

# **Chesapeake Bay Board**

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

**May 9, 2012**

**A. Roll Call**

**B. Minutes**

From April 11, 2012 – Board Meeting

**C. Public Hearings**

1. CBE-12-095 – Rolston – 1404 Katheryn Shaye - raised terrace patio
2. CBE-12-097 – Stanford – 138 Riverview Plantation – storage shed
3. CBE-12-101 – Cao – 144 Macaulay – retaining wall

**D. Board Considerations**

**E. Matters of Special Privilege**

**F. Adjournment**

# Chesapeake Bay Exception CBE-12-095: 1404 Katherine Shaye Lane - Rolston

Staff report for the May 9, 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: David R. Rolston  
Land Owner: David R. Rolston  
Location: 1404 Katherine Shaye Lane  
Parcel: Lot 2, Club Villas, Governors Land  
Parcel Identification: 4310800002  
Lot Size: 0.34 acres  
RPA Area on Lot: 0.27 acres or 80% of the lot (RPA only)  
Watershed: James River (HUC Code JL30)  
Proposed Activity: Installation of raised terrace patio

## Proposed Impacts

Impervious Area: 181 square feet (approximate)  
RPA Encroachment: 181 square feet to the seaward 50 foot RPA Buffer

## Description of Activities

Mr. David R. Rolston has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the construction of a raised terrace/patio to the backyard of the property. The project is located at 1404 Katherine Shaye Lane within the Governors Land 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.

The applicant has provided an invoice that indicates the installation of twelve (12) shrubs on March 15, 2012 to meet the mitigation requirements. It should be noted that the shrubs are non-natives whereas the requirements of the Sensitive Area Application require native plant material. In 2008, a Native Plant Task Force was convened and recommendations from that task group went to the Board of Supervisors in July 2008. The plantings do not meet the non-native plant material policy. If the board insists on native plantings in this particular case, the mitigation requirements would be an additional canopy tree (1) and three (3) shrubs.

### **Background of Parcel**

Based on staff review of County records, the lot was recorded following the adoption of the Chesapeake Bay Preservation Ordinance. As the proposed accessory structure (terrace) 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 raised terrace adjacent to the existing raised terrace.

### **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 issue before the Board is the installation of raised terrace that will create approximately 181 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-12-095 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-12-095 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. An acceptable mitigation planting plan that meets the non-native plant material policy created in 2008 must be submitted and approved by May 31, 2012. Surety of \$250.00 will be required in a form acceptable to the County Attorney's office.
3. This exception request approval shall become null and void if construction has not begun by May 9, 2013.
4. 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:

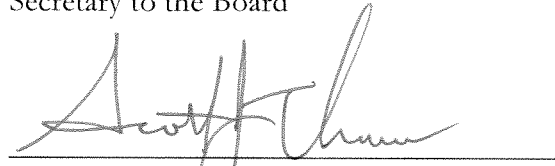


Tina Creech  
Senior Resource Protection Inspector

CONCUR:



Michael D. Woolson  
Secretary to the Board



Scott J. Thomas, Director  
Engineering and Resource Protection

- Attachments: Sensitive Area Activity Application  
Non-Native Plant Policy  
Exhibits:  
A- Applicants letter dated 4/23/12  
B- Invoice of installed plant material  
C- Lot Picture (1)  
D- Lot Picture (2)  
E- Rear Lot Picture (1)  
F- Rear Lot Picture (2)

# Chesapeake Bay Exception CBE-12-097: 138 Riverview Plantation Drive - Stanford

Staff report for the May 9, 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: Donald Stanford

Land Owner: Donald Stanford

Location: 138 Riverview Plantation Drive

Parcel: Lot 3, Block D, Riverview Plantation – Section 2 Subdivision

Parcel Identification: 1640600003

Lot Size: 0.38 acres

RPA Area on Lot: 0.36 acres or 95% of the lot (RPA only)

Watershed: York River (HUC Code YO65)

Proposed Activity: Installation of 9'-4" x 14'-8" portable shed

## Proposed Impacts

Impervious Area: 140 square feet (approximate)

RPA Encroachment: 140 square feet to the seaward 50 foot RPA Buffer

## Description of Activities

Mr. Donald Stanford has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the placement of a portable storage shed in the backyard of the property. The project is located at 138 Riverview Plantation Drive within the Riverview Plantation – Section 2 Subdivision. The lot was platted prior to the 1990 adoption of the Chesapeake Bay Preservation Ordinance. The proposed improvements are within the seaward 50

foot RPA buffer. The proposed portable storage shed will be placed on concrete blocks and replaces an old shed that was removed.

### **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 accessory structure (shed) 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 placement of the 9'-4" x 14'-8" portable storage shed.

### **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* which is included in the case report packet.

### **Consideration by the Chesapeake Bay Board**

The issue before the Board is the installation of a storage shed that will create approximately 140 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-12-097 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-12-097 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:

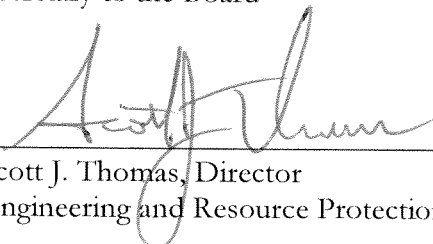
1. The applicant must obtain all other necessary local permits as required for the project.
2. Mitigation plantings shall meet James City County standards, shall be guaranteed with a \$250 surety satisfactory to the County Attorney and the provisions of the Ordinance contained in Sections 23-10(3) (d) and 23-17(c).
3. This exception request approval shall become null and void if construction has not begun by May 9, 2013.
4. 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

  
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Scott J. Thomas, Director  
Engineering and Resource Protection

Attachments: Sensitive Area Activity Application  
Exhibits:  
A- Plat  
B- Picture of shed area

## Chesapeake Bay Exception CBE-12-101: 144 Macaulay Road - Cao

Staff report for the May 9, 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: Lan Cao/Bill Van Alstyne

Land Owner: Lan Cao/Bill Van Alstyne

Location: 144 Macaulay Road

Parcel: Lot 134, Kingsmill Subdivision

Parcel Identification: 5030200134

Lot Size: 1.43 acres

RPA Area on Lot: 0.68 acres or 49% of the lot (RPA only)

Watershed: College Creek (HUC Code JL34)

Proposed Activity: Installation of railroad tie steps, a landing for kayak (both being administrative reviews) and a retaining wall to create a landing (Chesapeake Bay Board review)

### Proposed Impacts

Impervious Area: 177 square feet (approximate)

RPA Encroachment: 177 square feet to the seaward 50 foot RPA Buffer

### Description of Activities

Ms. Lan Cao and Mr. Bill Van Alstyne have applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the construction of a small landing for their kayak and the installation of railroad ties to be used as steps and a



retaining wall to prevent erosion and provide access to Kingsmill Pond at 144 Macaulay Road within the Kingsmill Subdivision. The proposed improvements are within the seaward 50 foot RPA buffer.

The proposed railroad ties and kayak landing will be constructed along the rear of the existing residence. The proposed kayak landing will be constructed at the edge of the pond, 18” off water surface, on Kingsmill Pond in a manner to avoid impacts to the pond. The proposed railroad tie/stair installation is located from the rear of the house toward the proposed kayak landing at water’s edge.

### **Background of Parcel**

Based on staff review of County records, the lot was recorded in March 2004, the combination of two previously recorded lots, following the adoption of the revised Chesapeake Bay Preservation Ordinance. As the proposed accessory structure (landing) 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 Chesapeake Bay 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 an encroachment into the RPA buffer for the construction of the retaining wall that creates a kayak landing.

### **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* which is included in the case report packet.

The applicant proposes to provide one (1) native canopy and three (3) native shrubs to offset the impacts to the RPA, location to be field determined in coordination with division staff. The proposed mitigation meets the mitigation standard requirements for the proposed impacts.

### **Consideration by the Chesapeake Bay Board**

The issue before the Board is the installation of the seaward retaining wall that creates a kayak landing creating approximately 177 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-12-101 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-12-101 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, including a building permit if the retaining wall is over two feet tall.
2. Mitigation plantings shall meet James City County standards, shall be guaranteed with a \$250 surety satisfactory to the County Attorney and the provisions of the Ordinance contained in Sections 23-10(3) (d) and 23-17(c).
3. This exception request approval shall become null and void if construction has not begun by May 9, 2013.
4. 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:

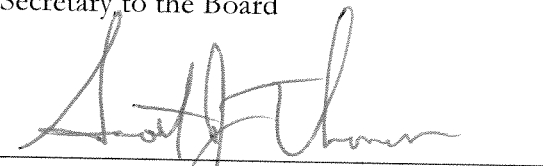


Tina Creech  
Senior Resource Protection Inspector

CONCUR:



Michael D. Woolson  
Secretary to the Board



Scott J. Thomas, Director  
Engineering and Resource Protection

Attachments: Sensitive Area Activity Application

Exhibits:

A- Work plan – top view

B- Work plan – site view

C- Step picture

D- Retaining wall picture

E- Plat