

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD
MINUTES
January 14, 2010**

A. ROLL CALL

David Gussman –Chairman
Terence Elkins
William Apperson
Richard Mason - Alternate
Charles Roadley - Alternate

ABSENT

John Hughes
Larry Waltrip

OTHERS PRESENT

County Staff (Staff)

The responsibility of this Board is to carry out locally the Commonwealth policy to protect against and minimize pollution and deposition of sediment in wetlands, streams, and lakes in James City County, which are tributaries of the Chesapeake Bay.

B. MINUTES

The December 9, 2009 Board Meeting minutes were approved as written.

C. PUBLIC HEARINGS

1. CBE-10-035 – Corbett/Mid Atlantic – 209 W Tazewells Way

Pat Menichino, Compliance Specialist, presented the following case:

Existing Site Data & Information

Applicant:	John and Eleanor Corbett
Land Owner:	John and Eleanor Corbett
Location:	209 West Tazewells Way, Kingsmill, Williamsburg, Virginia
Parcel Id:	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 sqft
RPA Encroachment:	Landward 50 foot RPA Buffer

Brief Description and Summary

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

A detailed RPA Mitigation Planting Plan (Plan) was also provided for 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 proposed amount of plantings 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.

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

Water Quality Impact Assessment (WQIA)

Under Section 23-14 of the amended Ordinance, a water 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 115 sqft 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 and impacts will be offset by the proposed mitigation plan.

If the Board votes to approve the exception request, then staff recommends 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 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.

Mr. Mason asked what the distance would be between the top of the wall and the bottom of the proposed swale, as he was concerned with the possibility of overflow.

Mr. Menichino stated the application did not specify this measurement but by scale, it appeared the center of the swale would be about 24 inches from the wall. He stated the application indicated a sand backfill that would minimize the likelihood of overflow and also stated the Board could require more specific measures.

Mr. Roadley asked if the existing stone wall was being removed.

Mr. Elkins asked if the existing wall had been permitted and stated the need for this structure to protect the residence from erosion was appropriate.

Mr. Menichino replied that removal was not specified in the application and the existing wall was constructed prior to the RPA designation on the lot.

Mr. Gussman opened the public hearing and closed the public hearing as no one wished to speak.

Mr. Mason stated he would like to have the construction of the swale approved by the Environmental Division.

Mr. Roadley made a motion to adopt the resolution granting the exception on Chesapeake Bay Board case number CBE-10-050 on tax parcel #5030400023 with the condition the construction of the proposed swale be approved by the Environmental Division.

The motion was approved by a 5-0 vote.

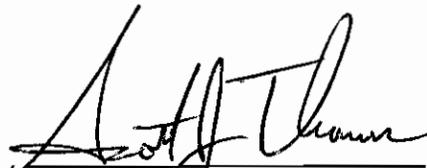
D. BOARD CONSIDERATIONS - None

E. MATTERS OF SPECIAL PRIVILEGE - None

F. ADJOURNMENT

The meeting adjourned at 7:35 PM.


David Gussman
Chairman


Scott J. Thomas
Secretary to the Board