

# **Chesapeake Bay Board**

**June 11, 2008**

**A. Roll Call**

**B. Minutes**

May 14, 2008

**C. Public Hearings**

1. CBE-08-029 – Richard Costello – 10020 Sycamore Landing Road
2. CBV-08-003 – Appeal Violation – Walker Ware IV - 5004 River Drive

**D. Board Considerations**

1. CBE-07-015 – Permit Extension – 108 Seven Oaks

**E. Matters of Special Privilege**

**F. Adjournment**

**WQIA for CBE-08-029 – 10020 Sycamore Landing Road.**

Staff report for the June 11, 2008, 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	Richard and Nina Costello	
Land Owner	(same)	
Location	10020 Sycamore Landing Road, Williamsburg, VA	
Parcel Identification	07204000004	
Staff Contact	Patrick Menichino	Phone: 253-6675

**Project Summary and Description**

Richard and Nina Costello, of 10020 Sycamore Landing Road, Williamsburg, VA, have applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for Resource Protection Area (RPA) impacts associated with a proposed retaining wall 20 linear feet in length and the relocation of a brick paver walkway. These proposed improvements will result in an increase of 116 square feet of impervious area within the RPA buffer. The lot is 0.35 acres in size and the RPA buffer encompasses approximately 50% of the lot or 0.18 acres.

There is no RPA mitigation plan proposed by the applicant for the 116 square feet of impervious area. The County’s standard mitigation requirements would require the installation of (3) native shrubs as mitigation for the proposed 116 square feet of impervious area..

This exception request is for a proposed retaining wall and relocation of a brick paver walkway (accessory structures) within the RPA buffer. Staff has not administratively approved the installation of accessory structures within the RPA in the past. However, the Board has in the past granted exceptions for similar accessory structures within the RPA buffer.

Staff offers the following information as guidance to the Board concerning this application.

1. Staff believes that any adverse impacts caused by this wall and walkway are negligible.
2. The Board can impose additional mitigation requirements to offset potential water quality impacts.
3. Staff recommends RPA mitigation be required to offset the 116 square feet of impervious area.

### **Brief History**

The lot was recorded prior to the adoption of the Ordinance. In 1990, the Chesapeake Bay Ordinance was adopted and established a 100 foot RPA buffer on the lot. This 100 foot RPA buffer encompasses about 50% of the lot.

This exception request is for an accessory structure encroachment within the 100 foot buffer and therefore 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.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a WQIA for this project but does not propose mitigation for the impacts to the RPA.

Staff recommends that mitigation of, (3) native shrubs, within the RPA buffer to help filter nonpoint source pollution.

The issue before the Board is the 116 square feet of impervious cover in the RPA associated with the retaining wall and walkway. 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 criteria outlined in Section 23-14(c) of the Chesapeake Bay Ordinance.

### **Recommendations**

Staff is not opposed to a Board action that would allow the retaining wall to remain in place.

If the Board votes to approve the exception request, then staff recommends that the following conditions be incorporated into the approval:

1. The applicant must submit a RPA Mitigation Plan showing the locations of (3) native shrubs to be installed within the buffer.
2. The size of the shrubs shall be 3-5 gallon size. All vegetation shall be native species approved by the Environmental Division.
3. This exception shall become null and void, if the required RPA Mitigation Plan is not submitted to the Environmental Division, and if the (3) required shrubs are not installed within 60 days following Board action.

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. If the Board grants the exception, the recommended RPA Mitigation Plan is in accordance with the standard mitigation requirements for impervious surfaces.

Staff Report prepared by: \_\_\_\_\_  
Patrick T. Menichino  
Compliance Specialist

CONCUR:

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Scott J. Thomas,  
Secretary to the Board

Attachments:

# MEMORANDUM

**DATE:** June 11, 2008  
**TO:** The Chesapeake Bay Board  
**FROM:** Patrick T. Menichino, Environmental Compliance Specialist  
**SUBJECT:** Case NO. CBV-08-003; Walker W. Ware, 5004 River Drive

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On June 11, 2008 the Chesapeake Bay Board will conduct a public hearing to consider an appeal by Walker W. Ware, of a Chesapeake Bay Ordinance Notice of Violation issued by Staff.

Staff will present evidence to the Board that, Chesapeake Bay Ordinance violations occurred at 5004 River Drive. Staff's presentation to the Board will consist of a power point presentation along with the sworn testimony of witnesses.

Staff will provide each Board member with a copy of the presentation prior to the hearing.

## MEMORANDUM

**DATE:** June 11, 2008  
**TO:** The Chesapeake Bay Board  
**FROM:** Patrick T. Menichino  
**SUBJECT:** Case NO. CBE-07-015, 108 Seven Oaks.

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Mr. Ron Nervitt, owner 108 Seven Oaks, has requested an extension of the expiration date for Chesapeake Bay Board Exception CBE-07-015, for an indefinite period of time. Subsequent to the receipt of his request, the Environmental Division communicated with Mr. Nervitt, and advised him that staff would authorized approval of a one year extension from May 9, 2008 to May 9, 2009.

Mr. Nervitt has expressed a desire for the Board to consider and act upon his original extension request for an indefinite extension period. The Board may consider this request and find that special circumstances or hardships exist that may warrant an exception extension period of more then 1 year.

Staff would advise the Board that a precedent could be established with the Boards decision.

The authorization of the Chesapeake Bay Exception Extension by the Environmental Division is subject to review and confirmation by the Chesapeake Bay Board at its next meeting. All conditions stipulated within the original exception shall be applied to any extension granted by the Board.