

Chesapeake Bay Board

Aug. 10, 2011

A. Roll Call

B. Minutes

From July 13, 2011 – Board Meeting

C. Public Hearings

1. CBE-11-134: Crawford/Adams–132 Nottinghamshire – clearing for back yard
(Continued from July 13, 2011)

2. CBE-11-144: Schafrik/Wilson-121 Stowe-walkway and foot bridge

D. Board Considerations

E. Matters of Special Privilege

F. Adjournment

MEMORANDUM

DATE: August 10, 2011
TO: The Chesapeake Bay Board
FROM: Michael D. Woolson
SUBJECT: Case No. CBE-11-134, 132 Nottinghamshire

Mr. Woody Crawford, agent for Jim and Judy Adams of 132 Nottinghamshire, is requesting a 60 day deferral for the restoration plan that he committed to provide within 15 days of the last Chesapeake Bay Board meeting (July 13, 2011). Staff met with Mr. Crawford on July 19, 2011 to discuss options available to his client. Staff does not concur with this request due to the egregious nature of the violation that occurred and requests that the Board demand that the site be immediately stabilized and then all work stopped until such time as a restoration plan is submitted to our office.

Chesapeake Bay Exception CBE-11-144: 121 Stowe

Staff report for the August 10, 2011 Chesapeake Bay Board Public Hearing

This staff report is prepared by the James City County Engineering and Resource Protection 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: Jonathan Blair Wilson, PE (Mitchell-Wilson Associates, P.C.)

Land Owner: Robert E. & Mary L. Schafrik

Location: 121 Stowe, Williamsburg, Virginia
PIN 3720600043

Parcel: Ford's Colony Section 13-B, Lot 43

Parcel Size/Zoning: 0.54 +/- acres, R4 Residential Planned Community

Percent of Parcel in RPA: 69% (0.37 +/- acres)

Watershed: Powhatan Creek, nontidal mainstem (HUC Code JL31)

Proposed Impacts

Impervious Area:

- 1,800 square feet (sq ft), landward 50 ft RPA (principal structure), **approved** administratively under case number CBE-09-064
- 121 sq ft, seaward 50 ft RPA (gazebo), **approved** by CBB under case number CBE-10-004
- 1,065 sq ft, seaward 50 ft RPA actually built (944 sq ft not approved)
- 640 sq ft, seaward 50 ft RPA proposed to remain (removal of 425 sq ft not approved)

RPA Encroachment: 519 sq ft (640 – 121 = 519 sq ft), seaward 50 foot RPA

Brief Summary and Description of Activities

Mr. Blair Wilson, on behalf of Mr. and Mrs. Schafrik, has applied for an exception to the Chesapeake Bay Ordinance for the encroachment into the RPA buffer for concrete ground gutters, concrete walkway, brick paver walkway, and a wooden foot bridge to access a gazebo previously permitted under CBE-10-004. The encroachments for the walkways and footbridge provide for a stable, non-erodible access path to the permitted gazebo.

The principal structure started construction in 2009. An administrative exception was granted to construct the residence and sanitary sewer connection under CBE-09-064 on February 2, 2009. A second exception was granted by the Chesapeake Bay Board on August 12, 2009 for an after-the-fact approval for a gazebo under CBE-10-004. During a routine mitigation inspection in May 2010, it was noted by staff that there were unpermitted improvements within the RPA. A detailed letter of concern (attached) was issued by the Division director on June 25, 2010 regarding the various unpermitted items and unaddressed issues from case CBB-10-004.

The applicant proposes to remove 425 sq ft of existing 1,065 sq ft of unpermitted concrete impervious cover plus plant 3 canopy trees, 3 understory trees, and 15 shrubs. The proposed plant material is in addition to all previously approved mitigation plantings. In accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing is held. Furthermore, 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.

Staff Recommendation

Staff has fully reviewed the application and exception request, including the WQIA, and has determined impacts associated with the proposal to be moderate. Staff recommends denial of this Chesapeake Bay exception due to the unpermitted nature of the activities. However, if the Board decides to adopt the resolution to approve this Chesapeake Bay exception request, the following conditions are recommended:

1. The applicant must obtain all other necessary local permits as required for the project.
2. 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.
3. A pre-construction meeting shall be held on-site prior to work commencing.
4. Full implementation of the RPA Mitigation Plan, the removal of the existing concrete, 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.
5. This exception request approval shall become null and void if the concrete removal and mitigation plantings have not been completed by August 10, 2012.
6. 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.

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-11-144 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-11-144 are included for the Board's use and decision.

Staff Report prepared by:

Michael D. Woolson
Senior Watershed Planner

CONCUR:

Scott J. Thomas
Secretary to the Board

- Attachments:
1. Water Quality Impact Assessment, prepared by Mitchell-Wilson, dated 6-29-11
 2. Plan of approved CBE-10-004
 3. Letter to Mr. Robert Schafrik from Mr. Scott Thomas, dated June 25, 2010
 4. E-mail correspondence to Mr. Schafrik from Mr. Thomas, dated April 14, 2011