

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD  
MINUTES**

**Wednesday September 9, 2015**

**A. ROLL CALL**

William Apperson – Vice Chair  
John Hughes  
Charles Roadley  
Larry Waltrip

**ABSENT**

David Gussman

**OTHERS PRESENT**

County Staff:

Michael Woolson, Senior Watershed Planner  
Scott J. Thomas, Director Engineering and Resource Protection  
Maxwell Hlaven, 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 August 12, 2015 Board Meeting minutes were approved as written.

**C. PUBLIC HEARINGS**

**1. CBE-15-058: Wolons – 5054 River Drive – Continued from 3/11/15**

Mr. Woolson informed the Board that the applicant had withdrawn their exception request from consideration as they have decided not to go forward with the project and no Board decision was required.

Mr. Apperson closed the public hearing for this case.

**2. CBE-16-014: Ramer/Structures Group – 112 Burwell Court**

Michael Woolson presented the exception request submitted by Michael Matthews with the Structure Group on behalf of the property owners, Scott and Deborah Ramer. The request was for approximately 1,290 square feet of encroachment into the landward RPA associated with construction of a patio, a detached deck and retaining walls at 112 Burwell Court in the Kingsmill subdivision, parcel #5030400091. Mr. Woolson described the existing site conditions and the location of the proposed structures stating that the retaining walls were needed for house structural stability and safety and slope stability. The proposed deck and patio were also replacement structures. The proposal also included several planted rain garden/infiltration areas and a planting plan that was 2.3 times greater than the mitigation required for the proposal. Staff evaluated the application and determined the impacts associated with the project to be major and recommended approval of the exception request with the conditions outlined in the Resolution to Grant.

Mr. Apperson opened the public hearing.

Mr. Hughes asked about the structural integrity of the house and how the foundation would be protected if this proposal was not approved.

A. Michael Matthews with the Structures Group and agent for the owners, described the areas where the house foundation was at risk due to the ground erosion. He stated the alternative to the installing retaining walls for ground stabilization would be the expensive installation of piles under most of the house foundation.

Mr. Waltrip asked if the house was built on fill.

A. Mr. Mathews stated it was built on original ground. He explained that the steep slope on the creek side eroded and slid down into the creek causing the impacts to the foundation.

Mr. Roadley commented that The Structures Group would not be involved if there wasn't an issue with the stability of the property. The encroachment is significant but the proposed mitigation incorporates infiltration measures and restores portions of the RPA that have been destroyed by the eroding slope.

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

All Board members agreed the project was necessary.

Mr. Roadley made a motion to adopt the resolution to grant the exception for Chesapeake Bay Board Case CBE-16-014 at 112 Burwell Court, Parcel ID #5030400091.

The motion was approved by a 4-0 vote.

**RESOLUTION**  
**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 5030400091**

WHEREAS, Michael Matthews with The Structures Group, on behalf of property owners Scott and Deborah Ramer (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 5030400091 and further identified as 112 Burwell Court in the Tazewell's Hundred, Kingsmill subdivision (the "Property") as set forth in the application CBE-16-014 for the purpose of installing retaining walls, a patio and a detached 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 on September 9, 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 a Land Disturbing Permit.
- 2) Design and construction of the onlot runoff reduction/pollutant removal practices as proposed (rain garden/infiltration) shall generally follow micro-scale specifications found in Virginia DEQ Stormwater Design Specifications No. 1 (Rooftop Disconnection), No. 8 (Infiltration), or No. 9 (Bioretention); or alternatively, an equivalent and acceptable published and agreed upon standard for onlot residential practices. Final design/construction information for the practices shall be submitted to the Engineering and Resource Protection Division for review and approval prior to installation.
- 3) A \$4,000 surety to guarantee the mitigation plan, including native plantings and proposed onlot runoff and pollutant reduction practices, in a form acceptable to the County Attorney's Office.
- 4) This exception request approval shall become null and void if construction has not begun by September 9, 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.

**3. CBE-16-015: Wayne Harbin – 219 Oakmere Park**

Michael Woolson presented the exception request submitted by Wayne Harbin Builder, for approximately 1,650 square feet of encroachment into the seaward RPA associated with the construction of a single family dwelling and deck at 219 Oakmere Park in the Ford's Colony subdivision, parcel #3233100040. Mr. Woolson described the current conditions of the site, the RPA impacts and the proposed mitigation stating that the location and size calculations for the proposed rain gardens and infiltration areas had not been provided. In addition, the mitigation plan was slightly less than the standard mitigation requirements for the proposed impervious area. Staff reviewed the application and determined the impacts to be severe for the proposed development but, recommended approval of the exception request with the conditions outlined in the Resolution to Grant.

Mr. Hughes asked if there was room on the site for all the mitigation.

Mr. Woolson stated it was Staff's opinion there was not sufficient space for the required plantings however alternative mitigation measures such as the infiltration areas or payment into the Chesapeake Bay Mitigation Fund of not more than half of the required mitigation, would be acceptable.

Mr. Hughes asked if this was covered under condition 2 in the Resolution to Grant.

Mr. Woolson stated that it was.

Mr. Apperson asked who held the title on the conservation easement next to this property.

Mr. Woolson said to the best of his knowledge it was the Ford's Colony Home Owners Association.

Mr. Roadley said the plan submitted by the builder indicated the limits were non-RPA wetlands and asked if this was correct. He also asked if the width of clearing for the sewer lateral was standard or was Staff recommending it be narrower because it cannot be re-planted.

Mr. Woolson stated the RPA was correct for the plan in 2003 but the ordinance was revised in January 2004. The wetlands are connected and contiguous with the downstream perennial stream system. He explained the standard lateral clearing width was 20 feet but, a large excavator may be needed to place it at the required depth. Mr. Woolson stated and Mr. Apperson agreed there was no regulation for a lateral clearing to remain un-vegetated.

Mr. Apperson opened the public hearing.

- A.** Doug Harbin with Wayne Harbin Builders said he purchased this lot based on the plat which stated it was non-RPA wetlands and he believed the wetlands were further back. He added that there were 16 other undeveloped lots in Ford's Colony in the same situation. He also stated the infiltration areas were suggested on the application in order to reduce the required mitigation plantings because the available planting areas were limited.

Mr. Roadley stated the Board was well aware of the challenges on the remaining lots in Ford's Colony as there was an application before them almost every month. He assured Mr. Harbin the Board was not here to deny use of the property but to ensure the development was not detrimental to the environment. He suggested that Mr. Harbin have the wetlands limits confirmed, not only for this proposal but for future owners of the property because, given the proximity to the wetlands, future issues could arise.

Mr. Apperson also stressed that the Chesapeake Board was here to protect the environment fully considering the rights of the property owners.

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

Mr. Hughes understood the concern given the proximity to the wetlands but this was a platted lot, so with proper mitigation approved by Staff, he would support the request.

Mr. Apperson agreed with Mr. Hughes's comments regarding Staff's approval of the mitigation.

Mr. Roadley repeated his recommendation that the applicant have the wetlands re-delimited before he moves forward with the development.

Mr. Hughes made a motion to adopt the resolution to grant the exception for Chesapeake Bay Board Case CBE-16-015 at 219 Oakmere, Parcel ID #3233100040.

The motion was approved by a 4-0 vote.

**RESOLUTION**  
**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 3233100040**

WHEREAS, Doug Harbin with Wayne Harbin Builder, Inc (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 3233100040 and further identified as 219 Oakmere Park in the Ford's Colony subdivision (the "Property") as set forth in the application CBE-16-015 for the purpose of constructing a single family home and 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 on September 9, 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) The Applicant must provide an acceptable mitigation plan with the required mitigation of 11 canopy trees, 22 understory trees and 33 shrubs or a variation of the required plant material acceptable to the Engineering and Resource Protection Division staff.
  - 3) The Applicant must provide calculations for and show the locations of the rain gardens and infiltration practices stated in the submitted Sensitive Area Activity application.
  - 4) Prior to construction, a \$4,500 surety shall be submitted in a form acceptable to the County Attorney's office, to the guarantee the mitigation.
  - 5) This exception request approval shall become null and void if construction has not begun by September 9, 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.

**4. CBE-16-022: Nagy/Delightful Gardens – 2941 Nathaniel's Run**

Michael Woolson presented the exception request submitted by Don Newsom, Delightful Gardens, on behalf of property owner George Nagy, for approximately 1,400 square feet of encroachment into the landward RPA associated with installation of a patio with a seating wall and fire pit along with a pathway and pergola at 2941 Nathaniel's Run in the Governor's Land at Two Rivers subdivision, parcel #4410500007. Mr. Woolson described the proposed additions and removal of vegetation including some existing turf grass. He explained that a normally required infiltration practice for the patio would not be applicable due to the soil conditions in this area however, the proposed mitigation was twice the required mitigation for the increase in impervious cover. He added that this project would neither increase nor decrease the flooding that typically occurs in this area. 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.

Mr. Apperson opened the public hearing.

- A.** Craig Cranston, adjacent property owner at 2948 Nathaniel's Run asked the Board to focus on only granting waivers or exceptions for necessity such as trees endangering homes, rather than for aesthetic purposes.
- B.** Stephen Johnston, adjacent property owner at 2937 Nathaniel's Run stated the proposal was nice but he believed there were more trees flagged for removal than indicated in the application. Mr. Johnston also provide a photograph that showed the flooding that occurs in the area.

Mr. Hughes commented that Staff would meet with the applicant to confirm the scope of the approved project before any work would be done.

- C.** Don Newsome, Delightful Gardens, stated the property owner requested several enhancements in areas of their property outside of the RPA and this was why the paver patio was extended into the RPA. He informed the Board that due to regulations in Governor's Land, the patio would actually be slightly smaller. As a trained horticulturist, he felt the area was an incomplete ecosystem lacking understory development and ground cover due to the excessive shading from the numerous canopy trees and the gum trees would be removed to create a path that would stay away from the large specimen oak tree on the property.

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

Mr. Waltrip said he agreed that removing some canopy trees to let in more light would promote the understory growth.

Mr. Roadley said that although it was not a significant impervious impact, it was creating a maintained area in the RPA and there was not an impending need for the project.

Mr. Hughes said he agreed with the project being cosmetic however, the proposed mitigation and the removal of turf was adequate and it would probably return to a native state.

Mr. Apperson thought perhaps the walkway could be mulch rather than pavers however, he also believed the stiltgrass would return. He also said the pathway should be placed beyond the dripline of the specimen red oak tree.

Mr. Hughes made a motion to adopt the resolution to grant the exception for Chesapeake Bay Board Case CBE-16-022 at 2941 Nathaniel's Run, Parcel ID #4410500007

The motion was approved by a 3-1 vote. (Aye: Hughes, Waltrip, Apperson)  
(Nay: Roadley)

**RESOLUTION**  
**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 4410500007**

WHEREAS, Don Newsom, Delightful Gardens Landscape Co, on behalf of George Nagy, (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 4410500007 and further identified as 2941 Nathaniel's Run in the Governor's Land at Two Rivers subdivision (the "Property") as set forth in the application CBE-16-022 for the purpose of installing a patio and access path; 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 September 9, 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 to the Engineering and Resource Protection Division, in a form acceptable to the County Attorney's office, to guarantee the required mitigation.
- 3) This exception request approval shall become null and void if construction has not begun by September 9, 2016.
- 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.

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

##### **1. CBV-16-001: APPEAL: Miller – 104 Archers Court**

Michael Woolson presented the appeal request filed by Mr. Brink Miller for the July 14, 2015 Notice of Violation (NOV) ordering removal of a patio in the Resource Protection Area (RPA) on his property at 104 Archers Court, in the Kingspoint subdivision, Parcel #4930280017. Mr. Woolson described the history of the construction on this lot informing the Board of the administrative approval for the house in 2009 and a previous violation for a 6' X 12' landing appealed and approved in 2010. Therefore it was Staff's contention the applicant was aware of the RPA on his property. He advised the Board that the remediation plan submitted by Hertzler & George would not be addressed at this time but, would be presented for consideration at a public hearing, should the Board overturn this NOV.

Mr. Hughes asked if his new patio was constructed over the landing from the previous appeal.

Mr. Woolson explained this patio was in a different location.

Mr. Waltrip asked if the steps to the patio were part of the original house also asked if this was the only exit from the back of the house.

Mr. Woolson stated the steps existed prior to construction of the patio and this was the only egress from this portion of the house.

Mr. Apperson asked if anyone wished to speak on this case.

**A.** Joe Hertzler, owner of Hertzler & George installed the patio in question and provided the Board with a photograph of the site prior to and during the construction. He explained that this patio was designed to try and deal with some slope issues and alleviate the erosion and drainage problems that were occurring on the property. He said they mistakenly assumed they were outside of the restricted areas. He said the project was not complete and there was still vegetation to be installed but, they stopped the project when the NOV was issued. He also stated that should the Board overturn the NOV, they were prepared to offer a remediation plan than included infiltration features.

**B.** Phillip Merritt, Landscape Architect with Hertzler & George stated this encroachment was not intentional. He had some conflicting information and incorrectly assumed the location of the RPA. He stated they were willing to work with the County to come up with a solution.

Mr. Apperson asked if a building permit was required for this project.

Mr. Woolson explained the patio did not and the retaining wall was less than two feet of unbalance fill so it also did not require a building permit from the County.

Mr. Waltrip said he appreciated the contractor's willingness to admit their mistake and he believed this plan, in some form, would have been approved had it come before the Board as an exception request. In addition he felt the best solution now was to complete the project rather than create more disturbance by removing the patio and wall.

Mr. Roadley agreed with Mr. Waltrip's comments and he also wanted to consider a remediation plan with a formal application.

Mr. Hughes said he was bothered by the fact that the property owner had previously been before the Board on a violation and was therefore aware of the RPA on his lot.

Mr. Woolson said the property owner was most likely aware of the RPA somewhere on his lot however, the initial violation was committed by the builder at the time the house was constructed.

**C.** Brink Miller, the property owner, concurred that the home builder had mistakenly constructed the landing at the back door of the basement for safety and he mistakenly thought the landing was on the original plan. He also said that had he understood the exact location of the RPA, he would have taken the proper steps to request an exception for construction of this patio.

Mr. Apperson did not feel this encroachment had been done intentionally and he advocated a compromise to satisfy the home owner and the County.

Mr. Hughes asked what the next steps would be should the Board grant this appeal.

Mr. Woolson explained that the applicant would then have to submit a formal application with a remediation plan to be considered by the Board at the next meeting. This was the condition specified in the Resolution to Grant the Appeal.

Mr. Roadley made a motion to adopt the resolution to grant the appeal for Chesapeake Bay Board Case CBV-16-001 at 104 Archers Court, Parcel ID #4930280017.

The motion was approved by a 4-0 vote.

**RESOLUTION**  
**GRANTING AN APPEAL ON JCC RE TAX PARCEL NO. 4930280017**

WHEREAS, Mr. Brink Miller, (the "Appellant") has submitted a request to the Chesapeake Bay Board of James City County (the "Board") to appeal a Notice of Violation (CBV-16-001) dated July 14, 2015, ordering the removal of a patio in the Resource Protection Area (RPA), on a property identified as JCC RE Tax Parcel No. 4930280017 and further identified as 104 Archers Court in the Kingspoint subdivision (the "Property") 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 meeting on September 9, 2015, the Chesapeake Bay Board of James City County by a majority vote of its members FINDS that all of the following conditions have been met:

1. The hardship is not generally shared by other properties in the vicinity;
2. The Chesapeake Bay, its tributaries and other properties in the vicinity will not be adversely affected: and
3. The appellant acquired the property in good faith and the hardship is not self-inflicted.



THEREFORE, the Chesapeake Bay Board of James City County is granting the appeal filed by Mr. Brink Miller on July 31, 2015 and overturning the July 14, 2015 Notice of Violation issued by James City County Engineering and Resource Protection Division.

In granting this appeal, the following conditions are hereby imposed to prevent this project from causing degradation of water quality:

- 1) Submit a remediation plan for review and approval by the Chesapeake Bay Board at a public hearing, at the next available Chesapeake Bay Board meeting.

**2. CBV-16-002: APPEAL: Moore – 2844 Castling Crossing**

Michael Woolson presented the appeal request filed by Alan and Julie Moore for the July 21, 2015 Notice of Violation (NOV) ordering removal of a retaining wall partially constructed in the Natural Open Space Easement and Resource Protection Area (RPA) behind their property at 2844 Castling Crossing, in the Lake Powell Forest subdivision, Parcel #4812300018. The NOV further ordered that the retaining wall be constructed as configured and in the location approved by the Chesapeake Bay Board on April 10, 2013 for case CBE-13-077. Mr. Woolson described the history of the case and the natural open space easement, owned by the Lake Powell Forest Home Owners Association (HOA). He stressed that until the NOV was issued, the owners and the HOA were not aware the retaining wall had been constructed incorrectly. Should the Board grant this appeal staff suggested the Board include the conditions in the Resolution to Grant the Appeal.

Mr. Hughes said it appeared the total encroachment into the HOA property was minimal.

Mr. Waltrip said and Mr. Woolson confirmed, the issue was also that the wall was not constructed as approved.

Mr. Hughes asked what was involved with the proposed property exchange between the owner and HOA.

Mr. Woolson explained a plat for a boundary line adjustment, signed by both owners, would be submitted, approved and recorded at the Courthouse. Also a Deed of Exchange for the Natural Open Space would have to be submitted, approved and recorded. If the easement areas are equal, it can be administratively approved otherwise it will require approval from the Board of Supervisors.

Mr. Hughes asked if the expense of surveys and recordation would fall on the property owners.

Mr. Waltrip asked if both owners were agreeable to this exchange, because there would be major disturbance detrimental to the environment, if this wall was removed.

Mr. Woolson stated it was his understanding both parties were agreeable. He deferred the question of expense to the appellants and noted the Resolution to Grant the Appeal allowed 90 days for the exchange.

Mr. Hughes asked if the Board could defer their decision to allow the parties to proceed with the deed of exchange.

Maxwell Hlaven, Assistant County Attorney stated the Board could postpone their decision to a specific date which is typically their next meeting however, they would still have the option to deny the appeal.

Mr. Woolson suggested the Board modify the Resolution to extend the time frame beyond the 90 days.

Mr. Roadley asked if the owner explained why this situation occurred.

Mr. Woolson said the owner purchased the property and contracted the builder in good faith. It was the builder who did not have the property surveyed and only roughly staked it in the field.

Mr. Apperson asked if anyone wished to speak on this case

**A.** Alan Moore, owner of the property provided the Board additional photographs of the wall and asked the Board to grant his appeal for the following reasons: 1) The hardship is not generally shared by other properties the vicinity and 2) they are not adversely affected because the wall is not intrusive and his house is the last home to be built along this easement. In addition removal of the wall will greatly impact the RPA and the stability of his property. He also did not contract to have this house or wall constructed he purchased it after construction so 3) the hardship is not self-inflicted. In addition the HOA has retained the legal counsel of Ms. Susan Tarley to work on the solution.

Mr. Waltrip asked if 90 days would be enough time to accomplish the Deed of Exchange.

**B.** Susan Tarley, Attorney with Tarley Robinson, PLC stated she represented the HOA and was working with the County and the Moores on the solution however she felt that 90 days might not be sufficient time. She asked if the Board could approve the appeal with an extended time frame for completing an exchange or transfer.

Mr. Hughes asked if Staff preferred a deferral or approval with an adjusted time frame.

Mr. Woolson stated he would prefer a decision tonight on the appeal and should the time frame not be sufficient they could ask for an extension.

Mr. Roadley stated the Board did not wish to penalize the property owner for a mistake made by the builder and it was unfortunate the builder was not present to suffer the consequences with the owner.

Mr. Apperson suggested granting the appeal with a 6 month time frame for completing a Deed of Exchange.

Mr. Hughes made a motion to adopt the resolution to grant the appeal for Chesapeake Bay Board Case CBV-16-002 at 2844 Castling Crossing, Parcel ID #4812300018 with a deadline of 180 days.

The motion was approved by a 4-0 vote.

**RESOLUTION**  
**GRANTING AN APPEAL ON JCC RE TAX PARCEL NO. 4812300018**

WHEREAS, Alan and Julie Moore, (the "Appellant") have submitted a request to the Chesapeake Bay Board of James City County (the "Board") to appeal a Notice of Violation (CBV-16-002) dated July 21, 2015, ordering the removal of a retaining wall constructed on and behind their property at 2844 Castling Crossing in the Lake Powell Forest subdivision, JCC RE Tax Parcel No. 4812300018 (the "Property") 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 meeting on September 9, 2015, the Chesapeake Bay Board of James City County by a majority vote of its members FINDS that all of the following conditions have been met:

1. The hardship is not generally shared by other properties in the vicinity;
2. The Chesapeake Bay, its tributaries and other properties in the vicinity will not be adversely affected; and
3. The appellant acquired the property in good faith and the hardship is not self-inflicted.

THEREFORE, the Chesapeake Bay Board of James City County is granting the appeal filed by Alan and Julie Moore on August 19, 2015 and overturning the July 21, 2015 Notice of Violation issued by James City County Engineering and Resource Protection Division.

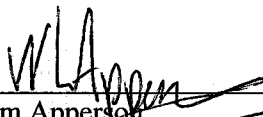
In granting this appeal, the following conditions are hereby imposed to prevent this project from causing degradation of water quality:


- 1) Complete and record the property line adjustment plat and Deed of Exchange for Natural Open Space within 180 days or be subject to removing and rebuilding the wall per the approval granted on April 10, 2013 for CBE-13-077

**E. MATTERS OF SPECIAL PRIVILEGE**

**F. ADJOURNMENT**

The meeting adjourned at 10:00 p.m.

  
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William Apperson  
Chesapeake Bay Board Vice Chair

  
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Melanie Davis  
Secretary to the Board