

# **Chesapeake Bay Board**

## **Building F - 7 p.m.**

**Dec. 12, 2012**

### **A. Roll Call**

### **B. Minutes**

From November 14, 2012 – Board Meeting

### **C. Public Hearings**

1. CBE-13-023 – Davies/Williams Landscape – 2517 Manion – retaining walls & steps  
(Continued from 11/14/12)
2. CBE-13-040 – Witcofski – 158 Wareham’s Point – retaining wall
3. CBE-13-042 – Walk Wright Construction – 109 Cartgate – SFD w/deck

### **D. Board Considerations**

1. Change date for January 2013 meeting

### **E. Matters of Special Privilege**

### **F. Adjournment**

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

Staff report for the December 12, 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

Parcel: Lot 6, Section 1, Drummonds Field

Parcel Identification: 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: Construction 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 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 and steps 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 impact the seaward 50 foot RPA and is considered by Staff as the minimum amount necessary to afford relief. The proposed retaining walls will address an existing erosion problem and will prevent sedimentation of the adjacent James River. In addition, to address water quality further, the applicant has proposed to install a bio-retention cell between the two retaining walls.

The mitigation plan includes numerous plantings, a nutrient management plan, and the proposed bio-retention strip when in combination exceeds the standard County mitigation rate.

An application for an exception for a neighboring project (CBE-07-012) was submitted and approved by the Board in April of 2007. The work that was performed for the project addressed similar erosion problems with the installation of retaining walls to prevent sedimentation of the adjacent James River and included less mitigation than is proposed for the current case.

### **Staff Evaluation**

Staff has evaluated the application and exception request for all work as described above. The proposal is for two retaining walls and access steps, mitigated with extensive plantings, a bio-retention filter strip, and a nutrient management plan. 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 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 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 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 **moderate** for the proposed development and that the proposed mitigation measures exceed standard mitigation requirements. Staff recommends **approval** of the application and the submitted plan. If the Board chooses to approve this application, staff recommends the incorporation of the following conditions into the approval:

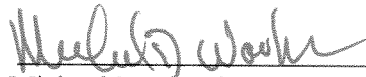
1. The applicant must obtain all other necessary federal, state, and local permits as required for the project; and
2. No woody vegetation may be removed without prior approval from the Division; and
3. Additional Erosion and Sediment controls may be necessary as directed by the Division; and
4. A pre-construction meeting must be held on-site prior to work commencing; and
5. Surety of \$8,000 will be required in a form acceptable to the County Attorney's office; and
6. A nutrient management plan must be submitted to the county prior to the release of any surety; and
7. This exception request approval shall become null and void if construction has not begun by December 12, 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:

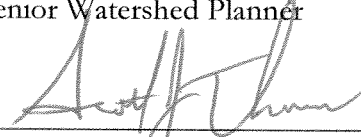


Michael P. Majdeski  
Senior Resource Protection Inspector

CONCUR:



Michael D. Woolson  
Senior Watershed Planner



Scott J. Thomas, Director  
Engineering and Resource Protection

Attachments: Sensitive Area Activity Application

## Chesapeake Bay Exception CBE-13-040: 158 Wareham's Point - Witcofski

Staff report for the December 12, 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 and Louann Witcofski  
Land Owner: Robert and Louann Witcofski  
Location: 158 Wareham's Point  
Parcel: Lot 158, Wareham's Point, Phase 3  
Parcel Identification: 5041900158  
Lot Size: 0.147 acres  
RPA Area on Lot: 0.03 acres or 20% of the lot (RPA only)  
Watershed: James River (HUC Code JL35)  
Proposed Activity: Construction of a retaining wall

### Proposed Impacts

Impervious Area: 60 square feet (approximate)  
RPA Encroachment: 800 square feet to the landward 50 foot RPA Buffer (existing turf)

### Description of Activities

The Witcofski's have applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the installation of a retaining wall in their rear yard and the adjacent Kingsmill Community Service Association property. The retaining wall is approximately 60 feet in length, no more than 2 feet tall and constructed with 6"x6" treated timbers. No tree removal is proposed. The area in question slopes significantly from the house and has experienced erosion problems in the past that the homeowner has tried to repair several times with no success. The retaining wall will lessen the rear yard land slope from approximately 25% to 5%,

thus helping to promote infiltration of rainwater. The backfill of soil from the placement of the retaining wall is approximately 800 square feet within the RPA overtop of the eroding area and is proposed to be sodded.

The applicant has not proposed any planting mitigation. According to the guidelines, anything less than 400 square feet of impervious cover impact requires 1 tree and 3 shrubs. They are proposing 60 square feet of impervious cover; are not removing any trees; lessening the slope; repairing an eroding slope; and resodding an area that has historically been stabilized with sparse grass cover. Staff finds the impact to be **minor**, therefore agrees with no planting mitigation.

### **Background of Parcel**

Based on staff review of County records, the lot was recorded in 1994, following the adoption of the original Chesapeake Bay Preservation Ordinance, but prior to the 2004 revisions. As the proposed retaining wall is 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 the construction of one retaining wall.

### **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 installation of a retaining wall that will create approximately 60 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 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-13-040 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-13-040 are included for the Board's use and decision.

**Staff Recommendations**

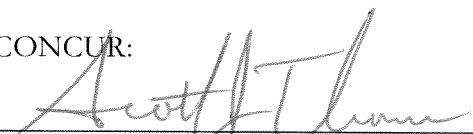
Staff recommends **approval** of the application with the incorporation of the following conditions into the approval:

1. The applicant must obtain all other necessary federal, state, and local permits as required for the project.
2. The applicant must obtain approval from the Kingsmill Community Service Association (KSCA) for the work proposed on KCSA property and evidence provided to staff.
3. Surety of \$250.00 will be required 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 December 12, 2013.
5. 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: Sensitive Area Activity Application

# Chesapeake Bay Exception CBE-13-042: 109 Cartgate – Walk Wright Construction

Staff report for the December 12, 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: Walk Wright Construction LLC

Land Owner: Walk Wright Construction LLC

Location: 109 Cartgate

Parcel: Lot 22, Fords Colony, Section 11A

Parcel Identification: 3241000022

Lot Size: 0.33 acres

RPA Area on Lot: 0.30 acres or 95% of the lot (RPA only)

Watershed: Powhatan Creek (HUC Code JL31)

Proposed Activity: Construction of single family home and deck

## Proposed Impacts

Impervious Area: 2275 square feet (approximate)

RPA Encroachment: 4200 square feet to the seaward 50 foot RPA buffer, 2300 square feet (approximate) landward RPA buffer with an approximate total of 6500 square feet.

## Description of Activities

Mr. Larry Walk with Walk Wright Construction LLC– the property owner has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the construction of a single family home and deck. The project is located at 109 Cartgate within the Fords Colony subdivision. The lot was platted prior to the 1990 adoption of the Chesapeake Bay Preservation Ordinance and prior to the 2004 revisions to the Ordinance. The



proposed improvements are within the seaward and landward 50 foot RPA buffer. The required mitigation for this project would be 9 planting units (1 canopy tree, 2 understory trees, and 3 shrubs per every 400 sq. ft. impervious cover). A mitigation plan will be submitted at a later date, to be approved by staff prior to any clearing or building permits being issued.

### **Background of Parcel**

Based on staff review of County records, the lot was recorded prior to the adoption of the Chesapeake Bay Preservation Ordinance. As the proposed construction is 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 the construction of the single family home and deck.

### **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 the single family home and deck that will create approximately 2275 square feet of impervious area within the seaward 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.

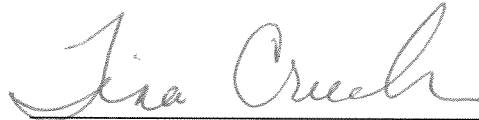
The board is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Board is to fully consider Chesapeake Bay Exception CBE-13-042 as outlined and presented above and review 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-13-042 are included for the Board's use and decision.

**Staff Recommendations**

Staff recommends **approval** of the application with the incorporation of the following conditions into the approval:

1. The applicant must obtain all other necessary local permits as required for the project.
2. Surety of \$9,000 will be required in a form acceptable to the County Attorney's office.
3. Applicant may pay up to 50% of the surety amount to the Chesapeake Bay Mitigation Fund. The remaining surety cost will require on site planting mitigation.
4. Applicant must submit the mitigation plan for approval prior to construction.
5. This exception request approval shall become null and void if construction has not begun by December 12, 2013.
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:

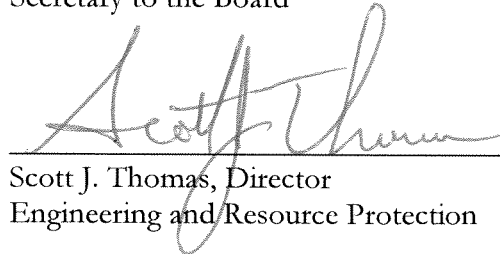


Tina Creech  
Senior Resource Protection Inspector

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 Picture (1)