

## RESOLUTION

### GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 5030400079

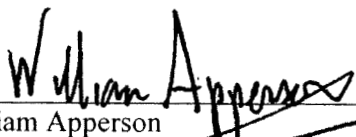
WHEREAS, Mr. David Barglof of Mid Atlantic Enterprises, Inc. on behalf of T. Kerry and Elizabeth D. McCarter, (the "Applicants") have appeared before the Chesapeake Bay Board of James City County (the "Board") on September 8, 2010 to request an exception to the use of the Resource Protection Area (the "RPA") on a parcel of property identified as JCC RE Tax Parcel No. 5030400079 and further identified as 504 East Tazewell's Way (the "Property") as set forth in the application CBE-11-015 for the purpose of replacing and extending a retaining wall; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

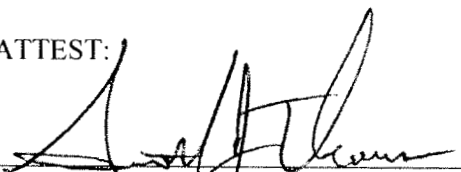
NOW, THEREFORE, following a public hearing, the Chesapeake Bay Board of James City County by a majority vote of its members FINDS that:

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:
  - a) The applicant must obtain all other necessary local permits as required for the project.
  - b) All proposed mitigation plantings shall meet James City County standards of 1" caliper for the canopy and understory trees and with the proposed shrubs being of three gallon size.
  - c) A pre-construction meeting shall be held on-site prior to work commencing.

- d) 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) by providing a form of surety satisfactory to the County Attorney.
- e) This exception request approval shall become null and void if construction has not been completed by September 8, 2011 including the required mitigation plantings.
- f) Written requests for an extension to an exception shall be submitted to the Environmental Division no later than 2 weeks prior to the expiration date.

  
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William Apperson  
Vice Chair, Chesapeake Bay Board

ATTEST:

  
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Scott J. Thomas  
Secretary to the Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 8th day of September, 2010.

GrantExcTemp.res