

# **Chesapeake Bay Board Building F - 7 p.m.**

Sept. 10, 2014

## **A. Roll Call**

## **B. Minutes**

From August 13, 2014 – Board Meeting

From August 18, 2014 – Site Visit

## **C. Public Hearings**

1. CBE-15-004 – Gilden/Delightful Gardens. 1584 Harbor Rd – deck

## **D. Board Considerations**

## **E. Matters of Special Privilege**

1. Discussion on Conservation Easements

## **F. Adjournment**

## Chesapeake Bay Exception CBE-15-004: 1584 Harbor Road - Gilden

Staff report for the September 10, 2014 Chesapeake Bay Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist 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: Ron and Gail Gilden

Location: 1584 Harbor Road, The Governor's Land at Two Rivers  
Lot 20, Governor's Land the Harbor  
PIN: 4310200020

Lot Size/Zoning: 0.303 ac +/-; R4 Residential Planned Community

Area of Lot in RPA: 0.18 ac +/- (60%)

Watershed: James River, HUC Code JL29

Proposed Activity: Deck

Impervious Cover: Approximately 500 square feet

RPA Encroachment: 500 square feet (seaward 50 ft.)

### Brief Summary and Description of Activities

Mr. Don Newsom of Delightful Gardens, on behalf of Don and Gail Gilden, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the installation of a deck. The lot was platted in 1994 and the house was constructed soon thereafter. It should be noted that the seaward 50 foot RPA line and the rear building setback line coincide.

This project was brought before the Chesapeake Bay Board at the July 9, 2014 meeting. Mr. Newsom has further defined the existing swale system at the top of the slope and will remove the existing walk that lies under the proposed deck and reestablish the swale. The remaining turf grass has also been removed and the entirety of the remaining conservation easement will be restored.

The project entails the construction of a deck, adding approximately 500 sq. ft. of impervious cover. The project also will replace existing steps with precast paver steps. The deck requires Board action for approval, while the step replacement portion of the project is an administrative review. As with

previous cases within the marina at Governor's Land, the affected area is also within a conservation easement dedicated to James City County and requires approval of the Planning Commission.

The new deck will extend from the existing deck and be two steps lower than the existing deck. The mitigation for this project is the restoration of the entire conservation area/RPA with native plant material. While the required mitigation for the impervious cover is 1 planting unit, the proposed mitigation includes over 23 shrubs (which equates to over 2 planting units) and various amounts of perennials and exceeds the requirements.

On August 18, 2014, the Chesapeake Bay Board reconvened the August 13<sup>th</sup> meeting on site to look at the site conditions, specifically looking at the berm and swale drainage systems. Staff explained how the project would layout with the berm and how the existing walkway would be removed under the deck and the swale reestablished to bring the drainage system back to the original intent. Mr. Newsom has subsequently provided a revised drawing detailing the swale and drainage system under the proposed deck.

### **Staff Evaluation**

Staff has evaluated the application and exception request for the deck/patio. Staff finds that the application has met the conditions in the Chesapeake Bay Preservation Ordinance, Sections 23-11 and 23-14, and that the application should be heard by the Board because the deck is within the seaward 50' RPA and is more than the minimum necessary to afford relief. Therefore, the exception request must be considered by the Board following public hearing under the formal exception process. The exception request before the board, and decision to approve or deny by resolution, is for encroachment into the RPA buffer for the construction of the above stated improvements.

### **Water Quality Impact Assessment (WQIA)**

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation 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 *County Sensitive Area Activity Application* and a mitigation planting plan, which are included in the case report packet.

### **Consideration by the Chesapeake Bay Board**

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-15-004 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay

Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-15-004 are included for the Board's use and decision.

**Staff Recommendations**

Staff has fully reviewed the application and exception request and has determined impacts associated with the proposal to be **moderate** for the proposed development and that the proposed mitigation measures exceed standard mitigation requirements. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

1. The applicant must obtain all other necessary federal, state and local permits as required for the project; and
2. County must receive from the Applicant a written copy of any approvals from the Governor's Land Foundation prior to starting construction; and
3. Applicant shall follow the County's Pervious Paver Block System Guidelines for installation of the walkway paver system; and
4. Surety of \$1000.00 will be required in a form acceptable to the County Attorney's office to guarantee the mitigation plantings; and
5. This exception request approval shall become null and void if construction has not begun by September 10, 2015; and
6. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 6 weeks prior to the expiration date.

Staff Report prepared by:

  
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Michael D. Woolson  
Senior Watershed Planner

CONCUR:

  
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Scott J. Thomas, Director  
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package