

RESOLUTION

GRANTING AN APPEAL ON JCC RE TAX PARCEL NO. 5031300003

WHEREAS, *Thomas Hutchens*, (the "Applicant") has appeared before the Chesapeake Bay Board of James City County (the "Board") on *May 13, 2009, June 10, 2009 and August 12, 2009* appealing a Notice of Violation (*CBV-09-001*) dated *February 24, 2009*, ordering removal an unauthorized retaining wall installed in the Resource Protection Area (RPA), on his property identified as JCC RE Tax Parcel No. *5031300003* and further identified as *516 Sir George Percy, in the Kingsmill 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 hearing, 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.

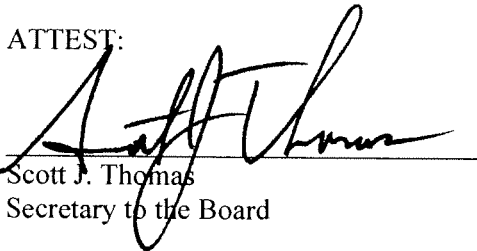
THEREFORE, the Chesapeake Bay Board of James City County is granting the appeal filed by *Thomas Hutchens* on *March 23, 2009* and overturning the *February 24, 2009* Notice of Violation issued by Patrick T. Menichino, James City County Environmental Division.

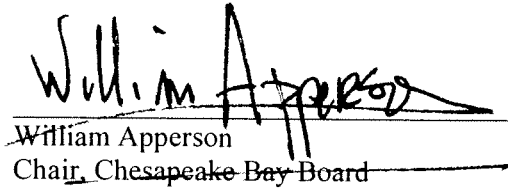
In granting this appeal, the following conditions are hereby imposed to prevent this project from causing degradation of water quality:

- *The owner shall mitigate for the retaining wall by installing (2) canopy trees, (4) understory trees and (6) shrubs in the area below the existing retaining wall. All plant material shall be native species and should meet the following size requirements: shrubs 3-5 gallon container size and trees 6-7 feet in height and 1"-1 ½" in caliper.*
- *Removal of the existing turf from within the RPA buffer is a condition of approval. This area should be stabilized with native grasses and not subjected to routine mowing.*
- *A revised plan titled "Mitigation & Restoration Plan for 516 Sir George Percy", incorporating any Board recommendations must be submitted to the Environmental Division for approval.*

- *A Chesapeake Bay Restoration Agreement must be executed and submitted to the County with a completion date no later than November 30, 2009 and \$1,000.00 surety in a form acceptable to the County Attorney to guarantee the full implementation of the "Mitigation & Restoration Plan for 516 Sir George Percy".*

ATTEST:


Scott J. Thomas
Secretary to the Board


William Apperson
Chair, Chesapeake Bay Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 12th day of August 2009.