

Chesapeake Bay Preservation Area Board

Public Hearing Minutes – June 17, 2020 City Council Chambers – 6:00 P.M.

Call to Order: Chairman Chris Wilson called the Chesapeake Bay Preservation Area (CBPA) Board meeting of June 17, 2020, to order at 6:00 p.m. in City Council Chambers.

Roll Call:

PRESENT

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

EXCUSED

Stephen F. Nowak, Member
Karen Toida, Alternate Member

PLANNING DEPARTMENT STAFF PRESENT

Ethan Hoar, CBPA Planner
James McNamara, Assistant Planning Director
Lewis Martinez, CBPA Recording Secretary

CITY ATTORNEY STAFF PRESENT

Meredith Jacobi, Assistant City Attorney

APPROVAL OF MINUTES:

MINUTES for the February 19, 2020 CBPA Board were **APPROVED**. (7 – 0; Greene/Klesch)

CBPA BOARD ACTION:

Ms. Greene moved that the **MINUTES** for the **February 19, 2020 CBPA Board meeting** be **APPROVED**. Mr. Klesch seconded the motion. The motion was carried by a vote of 7 – 0.

CBPA APPLICATION:

- 1. PLN-CBPA-2019-043**
PROJECT/LOCATION: 1772 Rockwood Drive
APPLICANT: Robert Strittmatter
PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks **EXCEPTION** to construct a deck within the 50-foot seaward portion of the 100-foot RPA buffer. The total proposed impervious area will be 718 SF (718 SF in RPA).
SUBDIVISION/LOT #: Park View Section 2, Resubdivision of Lots 9 & 10
WATERSHED: Southern Branch of the Elizabeth River
TAX MAP SECTION/PARCEL: 0344002003760
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CBPA BOARD ACTION:

The CBPA Board **DENIED THE EXCEPTION** requested in PLN-CBPA-2019-043 due to the following finding:

The requested exception to the criteria is NOT the minimum necessary to afford relief. The Board further concurred with the CBPA Review Committee analysis as found within the staff report regarding item two of the CBPA applications heard at the afore-mentioned Board Meeting.

Staff Presentation:

Mr. Hoar presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. Pictures of the site at 1772 Rockwood Drive were presented. The Board was informed that the applicant is seeking an approval for the authorization to construct a deck within the 50-foot seaward portion of the 100-foot RPA buffer. The CBPA Review Committee reviewed this application on February 18, 2020, and recommended approval. The lot was recorded in 1953.

Proponent:

Robert Strittmatter, 1772 Rockwood Drive, Chesapeake, Virginia, applicant. Mr. Strittmatter stated he has learned about the importance of the CBPA during this process. He stated that he is proposing to reduce the size of the deck as well as plant new vegetation to improve the water quality. The required trees were supposed to be planted by the builder of the property and will also plant the required trees.

Board Discussion:

Ms. Greene questioned if any previous aerial photos have shown vegetation that has been removed from the marsh area.

Mr. Hoar stated that there has not been any aerial photos of vegetation removed from the area.

Ms. Greene questioned if a permit was obtained for the bulkhead along the property.

Mr. Strittmatter stated that the bulkhead was installed prior to his purchase of the property and does not know if there was a permit obtained for the bulkhead.

Ms. Greene questioned if any shrubbery was cut down by the applicant.

Mr. Strittmatter stated that he has not removed any shrubbery.

Chariman Wilson questioned if Mr. Strittmatter was the original owner of the home and if the home was built by Mr. Strittmatter.

Mr. Strittmatter stated that he is the original home owner but it was new construction not designed by him.

Mr. Strittmatter stated that he is proposing to remove a portion of the deck and plant vegetation. He stated that he is aware of the size of the deck and is prepared to modify the plan to improve water quality.

CBPA BOARD VOTE:

Ms. Green moved to **DENY PLN-CBPA-2019-043** where the facts presented support the following finding: the requested exception to the criteria is NOT the minimum necessary to afford relief. Vice-Chairman Curling seconded the motion. The motion was carried by a vote of 7 – 0, Nowak and Toida excused.

CBPA APPLICATION:

2. PLN-CBPA-2019-048

PROJECT/LOCATION: 1877 Millville Road

APPLICANT: Laura Sisson

PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an **EXCEPTION** for an existing shed and pool deck and to construct an attached two (2) car two (2) story garage with living space on the second floor and associated concrete driveway and sidewalk within the 50-foot landward and 50-foot seaward portions of the 100-foot RPA buffer. The total proposed impervious area will be 2,352 SF (2,298 SF in RPA).

SUBDIVISION/LOT #: Parcel B of All-State Development Corp.

WATERSHED: Southern Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 035000000015

CBPA BOARD ACTION:

The CBPA Board **APPROVED THE EXCEPTION** requested in PLN-CBPA-2019-048 with the following stipulations:

1. **The existing shed located in the 50-foot seaward buffer be moved into the 50-foot landward buffer.**
 2. **No trees are to be removed during the construction activities.**
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Staff Presentation:

Mr. Hoar presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. Pictures of the site at 1877 Millville Road were presented. The Board was informed that the applicant is seeking an approval for the authorization for an existing shed and pool deck and to construct an attached two (2) car two (2) story garage with living space on the second floor and associated concrete driveway and sidewalk within the 50-foot landward and 50-foot seaward portions of the 100-foot RPA buffer. The CBPA Review Committee reviewed this application on May 19, 2020, and recommended approval. The lot was recorded in 1975.

Proponent:

Laura Sisson, 1877 Millville Road, Chesapeake, Virginia, applicant. Ms. Sisson stated that she has submitted the application in order to have a living space for her daughter and her daughter's children.

Christin Sisson, 1877 Millville Road, Chesapeake, Virginia, self. Ms. Sisson stated that another shed was taken down after the City notified them that sheds are not permitted in the front yard. They felt it was located on the side yard, but they took the shed down as requested.

Board Discussion:

Chairman Wilson questioned how long the shed had been at the location.

Ms. Sisson stated that she moved in the house in 1981. She added the pool and the decking around that that. She stated the shed was installed about two to three years ago. She was unaware that a permit was needed to install the shed.

Ms. Greene questioned if she was the original owner of the house.

Ms. Sisson stated that the house was built in the 1970's and believes there was a previous owner of the house.

Chairman Wilson questioned if what was currently on the location of where the shed is being proposed to be located.

Ms. Sisson stated that it was currently just open grass.

Ms. Greene questioned if the shed can be brought closer to the house.

Ms. Sisson stated that if the shed gets put closer to the house, windows would be blocked and entry to the back yard would become difficult. She also stated that a tree she recently planted would have a difficult growing.

Ms. Greene questioned if the CBPA Review Committee made a recommendation on the location of the shed

Mr. Hoar stated that Ms. Sisson would have to work with the Zoning Department to make sure the shed is placed in a location according to their regulations.

CBPA BOARD VOTE:

Mr. Klesch moved to **APPROVE PLN-CBPA-2019-048** based on the findings contained in the Chesapeake Bay Preservation Act Review Committee staff report. Ms. James seconded the motion. The motion was carried by a vote of 7-0, Nowak and Toida excused.

CBPA APPLICATION:

3. PLN-CBPA-2020-001

PROJECT/LOCATION: 4657 Leeward Drive

APPLICANT/AGENCY: Adam Rutheaford

PROPOSAL: In accordance with Section 26-528 of the Chesapeake City Code, the applicant is seeking an **EXCEPTION** for an existing 182 square foot shed and to construct a 450 square foot addition, within the 50-foot landward and 50-foot seaward portion of the 100-foot RPA buffer, on a pre-existing lot. Based on the extent of all proposed improvements and removal of the existing deck, the overall net increase in impervious area will be 50 SF.

SUBDIVISION/LOT #: West Chadswyck Terrace, Section 8

WATERSHED: Western Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 0151012000120

CBPA BOARD ACTION:

The CBPA Board **APPROVED THE EXCEPTION** requested in PLN-CBPA-2020-001 with the following stipulation:

Provide one (1) large canopy tree in the RPA to mitigate the impact of the proposed impervious area within the RPA. Per Sec. VII(B) of the Chesapeake Bay Preservation Area Ordinance Specifications Manual, the tree canopy coverage requirement for encroachment into the RPA buffer is fifty percent (50%). See Appendix A of the Chesapeake Landscape Specifications Manual for recommended tree species.

Staff Presentation:

Mr. Hoar presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. Pictures of the site at 4657 Leeward Drive were presented. The Board was informed that the applicant is seeking an approval for the authorization for an existing 182 square foot shed and to construct a 450 square foot addition, within the 50-foot landward and 50-foot seaward portion of the 100-foot RPA buffer, on a pre-existing lot. The CBPA Review Committee reviewed this application on February 18, 2020, and recommended approval. The lot was recorded in 1987.

Proponent:

Adam Rutheaford, 1244 Executive Drive, Chesapeake, Virginia, agent. Mr. Rutheaford stated that the applicant is seeking to build the addition to accommodate his wife.

Board Discussion:

Ms. Greene questioned if the shed has a permit.

Mr. Hoar stated that the shed does not have a permit, and the applicant is seeking approval with the application.

Chairman Wilson questioned how long the shed has been on the property.

Mr. Rutheford stated the shed has been on the property for over ten years.

Ms. Greene questioned if the shed could be placed closer to the house.

Mr. Rutheford stated that the shed could be moved but would still have to meet set back regulations.

CBPA BOARD VOTE:

Ms. Green moved to **APPROVE PLN-CBPA-2020-001** based on the findings contained in the Chesapeake Bay Preservation Act Review Committee staff report. Ms. James seconded the motion. The motion was carried by a vote of 7–0, Nowak and Toida excused.

CBPA APPLICATION:

4. **PLN-CBPA-2020-008**
PROJECT/LOCATION: 3905 Wedgewood Drive and 3901 Wedgewood Drive
APPLICANT: Edward McLain
AGENT: Edward McLain
PROPOSAL: In accordance with Section 26-528 of the Chesapeake City Code, the applicant seeks an **EXCEPTION** to the Section 26-522(a)(1) minimum RPA lot percentage requirements in order to re-subdivide two existing lots.
SUBDIVISION/LOT #: Lot 4 and Lot 5 Wildwood
WATERSHED: Western Branch of the Elizabeth River
TAX MAP SECTION/PARCEL: 0161001000050
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CBPA BOARD ACTION:

The CBPA Board **APPROVED THE EXCEPTION** requested in PLN-CBPA-2020-008 with the following stipulation:

Each property will meet the minimum requirement of canopy coverage of 50% in the Resource Protection Area (RPA) per Sec. VII(B) of the Chesapeake Bay Preservation Area Ordinance Specifications Manual. See Appendix A of the Chesapeake Landscape Specifications Manual for recommended tree species.

Staff Presentation:

Mr. Hoar presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. Pictures of the site at 3905 Wedgewood Drive and 3901 Wedgewood Drive were presented. The Board was informed that the applicant is seeking an approval for the authorization to the Section 26-522(a)(1) minimum RPA lot percentage requirements in order to re-subdivide two existing lots. The CBPA Review Committee reviewed this application on April 7, 2020, and recommended approval. The lot was recorded in 2019.

Proponent:

Edward McLain, 3928 Wedgewood Drive, Chesapeake, Virginia, applicant. Mr. McClain stated that he sold a lot to his son. He stated that he purchased the lot next door in August 2019. He stated he purchased the lot next door to give more property to his son for Christmas and his family.

Kyle McClain, 3901 Wedgewood Drive, Chesapeake, Virginia, self. Mr. McClain stated that he has lived on the property since 2010 and intends to comply with the meet the requirements for the canopy coverage.

Board Discussion:

Mr. Klesch questioned if the square footage presented on the presentation was the current or proposed numbers.

Mr. Hoar confirmed it was the proposed square footage.

Ms. Greene questioned if the lots were currently conforming lots.

Mr. Hoar stated that lot 5A is and will continue to be a conforming lot. Lot 5B is not a conforming lot and would continue to be a non-conforming lot.

Chairman Wilson questioned if Mr. McLain was the property owner of the lot that is proposed to be smaller and if intends to sell the house on the property.

Mr. McLain stated that he intended to sell the house to the tenant living in the house but the tenant could not afford the house. The tenant has since left and now plans to sell the lot to his daughter in-law's cousin.

CBPA BOARD VOTE:

Ms. Green moved to **APPROVE PLN-CBPA-2020-008** based on the findings contained in the Chesapeake Bay Preservation Act Review Committee staff report. Mr. Klesch seconded the motion. The motion was carried by a vote of 7-0, Nowak and Toida excused.

CBPA APPLICATION:

5. PLN-CBPA-2020-010**PROJECT/LOCATION:** 1104 Inland Road**APPLICANT:** Bennett Thomas**PROPOSAL:** In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an **EXCEPTION** to construct a single family residence in the 50-foot seaward and 50-foot landward portions of the 100-foot RPA buffer. The total proposed impervious area will be 4,982 SF, (4,982 SF in RPA).**SUBDIVISION/LOT #:** SUBDIVISION OF LOT 1 & 2, SUBDIVISION OF PART OF PROPERTY OF J.J. HALSTEAD**WATERSHED:** Southern Branch of the Elizabeth River**TAX MAP SECTION/PARCEL:** 0461001000010

CBPA BOARD ACTION:

The CBPA Board **APPROVED THE EXCEPTION** requested in PLN-CBPA-2020-010 with the following stipulations:

- 1. Provide twenty-five (25) large canopy trees within the RPA to mitigate the impact of the proposed development within the RPA. 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. Provide an approximately 500 square foot mulched planting bed with low-growing plant materials in the 50-foot seaward portion of the RPA buffer between the house and the bulkhead.**
 - 3. The driveway shall be constructed with the required apron and with two (2) runners to provide access to the required parking spaces.**
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Staff Presentation:

Mr. Hoar presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. Pictures of the site at 1104 Inland Road were presented. The Board was informed that the applicant is seeking an approval for the authorization to construct a single family residence in the 50-foot seaward and 50-foot landward portions of the 100-foot RPA buffer. The CBPA Review Committee reviewed this application on April 21, 2020, and recommended approval. The lot was recorded in 2020.

Proponent:

Bennett Thomas, 3016 Island Lane, Virginia Beach, Virginia, applicant. Mr. Thomas stated that he has not planted the require trees yet. He is requesting the previous approved site plan be approved again.

Board Discussion:

Chairman Wilson questioned if the 25 tree requirement has been met of is the trees still need to be planted.

Mr. Hoar stated that the tree requirement has not been met and is still a requirement.

CBPA BOARD VOTE:

Ms. Green moved to **APPROVE PLN-CBPA-2020-010** based on the findings contained in the Chesapeake Bay Preservation Act Review Committee staff report. Ms. Connito seconded the motion. The motion was carried by a vote of 7–0, Nowak and Toida excused.

CBPA APPLICATION:

6. PLN-CBPA-2020-011

PROJECT/LOCATION: 100 Westonia Road

APPLICANT: Jonathan Wetherington

PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an **EXCEPTION** to construct a single family residence in the 50-foot seaward and 50-foot landward portions of the 100-foot RPA buffer. The total proposed impervious area will be 2,101 SF (1,384 SF in RPA).

SUBDIVISION/LOT #: Lot 28 Block J of Westonia

WATERSHED: Southern Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 034100100650

CBPA BOARD ACTION:

The CBPA Board **APPROVED THE EXCEPTION** requested in PLN-CBPA-2020-011 with the following stipulations:

- 1. Provide at a minimum one (1) large canopy tree in the RPA to mitigate the impact of the proposed impervious area within the RPA. Per Sec. VII(B) of the Chesapeake Bay Preservation Area Ordinance Specifications Manual, the tree canopy coverage requirement for encroachment into the RPA buffer is fifty percent (50%). See Appendix A of the Chesapeake Landscape Specifications Manual for recommended tree species.**

2. **Approval of this application is subject to further review by the various City of Chesapeake Departments that are included in the building permit application process. The driveway shall be constructed with the required apron and with two (2) runners to provide access to the required parking spaces.**
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Staff Presentation:

Mr. Hoar presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. Pictures of the site at 100 Westonia Road were presented. The Board was informed that the applicant is seeking an approval for the authorization to construct a single family residence in the 50-foot seaward and 50-foot landward portions of the 100-foot RPA buffer. The CBPA Review Committee reviewed this application on April 21, 2020, and recommended approval. The lot was recorded in 1930.

Proponent:

Jon Wetherington, 625 Innovation Drive, Suite 104, Chesapeake, Virginia, applicant. Mr. Wetherington stated that the house was placed where it is on the plan to conform with the other houses in the area so the setbacks would match.

Board Discussion:

Ms. Greene questioned if the house could be moved.

Mr. Hoar stated that it was not discussed, however, if it were to be moved there would still be seaward encroachment and the house would have to meet zoning setbacks.

Ms. Greene questioned why the lot had not been developed since 1930.

Mr. Wetherington stated that the lot was developed and a house was torn down prior to his ownership.

CBPA BOARD VOTE:

Mr. Klesch moved to **APPROVE PLN-CBPA-2020-011** based on the findings contained in the Chesapeake Bay Preservation Act Review Committee staff report. Ms. James seconded the motion. The motion was carried by a vote of 7-0, Nowak and Toida excused.

CBPA APPLICATION:

7. PLN-CBPA-2020-014

PROJECT/LOCATION: 716 Seagrass Reach

APPLICANT: David Seaton

PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an **EXCEPTION** to construct a shed within the 50-foot landward portions of the 100-foot RPA buffer. The total proposed impervious area will be 56 SF (56 SF in RPA).

SUBDIVISION/LOT #: 37B RESUB LTS 32-39 RIVER WALK SEC L-4

WATERSHED: Southern Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 0369006000372

CBPA BOARD ACTION:

The CBPA Board APPROVED THE EXCEPTION requested in PLN-CBPA-2020-014.

Staff Presentation:

Mr. Hoar presented the application to the Board, along with the CBPA Review Committee's findings and recommendations. Pictures of the site at 716 Seagrass Reach were presented. The Board was informed that the applicant is seeking an approval for the authorization to construct a shed within the 50-foot landward portions of the 100-foot RPA buffer. The CBPA Review Committee reviewed this application on May 19, 2020, and recommended approval. The lot was recorded in 1999.

Proponent:

David Seaton, 716 Seagrass Reach, Chesapeake, Virginia, applicant. Mr. Seaton stated that his property line extends past the swell shown in the presentation. He stated that he chose the house because the views of the trees and water.

CBPA BOARD VOTE:

Mr. Klesch moved to **APPROVE PLN-CBPA-2020-014** based on the findings contained in the Chesapeake Bay Preservation Act Review Committee staff report. Ms. Greene seconded the motion. The motion was carried by a vote of 7-0, Nowak and Toida excused.

CBPA APPLICATION:

1. V-19-01(v)

LOCATION: 4223 Goldcrest Drive

SHOWCAUSE VIOLATION: Addition of approximately 6,900 square feet of gravel fill within the Resource Protection Area (RPA), and an approximately 330 square foot shed within the RPA.

SUBDIVISION/LOT #: INDIAN RIVER TERRACE / WASH LOT 12

WATERSHED: Eastern Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 0132007000120

CBPA BOARD ACTION:

The CBPA Board continued the case for 120 days to allow Mr. Cochran the opportunity to properly rehabilitate the 100-foot RPA buffer.

Staff Presentation:

Mr. Hoar presented the Show Cause Violation to the Board, along with the findings and recommendations. He resented pictures of the site at 4223 Goldcrest Drive. He stated that the violation was for unauthorized addition of approximately 6,900 square feet of gravel fill within the Resource Protection Area (RPA), and an approximately 330 square foot shed within the RPA. He stated upon the discovery of the violation the property owner was sent two certified letters on November 11, 2019 and January 2, 2020 alerting the property owner of the violation with no reply back from the owner. The property owner did reply back via phone call the previous week before the Board meeting and was advised to attend the show cause meeting. He stated the property owner has shown that he is complying with the recommendations set by the CBPA Board, however, he has not completed the work. The lot was recorded in 1924

Proponent:

Adam Cochran, 509 Oaklette Drive, Chesapeake, Virginia, applicant. Mr. Cochran stated that he moved out of the house. He is planning on demolishing the shed, has removed some of the gravel, and is selling the gravel as buyers become available.

Board Discussion:

Chairman Wilson questioned what the action would be for the violation.

Ms. Greene stated that the action would be to say the restoration is adequate or to continue the application for further time to restore the violation.

Mr. Klesch stated that Mr. Cochran is showing a good faith effort to restore the property and should be allowed more time to restore the property.

Ms. Jacobi Stated that the time recommended in the continuation is highly generous for code enforcement. She stated the Board also has the option to recommend a date the restoration is to be complete and if it is not complete by that date, the violation would be enforced.

CBPA BOARD VOTE:

Mr. Klesch moved **CONTINUE THE VIOLATION** for 120 days to the October 21, 2020 CBPA Board meeting to allow the applicant time to correct the violation. Ms. Greene seconded the motion. The motion was carried by a vote of 6–0-1, Connito abstained, Nowak and Toida excused.

OTHER BUSINESS:

- **None**

ADJOURNMENT:

With no further business, the meeting was adjourned at 7:48 P.M.

Sincerely,

Lewis Martinez,
Recording Secretary

LM/eh