

Chesapeake Bay Board Building F

April 8, 2015 - 7 p.m.

A. Roll Call

B. Minutes

From March 11, 2015 – Board Meeting

C. Public Hearings

1. CBE-15-073. Rauchwarg/Mid-Atlantic 7592 Uncles Neck – bank grading
2. CBE-15-074. Mitrovic/Mid-Atlantic 7616 Uncles Neck – bank grading
3. CBE-15-075. Elton 122 Northpoint Dr. - storage shed

D. Board Considerations

E. Matters of Special Privilege

F. Adjournment

Chesapeake Bay Exception CBE-15-073: 7592 Uncle's Neck, River's Bend at Uncle's Neck

Staff report for the April 8, 2015 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

Land Owner: Mr. and Mrs. Glenn and Michele Rauchwarg

Agent: Ms. Karla Havens

Location: 7592 Uncle's Neck

PIN: 2010200023

Parcel: Lot 23, River's Bend at Uncle's Neck

Lot Size: 5.44 acres +/-

RPA Area on Lot: 1.46 acres +/- (27%)

Watershed: Chickahominy River (HUC Code JL 28)

Proposed Activity: Grade bank in conjunction with installation of stone revetment (see case W-06-15)

Proposed Impacts

Impervious Area: 4,020 square feet stone revetment

RPA Encroachment: Seaward 50 foot RPA buffer
Approximately 8,000 square feet of bank grading

Description of Activities

Ms. Karla Havens, on behalf of Glenn and Michele Rauchwarg, has applied for a Chesapeake Bay Preservation Ordinance exception to regrade a failing bank in association with a stone sill and stone revetment as outlined in Case W-06-15. The existing bank has experienced multiple failures over time and the top 5 to 10 feet of the bank is a vertical or negative slope (trees overhanging the bank with no soil support underneath). As discussed in W-06-15, the revetment will have a proposed

slope of 1.5:1 on the stone face. This slope is proposed to continue up the proposed face of the regraded bank until it intersects with existing grade. The horizontal distance within the resource protection area is approximately 30 feet maximum and tapers down to less than 10 feet at the southern edge of the project.

It should be noted that conceptually this activity qualifies as a permitted buffer modification under Section 23-7(c)(1)(d); “For shoreline erosion-control projects, trees and woody vegetation may be removed, necessary control techniques employed and appropriate vegetation established to protect or stabilize the shoreline and restore the function of the buffer in accordance with the best available technical advice and applicable permit conditions or requirements.” The Board has expressed to staff that major shoreline repair projects, such as the one proposed, come before them at a public meeting.

The project proposes approximately 8,000 square feet of disturbance within the RPA. To restore the function of the buffer as required by ordinance after it has been stabilized, 20 planting units will be required (20 large trees, 40 understory trees and 60 shrubs). Staff recommends that no large canopy trees be replanted on this newly graded slope to help prevent future slope failure and instead recommends that the required tree material be replaced with shrubbery for a total of 200 shrubs to be replanted on the slope. Staff also recommends that the newly graded slope be stabilized with 4 inches of shredded or shipped hardwood mulch to prevent soil erosion.

Background of Parcel

The original lot was platted in 2008, after the adoption of the revised Chesapeake Bay Preservation Ordinance. 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 the stabilization of the bank in conjunction with a stone revetment (W-06-15) which will impact approximately 8,000 square feet of RPA buffer at 7592 Uncle’s Neck, River’s Bend at Uncle’ Neck Subdivision.

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* but has not submitted a mitigation planting list.

Consideration by the Chesapeake Bay Board

The issue before the Board is the regrading of the bank in conjunction with the work proposed in W-06-15 and whether this regrading is excessive in scope. 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.

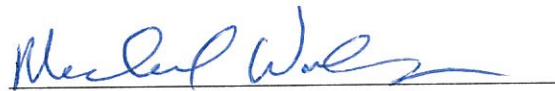
The board is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Board is to fully consider Chesapeake Bay Exception CBE-15-073 as outlined and presented above and review 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-15-073 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 minimal for the proposed development and that no mitigation planting list has been provided. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

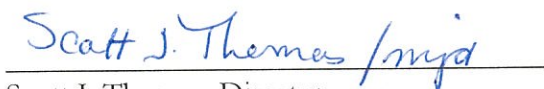
1. The applicant must obtain all other necessary local permits as required for the project; and
2. Prior to construction, a \$5,000 surety for the RPA plantings shall be submitted in a form acceptable to the County Attorney's office, to guarantee the mitigation plantings; and
3. Prior to construction, a RPA mitigation planting plan and list be provided to staff for review and approval; and
4. The surety will be held for a minimum of one growing season after planting; and
5. There shall be a 90% survival rate of the planted material after one growing season or additional plantings completed to reach 90% of the original quantity prior to surety release; and
6. The Engineering and Resource Protection Division Director reserves the right to require additional erosion and sediment control measures for this project if field conditions warrant their use; and
7. This exception request approval shall become null and void if construction has not begun by April 8, 2016; and
8. 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: Sensitive Area Activity Application w/plan

Chesapeake Bay Exception CBE-15-074: 7616 Uncle's Neck, River's Bend at Uncle's Neck

Staff report for the April 8, 2015 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

Land Owner: Suzanne Mitrovic

Agent: Ms. Karla Havens

Location: 7616 Uncle's Neck

PIN: 2030200029

Parcel: Lot 29, River's Bend at Uncle's Neck

Lot Size: 3.43 acres +/-

RPA Area on Lot: 0.94 acres +/- (27%)

Watershed: Chickahominy River (HUC Code JL 28)

Proposed Activity: Grade bank in conjunction with installation of stone revetment (see case W-07-15)

Proposed Impacts

Impervious Area: 3,550 square feet stone revetment

RPA Encroachment: Seaward 50 foot RPA buffer
Approximately 11,000 square feet of bank grading

Description of Activities

Ms. Karla Havens, on behalf of Suzanne Mitrovic, has applied for a Chesapeake Bay Preservation Ordinance exception to regrade a failing bank in association with a stone sill and stone revetment as outlined in Case W-07-15. The existing bank has experienced multiple failures over time and the top 5 to 10 feet of the bank is a vertical or negative slope (trees overhanging the bank with no soil support underneath). As discussed in W-07-15, the revetment will have a proposed slope of 1.5:1

on the stone face. This slope is proposed to continue up the proposed face of the regraded bank until it intersects with existing grade. The horizontal distance within the resource protection area is approximately 30 feet maximum and tapers down to less than 5 feet at the southern edge of the project.

It should be noted that conceptually this activity qualifies as a permitted buffer modification under Section 23-7(c)(1)(d); “For shoreline erosion-control projects, trees and woody vegetation may be removed, necessary control techniques employed and appropriate vegetation established to protect or stabilize the shoreline and restore the function of the buffer in accordance with the best available technical advice and applicable permit conditions or requirements.” The Board has expressed to staff that major shoreline repair projects, such as the one proposed, come before them at a public meeting.

The project proposes approximately 11,000 square feet of disturbance within the RPA. To restore the function of the buffer as required by ordinance after it has been stabilized, 27 planting units will be required (27 large trees, 54 understory trees and 81 shrubs). Staff recommends that no large canopy trees be replanted on this newly graded slope to help prevent future slope failure and instead recommends that the required tree material be replaced with shrubbery for a total of 275 shrubs to be replanted on the slope. Staff also recommends that the newly graded slope be stabilized with 4 inches of shredded or chipped hardwood mulch to prevent soil erosion.

Background of Parcel

The original lot was platted in 2008, after the adoption of the revised Chesapeake Bay Preservation Ordinance. 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 the stabilization of the bank in conjunction with a stone revetment (W-07-15) which will impact approximately 11,000 square feet of RPA buffer at 7616 Uncle’s Neck, River’s Bend at Uncle’ Neck Subdivision.

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* but has not submitted a mitigation planting list.

Consideration by the Chesapeake Bay Board

The issue before the Board is the regrading of the bank in conjunction with the work proposed in W-07-15 and whether this regrading is excessive in scope. 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.

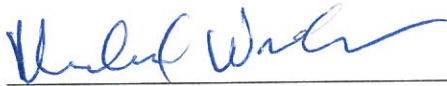
The board is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Board is to fully consider Chesapeake Bay Exception CBE-15-074 as outlined and presented above and review 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-15-074 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 minimal for the proposed development and that no mitigation planting list has been provided. Staff recommends the Chesapeake Bay Board approve this Chesapeake Bay Exception with the following conditions:

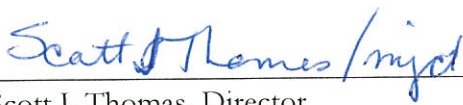
1. The applicant must obtain all other necessary local permits as required for the project; and
2. Prior to construction, a \$6,000 surety for the RPA plantings shall be submitted in a form acceptable to the County Attorney's office, to guarantee the mitigation plantings; and
3. Prior to construction, a RPA mitigation planting plan and list be provided to staff for review and approval; and
4. The surety will be held for a minimum of one growing season after planting; and
5. There shall be a 90% survival rate of the planted material after one growing season or additional plantings completed to reach 90% of the original quantity prior to surety release; and
6. The Engineering and Resource Protection Division Director reserves the right to require additional erosion and sediment control measures for this project if field conditions warrant their use; and
7. This exception request approval shall become null and void if construction has not begun by April 8, 2016; and
8. 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: Sensitive Area Activity Application w/plan

Chesapeake Bay Exception CBE-15-075: 122 Northpoint Drive, Kingspoint

Staff report for the April 8, 2015 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: Mr. and Mrs. William and Rebecca Elton

Land Owner: Mr. and Mrs. Elton

Location: 122 Northpoint Drive, Kingspoint Subdivision

PIN: 4910230031

Parcel: Lot 31, Section 3, Kingspoint Subdivision

Lot Size: 1.345 acres +/-

RPA Area on Lot: 92 % (47% of lot is open water)

Watershed: College Creek (HUC Code JL34)

Proposed Activity: Build a 12 ft. x 16 ft. garden shed totaling 192 square feet of impervious cover.

Proposed Impacts

Impervious Area: 192 square feet (approximate)

RPA Encroachment: Landward 50 foot RPA buffer

Description of Activities

William and Rebecca Elton have applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the placement of a 192 sq. ft. garden shed. The house was built in 1972, predating the Ordinance and the Elton's bought the property in 2014.

The location of the shed is such that the only vegetation that will be removed is some existing turf grass. The mitigation proposed for this project is a gravel foundation underlain with filter fabric, a turf management plan, and one dogwood and 3 inkberry hollies.

Background of Parcel

The original lot was platted prior to the adoption of the Chesapeake Bay Preservation Ordinance but the proposed garden shed is deemed an accessory structure that must be approved by the Chesapeake Bay Board regardless of when the lot was platted.

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 a 192 square foot garden shed in the RPA buffer at 122 Northpoint Drive, Kingspoint Subdivision.

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 exceeded the mitigation guidelines.

Consideration by the Chesapeake Bay Board

The issue before the Board is the construction of a 192 square foot garden shed 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 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-15-075 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-15-075 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 minimal for the proposed development and that the proposed mitigation measures exceed the 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 local permits as required for the project; and
2. Surety of \$250.00 will be required in a form acceptable to the County Attorney's office, to guarantee the mitigation plantings; and
3. This exception request approval shall become null and void if construction has not begun by April 8, 2016; 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:



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Sensitive Area Activity Application w/plan