

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD
MINUTES**

Wednesday February 10, 2016

A. ROLL CALL

William Apperson – Vice Chair
John Hughes
Larry Waltrip
Charles Roadley
Roger Schmidt - Alternate

ABSENT

David Gussman

OTHERS PRESENT

County Staff:

Michael Woolson, Senior Watershed Planner
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 January 13, 2016 Board Meeting minutes were approved as written.

C. PUBLIC HEARINGS

1. CBE-16-063: Dively – 175 West Landing

Senior Watershed Planner, Michael Woolson presented the exception request submitted by Mr. Robert Dively, for construction of a retaining wall on his property at 175 West Landing in the Kingsmill subdivision, Parcel #5031200013. The retaining wall is required to keep the soil in place in the upslope portion of an access road to the shoreline. The Wetlands Board granted creation of this temporary access road and required the vegetation to be restored when the shoreline project was completed. Mr. Dively is now requesting the access road remain for future maintenance of the shoreline to avoid further disturbance of the RPA. Mr. Woolson described the location and structure of the retaining wall and the proposed mitigation. Staff determined the impacts associated with this project to be minor and recommended approval of the exception request with the conditions outlined in the Resolution to Grant the Exception.

Mr. Roadley asked for clarification on the area to be restored. He felt pedestrian access to the shore was available and he was concerned with now allowing permanent vehicle access when the intent of the Wetlands Board was to have this area replanted.

Mr. Woolson said the applicant had offered to also replant on the road however staff felt this vegetation would need to be removed for vehicle access. He stated that it was partially staff's oversight to not suggest a permanent route for maintenance of the shoreline since it would not be possible from the water.

Mr. Roadley stated he would be fine with a vehicle path but wanted some mitigation closer to the road on the downside of the slope.

Mr. Waltrip asked if this access path would only be used by the property owner and also asked if the wall was proposed by staff.

Mr. Hughes said this was a fairly steep slope and asked what would prevent the road from being washed out.

Mr. Apperson felt that any vehicle traffic on this road would cause it to wash out and should not be permitted.

Mr. Woolson stated this road was proposed by the applicant and would not be accessible to neighboring properties. The road was currently a layer of hardwood mulch and other than at the vertical cut where the wall was proposed, he had not observed any erosion from the recent rains.

Mr. Apperson opened the public hearing.

A. Mr. Robert Dively the property owner, confirmed that the road was not accessible to anyone other than himself and it would only be used for future maintenance of the shoreline. He said the shoreline project was done to protect his property from erosion and he only wanted to keep the road for needed repairs to the shoreline. He had no objection to revegetating the area with grasses and Mr Roadley suggested.

Mr. Waltrip thought a better and less expensive option might be to regrade and stabilize the slope without the wall.

A. Mr. Dively said regrading for a stable slope would require removal of many mature trees. He was willing to take the more expensive route of installing a wall.

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

Mr. Hughes made a motion to adopt the Resolution to Grant the Exception for Chesapeake Bay Board Case CBE-16-063 at 175 West Landing, Parcel ID #5031200013.

The motion was approved by a 5-0 vote.

RESOLUTION
GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 5031200013

WHEREAS, Mr. Robert Dively (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 5031200013 and further identified as 175 West Landing in the Kingsmill subdivision (the "Property") as set forth in the application CBE-16-063 for the installation of a retaining wall;

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 February 10, 2016, 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.

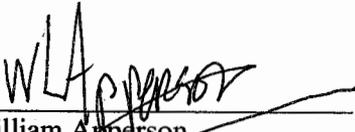
4. The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.
5. Reasonable and appropriate conditions are hereby imposed, 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 may use the same \$2,000 surety from case W-22-15 to guarantee the mitigation plantings.
 - 3) This exception request approval shall become null and void if construction has not begun by February 10, 2017.
 - 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 - none

E. MATTERS OF SPECIAL PRIVILEGE - none

F. ADJOURNMENT

The meeting adjourned at 7:28 p.m.



William Apperson
Chesapeake Bay Board Vice Chair



Melanie Davis
Secretary to the Board