

Chesapeake Bay Board

Building F - 7 p.m.

Nov. 14, 2012

A. Roll Call

B. Minutes

From September 12, 2012 – Board Meeting

C. Public Hearings

1. CBE-13-023 – Davies/Williams Landscape – 2517 Manion – retaining walls and steps
2. CBE-13-031 – Snow/Delightful Gardens – 1536 Harbor Rd – patio, deck extension and permeable paver walk
3. CBE-13-037 – Hartney/Olsen Fine Homebuilding – 160 Broadmoor – part of house, patio and retaining wall

D. Board Considerations

1. Calendar Year 2013 Schedule
2. Election of Officers for 2013

E. Matters of Special Privilege

F. Adjournment

Chesapeake Bay Exception CBE-13-023: 2517 Manion - Davies

Staff report for the November 14, 2012 Chesapeake Bay Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: Robert Davies.

Agent: Williams Landscape and Design, Inc., Mr. Aaron Williams

Location: 2517 Manion Drive, Drummonds Field
Lot 6, Section 1 Drummonds Field
PIN: 4630200006

Lot Size/Zoning: 0.9 acres; R8

Area of Lot in RPA: 0.3 ac +/- (30%)

Watershed: James River (HUC Code JL30)

Proposed Activity: Installation of two retaining walls and access steps

Impervious Cover: Approximately 568 square feet

RPA Encroachment: 2,625 square feet in the seaward fifty (proposed)
5,500 square feet in the landward fifty (existing)

Brief Summary and Description of Activities

Mr. Aaron Williams, on behalf of Robert Davies, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for installation of two retaining walls and access steps within the backyard of the property as well as an extension to the rear yard turf area. The project is located at 2517 Manion within the Drummonds Field subdivision. The lot was platted following the 1990 adoption of the Chesapeake Bay Preservation Ordinance but prior to the 2004 revisions to the Ordinance. The proposed improvements are within the seaward fifty foot RPA buffer.

The proposed retaining walls are located within the RPA buffer. As such, they cannot be administratively reviewed. Furthermore, the area between the existing fence (at the 50 ft RPA line) and the retaining walls will be an extension of the rear yard turf area in the seaward 50 foot RPA and

is more than the minimum amount necessary to afford relief. On September 26, 2012, staff sent an email to Mr. Williams explaining that the application needed clarification. The deadline to receive the resubmitted application was on October 19th. A revised plan was submitted on October 31st. It should be noted that the applicant has provided no mitigation plan for the proposed encroachments.

Staff Evaluation

Staff has evaluated the application and exception request for all work as described above. The proposal is for retaining walls, steps and an extension of the rear yard. Staff finds that the application has met the conditions in the Chesapeake Bay Preservation Ordinance, Sections 23-11 and 23-14, and that the application should be heard by the Board. Therefore, the exception request must be considered by the Board following public hearing under the formal exception process. The exception request before the Board, and decision to approve or deny by resolution, is for encroachment into the RPA buffer for the construction of the above stated improvements.

Water Quality Impact Assessment (WQIA)

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has *not* submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a *County Sensitive Area Activity Application*.

Consideration by the Chesapeake Bay Board

The first issue before the Board is the installation of two retaining walls and access steps that will create approximately 568 square feet of impervious area within the landward and seaward RPA buffers. The second issue is the expansion of the rear yard turf area. The Board is to determine whether or not this is consistent with the spirit and intent of the Ordinance and make a finding based upon the five (5) criteria outlined in Section 23-14(c) of the Ordinance.

The board is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Board is to fully consider Chesapeake Bay Exception CBE-13-023 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or denial of Chesapeake Bay Exception CBE-13-023 are included for the Board's use and decision.

Staff Recommendations

Staff has fully reviewed the application and exception request and has determined impacts associated with the proposal to be **severe** for the proposed development and that the proposed mitigation measures do not meet standard mitigation requirements. Staff recommends **denial** of the application as the submitted plan for the following reasons: 1) there is no apparent erosion problem on the existing land slope; 2) retaining walls are not necessary to prevent erosion of the slope; and 3) the proposed rear yard turf area is an extension of existing back yard area and is considered beyond the minimum necessary to afford relief. If the Board chooses to approve this application, staff recommends the incorporation of the following conditions into the approval:

1. The applicant must obtain all other necessary federal, state, and local permits as required for the project; and
2. A mitigation planting plan encompassing 8 planting units shall be submitted and approved prior to the start of construction; and
3. A pre-construction meeting must be held on-site prior to work commencing; and
4. Surety of \$8,000 will be required in a form acceptable to the County Attorney's office; and
5. This exception request approval shall become null and void if construction has not begun by November 14, 2013; and
6. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 2 weeks prior to the expiration date.

Staff Report prepared by:



Michael P. Majdeski
Senior Resource Protection Inspector

CONCUR:



Michael D. Woolson
Secretary to the Board



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Sensitive Area Activity Application

Chesapeake Bay Exception CBE-13-031:

1536 Harbor Road - Snow

Staff report for the November 14, 2012 Chesapeake Bay Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: Brenda Snow

Agent: Delightful Gardens Landscape Co., Mr. Don Newsom

Location: 1536 Harbor Road, The Governor's Land at Two Rivers
Lot 8, Governor's Land the Harbor
PIN: 4310200008

Lot Size/Zoning: 0.38 ac +/-; R4 Zoning

Area of Lot in RPA: 0.25 ac +/- (66%)

Watershed: James River (HUC Code JL30)

Proposed Activity: Pathway, patio, deck

Impervious Cover: Approximately 1,389 square feet

RPA Encroachment: 1,389 square feet

Brief Summary and Description of Activities

Mr. Don Newsom, on behalf of Ms. Brenda Snow, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the installation of a patio, deck, and walkway. The lot was platted in 1995 and the house built in 1996.

The project entails the construction of a pervious paver walkway system to the existing beach, a patio, and a two-level deck. The proposed impervious cover for these items is approximately 1,400 square feet. Part of this project entails an administrative review and part requires approval from the Chesapeake Bay Board. As all of the improvements are within a conservation easement dedicated to the County, written approval will also be required to meet the terms of the easement.

The walkway will replace an existing impervious brick walk with a permeable paver system that allows rainwater to infiltrate through the walkway. The concrete paver patio is new impervious cover while the deck is an expansion of the original deck. The proposed mitigation for this plan is

gravel under the deck system to prevent soil erosion plus a planting plan. While the mitigation planting plan does not meet County requirements, staff has been in discussions with the agent on what items the applicant needs to address to bring the plan up to requirements. Further, there is an area of existing turf within the RPA and staff discussed with the applicant the Turf Love program to address nutrient management of the lawn area that is within the RPA.

Staff Evaluation

Staff has evaluated the application and exception request for all work as described above. The proposal is for a pervious paver walkway, concrete paver patio, and two-level deck. Staff finds that the application has met the conditions in the Chesapeake Bay Preservation Ordinance, Sections 23-11 and 23-14, and that the application should be heard by the Board because the walkway is more than the minimum necessary to afford relief. Therefore, the exception request must be considered by the Board following public hearing under the formal exception process. The exception request before the board, and decision to approve or deny by resolution, is for encroachment into the RPA buffer for the construction of the above stated improvements.

Water Quality Impact Assessment (WQIA)

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a *County Sensitive Area Activity Application* and an invoice for the mitigation plantings which are included in the case report packet.

Consideration by the Chesapeake Bay Board

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-13-031 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-13-031 are included for the Board's use and decision.

Staff Recommendations

Staff has fully reviewed the application and exception request and has determined impacts associated with the proposal to be **moderate** for the proposed development and that the proposed mitigation measures meet standard mitigation requirements. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

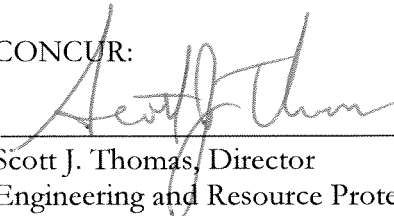
1. The applicant must obtain all other necessary federal, state and local permits as required for the project; and
2. County must receive from the Applicant a written copy of any approvals from the Governor's Land Foundation prior to starting construction; and
3. A mitigation planting plan that meets County requirements must be received and approved prior to starting construction; and
4. Applicant shall follow the County's Pervious Paver Block System Guidelines for installation of the walkway paver system; and
5. Surety of \$3000.00 will be required in a form acceptable to the County Attorney's office; and
6. The applicant shall implement the Turf Love (or similar nutrient management plan) program and give a copy of all recommendations to the County; and
7. This exception request approval shall become null and void if construction has not begun by November 14, 2013; and
8. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 2 weeks prior to the expiration date.

Staff Report prepared by:



Michael D. Woolson
Senior Watershed Planner

CONCUR:



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package

Chesapeake Bay Exception CBE-13-037: 160 Broadmoor - Hartney

Staff report for the November 14, 2012 Chesapeake Bay Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: Ardis and James Hartney

Agent: Olsen Fine Home Building LLC – Beverly Olsen

Location: 160 Broadmoor, Ford's Colony
Lot 57, Section 9B Ford's Colony
PIN: 3720700057

Lot Size / Zoning: 0.56 ac +/-; R4

Area of Lot in RPA: 0.34 ac +/- (70%)

Watershed: Powhatan Creek, subwatershed 209 (HUC Code JL31)

Proposed Activity: Construction of single family home, patio and retaining wall

Impervious Area: Approximately 3485 square feet

RPA Encroachment: 3235 sq. ft. +/- landward and 250 sq. ft. +/- seaward

Brief Summary and Description of Activities

Ms. Beverly Olsen, on behalf of Ardist and James Hartney, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for construction of a new single family home, patio and retaining wall on their property. The project is located at 160 Broadmoor within the Fords Colony subdivision. The lot was platted following the 1990 adoption of the Chesapeake Bay Preservation Ordinance but prior to the 2004 revisions to the Ordinance. The proposed improvements are within the seaward 50 foot RPA buffer.

Based on staff review of County records, the lot was recorded following the adoption of the Chesapeake Bay Preservation Ordinance. As a portion of the single family home is located with the seaward 50 ft RPA buffer and the request also contains a patio, deck, steps and retaining wall that are also located within the RPA buffer, it cannot be administratively reviewed. Therefore in accordance with Section 23-14 of the Ordinance an exception request must be considered by the

Board following public hearing under the formal exception process. The exception request before the board, and decision to approve or deny by resolution, is for encroachment into the RPA buffer for construction of a portion of the single family home, patio and the retaining wall. The proposed mitigation plan includes gravel under the deck to prevent erosion plus a planting plan. While the mitigation planting plan does not meet County requirements, staff has been in discussion with the agent on what items the applicant needs to address to bring the plan up to requirements. Further, there is an area of proposed turf within the RPA. Staff strongly encourages the applicant to place their property into the Turf Love program to address nutrient management of the lawn area that is within the RPA.

Water Quality Impact Assessment (WQIA)

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a *County Sensitive Area Activity Application*.

Consideration by the Chesapeake Bay Board

The issue before the Board is the construction of a portion of a new single family home that will create approximately 250 square feet of impervious area within the seaward RPA buffer. In addition, the applicant proposes to construct a deck, porch, steps, and retaining wall that will create an approximate 3235 square feet of impervious area within the landward RPA buffer. The Board is to determine whether or not this is consistent with the spirit and intent of the Ordinance and make a finding based upon the five (5) criteria outlined in Section 23-14 (c) of the Ordinance.

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-13-037 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-13-037 are included for the Board's use and decision.

Staff Recommendations

Staff has fully reviewed the application and exception request and has determined impacts associated with the proposal to be **moderate** for the proposed development and that the proposed mitigation measures meet standard mitigation requirements. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

1. The applicant must obtain all other necessary federal, state, and local permits as required for the project; and
2. County must receive from the Applicant a written copy of any approvals from the Ford's Colony HOA and/or ECC; and
3. A mitigation planting plan the meets County requirements must be received and approved prior to starting construction; and
4. Surety of \$9,000.00 will be required in a form acceptable to the County Attorney's office; and
5. The Applicant shall implement the Turf Love (or similar nutrient management plan) program and give a copy of all recommendations to the County; and
6. This exception request approval shall become null and void if construction has not begun by November 14, 2013.
7. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 2 weeks prior to the expiration date.

Staff Report prepared by:

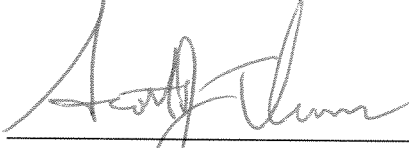


Tina Creech
Senior Resource Protection Inspector

CONCUR:



Michael D. Woolson
Secretary to the Board



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Sensitive Area Activity Application
Exhibits:
A- Plat provided by applicant
B- Lot Pictures