

# **Chesapeake Bay Board Building F - 7 p.m.**

January 9, 2014

## **A. Roll Call**

## **B. Minutes**

From December 11, 2013 – Board Meeting

## **C. Public Hearings**

1. CBE-14-060: Ward/Williams Landscape–516 Sir George Percy–Retaining Wall
2. CBE-14-061: Carpenter/Green Side Up Landscape–5516 North Mallard Run–Retaining Wall
3. CBE-14-056: F E McEwen Development-221 Oxford-SFD and Retaining Wall

## **D. Board Considerations**

1. Change November 2014 meeting date from Wednesday 11/12/14 to Thursday 11/13/14

## **E. Matters of Special Privilege**

## **F. Adjournment**

## Chesapeake Bay Exception CBE-14-060: 516 Sir George Percy

Staff report for the January 9, 2014 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: Pat Ward

Agent: Williams Landscaping, Aaron Williams

Location: 516 Sir George Percy  
Lot 3, Armistead Point, Kingsmill  
PIN: 5031300003

Lot Size / Zoning: 0.539 ac +/-; R4

Area of Lot in RPA: 0.16 ac +/- (30%)

Watershed: James River (HUC Code JL35)

Proposed Activity: Construction of retaining wall

Impervious Area: Approximately 45 square feet

RPA Encroachment: 20 ft. +/- landward

### Brief Summary and Description of Activities

Mr. Aaron Williams, on behalf of The Ward's, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for construction of a retaining wall on their property. The project is located at 516 Sir George Percy 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 previous owner had started construction of a retaining wall without permits or approvals. Mr. Williams is proposing a properly engineered and built retaining wall along with a pondless water feature and extensive plantings within the first twenty feet of the RPA buffer. The current wall was never finished nor built with any tieback system. The retaining wall is proposed in the same location as the current unfinished wall.

The required mitigation for this type of impact would be 1 canopy tree and 3 shrubs. The Ward's are proposing a canopy tree, 2 understory trees, 35 shrubs and groundcover, which exceeds County requirements.

Based on staff review of County records, the lot was recorded following the 1990 adoption of the Chesapeake Bay Preservation Ordinance. As the retaining wall is located within the RPA buffer and is considered an accessory structure, this application 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 construction of a retaining wall. The proposed mitigation plan exceeds County standard requirements.

### **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 construction of a retaining wall that will create approximately 45 square feet of additional 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 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-14-060 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-14-060 are included for the Board's use and decision.

### **Staff Recommendations**

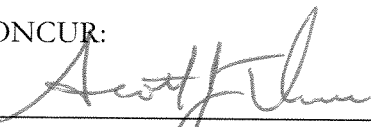
Staff has fully reviewed the application and exception request and has determined impacts associated with the proposal to be **slight** for the proposed development and that the proposed mitigation measures exceed standard mitigation requirements. Staff recommends the Chesapeake Bay Board approve this 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. A surety in the amount of \$500, in a form acceptable to the County attorney's office, be submitted prior to work commencing; and
3. This exception request approval shall become null and void if construction has not begun by 9 January 2015; and
4. 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:

  
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Michael Woolson  
Senior Watershed Planner

CONCUR:

  
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Scott J. Thomas, Director  
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package

# Chesapeake Bay Exception CBE-14-061: 5516 North Mallard Run

Staff report for the January 9, 2014 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: Greg and Joyce Carpenter

Agent: Jim Gallagher, Greenside Up Landscaping

Location: 5516 North Mallard Run  
Lot 38, Section 1, Warhill (Mallard Hill)  
PIN: 3120300038

Lot Size / Zoning: 0.89 ac +/-; R4

Area of Lot in RPA: 0.80 ac +/- (90%)

Watershed: James River (HUC Code JL31)

Proposed Activity: Construction of retaining wall

Impervious Area: Approximately 80 square feet

RPA Encroachment: 30 ft. +/- seaward

## Brief Summary and Description of Activities

Mr. and Mrs. Carpenter have applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for construction of a retaining wall on their property. The project is located at 5516 North Mallard Run within the Warhill 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 house was built in 2000 and a Chesapeake Bay Exception granted in October 1999 for the building of said home. The retaining wall is proposed to control a steep slope which is causing erosion concerns along the sides and rear of the home. The application did not propose any planting mitigation. The required mitigation would be 1 canopy tree and 3 shrubs. The applicant should provide a planting mitigation plan, however as the lot is heavily wooded, they may proposed to pay into the Chesapeake Bay Mitigation Fund an amount of \$250.

Based on staff review of County records, the lot was recorded following the 1990 adoption of the Chesapeake Bay Preservation Ordinance. As the retaining wall is located within the RPA buffer and is considered an accessory structure, this application 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 construction of a retaining wall. The proposed mitigation plan exceeds County standard requirements.

### **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 construction of a retaining wall that will create approximately 80 square feet of additional 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 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-14-061 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-14-061 are included for the Board's use and decision.

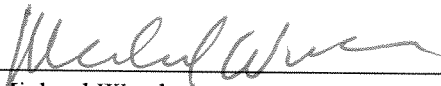
### **Staff Recommendations**

Staff has fully reviewed the application and exception request and has determined impacts associated with the proposal to be **slight** 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:

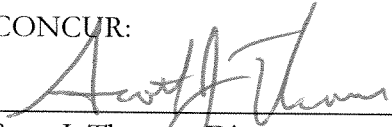
1. The applicant must obtain all other necessary federal, state, and local permits as required for the project; and

2. A mitigation planting plan consisting of 1 canopy tree and 3 shrubs be submitted and approved by staff prior to construction starting and a surety in the amount of \$250, in a form acceptable to the County attorney's office, be submitted prior to work commencing; or
3. A payment of \$250 into the Chesapeake Bay Mitigation Fund in lieu of Condition #2 above; and
4. This exception request approval shall become null and void if construction has not begun by 9 January 2015; and
5. 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:

  
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Michael Woolson  
Senior Watershed Planner

CONCUR:

  
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Scott J. Thomas, Director  
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package

## Chesapeake Bay Exception CBE-14-056: 221 Oxford Road

Staff report for the January 9, 2014 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: McEwen Development Company

Agent: F. E. 'Mac' McEwen

Location: 221 Oxford Road  
Lot 22, Section A, Druid Hills  
PIN: 4720700022

Lot Size / Zoning: 0.506 ac +/-; R1

Area of Lot in RPA: 0.506 ac +/- (100%)

Watershed: James River (HUC Code JL33)

Proposed Activity: Construction of single family home and a retaining wall

Impervious Area: Approximately 1990 square feet

RPA Encroachment: Approximately 1140 sq. ft. (seaward 50 ft. and retaining wall) under Chesapeake Bay Board jurisdiction

### Brief Summary and Description of Activities

Mr. F. E. McEwen, McEwen Development Company, has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachments into the RPA buffer for construction of a single family home and retaining wall on the property. The project is located at 221 Oxford Road within the Druid Hills subdivision. There is approximately 1,050 sq. ft. of the structure within the seaward 50 ft. RPA buffer, 550 sq. ft. in the landward 50 ft. RPA buffer and a 90 ft. long retaining wall.

The mitigation required for this activity is 5 planting units, (5 canopy trees, 10 understory trees, and 15 shrubs) plus gravel under the deck to prevent rill erosion. The mitigation plan includes 5 canopy trees, 12 understory trees, and 66 shrubs plus gravel under the deck and exceeds County mitigation requirements.



Based on staff review of County records, the lot was recorded prior to the 1990 adoption of the Chesapeake Bay Preservation Ordinance. As part of the main structure is located within the seaward 50 ft. RPA buffer and the retaining wall located within the RPA buffer, this application 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 construction of a house and retaining wall.

### **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 construction of a house and retaining wall that will create approximately 1,990 sq. ft. of impervious cover within the 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 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-14-056 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-14-056 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. A surety in the amount of \$1000, in a form acceptable to the County attorney's office, be submitted prior to work commencing; and
3. This exception request approval shall become null and void if construction has not begun by 9 January 2015; and
4. 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:

  
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Scott J. Thomas, Director  
Engineering and Resource Protection

Attachments: Water Quality Impact Assessment Package