

Chesapeake Bay Board

June 12, 2013

A. Roll Call

B. Minutes

From May 8, 2013 – Board Meeting

C. Public Hearings

1. CBE-13-101 – Lucas – 116 Godspeed Lane – swimming pool

D. Board Considerations

E. Matters of Special Privilege

F. Adjournment

Chesapeake Bay Exception CBE-13-101: 116 Godspeed Lane

Staff report for the June 12, 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: Albert Steve Lucas

Location: 116 Godspeed Lane; Lot 46 Section 1 Powhatan Shores

PIN: 4730500046

Lot Size/Zoning: 0.564 ac +/-; R1 Limited Residential Zoning

Area of Lot in RPA: 0.24 ac +/- (43%)

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

Proposed Activity: Swimming pool

Proposed Impacts

Impervious Cover: Approximately 600 square feet

RPA Encroachment: Approximately 1,200 square feet

Brief Summary and Description of Activities

Mr. Albert Lucas has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for the installation of a swimming pool. The lot was platted prior to the adoption of the Chesapeake Bay Preservation Ordinance and the house was built in 1978.

The project involves the construction of a saltwater-type swimming pool for family recreational purposes. The proposed impervious cover (pool deck) for this project is approximately 600 square feet. The nature of this project requires approval from the Chesapeake Bay Board, as swimming pools are considered accessory structures. The proposed location of the swimming pool is approximately 35 feet from the back of the existing home on the canal side.

Due to the nature of existing lot conditions, the only vegetation to be disturbed is existing lawn-turf. Although the application states that this is the only area in the yard that will not disturb existing trees or shrubs and allow for a future home addition, there is no indication through the submission of a site (plot) plan or building permit application through the Building Safety and Permits Division of where any home addition would be located.

The application states that pervious pavers will be used if possible; however, no additional information, specifications or details were provided for use of a managed permeable pavement system or any other type of structural mitigation measure. Based on the County Soil Survey (1985) soils at the location of the proposed feature are 11C, Craven-Uchee complex, 6 to 10 percent slope soils which are not conducive to use of infiltration type measures due to limitations with seasonal high groundwater tables, moderately slow permeability and moderate shrink-swell potential. It is also staff's contention that the swimming pool, even at the proposed size and dimensions, can be situated further upland (landward) and outside of the RPA. Furthermore, the area where the swimming pool is currently proposed is located in a FEMA designated Special Flood Hazard Area Zone AE floodplain. Federal, state and local regulations restrict filling in a floodplain; therefore even if the pool is moved outside of the RPA, care must be taken to ensure it's placement is such that there is no filling in the regulatory floodplain.

Staff Evaluation

Staff has evaluated the application and exception request for all work as described above. The proposal is for a saltwater family swimming pool. 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 swimming pool is an accessory structure. 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 has indicated that the backfilled area will be planted with native plants (quantity unspecified).

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-13-101 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 granting denial of Chesapeake Bay Exception CBE-13-101 are included for the Board's use and decision.

Staff Recommendations

Staff has reviewed the application and exception request and has determined impacts associated with the proposal to be **moderate** for the proposed development. Staff recommends the Chesapeake Bay Board deny this Chesapeake Bay Exception. However, if the Board decides to approve this Chesapeake Bay Exception, the following conditions should be applied:

1. The applicant must obtain all other necessary federal, state and local permits as required for the project, including necessary approvals for placement of the proposed structure within the regulatory floodplain; and
2. Applicant shall provide a planting plan for the proposed mitigation (1 canopy tree, 2 sub-canopy trees, and 3 shrubs minimum – all native variety); and
3. The runoff from proposed impervious cover shall be directed to an on-lot water quality treatment practice such as a rain garden or landscaped filtering practice; and
4. The existing grade will not be allowed to be raised or increased with structural fill; and
5. Surety of \$250 will be required in a form acceptable to the County Attorney's office; and
6. This exception request approval shall become null and void if construction has not begun by June 12, 2014; and
7. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 6 weeks prior to the expiration date.

Staff Report prepared by:

Michael Woolson
Senior Watershed Planner

CONCUR:

Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package
Email correspondence with applicant