

Chesapeake Bay Board Building F - 7 p.m.

June 13, 2012

A. Roll Call

B. Minutes

From May 9, 2012 – Board Meeting

C. Public Hearings

1. CBE-12-111 – AES/Monticello Woods Active Adult – Settlement at Powhatan Creek Phase III project – sanitary sewer extension
2. CBE-12-116 – Carville Landscape/Jacobson – 217 Burtcher Court – 3 walls, patio & walkway

D. Board Considerations

1. CBE-07-015 – Nervitt – 108 Seven Oaks – 3rd extension request

E. Matters of Special Privilege

F. Adjournment

MEMORANDUM

DATE: June 13, 2012
TO: The Chesapeake Bay Board
FROM: Michael D. Woolson *MW*:
SUBJECT: Case No. CBE-12-111, The Settlement at Powhatan Creek, Phase 3

AES Consulting Engineers, on behalf of Monticello Woods Active Adult, LLC submitted a water quality impact assessment on April 18, 2012. Staff had issued comments on the WQIA on May 10, 2012. The applicant had until May 18, 2012 to resubmit the WQIA with corrections for the June Board meeting. As of June 1, 2012 the resubmittal had not been received but the case had been advertised. Staff requests that the Board defer this case until the July 12, 2012 meeting.

Chesapeake Bay Exception CBE-12-116: 217 Burtcher Court - Jacobson

Staff report for the June 13, 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: Carville Landscaping Company

Land Owner: Michael and Lori Jacobson

Location: 217 Burtcher Court

Parcel: Lot 40, Jefferson's Hundred, Kingsmill

Parcel Identification: 5130300040

Lot Size: 0.66 acres

RPA Area on Lot: 0.37 acres or 51% of the lot (RPA only)

Watershed: James River (HUC Code JL35)

Proposed Activity: Replacement of three retaining walls, patio and walkway

Proposed Impacts

Impervious Area: 2000 square feet (approximate)

RPA Encroachment: 2000 square feet to the landward 50 foot RPA Buffer

Description of Activities

Mr. Chris McClaning with Carville Landscape Company, on behalf of Michael and Lori Jacobson – the property owners, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the replacement of three retaining walls, patio and walkway to the backyard of the property. The existing patio, walkway and retaining walls have been partially removed. The applicant has proposed the use of pervious pavers. The project is located at 217 Burtcher Court within the Kingsmill 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 landward 50 foot RPA buffer. The applicant has provided a detailed mitigation plan that exceeds our mitigation planting requirements.

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 repairs (patio, walkway, and retaining walls) are 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 repair of existing three retaining walls, patio, and walkway that will create approximately 2000 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-12-116 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-12-116 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. Applicant shall follow the County's Pervious Paver Block System Guidelines and submit the design worksheet for the pervious pavers prior to paver installation.
3. Surety of \$2,000.00 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 June 13, 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:

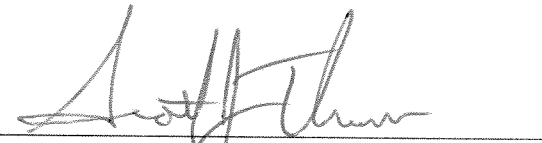


Tina Creech
Senior Resource Protection Inspector

CONCUR:



Michael D. Woolson
Secretary to the Board



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Sensitive Area Activity Application

Exhibits:

- A- Mitigation Plan
- B- 5' – 6' High Retaining Wall Detail
- C- 4' High Retaining Wall Detail
- D- Diamond Pro Retaining Wall Manufacturer Information
- E- Lot Picture (1)
- F- Lot Picture (2)
- G- Lot Picture (3)
- H- Lot Picture (4)

MEMORANDUM

DATE: June 13, 2012
TO: The Chesapeake Bay Board
FROM: Michael D. Woolson *MW*
SUBJECT: Case No. CBE-07-015, 108 Seven Oaks, Ford's Colony

Mr. Nervitt, owner of 108 Seven Oaks, has expressed a desire for the Board to consider and act upon his request which would remove his lot from the RPA. He also wishes that the Board consider his request for a five year extension. Lastly, if the Board is unwilling to grant either of his first two requests, he requests an additional two-year extension. The Board may consider any and all of these requests and find that special circumstances or hardships exist that may warrant the granting of any of these three requests.

After the 2004 Chesapeake Bay Preservation Act revisions, the RPA was deemed to exist around the lake (BMP) that Mr. Nervitt references. There are no provisions in the Ordinance that allow for a lot to be excluded from the RPA. Staff recommends granting of an additional two-year extension with all conditions stipulated within the original exception be applied to the extension granted by the Board.

JUN 13 2012