

## *Chesapeake Bay Preservation Area Board*

### **Public Hearing Minutes – August 21, 2019 Human Resources Training Room – 6:00 P.M.**

**Call to Order:** Recording Secretary Lewis Martinez called the Chesapeake Bay Preservation Area (CBPA) Board meeting of August 21, 2019, to order at 6:00 p.m. in the Human Resources Training Room.

**Roll Call:**

**PRESENT**

Henry Curling, Member  
Vickie Greene, Member  
Kaite James, Member  
John Klesch, Member  
William Spaur, Member  
Cristan Connito, Alternate Member  
Karen Toida, Alternate Member

**EXCUSED**

Stephen F. Nowak, Chair  
Chris Wilson, Vice-Chair

**PLANNING DEPARTMENT STAFF PRESENT**

Leslie Bonilla, CBPA Planner  
Lewis Martinez, CBPA Recording Secretary  
James McNamara, Current Planning Administrator

**CITY ATTORNEY STAFF PRESENT**

Meredith Jacobi, Assistant City Attorney

**Nomination of Interim Chair:**

Ms. Greene nominated herself as Interim Chair for the August 21, 2019 CBPA Board meeting. The motion was seconded by Ms. James.

Upon hearing no other nominations, a motion to close nominations was presented by Mr. Curling and seconded by Dr. Spaur.

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**CBPA BOARD ACTION:**

**The motion to close nominations for Interim Chair for the August 21, 2019 CBPA Board meeting was APPROVED by majority vote.**

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**CBPA BOARD ACTION:**

**Vickie Greene's nomination as Interim Chair for the August 21, 2019 CBPA Board meeting was APPROVED by majority vote.**

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**APPROVAL OF MINUTES:**

The July 17, 2019 CBPA Board minutes were presented into the record for Board action.

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**CBPA BOARD ACTION:**

**MINUTES for the July 17, 2019 CBPA Board were APPROVED by majority vote.**

**CBPA APPLICATION:**

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1. **PLN-CBPA-2018-026**

**PROJECT/LOCATION:** In-ground pool & garage / 1924 Lancing Crest Lane

**APPLICANT/AGENT:** Charles H. Hartman Jr. / Chris Stubbs

**PROPOSAL:** In accordance with Section 26-528 of the Chesapeake City Code, the applicant is seeking **EXCEPTION** for the authorization to construct an in-ground pool and garage located within the 50-foot landward portion of the 100-foot Resource Protection Area (RPA) buffer. A total of 2,815 SF of new impervious area is proposed (2,359 SF within the RPA buffer).

**SUBDIVISION/LOT #:** New Mill Landing, Section 3 / 53

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

**TAX MAP SECTION/PARCEL:** 0462001000530

*(Continued from July 17, 2019 CBPA Board Meeting)*

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**CBPA BOARD ACTION:**

**The CBPA Board CONTINUED THE EXCEPTION for sixty (60) days to the October 16, 2019 CBPA Board meeting.**

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Staff Presentation:

Ms. Bonilla presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. Pictures of the site at 1924 Lancing Crest Lane was presented. The Board was informed that the applicant is seeking an EXCEPTION for authorization to construct an in-ground pool and garage located within the 50-foot landward portion of the 100-foot Resource Protection Area (RPA) buffer. A total of 2,815 SF of new impervious area is proposed (2,359 SF within the RPA buffer). The CBPA Review Committee reviewed this application on July 16, 2019, and recommended denial. The lot was recorded in 1997.

Ms. Bonilla stated the application had been previous brought before the board at the March 20, 2019 CBPA Board meeting and was continued 60 days to allow the applicant time to revise plans to include all proposed developments and to allow the CBPA Review Committee time to review the revisions. She stated the application was brought back before the Board on May 15, 2019 and granted an additional 60 days to allow the applicant time to finalize plans and allow time for the CBPA Review Committee time to review revisions. She stated on June 27, 2019 the Board of Zoning Appeals denied a request to encroach into the south side yard setback. On July 2, 2019, the applicant provided a written request for additional time to revise plans based on BZA determinations. At the July 17, 2019 CBPA Board meeting the application was continued for 30-days to allow enough time for City staff to review revised plans.

Ms. Bonilla stated that the applicant informed her, via email, that he is requesting a 60-day continuance to reassess the plans in light of information presented in the staff report and for additional time to review information and make adjustments if necessary.

Ms. Jacobi stated that the applicant is also seeking legal counsel and is seeking a continuance for that reason as well.

Proponent:

Christopher Stubbs, 901 Port Centre Pkwy, Portsmouth, Virginia, agent. Mr. Stubbs stated he would answer any questions and clarify the water quality aspect of the project.

Board Discussion:

Ms. Greene questioned if there were any limitations in the bylaws about the number of continuances that can be granted.

Ms. Jacobi stated that there is a limitation on the amount of time the Board has to make a decision on the application. She stated that as a matter of practice, when an applicant is requesting a continuance it is deemed a waiver of those time requirements.

Mr. Stubbs stated the site plan has two BMPs, permeable pavers which surround the pool and a rain garden behind the garage. He stated both would be above the state threshold of 40% nutrient removal and the plan would exceed the state water quality standards.

Mr. Stubbs stated that in the staff report, the existing garage does not meet the minimum to afford relief. He stated that the proposed garage has multiple functions, it will serve as a pool house, shop, and a shed. The applicant would be able to do multiple functions that he would not be able to do in the attached garage.

Mr. Stubbs stated that in regards to special privileges, there are several other properties in the neighborhood that have pools.

Mr. Stubbs stated that the state has established the water quality standards criteria, and the applicant has submitted two sets of documents showing he is meeting those requirements.

Mr. Stubbs stated that the property owner has a right to make improvements to his property. He stated the issue with making the improvements is that they have to encroach into the buffer. He stated the situation is not self-imposed since there is no way to make improvements without encroaching into the buffer.

Mr. Stubbs stated that the property was platted in 1997, and the applicant purchased the property between 1987 and 2002 and is in a subdivision that has a regional BMP created in accordance with the Subdivision Ordinance, there is a section of the state code that allows him to make improvements to his property.

Mr. Stubbs stated that the reasonable and appropriate conditions proposed have been met with the construction of the water quality BMPs as well as the landscaping plan proposed.

Ms. Connito requested clarification if concrete will be used around the pool area.

Mr. Stubbs stated that the pavers surrounding the pool are interlocking joints that are then filled with small diameter stone or sand allowing water to flow between the joints into a reservoir that filters and removes nutrients.

Mr. Klesch stated that the property was purchased after the CBPA Ordinance came into effect and the developer chose to build the house along the 100 buffer. He stated that the plans involve encroaching quite a bit into the 50 foot buffer.

Mr. Stubbs stated that since the lot was recorded between 1987 and 2002, and in accordance with Chesapeake Subdivision Regulations when the subdivision was created, and the strict application of the CBPA Ordinance would result in the loss of buildable area the application criteria has been met.

Ms. Toida questioned if there was a sidewalk connecting the garage to the pool.

Mr. Stubbs confirmed there was a sidewalk connecting the garage to the pool.

Ms. Greene questioned if there was a driveway connecting to the garage.

Mr. Stubbs confirmed there was a driveway connecting to the garage and that both the sidewalk and the driveway connecting to the garage will be treated by the proposed BMP.

Mr. Klesch questioned if the pool and the garage would be filled in to elevate the lot.

Mr. Stubbs stated that unless it is over a certain threshold the Army Corps of Engineers does not require a comprehensive analysis. He stated a TR20 analysis has been done and provided in the Water Quality Impact Assessment.

Ms. Greene questioned if the action of the Board would be to consider the request for a 60-day continuance.

Ms. Jacobi confirmed that the action by the board would be for the 60-day continuance.

#### **CBPA BOARD VOTE:**

Dr. Spaur moved to **CONTINUE THE EXCEPTION for sixty (60) days to the October 16, 2019 CBPA Board meeting.** Ms. James seconded the motion. The motion was carried by a vote of 7 – 0, Nowak and Wilson excused.

**OTHER BUSINESS:**

- Update on application # PLN-CBPA-2019-019 and applicant's decision to appeal.

**ADJOURNMENT:**

With no further business, the meeting was adjourned at 6:39 P.M.

Sincerely,

Lewis Martinez,  
Recording Secretary

LM/lb