

Chesapeake Bay Board

Building F - 7 p.m.

Sept. 12, 2012

A. Roll Call

B. Minutes

From August 8, 2012 – Board Meeting

C. Public Hearings

1. CBE-13-006 – Forsyth/Boyd Nursery – 1784 Cypress Isle – shoreline project
2. CBE-13-005 – Perry/Delightful Gardens – 108 Holly Grove – Retaining Walls

D. Board Considerations

E. Matters of Special Privilege

F. Adjournment

Chesapeake Bay Exception CBE-13-006:

1784 Cypress Isle

Staff report for the September 12, 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 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: Judy Forsyth

Agent: Boyd Nurseries, Inc., Mr. Wesley Boyd

Location: 1784 Cypress Isle, The Governor's Land at Two Rivers
PIN: 4321400003

Lot Size/Zoning: 0.92 ac +/-; R4 Zoning

Area of Lot in RPA: 0.74 ac +/- (80%)

Watershed: James River (HUC Code JL30)

Proposed Activity: Pathway, steps, patio/landing, beach nourishment

Impervious Cover: Approximately 600 square feet

Brief Summary and Description of Activities

Mr. Wesley Boyd, on behalf of Ms. Judy Forsyth, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the installation of a "U" shaped pathway, patio/landing, step access to the beach, and beach nourishment. Ms. Forsyth has applied for a Wetlands Permit (W-03-13) for the beach nourishment aspect of this project. The lot was platted in 1999 and the 2004 Chesapeake Bay Ordinance revisions mandated additional RPA along the western portion of the property. The applicant had previously applied for, and was granted, an administrative waiver (CBE-12-035) for the house construction.

The project entails the construction of a pervious paver walkway system and steps down to a beach along the James River. Existing conditions of the lot indicate that the proposal will not significantly alter the vegetation. Several small shrubs/trees will be removed. The applicant has provided a mitigation plan that exceeds County requirements for the impervious cover proposed. Included in the planting list are bald cypress, spartina, switchgrass, red bud, and sweetspire. Also proposed is a small stacked stone wall delineating the limit of the RPA, thus the limit of the maintained lawn versus the more natural look of the RPA.

Staff Evaluation

Staff has evaluated the application and exception request for all work as described above. The proposal is for a pervious paver walkway and steps to access the beach. 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 because the walkway is more than the minimum necessary to afford relief. Therefore, the 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 walkway.

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 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-13-006 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-13-006 are included for the Board's use and decision.


Staff Recommendations

Staff has fully reviewed the application and exception request and has determined impacts associated with the proposal to be **moderate** for the proposed development and that the proposed mitigation measures exceed standard mitigation requirements. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

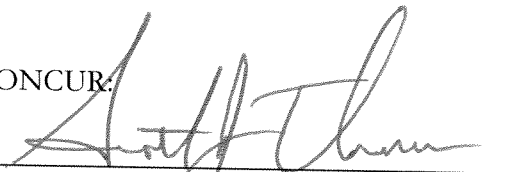
1. The applicant must obtain all other necessary federal, state and local permits as required for the project; and
2. Applicant shall follow the County's Pervious Paver Block System Guidelines for installation of the walkway paver system; and

3. Surety of \$5000.00 will be required in a form acceptable to the County Attorney's office (can be the same surety as W-03-13); and
4. This exception request approval shall become null and void if construction has not begun by September 12, 2012; and
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:



Michael D. Woolson
Senior Watershed Planner

CONCUR: 

Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package

Chesapeake Bay Exception CBE-13-005: 108 Holly Grove – Perry/Delightful Gardens

Staff report for the September 12, 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: Delightful Gardens Landscape Company
Land Owner: John Perry and Michelle Barbour
Location: 108 Holly Grove
Parcel: Lot 2, Settlers Mill, Section 4
Parcel Identification: 4711700002
Lot Size: 0.4 acres
RPA Area on Lot: 0.2 acres or 50% of the lot (RPA only)
Watershed: Powhatan Creek (HUC Code JL31)
Proposed Activity: Installation of two retaining walls and access steps

Proposed Impacts

Impervious Area: 150 square feet (approximate)
RPA Encroachment: 150 square feet to the seaward 50 foot RPA Buffer

Description of Activities

Mr. Don Newsom with Delightful Gardens Landscape Company, on behalf of John Perry– the property owner, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for installation of two retaining walls and access steps to the backyard of the property. The project is located at 108 Holly Grove within the Settlers Mill 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.

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 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 two retaining walls.

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*.

Consideration by the Chesapeake Bay Board

The issue before the Board is the installation of two retaining walls that will create approximately 150 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-13-005 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-13-005 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. Surety of \$250.00 will be required in a form acceptable to the County Attorney's office.
3. The applicant must submit written approval from the adjacent property owners that are affected by the 6' wide construction access areas.
4. This exception request approval shall become null and void if construction has not begun by September 12, 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:

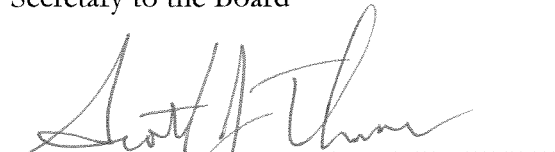


Tina Creech
Senior Resource Protection Inspector

CONCUR:



Michael D. Woolson
Secretary to the Board


Scott J. Thomas, Director
Engineering and Resource Protection

- Attachments: Sensitive Area Activity Application Exhibits:
- A- 4' High Retaining Wall Detail
 - B- Plat provided by applicant
 - C- Lot Picture (1)
 - D- Lot Picture (2)
 - E- Lot Picture (3)
 - F- Lot Picture (4)