

Chesapeake Bay Preservation Area Board

Public Hearing Minutes – February 20, 2019 Human Resources Training Room – 6:00 P.M.

Call to Order: Vice-Chair Chris Wilson called the Chesapeake Bay Preservation Board meeting of February 20, 2019, to order at 6:00 p.m. in the Human Resources Training Room.

Roll Call:

PRESENT

Chris Wilson, Vice-Chair
Vickie Greene, Member
Henry Curling, Member
William Spaur, Member
John Klesch, Member
Cristan Connito, Alternate Member
Karen Toida, Alternate Member

EXCUSED

Stephen F. Nowak, Chair
Kaite James, Member

PLANNING DEPARTMENT STAFF PRESENT

John Harbin, Interim CBPA Planner
Lewis Martinez, CBPA Recording Secretary
Allison Gurkin, Interim CBPA Recording Secretary

CITY ATTORNEY STAFF PRESENT

Meredith Jacobi, Assistant City Attorney

APPROVAL OF MINUTES:

The January 16, 2019 CBPA Board minutes were presented into the record for Board action.

CBPA BOARD ACTION:

MINUTES for the January 16, 2019 CBPA Board were **APPROVED** by majority vote.

CBPA APPLICATION:

1. **PLN-CBPA-2018-036**

PROJECT/LOCATION: Subdivision/4924 Lake Shore Drive

APPLICANT/AGENT: Tyrone Riddick

PROPOSAL: In accordance with Section 26-528 of the Chesapeake City Code, the applicant is seeking an **EXCEPTION** for authorization to subdivide a new lot with less than the required lot area landward of the 100-foot RPA buffer. This exception is requested to provide relief from the requirement that lots created in the R-15S residential district shall have at least 75 percent of the required lot area landward of the 100-foot RPA buffer per Chesapeake City Code Sec. 26-522(a)(1). A total of 53,027 SF of lot area is provided (9,045 SF landward of the 100-foot RPA buffer).

SUBDIVISION/LOT #: 29 & 30 WILLOW LAKES SEC 1 & PAR NOT INCL ON SUR

WATERSHED: Western Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 0221001000300

CBPA BOARD ACTION:

The CBPA Board **GRANTED THE EXCEPTION** requested in **PLN-CBPA-2018-036** for a period of two years.

Staff Presentation:

Mr. Harbin presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. He presented pictures of the site at 4924 Lake Shore Drive. He stated that the applicant is seeking an exception for authorization to subdivide a new lot with less than the required lot area landward of the 100-foot RPA buffer. This exception is requested to provide relief from the requirement that lots created in the R-15S residential district shall have at least 75 percent of the required lot area

landward of the 100-foot RPA buffer per Chesapeake City Code Sec. 26-522(a)(1). The original lot was recorded prior to 1992. The applicant is requesting to condense the property from three lots to two lots. He stated that the CBPA Review Committee reviewed this application on January 8, 2019 and recommended approval with a vote of 5 – 0.

Proponent:

Tyrone Riddick, 4924 Lake Shore Drive, Chesapeake, Virginia, applicant.

Naomi Riddick, 4924 Lake Shore Drive, Chesapeake, Virginia, self.

Board Discussion:

Ms. Greene inquired how long the structures on the non-conforming lot had been there. Ms. Jacobi confirmed the structures had been there since 1978.

Ms. Greene also questioned if there was a proposal to rebuild the structures or leave the structures as they are. Mr. Harbin confirmed the applicant is leaving the structures as they are.

Mr. Curling requested clarification that the applicant was moving the lot line. Mr. Harbin stated that the applicant is moving the lot line from three lots to two lots.

Mr. Wilson questioned whether the CBPA Review Committee discussed if any vegetative remediation would be requested. Mr. Harbin stated that it was not discussed, the discussion was based on bringing the property consistent with the adjacent land uses and how the reduction of development rights would be a water quality improvement.

Mr. Klesch asked for clarification on if rezoning the property and subdividing the three lots to two would bring the lot into the CBPA ordinance if the property was sold in the future. Mr. Harbin confirmed that the new lot would be recorded in 2019 so future developments would be subject to the CBPA ordinance.

Mr. Riddick introduced himself and stated that he has no intentions of removing the existing structure on the lot, he intends to build a house on the second lot for his son. The second lot would conform to the CBPA ordinance. He is also aware that if he were to sell the property he would have to disclose that the property is subject to the CBPA ordinance to a potential buyer.

Mr. Wilson requested clarification regarding the CBPA Review Committees granting of approval of the plan for a period of two years. Mr. Harbin answered that the applicant would have a period of two years to record the subdivision of the property.

CBPA BOARD VOTE:

Ms. Greene moved to **GRANT THE EXCEPTION** requested in **PLN-CBPA-2018-036**: Dr. Spaur seconded the motion. The motion was carried by a vote of 6 – 0, Nowak and James excused.

2. PLN-CBPA-2018-037**PROJECT/LOCATION:** Riprap Installation/2509 Bellechase Court**APPLICANT/AGENT:** Lisa McGurty**PROPOSAL:** In accordance with Section 26-528 of the Chesapeake City Code, the applicant is seeking an **EXCEPTION** for authorization to install a riprap embankment within the 50-foot seaward portions of the 100-foot RPA buffer for shoreline stabilization purposes. Approximately 1,170 SF of riprap is proposed, all within the 50-foot seaward portion of the 100-foot RPA buffer.**SUBDIVISION/LOT #:** 25 STONEBRIDGE LANDING SEC E ZONE**WATERSHED:** Western Branch of the Elizabeth River**TAX MAP SECTION/PARCEL:** 0105012000240

CBPA BOARD ACTION:

The CBPA Board **GRANTED THE EXCEPTION** requested in **PLN-CBPA-2018-037** 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. 26-520(b)(3), 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. **The applicant shall not remove existing trees within the 100-foot RPA buffer for construction access to the rear of the property.**
 3. **The applicant shall submit certification of work completed as depicted in the approved site plan.**
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Staff Presentation:

Mr. Harbin presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. He presented pictures of the site at 2509 Bellechase Court. He stated that the applicant is seeking an exception for authorization to install a riprap embankment within the 50-foot seaward portions of the 100-foot RPA

buffer for shoreline stabilization purposes. The lot was recorded in 1983. The CBPA Review Committee reviewed this application on January 8, 2019 and recommended approval with a vote of 5 – 0.

Proponent:

Lisa McGurty, 2509 Bellechase Ct, Chesapeake, Virginia, applicant.

Ernest Gilchrist, 2509 Bellechase Ct, Chesapeake, Virginia, owner.

Board Discussion:

Ms. Greene inquired if there was any existing riprap according to the report. Mr. Harbin confirmed there is riprap that was installed by the City to protect an outfall pipe, as well as on an adjacent property according to the photos presented.

Ms. Greene also questioned if the Virginia Institute of Marine Science (VIMS) was utilized for guideline maps and recommendations for the shoreline stabilization at this property. Mr. Harbin stated he is aware of the guideline maps provided by VIMS, but they were not reviewed as part of this application.

Ms. Greene added that the property looks like there is not much wave action and not much fetch. Mr. Harbin replied that there is a decent amount of fetch and the issue with this property is that the house is very close to the water and other means of shoreline protection, such as a living shoreline, require more land than a bulkhead or riprap to allow for necessary grading to create a gentler slope.

Mr. Wilson inquired about the large tree trunk in the presentation and if the tree was there when the applicant moved in to the property.

Ms. McGurty introduced herself and stated that the tree had not been there since she moved to the property six and a half years ago. She added that a tree had previously fell on the house but was not sure if that was the tree in question.

Mr. Wilson also requested the applicant state their intentions as to what they were trying to accomplish with the application. Ms. McGurty stated that the property does not have a gentle slope and the slope actually goes straight down in the back of the property. She also stated they are having problems with erosion and when they moved in, the deck in the back of the property had fallen due to the erosion. Ms. McGurty added that there is a lot of wave action during hurricanes.

Mr. Gilchrist introduced himself and stated that there is also significant wave action during Nor'easters and during the summer from boats and jet skis. They also intend to preserve the phragmites and native grasses to help with the waves and erosion.

Ms. Greene asked if the applicants investigated any living shoreline options. Ms. McGurty answered that she believes the riprap is the best option as it still creates a pervious area, helps with the erosion and is a much better option than installing a bulkhead.

Ms. Greene explained that one of her concerns is that hardened shorelines are not preferred for water quality and referenced the VIMS map that gives the recommendation for hardened or living shorelines throughout Virginia. Ms. McGurty stated she did not reference the Virginia Institute of Marine Science map and believes this is the best option. Ms. McGurty stated the plan is to install vegetation above the riprap which will assist in filtering the water.

Ms. Greene stated the hardened shoreline will cause erosion to their neighbors. Ms. McGurty stated there is existing riprap along a neighbor's shoreline.

Ms. Greene expressed another concern about what a hardened shoreline will do to wildlife along with the spartina which is a valuable plant to have along the shoreline. Mr. Gilchrist confirmed that they have done everything they can to control the phragmites but they cannot get rid of the phragmites without killing other vegetation. Ms. McGurty confirmed that they would not be intruding into the existing spartina.

Ms. Greene added that she would have liked to have heard discussion of living shoreline possibilities and evaluating VIMS recommendations before coming to the conclusion of installing riprap.

Mr. Klesch inquired where the riprap was installed on the neighbor's property according to the pictures. Ms. McGurty confirmed it is towards the left, facing the water. Ms. McGurty also stated that their bank is steeper as compared to their neighbor's.

Mr. Klesch questioned how far the bank was to the foundation of their house. Ms. McGurty stated she believed it was less than ten feet.

Mr. Klesch also questioned if there was a proposal to install any plantings along with the riprap. Ms. McGurty stated they discussed planting a large canopy tree along with plants above where the riprap would be installed.

Mr. Wilson inquired about who in the City would review the plans for the riprap installation on the property. Mr. Harbin confirmed it only needs to be reviewed by the CBPA Board since it is under 2,500 square feet of disturbance. Ms. Jacobi stated that the Public Works Department may become involved if the contractor needs to drive over the area above or surrounding the outfall pipe. Ms. Jacobi also stated that Building Code could become involved if there is a structural concern.

Mr. Wilson stated he is concerned that the riprap may fail, wash away or collapse. Ms. Greene added that riprap failure is one of the reasons VIMS has gone away from hardened shorelines and the reason they recommend living shorelines whenever possible.

Ms. McGurty asked for confirmation on what the meaning of a living shoreline is as she is concerned about losing the bank. Ms. Greene again referenced the VIMS recommendations for the best results for shorelines throughout Virginia. Ms. Greene added that the recommendations have been to install living shorelines whenever possible. Ms. McGurty stated she believed that the bank is too steep to support a living shoreline option.

Dr. Spaur questioned why the application would not require a combined application to the Corps of Engineers and Virginia Marine Resources Commission (VMRC). Mr. Harbin stated a JPA was submitted, the VMRC stated it is outside of their jurisdiction and returned to the CBPA Board.

Mr. Harbin was able to review the VIMS map and explained that one shoreline best management practice recommended for the property is land use management, or changing the activities on the upland to reduce erosion, for instance moving the house back. The VIMS Map also recommended to maintain, enhance or create marsh, which is to grade the land to create a gentler slope. Mr. Harbin reiterated that the location of the house and the degree of slope would make it difficult to implement either recommended best management practice.

Dr. Spaur commented that the degree of slope for the riprap is not within the recommendation which is at least two to two and a half horizontal to vertical. Ms. McGurty stated that they did not want to disturb the grasses, which is why they added the two foot deep foot at the bottom of the slope to lock everything into place.

Mr. Harbin added that it is a constrained site and it would be difficult to adjust the slope.

Mr. Gilchrist added they would have to come in through the marsh in the back of the property to adjust the slope of the shoreline and it would kill the native grasses.

Mr. Klesch asked how the riprap was holding up in the neighbor's property. Ms. McGurty could not confirm how it was holding up since they had just moved in six years ago and she was not sure when it was installed.

Mr. Curling questioned if their adjoining property owners had been notified of the project. Ms. McGurty confirmed she had spoken with her next door neighbors and they had received the letter notifying them of the project.

Mr. Curling also questioned that the distance of the riprap was 10.0 to 12.0 maximum and on the other side of the lot it is 12.0 to 15 maximum, if that was because of the room they have to work with. Ms. McGurty answered it was because of the room available and the 12 to 15 side of the lot is not as steep.

Mr. Wilson inquired if a partial riprap and partial bulkhead was considered. Ms. McGurty confirmed it was considered but the value of the property when dividing the property with a partial riprap and partial bulkhead would be effected. Mr. Wilson clarified his question meaning if it was considered to install riprap half way up the shoreline then building a

bulkhead and bringing the property to grade and be able to vegetate to the bulkhead. Ms. McGurty stated that right behind the house and under the deck, the property drops three feet then straightens out.

Mr. Curling inquired if it was possible to install a better filtration system so that water doesn't pour directly to the back of the lot. Ms. McGurty confirmed she has rain barrels and the water flows to the side of the house not directly to the back of the lot.

CBPA BOARD VOTE:

Mr. Curling moved to **GRANT THE EXCEPTION requested in PLN-CBPA-2018-037** with the stipulations that the applicant 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, the applicant shall not remove existing trees within the 100-foot RPA buffer for construction access to the rear of the property and the applicant shall submit certification of work completed as depicted in the approved site plan. Ms. Connito seconded the motion. The motion was carried by a vote of 4 – 2; Greene and Spaur opposed, Nowak and James excused.

OTHER BUSINESS:

There was no other business discussed at the meeting.

ADJOURNMENT:

With no further business, the meeting was adjourned at 6:53 P.M.

Sincerely,

Lewis Martinez,
Recording Secretary

LM/jh