

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

Dec. 10, 2014

## **A. Roll Call**

## **B. Minutes**

From November 13, 2014 – Board Meeting

## **C. Public Hearings**

1. CBE-15-029: Westmoreland Corp – 124 Nottinghamshire – house, patio and retaining wall
2. CBE-15-028: Husslein – 153 Thomas Dale – deck, gazebo, retaining wall and fill

## **D. Board Considerations - None**

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

## **F. Adjournment**

## Chesapeake Bay Exception CBE-15-028: 153 Thomas Dale – Husslein

Staff report for the December 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: Klaus Husslein

Location: 153 Thomas Dale, Kingsmill  
Fairfax woods, Lot 29  
PIN: 5030700029

Lot Size/Zoning: 0.73 ac +/-; R4 -Residential Planned Community

Area of Lot in RPA: 0.38 ac +/- (52%)

Watershed: College Creek, HUC Code JL34

Proposed Activity: Deck addition, gazebo, retaining wall

Impervious Cover: Approximately 680 square feet

RPA Encroachment: 680 square feet (landward 50 ft)

### Brief Summary and Description of Activities

Mr. Klaus Husslein has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the installation of a deck, gazebo, and a retaining wall. The lot was platted prior to the adoption of the Ordinance and the house built in 1986.

The project entails the construction of a 29 ft x 20ft deck addition, a 12 ft hexagonal gazebo and a retaining wall approximately 30ft in length. Approximately 18” of fill will be placed behind the retaining wall. The combination of all these features adds an additional 680 sq. ft. of impervious cover to the lot. The existing gazebo has structural issues and will be demolished. A new one will be built further away from the RPA.

Required mitigation for the total impervious cover includes 3 inches of gravel under the proposed deck and 3 planting units. A planting unit consists of 1 canopy tree, 2 understory trees, and 3 shrubs. Mr. Husslein proposes to install mitigation plantings adjacent to the deck expansion and

retaining wall. This is acceptable to staff and staff requests that a plant list be provided prior to plant installation.

### **Staff Evaluation**

Staff has evaluated the application and exception request. 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, gazebo and retaining wall are accessory structures within the RPA. 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* which is included in the case report packet.

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

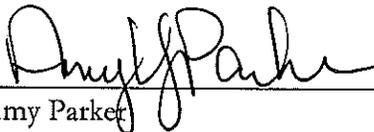
The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-15-028 as outlined 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-15-028 are included for the Board's use and decision.

**Staff Recommendations**

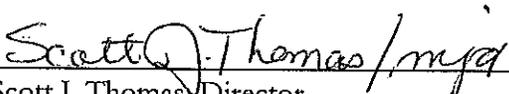
Staff has fully reviewed the application and exception request and has determined impacts associated with the proposal to be **moderate** for the proposed development and that the proposed mitigation measures exceed standard mitigation requirements. Staff recommends the Chesapeake Bay Board approve this 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. The applicant must submit a mitigation planting plan for approval; and
3. Surety of \$1000.00 will be required in a form acceptable to the County Attorney's office to guarantee the mitigation (plants and gravel); and
4. This exception request approval shall become null and void if construction has not begun by December 10, 2015; and
5. 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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Amy Parker  
Senior Environmental Inspector

CONCUR:

  
\_\_\_\_\_  
Scott J. Thomas, Director  
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package

**Chesapeake Bay Exception CBE-15-029: 124 Nottinghamshire-  
Westmoreland Corporation-Brinkley**

Staff report for the December 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 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: Mary Brinkley – Westmoreland Corporation  
Land Owner: Mary Brinkley- Westmoreland Corporation  
Location: 124 Nottinghamshire  
Parcel: Section 7, Lot 32, Ford's Colony  
PIN: 3233100032  
Lot Size: 15,246sq. ft. /0.35 acres  
RPA Area on Lot: 0.23 acres/ 66% of the lot  
Watershed: Powhatan Creek (HUC Code JL31)  
Proposed Activity: Construction of single family home, patio, and retaining wall

**Proposed Impacts**

Impervious Area: 3,020 square feet (approximate)  
RPA Encroachment: 440 square feet (approximate) to the seaward 50 foot RPA buffer, 2,580 square feet (approximate) landward RPA buffer with an approximate total of 3,020 square feet.

**Description of Activities**

Ms. Mary Brinkley with Westmoreland Corporation-- the property owner has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the construction of a single family home, patio, and retaining wall. The project is located at 124 Nottinghamshire within the Ford's Colony subdivision. The lot was platted in 2003 after adoption of the Chesapeake Bay Preservation Ordinance and prior to the 2004 revisions to the

Ordinance. The proposed improvements are within the seaward and landward 50 foot RPA buffer. The required mitigation for this project is 8 planting units (1 canopy tree, 2 understory trees, and 3 shrubs per every 400 sq. ft. impervious cover).

### **Background of Parcel**

Based on staff review of County records, the lot was recorded before the 2004 Ordinance revision. As the proposed construction is located within the RPA buffer, it cannot be administratively reviewed, therefore in accordance with section 23-14 of the Ordinance an 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 single family home, patio, and retaining wall.

### **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*.

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

The issue before the Board is the construction of the single family home, patio, and retaining wall that will create approximately 3,020 square feet of impervious area within the landward and seaward 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 five (5) criteria outlined in Section 23-14 (c) of the Ordinance.

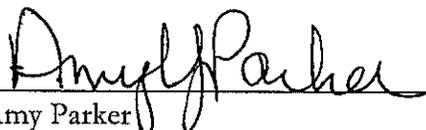
The board is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Board is to fully consider Chesapeake Bay Exception CBE-15-029 as outlined and presented above and review 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 denial of Chesapeake Bay Exception CBE-15-029 are included for the Board's use and decision.

**Staff Recommendations**

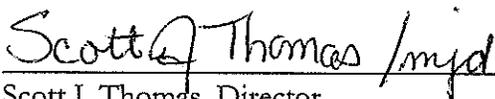
Staff has fully reviewed the application and exception request and has determined impacts associated with the proposal to be moderate for the proposed development and that the proposed mitigation measures meet standard mitigation requirements. Staff recommends the Chesapeake Bay Board approve this Chesapeake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

1. The applicant must obtain all other necessary local permits as required for the project; and
2. Surety of \$3,000 will be required in a form acceptable to the County Attorney's office; and
3. This exception request approval shall become null and void if construction has not begun by December 10, 2015; and
4. 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:

  
\_\_\_\_\_  
Amy Parker  
Senior Environmental Inspector

CONCUR:

  
\_\_\_\_\_  
Scott J. Thomas, Director  
Engineering and Resource Protection

Attachments: Sensitive Area Activity Application