

**APPROVED MINUTES**

*Chesapeake Bay Preservation Area Board*

**Public Hearing Minutes – July 20, 2022**

**Human Resources Training Room/City Council Chambers – 6:00 P.M.**

**Call to Order:** Chairman Weckworth called the Chesapeake Bay Preservation Board meeting of July 20, 2022, to order at 6:00 p.m. in the City Council Chambers.

**Roll Call:**

**PRESENT**

Bruce Weckworth, Chair  
Kimberly Koelsch, Vice Chair  
John Klesch, Member  
Jillian Sunderland, Member  
Victoria Thomas, Member  
Rick Underhill, Alternate Member

**EXCUSED**

Katie James, Member  
Karen Toida, Member  
Chris Wilson, Alternate Member

**PLANNING DEPARTMENT STAFF PRESENT**

Ethan Hoar, CBLP, CBPA Planner  
Sherry Carawan, CBPA Recording Secretary  
Gilbert Bostwick, AICP, Current Planning Administrator

**CITY ATTORNEY STAFF PRESENT**

Meredith Jacobi, Assistant City Attorney

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**APPROVAL OF MINUTES:**

The June 15, 2022, CBPA Board minutes were presented into the record for Board action.

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**CBPA BOARD ACTION:**

**MINUTES** for the June 15, 2022, CBPA Board were **APPROVED** unanimously.  
(James, Toida, and Wilson were excused)

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**CBPA APPLICATION:**

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**1. PLN-CBPA-2022-012**

**PROJECT/LOCATION:** 2836 Martins Point Way

**APPLICANT/OWNER:** Sherman and Shelia Coleman

**AGENCY:** Hassell & Folkes, P.C.

**PROPOSAL:** In accordance with Section 26-528, of the Chesapeake City Code, the applicant seeks an **EXCEPTION** to construct a pool within the 50-foot landward portion of the 100-foot Resource Protection Area (RPA) buffer. The total proposed additional impervious area will be 1,320 square feet (SF) (599 SF in RPA).

**SUBDIVISION/LOT #:** Lot 13 Martins Point Way

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

**TAX MAP PARCEL:** 0101016000130

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**CBPA BOARD ACTION:**

The CBPA Board **APPROVED** (6 – 0, Klesch/Thomas; James, Toida and Wilson excused) the exception request for PLN-CBPA-2022-012 with the following stipulations:

- 1. Mitigation plantings shall be done in accordance with the submitted landscape plan titled, “Planting Plan Coleman Residence” dated July 8, 2022, completed by WPL.**
  - 2. No additional development or disturbance shall occur beyond the 50-foot landward portion of the 100-foot Resource Protection Area (RPA) buffer.**
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**Staff Presentation:**

Mr. Hoar read PLN-CBPA-2022-012 into the record for the Board’s review and action. Mr. Hoar presented the CBPA Review Committee’s finding and recommendations and presented pictures of the site.

### Proponent:

Lynn Evans, 325 Volvo Parkway, Chesapeake, Virginia, agent. Mr. Evans provided background information and will standby for questions.

Sherman Coleman, 2836 Martins Point Way, Chesapeake, Virginia, self. Mr. Coleman provided background information and that he is willing to do any additional mitigation if needed.

### Board Discussion:

Mr. Underhill asked Mr. Hoar if the new landscape proposal was reviewed by staff. Mr. Hoar stated that it was reviewed by him but not the entire Review Committee. Mr. Underhill questioned Chairman Weckworth if the decision could be made by the Board or if the exception application would need to be deferred back to the Review Committee.

Mr. Hoar stated that it could be deferred back to the Review Committee, or the Board can make the final determination.

Ms. Sunderland asked Mr. Hoar about the adjoining property with a pool. Mr. Hoar stated that no exception was necessary for that property because it did not encroach into the buffer.

Mr. Klesch asked Mr. Hoar about existing canopy and the location on the lot. Mr. Hoar provided information about the plantings.

Chairman Weckworth asked Mr. Coleman to confirm that he would not have any issues with increasing the planting of more canopy trees or vegetation, and Mr. Coleman agreed he would not have any issues with any additional vegetation recommendations. Chairman Weckworth stated that the increased vegetation could be planted closer to the wetlands.

Ms. Sunderland asked Mr. Evans if the concrete apron around the pool was the minimum necessary according to code. The agent stated that they did not want to go any smaller due to safety and structural concerns.

Chairman Weckworth asked staff to address the updated landscape plan and Mr. Hoar provided the board with the information.

Chairman Weckworth stated that the increased vegetation could be closer to the wetlands. Mr. Underhill asked Mr. Hoar if the plan was to plant the lawn up to the wetlands. Mr. Hoar stated that there is nothing proposed to be planted beyond the landward buffer in accordance with the amended landscape plan.

Mr. Klesch stated that he would not like a lawn planted close to the wetlands.

### CBPA BOARD VOTE:

Mr. Klesch made the motion to **APPROVE** the exception request with the amended landscape plan and no further disturbance occurred beyond the landward buffer for **PLN-CBPA-2022-012**. Ms. Thomas seconded the motion. The motion carried by a vote of 6 – 0. Members James, Toida, and Wilson was excused.

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## CBPA VIOLATION APPLICATION:

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1. **V-20-23**

**Location:** 301 Kemp Lane

**Show Cause Violation:** Unpermitted construction of a driveway addition (approx. 4,500 SF) within the Resource Protection Area (RPA).

**Subdivision/Lot:** Parcel D-2-A Resub Pars D-1 & D-2 Nettle Pro 1.068

**Watershed:** Eastern Branch of the Elizabeth River

**Tax Map Parcel:** 0134021000321

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## CBPA BOARD ACTION:

CBPA Board reviewed the above **VIOLATION** (6-0, Underhill/Weckworth; James, Toida and Wilson excused) and took the following action:

1. **Restoration shall occur in the form of a four (4) foot wide mulched planting bed located along the entirety of the driveway, both asphalt and gravel portions. The mulched bed shall be located between the driveway and the waterway and consists of native shrubs placed every five (5) feet on center. The planting bed shall be installed within 90 days.**
2. **A 15% reduction or 1,798 square-feet of impervious area shall be removed from the property within 90 days.**

### Staff Presentation:

Mr. Hoar read V-20-23 into the record for the Board's review and action. Mr. Hoar presented the CBPA Violation and gave a brief overview and the options available to the Board for consideration.

For the Show Cause Hearing, the Board was directed to review the restoration proposal and vote on whether additional restoration is complete or additional restoration is required.

The Board was also directed to vote on the appropriate penalty (referral to circuit court, civil charge, restoration, reprimand). In determining an appropriate civil charge, the Board should consider the extent of the violation, good faith of the property owner, history of non-compliance and cooperation.

### Proponent:

Rena Jennings, 301 Kemp Lane, Chesapeake, Virginia, self. Ms. Jennings provided some background on the violation and stated that she was willing to do what is needed without having to remove the asphalt and will standby for questions.

### **Board Discussion:**

Mr. Underhill asked Mr. Hoar if the owner was proposing any additional plantings and Mr. Hoar stated he was not aware of any.

Ms. Koelsch asked Mr. Hoar about the plan that was submitted to staff. Mr. Hoar stated that staff had received a survey but that the restoration plan was Ms. Jennings responsibility, and staff had received none.

Mr. Klesch stated he would like to see restoration between the driveway and shoreline.

Chairman Weckworth asked if the gravel was preexisting. Mr. Hoar stated that a neighbor provided an affidavit that the gravel had been there prior to Ms. Jennings owning the property.

Mr. Klesch asked Mr. Hoar about the bulkhead and if it would protect the existing shoreline. Mr. Hoar stated that bulkhead was not in place for the majority of the shoreline, a bulkhead existed only in the vicinity of the pier.

Mr. Klesch stated he would like to see a professional landscaping plan completed and the gravel removed. Mr. Underhill asked Ms. Jennings if she said she was willing to plant additional plantings if required, and Ms. Jennings replied yes.

Ms. Sunderland asked Ms. Jennings about removing some of the asphalt, and Ms. Jennings replied she would not want that but would be willing to plant additional plantings. Ms. Sunderland informed Ms. Jennings that a landscape plan should be submitted before any planting takes place.

Mr. Underhill stated that some type of mulched bed would be good in the area that drops off the gravel driveway towards the shoreline.

Mr. Klesch and Ms. Koelsch mentioned a couple of organizations to reach out to for guidance when working on the landscape plan.

Ms. Jacobi advised the Board they have the authority to order restoration of the property as necessary to protect water quality. Ms. Jacobi suggested an order that is specific enough to be enforceable but flexible enough for the property owner to work with staff to come up with a restoration plan.

Mr. Klesch made a motion that the Board request the owner to hire a professional landscaping company to address the property in the boundary area between the driveway and the riverbank removing some of the gravel to a reasonable width, within sixty days.

Ms. Sunderland stated that the Board should agree on a reduction in impervious area.

There was no second on the motion and therefore the motion failed.

Chairman Weckworth stated that it would be okay to state a certain amount of impervious area which would include the gravel or asphalt.

Ms. Koelsch asked if there is an and/or option of planting beds so the applicant would have more options, but also meet the requirements.

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

Mr. Underhill moved that a 4-foot-wide buffer be constructed for the entire length of the gravel driveway and the shoreline, additional native plantings/shrubs shall be added at 5-foot spacing to be completed within three months, and a reduction of 15% total impervious area from the property. Chairman Weckworth seconded the motion. The motion was carried by a vote of 6 – 0. Board members James, Toida and Wilson was excused.

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**CBPA VIOLATION APPLICATION:**

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**2. V-20-24****LOCATION:** 3700 White Heron Run**SHOWCAUSE VIOLATION:** Unpermitted construction of a driveway addition (approx. 825 SF) within the Resource Protection Area (RPA).**SUBDIVISION/LOT:** Asburn Point / Lot 30**WATERSHED:** Eastern Branch of the Elizabeth River**TAX MAP SECTION/PARCEL:** 0132011000300

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**CBPA BOARD ACTION:**

CBPA Board reviewed the above **VIOLATION** (6 – 0, Koelsch/Underhill; James, Toida and Wilson excused) and took the following action:

- 1. The CBPA Board voted that restoration shall be completed in accordance with the submitted restoration plan titled, “CBPA Variance Exhibit”, dated June 19, 2022, completed by Colliers Engineering and Design. Restoration shall be completed within 90 days.**

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**Staff Presentation:**

Mr. Hoar read V-20-24 into the record for the Board’s review and action. Mr. Hoar presented the CBPA Violation and gave a brief overview of the project.

**Proponent:**

Allen Whitmore, 2500 Alameda Avenue, Norfolk, VA, agent. Mr. Whitmore provided background information, discussed the new restoration plan, and will stand by for questions.

Gerardo Ruiz, 3700 White Heron Run, Chesapeake, VA, self. Mr. Ruiz provided background information and will stand by for questions.

**Board Discussion:**

Mr. Underhill asked Mr. Hoar about the driveway and if a specific amount was required to be removed. Mr. Hoar stated that no specific amount was included in the Board’s decision at the previous hearing.

Mr. Underhill asked Mr. Whitmore to explain the new restoration plan, and Mr. Whitmore explained the new restoration plan. Ms. Koelsch asked Mr. Whitmore for the square footage of concrete being removed, and Mr. Whitmore replied 610.5 square feet.

**CBPA BOARD VOTE:**

Ms. Koelsch moved to approve the landscape plan dated June 19, 2022 and completed in ninety days. Mr. Underhill seconded the motion. The motion was carried by a vote of 6 – 0. Board members James, Toida, and Wilson was excused.

**OTHER BUSINESS:**

There was no other business discussed at the meeting.

**ADJOURNMENT:**

With no further business, the meeting was adjourned at 7:40 P.M.

Sincerely,

Sherry Carawan  
Recording Secretary

EH/sc