

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD  
MINUTES**

**Wednesday July 8, 2015**

**A. ROLL CALL**

David Gussman - Chair  
William Apperson  
John Hughes  
Charles Roadley  
Roger Schmidt - Alternate

**ABSENT**

Larry Waltrip

**OTHERS PRESENT**

County Staff:

Michael Woolson, Senior Watershed Planner  
Scott J. Thomas, Director Engineering and Resource Protection  
Allison Kotula, 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 June 10, 2015 Board Meeting minutes were approved as written.

**C. PUBLIC HEARINGS**

**1. CBE-15-098: O'Brien/Mid-Atlantic – 7588 Uncles Neck**

Michael Woolson presented the exception request submitted by Karla Havens with Mid-Atlantic Resource Consulting, on behalf of property owners Michael and Maureen O'Brien. The request was for encroachment into the RPA for grading to stabilize an eroding bank adjacent to the Chickahominy River at 7588 Uncles Neck in the Rivers Bend at Uncles Neck subdivision, JCC Parcel Number 2010200022. This project is in conjunction with t case W-14-15/VMRC 15-0679 approved at tonight's Wetlands Board meeting. Mr. Woolson explained the current conditions of the lot, the proposed grading and the mitigation planting plan than complies with County standards. Staff determined associated impacts to be high for the proposed development and recommended approval of the exception request with the conditions outlined in the Resolution to Grant the Exception.

Mr. Gussman opened the public hearing.

Mr. Schmidt asked if any material would be removed from the property.

**A.** Karla Havens, Mid-Atlantic Resource Consulting, agent for the applicant stated that although a contractor had not yet been selected, she understood the material would be place in authorized, upland area and could be a condition of the permit.

Mr. Woolson told the Board he had a conversation with one contractor who asked if he could stock pile on site and was advised that he could with appropriate plans, permits and controls.

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

Mr. Roadley said it was obvious something needed to be done to control the erosion at this site and the proposed approach was sound.

Mr. Hughes made a motion to adopt the resolution to grant the exception for Chesapeake Bay Board Case CBE-15-098 at 7588 Uncles Neck, Parcel #2010200022.

The motion was approved by a 5-0 vote.

**RESOLUTION**  
**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 2010200022**

WHEREAS, Karla Havens with Mid-Atlantic Consulting, on behalf of Michael and Maureen O'Brien (the "Applicant") has applied to the Chesapeake Bay Board of James City County (the "Board") 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. 2010200022 and further identified as 7588 Uncles Neck in the Rivers Bend at Uncles Neck subdivision (the "Property") as set forth in the application CBE-15-098 for the purpose of stabilizing an actively eroding bank in conjunction with the installation of an offshore stone sill and sand beach nourishment; 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 on July 8, 2015, 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) Prior to construction, the limits of work shall be staked and/or flagged and approved by the Engineering and Resource Protection Division.
  - 3) Prior to construction, a \$2,000 surety shall be submitted in a form acceptable to the County Attorney's office, to guarantee the mitigation.
  - 4) There shall be a 90% survival rate of the planted material after one growing season or additional plantings completed to reach 90% of the original quantity prior to surety release.
  - 5) The surety will be held for a minimum of one growing season after planting.
  - 6) The Engineering and Resource Protection Division Director reserves the right to require additional erosion and sediment control measures for this project if field conditions warrant their use.

- 7) This exception request approval shall become null and void if construction has not begun by July 8, 2016.
- 8) 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.

**2. CBE-15-014: Rauch Development/AES Consulting Engineers – 3401 Rochambeau Dr**

Michael Woolson presented the exception request submitted by AES Consulting Engineers, on behalf of Rauch Development Co, LLC for encroachment into the RPA associated with installation of a gravity sanitary sewer and permanent maintenance easement for the White Hall Section 4 plan of development. Mr. Woolson described all impacts and the proposed mitigation listed in the WQIA submitted for this project. He then described the site conditions and the proposed impacts requiring this Board's approval. Staff determined these impacts to be moderate for the proposed development and recommended approval of the exception request with the conditions outlined in the Resolution to Grant the Exception.

Mr. Apperson asked if there would be anything in place to protect the sewer bridge from falling timber.

Mr. Woolson said this question had been raised before and staff was advised by the James City Service Authority (JCSA) that although trees had fallen on the bridges none had ever broken them.

Mr. Gussman opened the public hearing.

A. Howard Price, AES Consulting Engineers, was present and stated he would answer any questions.

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

Mr. Roadley stated he would be abstaining due to his firm's prior association with the project.

Mr. Schmidt made a motion to adopt the resolution to grant the exception for Chesapeake Bay Board Case CBE-15-014 for White Hall Section 4 at 3401 Rochambeau, Parcel ID #1220100014A.

The motion was approved by a 4-0-1 vote. (Mr. Roadley abstained)

**RESOLUTION**  
**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 1220100014A**

WHEREAS, AES Consulting Engineers on behalf of Rauch Development Co LLC, (the "Applicant") has applied to the Chesapeake Bay Board of James City County (the "Board") 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 1220100014A and further identified as 3401 Rochambeau Drive (the "Property") as set forth in the application CBE-15-014 for a gravity sanitary sewer line and permanent maintenance easement for the proposed White Hall Section 4 development; 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 on July 8, 2015, 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) Full implementation of the plan of development County Plan No. S-0043-2014/SP-0074-2014 once approved.
  - 3) Preserve 0.90 acres on forested land in a Natural Open Space easement dedicated to James City County as shown in the submittal.
  - 4) All impacts to the RPA will be realized and stabilized as quickly as practicable.
  - 5) This exception request approval shall become null and void if construction has not begun by July 8, 2016.
  - 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.

**3. CBE-15-097: Anthony – 112 North Trace**

Michael Woolson advised the Board that the applicant wished to defer the public hearing for this case and suggested the Board place a sunset clause on the deferral forcing the applicant to come before the Board or withdraw his application by a specific date.

Mr. Roadley asked the nature of the application and reason for deferral.

Mr. Woolson stated the applicant was having issues with FEMA and looking into other options.

Mr. Hughes made a motion to defer the public hearing for Chesapeake Bay Board Case CBE-15-097 at 112 North Trace, Parcel #3210700008 until the Chesapeake Bay Board meeting scheduled for January 2016.

The motion was approved by a 5-0 vote.

**4. CBE-15-099: Adolphi/Heart's Ease Landscape & Garden Design – 110 Heathery**

Michael Woolson presented the exception request submitted by Peggy Krapf with Heart's Ease Landscape & Garden Design on behalf of property owner Ron Adolphi for encroachment into the RPA associated with installation of a permeable patio, retaining wall, flagstone paver paths and a pondless water feature at 110 Heathery in the Fords Colony subdivision, parcel 3810400150. In 2010 two lots were combined into one for the current configuration of this lot. The house was constructed in 2013 and impacts to the RPA at that time were administratively approved. The current exception request was for accessory structures that by ordinance must be considered for approval by this Board. Mr. Woolson described the current conditions, topography and safety issues of the site. He also described and showed the location of the proposed accessory structures. Staff determined impacts associated with this proposal to be moderate and recommended approval of the exception request with the conditions outlined in the Resolution to Grant the Exception.

Mr. Gussman opened the public hearing.

Mr. Roadley asked how deep the subgrade would be beneath the pervious pavers for water infiltration.

A. Peggy Krapf, Landscape Designer with Heart's Ease Landscape & Garden Design stated the intent was to cause as little disturbance as possible so each paver would be installed separately with stone under each paver and plantings in the six inch strips between each paver.

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

Mr. Roadley said he appreciated the removal of turf and the use of infiltration measures but was concerned with multiple exceptions being granted on the same property. He would rather have had this exception request presented with the exception request for the house so the Board could better judge the RPA impacts.

Mr. Apperson made a motion to adopt the resolution to grant the exception for Chesapeake Bay Board Case CBE-15-099 at 110 Heathery, Parcel ID #3810400150.

The motion was approved by a 5-0 vote.

**RESOLUTION**  
**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 3810400150**

WHEREAS, Peggy Krapf, Heart's Ease Landscape & Garden Design on behalf of Ron Adolphi, (the "Applicant") has applied to the Chesapeake Bay Board of James City County (the "Board") 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. 3810400150 and further identified as 110 Heathery in the Ford's Colony subdivision (the "Property") as set forth in the application CBE-15-099 for the purpose of installing a permeable patio, flagstone pavers, a pond-less water feature and a 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 on July 8, 2015, 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 permits as required for the project.
  - 2) The applicant must submit, for County review and approval the pervious paver block system design worksheet, consistent with the County's Guidelines & Specifications for Pervious Paver Block Systems as Part of the Chesapeake Bay Exceptions (Residential Applications).

- 3) A surety of \$1,500 will be required in a form acceptable to the County Attorney's office, to guarantee the required mitigation plantings.
- 4) This exception request approval shall become null and void if construction has not begun by July 8, 2016.
- 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.

**5. CBE-15-102: Schumann/Wassum – 114 Archers Hope Dr.**

Scott J. Thomas presented the exception request submitted by Daniel Wassum of Hopke and Associates, on behalf property owner Keith Schumann. The exception request was for encroachment into the RPA associated with construction of basement additions to the existing single family dwelling built in 1975 at 114 Archers Hope Drive in the Kingspoint subdivision, parcel 4930280007. Mr. Thomas described the current conditions and topography of the site and the location and construction of the proposed addition. He further described the proposed mitigation including a green roof. Staff determined impacts associated with this proposal to be low and recommended approval of the exception request with the conditions outlined in the Resolution to Grant the Exception.

Mr. Roadley asked for the final elevation of the proposed additions.

Mr. Thomas believed they were at ground level and one of the additions was under a deck.

Mr. Gussman opened and the public hearing.

**A.** Daniel Wassum with Hopke and Associate, agent for the applicant clarified that one of the additions would be under the existing house not just the deck and would not increase impervious cover. The addition with the green roof would be at ground level.

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

Mr. Schmidt made a motion to adopt the resolution to grant the exception for Chesapeake Bay Board Case CBE-15-102 at 114 Archers Hope, Parcel ID #4930280007.

The motion was approved by a 5-0 vote.

**RESOLUTION**  
**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 4930280007**

WHEREAS, Mr. Daniel Wassum with Hopke and Associates on behalf of Keith Schumann (the "Applicant") has applied to the Chesapeake Bay Board of James City County (the "Board") 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. 4930280007 and further identified as 114 Archers Hope Drive in the Kingspoint subdivision (the "Property") as set forth in the application CBE-15-102 for the purpose of constructing a basement addition to the existing home; 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 on July 8, 2015, 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 including building permits through the County's Building Safety and Permits Division.
  - 2) Design and installation of the green vegetated roof system over Addition # 1 shall follow an appropriate industry accepted standard such as Virginia DEQ Stormwater Design Specification No. 5 (Vegetated Roof) or similar ASTM, AIA, or equivalent standard.
  - 3) Prior to construction, a \$4,500 surety shall be submitted in a form acceptable to the County Attorney's office, to guarantee the mitigation including the green roof component.
  - 4) This exception request approval shall become null and void if construction has not begun by July 8, 2016.
  - 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.

**6. CBE-15-104: Coastal Construction and Development/Roth Environmental – 117 Stowe**

Michael Woolson presented the exception request submitted by Coastal Construction and Development for encroachment into the RPA associated with construction of a single family dwelling and retaining wall at 117 Stowe in the Fords Colony subdivision, parcel 3720600044. Mr. Matt Roth with Roth Environmental performed the wetland and RPA delineation on this lot and it has been approved by staff. Mr. Woolson described the special conditions and limitations on this lot including the JCSA utility easement, the drainage from the currently unbuilt adjacent lot, the approval from Fords Colony for a 15 foot encroachment into the rear yard setback and the lack of a stormwater infiltration system in the mitigation plan due to the high water table. Staff determined impacts associated with this proposal to be high. The proposed mitigation plan has been submitted and exceeds the County standards. Staff recommended approval of the exception request with the conditions outlined in the Resolution to Grant the Exception.

Mr. Roadley asked if the areas in green on the mitigation plan would be turf grass approximately 8 feet from the wetlands. He also asked if the lot was platted before adoption of the Chesapeake Bay Preservation ordinance.

Mr. Woolson stated turf grass was proposed however, he was not sure it would survive in this shaded area. The lot was platted in 1997 before the 2004 revision when the BMP was identified as an RPA feature.

Mr. Gussman opened the public hearing.

A. Matt Roth with Roth Environmental reiterated the challenges with this lot describe by Mr. Woolson. He explained the efforts and multiple configurations that went into designing a house comparable to others in the neighborhood and avoiding the wetlands. He said the proposed encroachment into the RPA was similar to the encroachment on the neighboring lots. He explained the grass areas were for access, all other areas around the house would be mulch beds and the stormwater would be treated by the existing BMPs.

Mr. Schmidt asked what type of turf grass would be planted

A. Mr. Roth stated it would probably be a shade tolerant fescue.

Mr. Roadley stated he understood these lots were challenging and that this lot was platted prior to the ordinance revision. He also appreciated the measures the applicant took to reduce the setback and add the retaining wall minimizing some impacts however, the proposed mitigation plan was typical of a foundation planting plan you would expect for any residential construction and he was still concerned with proximity to the wetlands and impacts to the RPA.

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

All Board members agreed this was definitely a challenging lot.

Mr. Hughes made a motion to adopt the resolution to grant the exception for Chesapeake Bay Board Case CBE-15-104 at 117 Stowe, Parcel ID #3720600044.

The motion was approved by a 5-0 vote.

**RESOLUTION**  
**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL #3720600044**

WHEREAS, Mr. Stan Stunnett with Coastal Construction and Development LLC (the "Applicant") has applied to the Chesapeake Bay Board of James City County (the "Board") 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 3720600044 and further identified as 117 Stowe in the Ford's Colony subdivision (the "Property") as set forth in the application CBE-15-104 for the purpose of constructing a single family home, 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 on July 8, 2015, 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) Prior to construction, a \$3,000 surety shall be submitted in a form acceptable to the County Attorney's office, the guarantee the mitigation.



- 3) Along with the surety, a graphic mitigation plan must be submitted to and approved by the Engineering and Resource Protection Division.
- 4) The Engineering and Resource Protection Division Director reserves the right to require additional erosion and sedimentation control measures for this project if field conditions warrant their use.
- 5) This exception request approval shall become null and void if construction has not begun by July 8, 2016.
- 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.

**D. BOARD CONSIDERATIONS - None**

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

**F. ADJOURNMENT**

The meeting adjourned at 8:58 p.m.



David Gusman  
Chesapeake Bay Board Chair



Melanie Davis  
Secretary to the Board