

Chesapeake Bay Board

March 10, 2010

A. Roll Call

B. Minutes

From February 11, 2010 – Board Meeting

C. Public Hearings

1. CBE-10-058 – Moon – 219 St Cuthbert
2. CBE-10-060 – Weiner – 125 Mathews Grant

D. Board Considerations - None

E. Matters of Special Privilege

F. Adjournment

Chesapeake Bay Exception CBE-10-058: 219 St. Cuthbert

Staff report for the March 10, 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 Joan Moon
Land Owner	(same)
Location	219 St. Cuthbert, Ford's Colony, Williamsburg, Virginia
Parcel Identification	3721000050
Lot Size:	0.33 acres
RPA Area on Lot	.22 acres or 80 % of the lot.
Watershed	Powhatan Creek, non-tidal mainstem, (HUC code JL31)
Proposed Activity:	A 390 square foot encroachment into the RPA buffer to create additional turf area, and the relocation of a proposed infiltration trench 10 feet seaward from its current approved location.

Proposed Impacts

Impervious Area	0.0
RPA Encroachment	Seaward 50 foot RPA Buffer

Brief Description and Summary

John and Joan Moon of 219 St. Cuthbert, Ford's Colony, Williamsburg, Virginia, have applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer, to create 390 square feet of additional turf area and the relocation of a proposed infiltration trench 10 feet seaward of its current approved location.

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 after 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 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 an expansion of turf area and the relocation of a proposed infiltration trench within the seaward 50 foot buffer. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing.

The owners of this property have previously been granted two other Chesapeake Bay Exceptions for RPA encroachments within the RPA buffer. CBE-09-095 was granted to allow for the construction of the residence and CBE -10-020 to allow for an RPA buffer modification.

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 (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 390 square feet of turf area within the RPA buffer and the relocation of the infiltration trench. 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 moderate. The revised location of the infiltration trench is 10 feet seaward and 1.5 feet lower in elevation than its current proposed location. If the infiltration trench is relocated as requested, the bottom of the trench would be at elev. 48.5, which is just marginally higher than the adjacent wetlands elevation. Without the submission of an engineering analysis, staff is of the opinion that the infiltration trench will not properly function at this revised location.

At this time Staff does not recommend approval of this exception.

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

The applicant must obtain all other permits required from agencies that may have regulatory authority over the proposed activities.

1. 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.
2. This exception request approval shall become null and void if construction has not begun by March 10, 2011, or all improvements including the required mitigation plantings and infiltration trench are not completed by that expiration date.
3. 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:

Chesapeake Bay Exception CBE-10-060: 125 Mathew's Grant

Staff report for the March 10, 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	Eric and Valerie Weiner
Land Owner	(same)
Location	125 Mathew's Grant, Kingsmill, Williamsburg, Virginia
Parcel Identification	4940200056
Lot Size:	.71 acres
RPA Area on Lot	.52 acres or 73 % of the lot.
Watershed	College Creek, (HUC code JL34)
Proposed Activity:	Install 96 linear feet of segmental block retaining wall and a sand set permeable paver patio.

Proposed Impacts

Impervious Area: Total impervious area created by the wall and the patio will be 900 sf.

RPA Encroachment: Both in the landward 100' and the seaward 50' RPA buffers.

Brief Description and Summary

Eric and Valerie Weiner of 125 Mathew's Grant, Kingsmill, Williamsburg, Virginia, have applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer, to install a segmental block retaining wall 96 feet in length and a sand set permeable paver patio.

A detailed RPA Mitigation Planting Plan (Plan) has been provided along with the exception request for your review. The plan proposes the installation of more than 30 shrubs within the RPA buffer. The amount of plantings proposed exceeds 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. Following the 1990 adoption of the Ordinance, Halfway Creek which is adjacent to this property was identified as a resource thereby requiring that a 100 foot RPA buffer be established on the lot.

In this case, the exception request is for the installation of a retaining wall and patio within both the landward 100' and seaward 50' buffers. 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 installing more than 30 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 a retaining wall and patio 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 moderate. The proposed mitigation planting of 30 shrubs should offset the adverse impacts of the impervious areas.

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. All proposed shrubs shall be a minimum of 3-5 gallon container size 18"- 36" tall.
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 March 10, 2011, or all improvements including the required mitigation plantings 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: