

JAMES CITY COUNTY CHESAPEAKE BAY BOARD

MINUTES

Wednesday April 10, 2013

A. ROLL CALL

David Gussman - Chair
William Apperson
John Hughes
Larry Waltrip

ABSENT

Charles Roadley

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 March 13, 2013 Board Meeting minutes were approved as written.

C. PUBLIC HEARINGS

1. CBE-13-077 – James T Duguay Jr, Inc – 2844 Castling Crossing

Michael Woolson Senior Watershed Planner presented this case for an exception request submitted by James T Duguay, Performance LLC (the applicant), for encroachment into the Resource Protection Area (RPA) at 2844 Castling Crossing, Parcel No. 4812300018. The exception request was for construction of a single family home, deck and retaining wall that would create approximately 1,445 square feet of impervious area within the seaward RPA buffer. Mr. Woolson explained the current conditions of the lot, the drainage easement and the proposed structures. Staff reviewed the application and determined the impact to be severe. The applicant will be required to submit a mitigation plan with surety that meets the County's standard requirements and Staff recommended approval of the exception request with the conditions specified in the Resolution to Grant.

Mr. Apperson commented that it appeared to be a difficult lot to build on.

Mr. Gussman opened the public hearing.

A. Mike Roberson, representing the Mr. Duguay, stated the Board had previously approved construction of a house on this lot in 2006 but, construction was delayed and the exception expired. He informed them that Mr. Duguay has successfully constructed homes on other lots with similar conditions and assured them he would heed all of the requirements the County asked.

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

Mr. Hughes made a motion to adopt the resolution granting the exception for Chesapeake Bay Board case CBE-13-077 at 2844 Castling Crossing, Parcel No. 4812300018.

The motion was approved by a 4-0 vote.

RESOLUTION

GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 4812300018

WHEREAS, Mr. James T. Duguay (the "Applicant") has appeared before the Chesapeake Bay Board of James City County (the "Board") on April 10, 2013 to request an exception to the use of the Resource Protection Area (the "RPA") on a parcel of property identified as JCC RE Tax Parcel No. 4812300018 and further identified as 2844 Castling Crossing in the Lake Powell Forest subdivision (the "Property") as set forth in the application CBE-13-077 for the purpose of constructing a single family home, deck and retaining wall; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

NOW, THEREFORE, following a public hearing, the Chesapeake Bay Board of James City County by a majority vote of its members FINDS that:

1. The exception request is the minimum necessary to afford relief.
2. Granting the exception will not confer upon the Applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation, of the James City County Code, to other property owners similarly situated in the vicinity.
3. The exception request will be in harmony with the purpose and intent of Chapter 23 of the James City County Code, and is not of substantial detriment to water quality.
4. The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.
5. Reasonable and appropriate conditions are hereby imposed, as set forth below, which will prevent the exception request from causing a degradation of water quality.
6. In granting this exception, the following conditions are hereby imposed to prevent this exception request from causing degradation of water quality:
 - 1) The applicant must obtain all other necessary federal, state, and local permits as required for the project.
 - 2) An RPA Mitigation Plan must be submitted and approved prior to construction.
 - 3) Full implementation of the RPA Mitigation Plan 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) which is providing a surety of \$4,000 in a form satisfactory to the County Attorney.
 - 4) This exception request approval shall become null and void if construction has not begun by April 10, 2014.
 - 5) Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 2 weeks prior to the expiration date.

2. CBE-13-079 – Reece – 258 Sandy Bay Rd

Michael Woolson, Senior Watershed Planner presented this case for an exception request submitted by John and Debra Reece (the applicants), for encroachment into the Resource Protection Area (RPA) associated with construction of a deck expansion at 258 Sandy Bay Rd, Parcel No. 4730100012. The exception request was for approximately 240 square feet of impervious cover in the seaward RPA buffer. Mr. Woolson explained that the applicant was in the process of raising the existing house and deck vertically out of the floodplain and in doing so was expanding the deck outside of the previous footprint to provide access to a rear door. Staff reviewed the

application, determined the impact to be moderate because of the proximity to the Powhatan Creek main stem but recommended approval of the exception request with the conditions specified in the Resolution to Grant.

Mr. Gussman opened the public hearing.

A. John Reece, the property owner and contractor, explained the reason for the deck extension was because of the relocation of a rear door due to the reconfiguration of the existing kitchen. He stated he would be willing to adhere to all Board requirements and thanked them for their consideration.

Mr. Gussman asked if there had been flooding problems on the property.

A. Mr. Reece said the previous owner stated that even during hurricane Isabel the water only came up to the top of the existing steps.

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

Mr. Apperson and Mr. Waltrip commended Mr. Reece for his work on improving this property.

Mr. Waltrip made a motion to adopt the resolution granting the exception for Chesapeake Bay Board case CBE-13-079 at 258 Sandy Bay Rd, Parcel No. 4730100012.

The motion was approved by a 4-0 vote

RESOLUTION

GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 4730100012

WHEREAS, John and Debra Reece (the "Applicant") has appeared before the Chesapeake Bay Board of James City County (the "Board") on April 10, 2013 to request an exception to the use of the Resource Protection Area (the "RPA") on a parcel of property identified as JCC RE Tax Parcel No. 4730100012 and further identified as 258 Sandy Bay Rd (the "Property") as set forth in the application CBE-13-079 for the purpose of constructing an additional 240 sqft of deck; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

NOW, THEREFORE, following a public hearing, the Chesapeake Bay Board of James City County by a majority vote of its members FINDS that:

1. The exception request is the minimum necessary to afford relief.
2. Granting the exception will not confer upon the Applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation, of the James City County Code, to other property owners similarly situated in the vicinity.
3. The exception request will be in harmony with the purpose and intent of Chapter 23 of the James City County Code, and is not of substantial detriment to water quality.
4. The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.
5. Reasonable and appropriate conditions are hereby imposed, as set forth below, which will prevent the exception request from causing a degradation of water quality.
6. In granting this exception, the following conditions are hereby imposed to prevent this exception request from causing degradation of water quality:

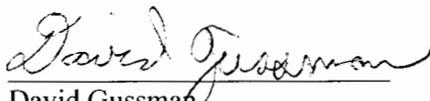
- 1) The applicant must obtain all other necessary federal, state, and local permits as required for the project.
- 2) An RPA Mitigation Plan must be submitted and approved prior to construction.
- 3) Full implementation of the RPA Mitigation Plan and any additional Board mitigation requirements shall be guaranteed through the provisions of the Ordinance contained in Sections 23-10(3) (d) and 23-17(c) which is providing a surety of \$500 in a form satisfactory to the County Attorney.
- 4) This exception request approval shall become null and void if construction has not begun by April 10, 2014.
- 5) Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 2 weeks prior to the expiration date.

D. BOARD CONSIDERATIONS

E. MATTERS OF SPECIAL PRIVILEGE

F. ADJOURNMENT

The meeting adjourned at 7:25 p.m.



David Gussman
Chesapeake Bay Board Chair



Melanie Davis
Secretary to the Board