

Chesapeake Bay Board

January 11, 2006

- A. Roll Call
- B. Minutes - December 14, 2005
- C. Public Hearings
 - 1. Jared Jobe/Boyd Corporation - 2808 Durfey's Mill
 - 2. Bruce Schoch - 114 Discovery Lane
- D. Board Considerations
- E. Matters of Special Privilege Resolution of Appreciation - Henry Lindsey
- F. Adjournment - See more at:

WQIA for 2808 Durfey's Mill

Staff report for the January 11, 2006 Chesapeake Bay Board public hearing.

This staff report is prepared by the James City County Environmental Division 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.

Summary Facts

Applicant	Mr. Jared Jobe
Land Owner	Boyd Corporation
Location	2808 Durfey's Mill, Lot 6A, Section I, Lake Powell Pointe
Tax Map	4741000006
Staff Contact	Darryl Cook Phone: 253-6673

Project Description

Mr. Jared Jobe has applied on behalf of Boyd Corporation for an exception to the Chesapeake Bay Preservation Ordinance for Resource Protection Area (RPA) impacts associated with the construction of a single family principal structure and an attached garage on the above referenced lot in Lake Powell Pointe. It is located adjacent to Lake Powell and a connected wetlands system is present on the southeast side of the lot. The lot is 28,750 square feet or 0.66 acres in size.

The principal structure, garage, sidewalks and driveway are proposed to create approximately 3400 square feet of impervious cover in the RPA. There will be a total disturbance of approximately 8000 square feet in the RPA. Approximately 25% of the lot is to be cleared to allow for the construction of the dwelling.

Background

The lot was recorded in 1990, just prior to the adoption of the Chesapeake Bay Preservation Ordinance. Therefore, there was no RPA present on the lot at recordation. However, on August 6, 1990, the Ordinance went into effect establishing 100-foot RPA buffers around all water bodies with perennial flow. Under the provisions of the Ordinance in effect at that time, perennial water bodies were identified as a solid blue-line stream on the USGS 7-1/2 minute topographic quadrangle maps (scale 1:24000). Lake Powell and the adjacent, connected wetlands behind and on this property were identified as perennial water bodies on the quad map and an RPA buffer was placed on the lot. This 100 foot RPA buffer encompasses about 94% of the lot.

According to provisions of the Ordinance;

when application of the buffer would result in the loss of a buildable area on a lot or parcel recorded prior to August 6, 1990, encroachments into the buffer may be allowed through an administrative process in accordance with the following criteria:

1. Encroachments into the buffer shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities.
2. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel; and

3. The encroachment may not extend into the seaward 50 feet of the buffer area, and obtain exceptions to the requirements of the chapter to allow for the beneficial use of the property to create a buildable area.

In this case, it is necessary to encroach into the seaward 50 feet of the buffer in order to obtain a reasonable building area, and therefore, the exception request must be processed by the Chesapeake Bay Board after a public hearing.

Water Quality Impact Assessment

Under Section 23-14 of the amended Ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs. Mr. Jobe has submitted a WQIA for this project. The issue before the Chesapeake Bay Board is the RPA impacts associated with clearing, grading and creation of 3400 square feet of impervious cover in the RPA associated with the construction of the principal structure. The issue of the clearing for a sightline mentioned in the attached letter from Mr. Jobe is a matter that will be handled administratively by staff when the house is constructed.

The WQIA proposes as mitigation to offset the impacts to the RPA the planting of 6 canopy trees, 14 understory trees and 38 shrubs, all native, with some of the plants to be placed at the limits of disturbance on the lot to help filter nonpoint source pollution with the remainder placed throughout the lot within the RPA. In addition, there are RPA buffer restoration plantings located on the lot, which were required as a remedy for a previous Chesapeake Bay violation committed by Boyd Corporation. The plants that are within the limits of construction for this project are to be relocated elsewhere on the lot within the RPA. The plan is acceptable and would satisfy the mitigation requirements for the impacts.

Mr. Jobe has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. He has proposed two alternative house locations, labeled Plan A and Plan B in the attachments. The house site on Plan A is set back further from the road than Plan B (70 ft vs 35 ft) but results in less impact to the 50-foot RPA buffer (275 sf vs 600 sf) and is Mr. Jobe's preferred alternative. The Board is to determine whether or not the proposed development is consistent with the spirit and intent of the Ordinance and make a finding based upon the following criteria, as outlined in Section 23-14(c) of the Chesapeake Bay Ordinance:

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 this chapter to other property owners similarly situated in the vicinity;
3. The exception request will be in harmony with the purpose and intent of this chapter, 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; and
5. Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

Recommendations

Staff recommends approval of the exception with Plan A as the house location as the lot was created prior to the establishment of the RPA requirement, the house is located to minimize the encroachment into the 50-foot buffer for this proposal, the project does not confer any special

privileges to the applicant, and the exception is not based on self-imposed conditions. Staff recommends approval with the following conditions:

1. Full implementation of either of the mitigation landscape plans submitted for the project and submitted with the WQIA.
2. The size of the trees planted shall be a minimum of 1-1/2 inch caliper (six to eight feet tall) and the shrubs be 3 gallon size.
3. Implementation of the mitigation plan would be guaranteed through the provisions of the Ordinance contained in Sections 23-10(3)d. and 23-17(c) where installation of the plant material is required prior to the certificate of occupancy or through a surety instrument satisfactory to the county attorney.
4. Existing shrubs planted to remedy an earlier violation of the RPA that are within the limits of construction are to be transplanted elsewhere on the lot in the RPA.
5. This exception request approval shall become null and void if construction has not begun by January 11, 2007.

All recommendations adopted by the Board must be incorporated into the site plans for the project, which then must be approved by the Environmental Division before construction can begin.

Staff Report Prepared by: _____
Darryl E. Cook

- Exception Approved with Staff Recommendations
- Exception Denied

William Apperson
Chairman,
Chesapeake Bay Board

Attachment:

1. 2808 Durfey's Mill Water Quality Impact Assessment including site maps and pictures
2. Letter dated November 18, 2005, from Mr. Jobe

WQIA for 114 Discovery Lane

Staff report for the January 11, 2006 Chesapeake Bay Board public hearing.

This staff report is prepared by the James City County Environmental Division 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.

Summary Facts

Applicant	Bruce P. Schoch
Land Owner	Bruce P. Schoch
Location	114 Discovery Lane, Lot19, Section 1, Powhatan Shores.
Tax Map	(47-3)(5-19)
Staff Contact	Darryl Cook Phone: 253-6673

Project Description

Mr. Bruce P. Schoch has applied for an exception to the Chesapeake Bay Preservation Ordinance for Resource Protection Area (RPA) impacts associated with the construction of a 10' x12' accessory structure (storage shed) on the above referenced lot in Powhatan Shores. The accessory structure will create approximately 120 feet of impervious cover in the RPA.

The lot is 15,660 square feet or 0.36 acres in size. It is located adjacent to a man-made canal that is connected to Powhatan Creek. There is currently an existing residence on the lot encroaches into the 100-foot RPA buffer by approximately 3600 square feet. The applicant is requesting an additional 120 square feet of encroachment resulting in total impervious cover of approximately 3720 square feet in the buffer. No mature vegetation will be removed from the lot to allow for construction of the proposed accessory structure.

Background

The lot was recorded in 1977, prior to the adoption of the Chesapeake Bay Preservation Ordinance. Therefore, there was no RPA present on the lot at recordation. However, on August 6, 1990, the Ordinance went into effect establishing 100-foot RPA buffers around all water bodies with perennial flow. Under the provisions of the Ordinance in effect at that time, perennial water bodies were identified as a solid blue-line stream on the USGS 7-1/2 minute topographic quadrangle maps (scale 1:24000). Powhatan Creek and the adjacent, connected man-made canal behind this property were identified as a perennial water body on the quad map and an RPA buffer was placed on the lot. This 100 foot RPA buffer encompasses about 73% of the lot.

According to provisions of the Ordinance;

An exception request for encroachments into the RPA buffer for accessory structures may not be granted through an administrative process by the manager. In addition, as 73% of the lot is within the buffer, it may be necessary to encroach into the seaward 50 feet of the buffer in order to obtain a reasonable site or building area for the shed. For these two reasons, the exception request must be processed by the Chesapeake Bay Board after a public hearing.

Water Quality Impact Assessment

Under Section 23-14 of the amended Ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs. Mr. Schoch has submitted a WQIA for this project. The issue before the Chesapeake Bay Board is the RPA impacts associated with clearing, grading and creation of 120 square feet of impervious cover in the RPA (approximately 24 square feet proposed in the seaward 50-foot buffer) associated with the construction of the accessory structure.

The WQIA proposes mitigation to offset the impacts to the RPA. The proposal is to plant six (6) native shrubs in a mulched landscape bed within the RPA buffer adjacent to the shed. This plan is acceptable and would satisfy the mitigation requirements for the impacts.

Mr. Schoch has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The Board is to determine whether or not the proposed development is consistent with the spirit and intent of the Ordinance and make a finding based upon the following criteria, as outlined in Section 23-14(c) of the Chesapeake Bay Ordinance:

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 this chapter to other property owners similarly situated in the vicinity;
3. The exception request will be in harmony with the purpose and intent of this chapter, 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; and
5. Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

Recommendations

If following the public hearing, the Board votes for the approval of the exception and allows the accessory structure to be built within the buffer, then Staff recommends the following conditions be required:

1. Full implementation of the mitigation landscape plans submitted for the project.

2. The size of the shrubs shall be a minimum of 3-5 gallon container size.
3. Implementation of the mitigation plan would be guaranteed through the provisions of the Ordinance contained in Sections 23-10(3)d. and 23-17(c) where installation of the plant material is required prior to the final inspection by the Code Compliance office or through a surety instrument satisfactory to the county attorney.
4. This exception request approval shall become null and void if construction has not begun by January 11, 2007.

All recommendations adopted by the Board must be incorporated into the site plans for the project, which then must be approved by the Environmental Division before construction can begin.

Staff Report Prepared by: _____
Darryl E. Cook

- Exception Approved with Staff Recommendations
- Exception Denied

William Apperson
Chairman,
Chesapeake Bay Board

Attachment:

1. 114 Discovery Lane Water Quality Impact Assessment including site maps and pictures