

Chesapeake Bay Board

February 13, 2013

Building F, 7 p.m.

A. Roll Call

B. Minutes

From December 12, 2012 – Board Meeting

C. Public Hearings

1. CBE-13-031 – Snow/Delightful Gardens – 1536 Harbor Rd. Public Hearing
Continued from 11/14/12 - Application Withdrawn
2. CBE-13-049 – Snow/Delightful Gardens – 1536 Harbor Rd. New Application

D. Board Considerations

E. Matters of Special Privilege

F. Adjournment

Chesapeake Bay Exception CBE-13-049:

1536 Harbor Road - Snow

Staff report for the February 13, 2013 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: Brenda Snow

Agent: Delightful Gardens Landscape Co., Mr. Don Newsom

Location: 1536 Harbor Road, The Governor's Land at Two Rivers
Lot 8, Governor's Land the Harbor
PIN: 4310200008

Lot Size/Zoning: 0.38 ac +/-; R4 Zoning

Area of Lot in RPA: 0.25 ac +/- (66%)

Watershed: James River (HUC Code JL30)

Proposed Activity: Pathway, patio, deck extension

Impervious Cover: Approximately 1,250 square feet

RPA Encroachment: Approximately 1,250 square feet

Brief Summary and Description of Activities

Mr. Don Newsom, on behalf of Ms. Brenda Snow, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the installation of a patio, deck, and walkway. The lot was platted in 1995 and the house built in 1996.

The project entails the construction of a pervious paver walkway system to the existing beach, a pervious paver patio, and a two-level deck. The proposed impervious cover for these items is approximately 1,250 square feet. Part of this project entails an administrative review and part requires approval from the Chesapeake Bay Board. As all of the improvements are within a conservation easement dedicated to the County, written approval will also be required to meet the terms of the easement.

The easement was recorded in 1992. The original Chesapeake Bay Preservation Ordinance was adopted in 1989 and the Chesapeake Bay Board was created with the ordinance revisions of 2004. As part of the original development application of Governor's Land, stronger protection measures were proffered and the conservation easement was created. As there was no other regulatory board at the time, the Planning Commission was used as an additional measure to guarantee enhanced buffer and water quality protection. The easement language specifically requires that the homeowner receive permission from the County Engineer and the Planning Commission for any work done in the easement. The applicant has received Planning Commission approval. This application went to the Development Review Committee (DRC), a subcommittee of the Planning Commission, on January 30, 2013 and received approval 4-0 of the application. The County Engineer duties for this type of work have been delegated to the Senior Watershed Planner, who has had extensive conversations with the applicant regarding building and planting materials for this application. The Watershed Planner has indicated their verbal approval of the application as now proposed with written approval pending the outcome of this hearing.

The original application, which was deferred by the Chesapeake Bay Board at the November 2012 meeting, subsequently denied by the Senior Watershed Planner and withdrawn by the applicant, has been significantly revised. The original application had 1389 sq. ft. of impervious cover, which has been reduced down to 1,256 sq. ft. Other significant changes are the elimination of all turf grass within the easement/RPA; replanting with a combination of trees, shrubs, and perennials; gravel under the deck to prevent accelerated erosion; and a pervious paver system patio design. It is the opinion of staff that all of the changes will be an improvement of water quality over the original design and existing conditions.

Staff Evaluation

Staff has evaluated the application and exception request for all work as described above. The proposal is for a pervious paver patio, a deck expansion, elimination of all turf grass in the easement and restoring in accordance with the native plant material policy of the County. 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 patio and deck are 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 above stated improvements.

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-13-049 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-13-049 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. County must receive from the Applicant a written copy of any approvals for this work from the Governor's Land Foundation prior to starting construction; and
3. Applicant shall follow the County's Pervious Paver Block System Guidelines for installation of the patio paver system; and
4. Surety of \$3000.00 will be required in a form acceptable to the County Attorney's office; and
5. This exception request approval shall become null and void if construction has not begun by February 13, 2014; and
6. 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
DRC Meeting Minutes, January 30, 2012