

Chesapeake Bay Board

January 14, 2010

A. Roll Call

B. Minutes December 9, 2009 – Board Meeting

C. Public Hearings

1. CBE-10-050 – Corbett/Mid Atlantic – 209 W Tazwells Way

D. Board Considerations

E. Matters of Special Privilege

F. Adjournment

Chesapeake Bay Exception CBE-10-050: 209 West Tazewells Way

Staff report for the January 14, 2010, Chesapeake Bay Board Public Hearing.

This staff report is prepared by the James City County Environmental Division to provide information to the Chesapeake Bay Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant	John and Eleanor Corbet
Land Owner	John and Eleanor Corbet
Location	209 West Tazewells Way, Kingsmill, Williamsburg, Virginia
Parcel Identification	5030400023
Lot Size:	.49 acres
RPA Area on Lot	.36 acres or 73 % of the lot.
Watershed	College Creek, Halfway Creek (HUC code JL34)
Proposed Activity:	Installation of a 115 linear feet of segmental block retaining wall

Proposed Impacts

Impervious Area	115 square feet
RPA Encroachment	Landward 50 foot RPA Buffer

Brief Description and Summary

John and Eleanor Corbet, of 209 Tazewells Way, Williamsburg, Va. have applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer, for the construction of 115 linear ft of segmental block retaining wall within the landward 50 foot RPA buffer. The wall will create 115 square feet of impervious area within the RPA Buffer.

A detailed RPA Mitigation Planting Plan (Plan) has been provided along with the exception request for your review. The plan proposes to mitigate for the RPA impacts by planting (1) understory tree and (3) native shrubs, in mulch planting beds to help filter runoff. The amount of plantings proposed meets the standard mitigation planting requirements of the County for impervious impacts.

Background

The lot was recorded prior to the adoption of the Ordinance, and no RPA existed on the lot at that time. In 2004 the Ordinance requirements related to the determination of perennial flow were changed requiring that perennial water bodies be identified based on a field evaluation. A perennial feature adjacent to the side of the lot was identified requiring that a 100 foot RPA buffer be established on the lot.

In this case, the exception request is for a segmental block retaining wall within the landward 50 foot buffer. This request does not qualify for an administrative waiver because it is for an accessory structure. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing.

Water Quality Impact Assessment (WQIA)

Under Section 23-14 of the amended Ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a WQIA for this project and proposes to mitigate for the impacts to the RPA by planting. The plan proposes to mitigate for the RPA impacts by planting (1) understory tree and (3) native shrubs, in mulch planting beds on the lot to help filter nonpoint source pollution.

Staff Recommendations

The issue before the Board is the addition of the 115 square feet of impervious area within the RPA buffer. The Board is to determine whether or not this is consistent with the spirit and intent of the Ordinance and make a finding based upon the criteria outlined in Section 23-14(c) of the Ordinance.

Staff evaluated the potential adverse impacts of this proposal and determined them to be minimal. Any impacts will be offset by the proposed mitigation plan.

If the Board votes to approve the exception request, then staff recommends that the following conditions be incorporated into the approval:

1. The applicant must obtain all other permits required from agencies that may have regulatory authority over the proposed activities, including a James City County building permit if required.
2. The mitigation plan shall be revised to include a native understory tree in lieu of the proposed non-native Crepe Myrtle tree, the size of the tree shall be a minimum of 1-1/2 inch caliper (six to eight feet tall), and the shrubs shall be 3 gallon size. All vegetation shall be native species approved by the Environmental Division.
3. Full implementation of the RPA Mitigation Plan submitted with the WQIA and any additional Board mitigation requirements shall be guaranteed through the provisions of the

Ordinance contained in Sections 23-10(3) d. and 23-17(c), a form of surety satisfactory to the County Attorney.

4. This exception request approval shall become null and void if construction has not begun by January 14, 2011, or all improvements including the required mitigation plantings and infiltration trench are not completed by that expiration date.
5. Written requests for an extension to an exception shall be submitted to the Environmental Division no later than 2 weeks prior to the expiration date.

Staff Report prepared by: _____

Patrick T. Menichino
Compliance Specialist

CONCUR:

Scott J. Thomas
Secretary to the Board

Attachments: