STAFF PRESENT

Joshua Johnson, Assistant City Attorney

APPROVAL OF MINUTES:

The May 17, 2023, CBPA Board minutes were presented into the record for Board action.

CBPA BOARD ACTION:

MINUTES for the May 17, 2023, CBPA Board were APPROVED by unanimous consent.
(Sunderland excused)

CBPA APPLICATION:

1. **PLN-CBPA-2022-006**

PROJECT/LOCATION: Burrow Avenue

APPLICANT/OWNER: Richmond Sign Company

AGENCY: Glasser & Macon, PC

PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an EXCEPTION to construct a commercial structure 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 12,890 square feet (SF) (12,890 SF in RPA).

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

WATERSHED: Southern Branch of the Elizabeth River

TAX MAP PARCEL: 1580000000690

CBPA BOARD ACTION:

The CBPA Board GRANTED THE EXCEPTION requested in PLN-CBPA-2022-006 with the following stipulations: (5 – 2; Klesch/Underhill, Sunderland excused)

1. **The building footprint shall be reduced. Approximately 900 square-feet (SF) of impervious area can be eliminated by removing the “bump-out” as depicted in the attached site plan.**
2. **Each office space shall be reduced to 200 SF. This will eliminate a total of four (4) parking spaces (One (1) per office space).**
3. **The parking be updated to only include the minimum number of spaces required per the Chesapeake Zoning Ordinance (CZO) based on the revised building dimensions.**

4. **The rear-yard, or southern portion of the site, shall remove all turf grass and be converted into a mulched planting bed. This area shall extend from the edge of the impervious parking areas and building to the three (3) foot contour line.**
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Staff Presentation:

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

Proponent:

Mr. Gerald Hanssen, 4201 First Street, Chesapeake, VA, Richmond Sign Company, applicant. Mr. Hanssen provided background information and will stand by for questions.

Mr. Melvin Hopkins, 4201 First Street, Chesapeake, VA, Richmond Sign Company, agent. Mr. Hopkins provided background information and will stand by for questions.

Board Discussion:

Mr. Klesch asked Mr. Bostwick if the "bump out" was removed if that would reduce the isite percentage. Mr. Bostwick stated if the "bump out" is removed it would reduce the isite. Mr. Klesch asked if the reduced office space would require less parking spaces. Mr. Bostwick stated the parking spaces closest to Burrow Avenue could be reduced and would further decrease the isite percentage.

Mr. Underhill and Mr. Hopkins discussed engineering specifications of the proposed BMPs.

Mrs. Koelsch asked Mr. Hopkins if he had a chance to see the recommendations for removing the "bump out" and how it would affect the nutrient loading. Mr. Hopkins stated that he was confident that stormwater quality requirements could be met.

Mr. Bostwick stated that with the removal of the bump out and the 4 parking spaces the isite would be reduced by 4.23 percent and would bring the total isite down to 30.97 percent.

Mr. Underhill asked Mr. Bostwick about the stipulation speaking to the turf grass and mulched planting bed. Mr. Bostwick stated that the mulch bed replacing the turf grass would include all the vegetation that is shown on the landscaping plan.

Mr. Klesch made a motion to approve the application based on the findings stated in the staff report including the four (4) stipulations. Mr. Underhill seconded the motion.

CBPA BOARD VOTE:

John Klesch moved to **GRANT THE EXCEPTION requested in PLN-CBPA-2022-006** with the stipulation(s) as recommended by the CBPA Review Committee. Rick Underhill seconded the motion. The motion was carried by a vote of 5 – 2. Board members Toida and Wilson voted against the motion. Board member Sunderland was excused.

CBPA APPLICATION:

2. **PLN-CBPA-2023-014**

PROJECT/LOCATION: 2865 Martins Point Way

APPLICANT/OWNER: Milton and Sandra Brown

AGENT: 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 within the 50-foot landward portion of the 100-foot Resource Protection Area (RPA) buffer. The total proposed additional impervious area will be 845 square feet (SF) (809 SF in RPA).

SUBDIVISION/LOT #: Martins Point / Lot 24

WATERSHED: Western Branch of the Elizabeth River

TAX MAP PARCEL: 0101016000240

CBPA BOARD ACTION:

The CBPA Board CONTINUED PLN-CPBA-2023-014 to the September 20, 2023, CBPA Board Meeting. (6 – 1; Klesch/Underhill; Sunderland excused)

Staff Presentation:

Mr. Bostwick read PLN-CBPA-2023-014 into the record for the Board's review and action. Mr. Bostwick presented the CBPA Review Committee's findings and recommendations and presented pictures of the site.

Proponent:

Mr. Lynn Evans, 807 Greenbrier Circle, Chesapeake, Virginia, agent. Mr. Evans provided background information and will stand by for questions.

Mr. Milton Brown 2865 Martins Point Way, Chesapeake, Virginia, applicant. Mr. Brown provided background information and will stand by for questions.

Ms. Sandra Brown 2865 Martins Point Way, Chesapeake, Virginia, applicant., Ms. Brown provided background information and will stand by for questions.

Board Discussion:

Mr. Wilson asked Mr. Bostwick why the application was brought back before the Board as it was Denied at the April meeting. Mr. Bostwick stated that Mr. Hoar determined there was a substantial reduction based on the criteria and therefore it was allowed to be brought back before the Board.

Ms. Toida asked Mr. Bostwick what changes were made from the original to the proposed plan. Mr. Bostwick explained there was a reduction in the pool size from 16 x 32 feet to 14 x 28 feet.

Ms. Toida asked Mr. Bostwick about the Review Committee's recommendation of Denial. Mr. Bostwick stated that the Review Committee felt that moving the pool would help reduce the impervious area even more.

Mr. Wilson asked Mr. Brown if the inability to see the pool if it was moved to the side of the house was the only reason for not moving the pool. Mr. Brown stated that there is also an irrigation well in the suggested area for the pool.

Mr. Underhill asked Ms. Brown how much time would be needed if it was to be continued. Chairman Weckworth stated that a continuance would be a minimum of sixty (60) days.

Mr. Wilson asked if there was a major change to the site plan, would this need to go back to the Review Committee. Mr. Bostwick stated that it would have to go back to the Review Committee for a major change.

Mr. Klesch made a motion to continue the application for sixty (60) days for further coordination with the Elizabeth River Project for landscaping and relocation of the pool. Mr. Underhill seconded the motion.

CBPA BOARD VOTE:

Mr. Klesch moved to **CONTINUE PLN-CBPA-2023-014** for sixty (60) days to the September 20, 2023, CBPA Board meeting. Mr. Underhill seconded the motion. The motion was carried by a vote of 6 – 1. Board member Toida voted against the motion. Board member Sunderland was excused.

CBPA VIOLATION APPLICATION:

3. PLN-CBPA-2023-017

PROJECT/LOCATION: 611 Beech Street

APPLICANT/OWNER: Connor Haley LLC

AGENT: Lindsay Christman

PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an EXCEPTION to construct a duplex 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 2,932 square feet (SF) (2,136 SF in RPA).

SUBDIVISION/LOT #: South Norfolk Heights / Lot 40

WATERSHED: Southern Branch of the Elizabeth River

TAX MAP PARCEL: 1390000000760

CBPA BOARD ACTION:

The CBPA Board GRANTED THE EXCEPTION requested in PLN-CBPA-2023-017 with the following stipulations: (7 – 0; Toida/Underhill, Sunderland excused)

- 1. All existing and proposed structures shall be removed from the 50-foot seaward portion of the RPA buffer. This will include the existing shed as well as the proposed decks. Only the minimum landing and stairs required by the building code will be permitted. See attached site plan with mark ups.**
 - 2. A six (6) foot wide continuous mulched planting bed shall be installed along the 6' contour line from the eastern property boundary to the western property boundary. Plantings placed within the bed shall count towards overall canopy coverage requirements within the RPA. Plantings shall be selected from the Riparian Buffers Modification & Mitigation Guidance Manual.**
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Staff Presentation:

Mr. Bostwick read PLN-CBPA-2023-014 into the record for the Board's review and action. Mr. Bostwick presented the CBPA Review Committee's findings and recommendations and presented pictures of the site.

Proponent:

Ms. Lindsay Christman, 1439 N. Great Neck Road, Virginia Beach, Virginia, applicant. Ms. Christman gave background information and will stand by for questions.

Board Discussion:

Mr. Underhill asked Mr. Bostwick if the steps to the deck will require a landing. Mr. Bostwick stated the steps would require a landing. Mr. Underhill asked Mr. Bostwick about the swales on both sides of the property. Mr. Bostwick stated the swales are for stormwater conveyance only.

Mr. Klesch asked Mr. Bostwick which tree on the property would be removed. Mr. Bostwick stated that it would be the tree closest to the shed.

Ms. Toida asked Ms. Christman what the footprint was for the proposed duplex, Ms. Christman stated it was 40 feet wide x 42 feet deep which does not include the deck. The decks are 12 feet wide by eight (8) feet deep. Ms. Toida asked Ms. Christman if they had considered making the footprint smaller. Ms. Christman stated it would greatly reduce the livability of the property.

Ms. Thomas asked Mr. Bostwick what the impervious space of the shed would be. Mr. Bostwick stated that the existing impervious area would be 142 square feet.

Mr. Bostwick stated the site is already below the shed for the area. The Review Committee was focused on the encroachment into the RPA not necessarily looking at how to reduce into the seaward portions of the RPA and not looking at taking a few square feet off the landward as a principal structure

is a permitted use. They were focused on the deck encroachment into the seaward portion of the buffer as not being the minimum necessary to afford relief.

Mr. Bostwick stated the first stipulation speaks to proposed structures be removed from the seaward buffer. There is some room for the stairs and a small amount of deck. Proper access by a landing is required for the deck.

Mr. Underhill asked if there is a minimum size for the landing outside of the rear door. Mr. Miller stated that it must be three feet out from the width of the door. The landing should be three (3) feet by three (3) feet. The steps are typically three (3) feet wide. Mr. Bostwick mentioned that the home will be elevated as they are in the flood zone and would require multiple steps.

Ms. Toida stated the Review Committee is recommending a six-foot mulch planting bed along the six (6)-foot contour line. Mr. Bostwick stated the plantings in the mulch bed will count towards the canopy coverage requirements in the RPA.

Ms. Koelsch asked Ms. Christman if they would be amenable to reduce the deck somewhat. Ms. Christman stated that they would be open to downsizing the deck.

Ms. Toida stated that the deck be removed from the 50 ft seaward buffer. Chairman Weckworth stated that it could not be completely removed. Mr. Bostwick offered a suggestion to be prescriptive and say that the deck only be three feet in depth to match the stairs.

Ms. Toida made a motion to approve the application based on the findings of the CBPA Review Committee including the conditions and stipulations recommended by the Review Committee in the report.

Ms. Thomas asked for clarification of the motion. Mr. Bostwick stated that the deck would not be removed. The stipulation states that the deck be removed from the 50-foot seaward buffer. Mr. Bostwick stated that by taking off four (4) or five (5) feet would bring it out of the seaward buffer, essentially being the same width as the three-foot stairs. Ms. Thomas stated the stairs would still be in the seaward buffer. Ms. Toida stated she would add to the motion that the stairs and deck should be the same width. Mr. Underhill seconded the motion.

CBPA BOARD VOTE:

Ms. Toida moved to **GRANT THE EXCEPTION requested in PLN-CBPA-2023-017** with the stipulation(s) as recommended by the CBPA Review Committee. Rick Underhill seconded the motion. The motion was carried by a vote of 7 – 0. Board member Sunderland was excused.

OTHER BUSINESS:

There was no other business discussed at the meeting.

ADJOURNMENT:

With no further business, the meeting was adjourned at 7:55 PM

Sincerely,

Sherry Carawan,
Recording Secretary
EH/sc

APPROVED: September 20, 2023