

Chesapeake Bay Preservation Area Board

Public Hearing Minutes – August 19, 2020 City Council Chambers – 6:00 P.M.

Call to Order: Vice-Chairman Henry Curling called the Chesapeake Bay Preservation Area (CBPA) Board meeting of August 19, 2020, to order at 6:00 p.m. in City Council Chambers.

Roll Call:

PRESENT

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

EXCUSED

Chris Wilson, Chair
Kaite James, Member
Stephen F. Nowak, 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 June 17, 2020 CBPA Board were APPROVED. (5 – 0; Greene/Connito)

CBPA BOARD ACTION:

Ms. Greene moved that the **MINUTES** for the **June 17, 2020 CBPA Board meeting** be **APPROVED**. Ms. Connito seconded the motion. The motion was carried by a vote of 5 – 0.

CBPA APPLICATION:

- 1. PLN-CBPA-2020-023**
PROJECT/LOCATION: 2904 Drum Point Crescent
APPLICANT: Scott Welch
PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an after-the-fact **EXCEPTION** for a shed and portions of an existing patio and to construct a screened in porch and covered patio within the 50-foot seaward and 50-foot landward portions of the 100-foot RPA buffer. The total proposed additional impervious area will be 251 SF (251 SF in RPA).
SUBDIVISION/LOT #: Lot 55 of Hunter's Cove at New Boone Farm Sec 4
WATERSHED: Western Branch of the Elizabeth River
TAX MAP SECTION/PARCEL: 0094001000550
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CBPA BOARD ACTION:

The CBPA Board **APPROVED THE EXCEPTION** requested in PLN-CBPA-2020-023 with the following stipulations:

- 1. Provide one (1) small 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. Remove at a minimum 120 SF of the existing patio paver/brick surface that will not be developed over by the proposed screened in porch and covered patio area.**
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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 2904 Drum Point Crescent were presented. The Board was informed that the applicant is seeking an approval for the authorization of a shed and portions of an existing patio and to construct a screened in porch and covered patio within the 50-foot seaward and 50-foot landward portions of the 100-foot RPA buffer. The CBPA Review Committee reviewed this application on July 7, 2020, and recommended approval. The lot was recorded in 1997.

Proponent:

Scott Welch, 2904 Drum Point Crescent, Chesapeake, Virginia, applicant. Mr. Welch stated that he plans to remove some of the pavers and return it to vegetation. He plans to remove the pavers to be more aesthetically pleasing. He stated the shed was there when he bought the property.

Board Discussion:

Mr. Klesch requested clarification on the site plan and what the extension into the seaward portion of the buffer would be.

Mr. Hoar stated that the applicant is seeking an after-the-fact exception for the fire pit, and that is what is shown on the site plan.

Ms. Greene questioned if the trees and vegetation would be removed along the back of the property.

Mr. Welch stated that he does not intend to remove any trees or vegetation in that area, and it is one of the best features of the house.

Ms. Connito questioned if there were currently gutters on the house and where does the water drain to.

Mr. Welch stated he does have gutters on the house and the runoff water drains into a rock area towards the front of the house.

Ms. Connito questioned if the application could be approved with the stipulation to install rain barrels.

Ms. Jacobi stated that rain barrels are within the CBPA ordinance and can be added as a stipulation.

Ms. Toida stated she would like to add the stipulation to remove the pavers along the side of the house to ensure they are removed.

CBPA BOARD VOTE:

Ms. Green moved to **APPROVE PLN-CBPA-2020-023** 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 6–0, Wilson, James and Nowak excused.

CBPA APPLICATION:

2. PLN-CBPA-2020-031

PROJECT/LOCATION: 829 Hidden Harbor Court

APPLICANT: Oscar Gavarrete

PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an after-the-fact **EXCEPTION** for a driveway within the 50-foot landward portion of the 100-foot RPA buffer. The total proposed additional impervious area will be 1,135 SF (974 SF in RPA).

SUBDIVISION/LOT #: Harbor Landing Lot 16

WATERSHED: Southern Branch of the Elizabeth River

TAX MAP SECTION/PARCEL: 0473004000160

CBPA BOARD ACTION:

The CBPA Board DENIED THE EXCEPTION requested in PLN-CBPA-2020-031 due to the following finding:

The exception is NOT in harmony with the purpose and intent of the Chesapeake Bay Preservation Act and IS of substantial detriment to water quality.

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 829 Hidden Harbor Court were presented. The Board was informed that the applicant is seeking an approval for a driveway within the 50-foot landward portion of the 100-foot RPA buffer. The CBPA Review Committee reviewed this application on July 21, 2020, and recommended denial. The lot was recorded in 1993.

Proponent:

Hollis Ellis, 321 Office Space Lane, Suite 101A, Virginia Beach, Virginia, agent. Mr. Hollis stated that the homeowner installed the driveway in the front of the house to add more parking area. He stated the homeowner wants to keep the treehouse since it is elevated above the ground.

Oscar Gavarrete, 829 Hidden Harbor, Chesapeake, Virginia, applicant. Mr. Gavarrete stated he purchased the home in July 2019 and the driveway on the side of the housewathere prior to his purchase. He built the driveway to avoid parking his cars in the street.

Board Discussion:

Ms. Toida questioned if the pillars were installed at the same time as the driveway.

Mr. Hollis stated the pillars are made of Styrofoam and can be easily removed and are not permanent.

Ms. Jacobi stated that since they are Styrofoam pillars, they are outside of the impervious area jurisdiction.

Mr. Klesch questioned when the homeowner built the driveway and once the homeowner was notified of the violation if there was any discussion on the migration to correct the violation.

Mr. Klesch questioned if there is any way to deny the application and mitigate the violation to reduce the footprint of the driveway.

Ms. Jacobi stated that the board can approve the application, approve with stipulations or deny the application if one of the CBPA criteria is not met. To require a redesign of the drive, the board would have to deny the application and the application would have to submit a redesigned driveway.

Mr. Hollis stated that the applicant is willing to remove the treehouse to reduce the amount of impervious area. He stated that a permit was issued for the driveway, however, the applicant was not notified that the driveway required CBPA approval.

Ms. Jacobi stated that a right-of-way permit was issued for the driveway because the curb flats are required. That application did not have the shape of the driveway in the CBPA area in the site plan.

Mr. Hollis submitted the permit to the board and stated that the shape of the driveway was submitted in the application.

Ms. Jacobi stated that Mr. Hoar reviewed the City's permitting system looking for a site plan showing the driveway and the site plan was not located in the City records as of July 21.

Mr. Hollis stated that two driveway aprons were permitted by the City.

Ms. Toida questioned if the driveway aprons were permitted does that mean the driveway was also permitted.

Ms. Jacobi stated that it is the City's position that the permit was for the aprons, not the concrete driveway.

CBPA BOARD VOTE:

Dr. Spaur moved to **DENY PLN-CBPA-2020-031** where the facts presented support the following finding: The exception is NOT in harmony with the purpose and intent of the Chesapeake Bay Preservation Act and IS of substantial detriment to water quality. Ms. Connito seconded the motion. The motion was carried by a vote of 5–0, Greene abstained, Wilson, James and Nowak excused.

CBPA APPLICATION:

- 3. PLN-CBPA-2020-033**
PROJECT/LOCATION: 1718 Rockwood Drive
APPLICANT: Jesse Walker
PROPOSAL: In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an **EXCEPTION** to construct a single family home within the 50-foot seaward portion of the 100-foot RPA buffer. The total proposed impervious area will be 1,424 SF (1,424 SF in RPA).
SUBDIVISION/LOT #: Parkview Section 2 Resub of Lots 9 and 10
WATERSHED: Southern Branch of the Elizabeth River
TAX MAP SECTION/PARCEL: 0344002004060
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CBPA BOARD ACTION:

The CBPA Board DENIED THE EXCEPTION requested in PLN-CBPA-2020-033 due to the following finding:

The exception is NOT in harmony with the purpose and intent of the Chesapeake Bay Preservation Act and IS of substantial detriment to water quality.

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 1718 Rockwood Drive were presented. The Board was informed that the applicant is seeking an approval for the authorization to construct a single family home within the 50-foot seaward portion of the 100-foot RPA buffer. The CBPA Review Committee reviewed this application on July 21, 2020, and recommended approval. The lot was recorded in 1954.

Proponent:

Brad Martin, 824 West 21st Street, Norfolk, Virginia, agent. Mr. Martin stated the application has come before the CBPA Board twice before, however, he feels this is a much improved plan. He stated the house was approved for a 10 foot variance which would pull the house further away from the CBPA feature.

Mr. Martin stated that using the 10 feet, a 3 to 1 slope which would put the house at a 6 foot slope, which would be more environmentally sound than a retaining wall surrounding the property. He stated the landscaping proposed also meets or exceeds the City's requirements. Mr. Martin stated there will a bio-retention planting bed along the property to help filter any runoff into the Chesapeake Bay.

Board Discussion:

Mr. Klesch questioned if the Zoning Variance was approved.

Mr. Hoar stated that the Zoning Variance was approved, the variance would place the front of the house 20 feet from the property line instead of 30 feet.

Mr. Klesch questioned why there is a difference in the canopy coverage from the previous applications.

Mr. Hoar stated that according to section seven of the CBPA specifications manual, it states that tidal and subaqueous square footage of lots are not to be included in the canopy calculations. He stated for this lot you would only calculate what is above the tidal and subaqueous area which is 3,812 square feet which would calculate to 1,900 square feet of canopy coverage.

Ms. Toida questioned if the proposed driveway and walkway were concrete.

Mr. Hoar confirmed they would be concrete a driveway and walkway.

Ms. Greene questioned how the elevation would be increased for the slope to raise.

Mr. Martin stated that there would be 3 feet of fill in order to increase the slope of the house.

Ms. Greene questioned if the BMP would just be vegetation planted on the slope.

Mr. Martin stated that they would dig down 18 inches of specialized dirt and fertilizer mixture in order to assist with the runoff. Rain barrels and a French Drain will also be used to assist in pulling the water away from the Chesapeake Bay.

Ms. Toida questioned how much of the lot would be raised by 3 feet.

Mr. Martin stated only under the footprint of the house and the driveway would be raised.

Mr. Klesch questioned if there could be a stipulation that would state there could be no more development applications, this site plan would be the final approval on the property.

Ms. Jacobi stated the CBPA Board cannot put forward a stipulation to limit the amount of development requested by the homeowner.

Ms. Connito questioned if there could be a stipulation to put the house on stilts.

Mr. Martin stated that it was researched to put the house on stilts, however, the area between the house and the concrete driveway would be difficult to manage. He stated that less impervious pavers were also researched instead of a concrete driveway, however, considering the safety of the homeowners, a concrete driveway proved to be safer than pavers.

CBPA BOARD VOTE:

Dr. Spaur moved to **DENY PLN-CBPA-2020-033** where the facts presented support the following finding: The exception is NOT in harmony with the purpose and intent of the Chesapeake Bay Preservation Act and IS of substantial detriment to water quality. Ms. Greene seconded the motion. The motion was carried by a vote of 6–0, Wilson, James and Nowak excused.

OTHER BUSINESS:

- Closed Session 6:46 P.M. – 6:53 P.M.
- Closed Session 7:21 P.M. – 7:34 P.M.

ADJOURNMENT:

With no further business, the meeting was adjourned at 7:37 P.M.

Sincerely,

Lewis Martinez,
Recording Secretary

LM/eh