

**MINUTES**

**Chesapeake Bay Preservation Area  
Board**

**February 21, 2018 – 6:00 PM**

Human Resources Training Room

**Call to Order:** Chair Stephen Nowak called the Chesapeake Bay Preservation Board meeting of February 21, 2018, to order at 6:00 p.m. in the Human Resources Training Room.

**Roll Call:**

**PRESENT**

Stephen F. Nowak, Chair  
Chris Wilson, Vice-Chair  
Henry Curling, Member  
William Spaur, Member  
Rusty Barath, Member  
John A. Sherman, Member  
John Klesch, Alternate Member

**ABSENT**

Vickie Greene, Member  
Kaite James, Alternate Member

**PLANNING DEPARTMENT STAFF PRESENT**

Michael Anaya, CBPA Planner  
Jennifer Joseph, CBPA Recording Secretary

**CITY ATTORNEY STAFF PRESENT**

Meredith Jacobi, Assistant City Attorney

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**APPROVAL OF MINUTES:**

The December 20, 2017 CBPA Board minutes were presented into the record for Board action.

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**CBPA BOARD ACTION:**

**MINUTES** for the December 20, 2017 CBPA Board were **APPROVED** by unanimous consent.

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**CBPA APPLICATION:**

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1. **PLN-CBPA-2017-056**  
**PROJECT/LOCATION:** Deck Expansion/2245 Angler Lane  
**APPLICANT/AGENT:** David Luther/Casa Decks  
**PROPOSAL:** In accordance with Section 26-528 of the Chesapeake City Code, the applicant is seeking an **EXCEPTION** for expansion of an existing deck by 80 SF within the 50-foot landward portion of the 100-foot RPA buffer (80 SF within RPA).  
**SUBDIVISION/LOT #:** 72 MILL CREEK HARBOR PH 2  
**WATERSHED:** Southern Branch of the Elizabeth River  
**TAX MAP SECTION/PARCEL:** 0462004000720
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**CBPA BOARD ACTION:**

The **CBPA Board APPROVED** (7-0; Wilson/Spaur; Greene and James absent) **PLN-CBPA-2017-056** for a period of two years.

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Staff Presentation:

Mr. Anaya presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. He presented pictures of the site at 2245 Angler Lane. He stated that the applicant seeks an exception for expansion of an existing

deck by 80 SF within the 50-foot landward portion of the 100-foot RPA buffer. No vegetative mitigation is required.

Proponent:

George Drummond, CASA Decks, 1565 Lake James Drive, Virginia Beach, Virginia, agent. Mr. Drummond explained the project. He stated that with the composite decking they are required to gap it by ¼ of an inch.

Board Discussion:

Mr. Nowak asked staff if the deck is considered impervious or semi-pervious. Mr. Anaya stated that for purposes of the CBPA Ordinance, it is considered impervious, but, it may actually be somewhat pervious depending on the treatment of the ground under the deck and gaps in the deck boards. Mr. Wilson stated that if tongue and groove joinery were used and water drains to one side it could be considered impervious.

**CBPA BOARD VOTE:**

Mr. Wilson moved to **APPROVE PLN-CBPA-2017-056** for a period of two years. Dr. Spaur seconded the motion. The motion was carried by a vote of 7 – 0, Greene and James was absent.

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2. **PLN-CBPA-2017-057**

**PROJECT/LOCATION:** Home Addition/706 Seagrass Reach

**APPLICANT:** Edward Foster & Melody Morrow

**PROPOSAL:** In accordance with Section 26-528 of the Chesapeake City Code, the applicant is seeking an **EXCEPTION** for a 406 SF room addition within the 50-foot seaward portion of the 100-foot RPA buffer (406 SF within RPA).

**SUBDIVISION/LOT #:** 35B RESUB LTS 35A RIVER WALK SEC L-4

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

**TAX MAP SECTION/PARCEL:** 0369006000351

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**CBPA BOARD ACTION:**

The **CBPA Board APPROVED** (7-0; Curling/Sherman; Greene and James absent) **PLN-CBPA-2017-057 with the following stipulations:**

1. **Provide one (1) large canopy tree within the 100-foot RPA buffer to mitigate the impact of the new impervious area within the 100-foot RPA buffer. Per City of Chesapeake Code Sec. 26-521(a)(2), the RPA**

**landscaping requirement is a minimum fifty (50) percent tree canopy coverage, calculated in accordance with the CBPA Specifications Manual. See Appendix A of the Chesapeake Landscape Specifications Manual for recommended tree species.**

**2. Any existing trees removed shall be replaced at a 1:1 ratio.**

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Staff Presentation:

Mr. Anaya presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. He presented pictures of the site at 706 Seagrass Reach. He stated that the applicant seeks an exception to construct a 406 SF room addition within the 50-foot seaward portion of the 100-foot RPA buffer. The application was reviewed by the Review Committee on December 5, 2017. It was recommended that the exception requested in application PLN-CBPA-2017-057 be granted for a period of two years, with the following stipulations: Provide one (1) large canopy tree within the 100-foot RPA buffer to mitigate the impact of the new impervious area within the RPA; any existing trees removed shall be replaced at a 1:1 ratio.

Proponent:

Jason Castle, RWA Restoration LLC, 2616 Sand Piper Road, Chesapeake, Virginia, builder.

Melody Morrow, 706 Seagrass Reach, Chesapeake, Virginia, applicant. Ms. Morrow stated that the reason for the addition is to take care of an ill family member.

Board Discussion:

Mr. Klesch asked staff how the subdivision was approved. Mr. Anaya stated approximately from 1992 to 2001 certain activities were permitted if there was a regional BMP that treats the overall development.

Mr. Wilson asked if any existing trees need to be removed. Mr. Anaya stated that it seems that there could be one. Mr. Castle stated he believes there is one small maple tree.

Mr. Wilson asked if there is another tree on the corner. Ms. Morrow stated that there are a bunch of trees on the other property that branches hang over the property line. Also, a while back, one pine tree was struck by lightning.

Mr. Wilson stated that traditionally they are not amenable to approve projects built within the 50 foot seaward portion of the RPA and asked staff to clarify vegetation requirements of one tree. Mr. Anaya restated one tree based on the calculations per the CBPA Ordinance Specifications Manual.

Mr. Nowak stated that other cases they have reviewed have been for encroachment of recreational amenities and detached structures. Mr. Nowak suggested that were it not

for the circumstances (ill family member), Ms. Morrow would not be requesting the exception. Ms. Morrow agreed.

Mr. Klesch asked if the sidewalk along the side of the house is already present on the property. Mr. Castle stated that the sidewalk is already on site.

Mr. Klesch asked who filled out the application. Mr. Castle stated that Ms. Morrow filled out the application and he assisted her with several items.

Mr. Klesch asked if a process could be developed to inform residents of the Chesapeake Bay Preservation Area. Ms. Jacobi stated that when projects require building permits, there is a procedure that alerts that the property is located in the CBPA area; however, on projects that do not require other permits, there is not always a mechanism to trigger CBPA review.

Mr. Wilson asked if the City has tried to send advisements to individuals stating that you are in the CBPA area. Mr. Anaya stated it has been discussed and staff has been advised not to do that. Ms. Jacobi clarified that everyone is charged with knowledge of the law.

Mr. Nowak stated that part of the attraction of living in the area is the Bay and the requirement is that trees are to be maintained and replaced if they are removed.

Mr. Sherman asked if they knew what kind of trees they would plant. Ms. Morrow stated they did not know and would plant what is suggested. Mr. Anaya stated that if approved, there is a Landscape Specification Manual as a guide and he could give them further assistance if they would like.

Mr. Curling moved to **APPROVE PLN-CBPA-2017-057** with the following stipulations: Mr. Sherman seconded the motion. The motion was carried by a vote of 7 – 0, Greene and James was absent.

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**OTHER BUSINESS:**

- New Environmental Enforcement Staff has been hired with the City.
- Mr. Lewter asked for guidance on restoration of property on 721 Wood Duck Lane. Ms. Jacobi will present communication guidelines soon.

There was no other business discussed at the meeting.

**ADJOURNMENT:**

With no further business, the meeting was adjourned at 6:42 P.M.

Sincerely,

Jennifer Joseph,  
Recording Secretary