

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD  
MINUTES**

**Wednesday April 9, 2014**

**A. ROLL CALL**

David Gussman  
John Hughes  
Larry Waltrip  
Roger Schmidt (Alternate)

**ABSENT**

Williams Apperson  
Charles Roadley

**OTHERS PRESENT**

County Staff:

Tina Creech, Senior Inspector  
Lola Perkins, Assistant County Attorney  
Melanie Davis, Secretary to the Board

**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 12, 2014 Board Meeting minutes were approved as written.

**C. PUBLIC HEARINGS**

**1. CBE-14-074: Riley – 3145 Hollow Oak Drive – Retaining Wall**

Tina Creech, Senior Inspector presented this case, prepared by Senior Watershed Planner, Michael Woolson. The case is a request for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachment into the seaward and landward Resource Protection Area (RPA) associated with the construction of a retaining wall. The project is located at 3145 Hollow Oak Drive in the Stonehouse subdivision; Parcel #0530300017. Ms. Creech displayed photographs and described the current conditions of the property and the location of the proposed wall. Although no mitigation plan was submitted with the application, the required mitigation would have to be planted in the RPA or conservation easement. Staff determined impacts to be slight and recommended approval of the exception request with the conditions outlined in the Resolution to Grant the Exception.

Mr. Waltrip asked if the purpose of the wall was to level the area and how the end of the wall would be constructed.

Mr. Schmidt also asked how the wall would be constructed.

Ms. Creech stated placement of the wall would create a more level, usable area however neither the applicant nor Mr. Woolson were present to answer the Board's questions regarding construction of the wall.

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

Mr. Hughes also felt that without knowing how the end of the wall would be constructed, he was concerned a lot of water might run down the back of the wall and cut a ravine. He wanted to know what would happen to the water and sediment at the end of the wall.

Mr. Gussman asked if the applicant would need a building permit.

Melanie Davis, Board Secretary, responded that the application described the wall as 3 to 4 feet tall and would require a building permit that specified how the wall would be built.

Mr. Waltrip stated the Board usually received more information on how a wall was to be constructed before they made a decision.

Lola Perkins, Assistant County Attorney, said the applicant was notified of this public hearing and had chosen not to attend. She advised the Board that they could grant or deny the exception request or they could defer their decision in order to obtain more information and again request the applicant's attendance.

Mr. Hughes made a motion to defer the decision on case CBE-14-074 at 3145 Hollow Oak Drive, Parcel ID 0530300017 until the next Chesapeake Bay Board meeting on May 14, 2014.

Motion was to defer was approved by a 4-0 vote.

#### **D. BOARD CONSIDERATIONS**

##### **1. CBE-13-077: Performance Contracting – 2844 Castling Crossing – Extension of Exception for SFD and retaining wall.**

Melanie Davis, Secretary to the Board, presented the following memorandum prepared by Michael Woolson:

Ms. Susan Connell, of Performance Contracting, is requesting an extension of the expiration date for Chesapeake Bay Board Exception CBE-13-077. The extension is requested while they work through the Building Safety and Permits process and develop a mitigation plan. All permit conditions required within CBE-13-077 shall apply to the permit extension. Staff concurs with this request and recommends that the Chesapeake Bay Board (Board) extend the expiration date to April 9, 2015. The Board was also informed that the applicant had now applied for the building permit and submitted the required mitigation surety.

There were no questions or comments.

Mr. Hughes made a motion to adopt the Resolution to Grant the Extension of the Exception on Chesapeake Bay Board case CBE-13-077 at 2844 Castling Crossing, Parce ID 4812300018

Motion was approved by a 4-1 vote.

**RESOLUTION**  
**GRANTING AN EXTENSION OF AN EXCEPTION**  
**ON JCC RE TAX PARCEL NO. 4812300018**

WHEREAS, Ms. Susan Connell with Performance Contracting, (the "Applicant") has requested an extension of the exception granted by the Chesapeake Bay Board of James City County (the "Board") on April 10, 2013. The exception request is for encroachment into the Resource Protection Area (RPA), on 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 as 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.

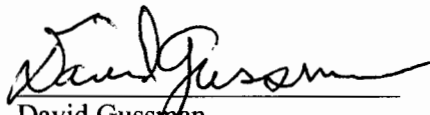
NOW, THEREFORE, having conducted a public hearing on April 10, 2013, and pursuant to the current request for an extension, the Chesapeake Bay Board of James City County by a majority vote of its members FINDS that:

1. The exception request is the minimum necessary to afford relief.
2. Granting the extension 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 9, 2015.
  - 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.

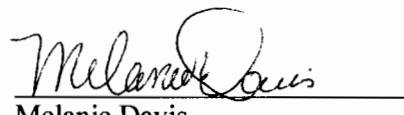
**E. MATTERS OF SPECIAL PRIVILEGE - None**

**F. ADJOURNMENT**

The meeting adjourned at 7:15 p.m.



David Gussman  
Chesapeake Bay Board Chair



Melanie Davis  
Secretary to the Board