

A G E N D A
JAMES CITY COUNTY CHESAPEAKE BAY BOARD
REGULAR MEETING
County Government Center, Building F
101 Mounts Bay Road, Williamsburg, VA 23185
April 12, 2017
7:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MINUTES

1. March 8, 2017 Regular Meeting Minutes

D. PUBLIC HEARINGS

1. CBE-17-052 : Kingsmill Marina
2. CBE-17-042: 115 Hurlston continued from 3/8/17
3. CBE-17-058: 2809 Blue Lake Court
4. CBE-17-062 : 104 Abigail Lane

E. BOARD CONSIDERATIONS

1. CBV 17-012: 9388 Ashlock Court

F. MATTERS OF SPECIAL PRIVILEGE

G. ADJOURNMENT

ITEM SUMMARY

DATE: 4/12/2017
TO: Chesapeake Bay Board
FROM: Chesapeake Bay Board Secretary
SUBJECT: March 8, 2017 Regular Meeting Minutes

ATTACHMENTS:

	Description	Type
□	March 8, 2017 Regular Meeting Minutes	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Chesapeake Bay Group	Secretary, ChesBay	Approved	3/24/2017 - 8:30 AM

MINUTES
JAMES CITY COUNTY CHESAPEAKE BAY BOARD
REGULAR MEETING
County Government Center, Building F
101 Mounts Bay Road, Williamsburg, VA 23185
March 8, 2017
7:00 PM

A. CALL TO ORDER

The Chesapeake Bay Board meeting for March 8, 2017, was Called to Order.

The responsibility of this Board is to carry out locally the Commonwealth policy to protect against and minimize pollution and deposition of sediment in wetlands, streams and lakes in James City County which are tributaries of the Chesapeake Bay.

B. ROLL CALL

Board Member Present:

William Apperson - Vice Chair
John Hughes
Charles Roadley
Larry Waltrip
Roger Schmidt - Alternate

Absent:

David Gussman

Others Present:

County Staff (Staff):

Michael Woolson, Senior Watershed Planner
Maxwell Hlavin, Assistant County Attorney
Melanie Davis, Secretary to the Board

C. MINUTES

1. February 8, 2017, Regular Meeting Minutes

The minutes were approved as written.

D. PUBLIC HEARINGS

1. Chesapeake Bay Board Case No. CBE 17-042:115 Hurlston

Michael Woolson presented the exception request submitted by Jim Gallagher of Green Side Up Landscaping, on behalf of property owners, Bobby and Jennifer Lappas. The exception request was for approximately 600 square feet of encroachment into the Resource Protection Area (RPA) buffer for construction of a paver patio, fire pit and seating wall as part of the mitigation plan submitted for the administrative approval on a new single-family dwelling on the property known as 115 Hurlston in the Ford's Colony subdivision, within the Powhatan

Creek watershed and further identified as James City County Parcel No. 3811300023. The presentation described the current site conditions and the proposed structures and mitigation. Staff reviewed the application and determined the associated impacts to be minor; however, Staff could not recommend approval at this time because the submitted mitigation plan did not meet the minimum County requirements. Should the Board vote to approve the exception request, Staff recommended conditions in the Resolution that included submittal of a revised, acceptable mitigation plan.

Mr. Roadley asked if the limits of clearing shown in the presented photos for construction of the house, were approved by Staff and asked if the clearing was for access to the irrigation well.

Mr. Woolson said that was his understanding.

Mr. Hughes asked if the applicant was advised of the requirement for additional mitigation.

Mr. Woolson said he had corresponded via emails.

Mr. Apperson opened the Public Hearing.

A. Mr. Jim Gallagher with Green Side Up Landscaping, contractor for the project, said he was willing to install additional plantings as required.

Mr. Apperson asked Mr. Gallagher if he knew why the owner's mitigation plan did not meet the County requirements.

A. Mr. Gallagher said he did not.

Mr. Waltrip along with Mr. Schmidt, asked how the pavers would be installed.

A. Mr. Gallagher said the pavers would be on a stone base. They were not pervious but would be pitched to direct runoff toward a rain garden.

Mr. Apperson closed the Public Hearing as no one else wished to speak.

Mr. Apperson stated he was reluctant to approve an exception without Staff recommendation.

Mr. Hughes stated he would approve the exception if the necessary mitigation requirements were submitted.

Mr. Gallagher, as agent for the property owners, requested a deferral of the Board's decision.

Mr. Apperson re-opened the Public Hearing and the case was continued to the next Chesapeake Bay Board meeting on April 12, 2017.

2. Chesapeake Bay Board Case No. CBE 17-048: 7515 Oak Cove Road

Michael Woolson presented the exception request submitted by Ms. Jennifer Privette, on behalf of her mother Patricia Overman. The exception request was for encroachment into the RPA buffer for a 624-square-foot room addition on the property known as 7515 Oak Cove Road, within the Chickahominy River watershed and further identified as James City County Parcel No. 1910100013. Mr. Woolson described the property conditions and the proposed addition explaining that only 224 square feet of the addition would be additional impervious cover because it would be constructed over an existing gravel driveway. Staff determined the associated impacts to be moderate and recommended approval with the conditions outlined in the Resolution.

Mr. Apperson commented that based on the presentation photos showing the location of a cypress tree offshore, this was an example how erosion occurred over many years.

Mr. Apperson opened the Public Hearing and closed the Public Hearing as no one wished to speak.

Mr. Roadley said he recommended approval based on the age of the original home and the location of the addition over existing impervious surface.

Mr. Roadley made a motion to adopt the Resolution to Grant the Exception for Chesapeake Bay Board Case No. CBE-17-048 at 7515 Oak Cove Rd.

The motion was approved: 5-0

Ayes: Roadley, Waltrip, Hughes, Schmidt, Apperson

Nays: None

3. Chesapeake Bay Board Case No. CBE 16-054: 137 Industrial Boulevard

Michael Woolson presented the exception request submitted by Mr. Graham Corson of AES Consulting Engineers, on behalf of Nice Commercial Properties, LLC. The exception request was for encroachment into the RPA buffer to construct an extended detention wet pond BMP at 137 Industrial Boulevard in Hankins Industrial Park, within the Ware Creek watershed and further identified as James City County Parcel No. 1240100062. The presentation described the current site conditions and Mr. Woolson explained that construction of this new wet pond BMP would eliminate three existing BMPs in various states of upkeep, providing a more regional approach to stormwater management in this portion of the industrial park. Staff determined impacts for this proposal to be major and recommended approval with the conditions outlined in the Resolution which included approval of the associated plan of development, recordation of a conservation Deed of Easement and permits from the Corps of Engineers.

Mr. Hughes asked if adjacent property owner approvals would be required.

Mr. Waltrip asked if the excavated areas would be used to fill the existing BMPs.

Mr. Woolson said adjacent owner approvals would be required as part of the associated site plan approval and he believed there was significant cut and fill proposed in the project.

Mr. Roadley asked if Staff estimated RPA impact for repairing the existing BMPs and commented it might be as much if not greater than the impact for this proposal.

Mr. Woolson said the repair impact had not been estimated but agreed with Mr. Roadley's comment.

Mr. Apperson opened the Public Hearing.

A. Mr. Graham Corson with AES Consulting Engineers said this proposal would replace existing BMPs in various states of disrepair, would be beneficial to reduce the potential pollution points and would be a maintenance improvement.

Mr. Roadley asked if in alternative analysis, they considered a change of the building locations to relocate the proposed BMP for less impact to the RPA.

A. Mr. Corson responded this was the only location that would be downstream of the two existing BMPs.

Mr. Apperson closed the Public Hearing as no one else wished to speak.

The Board members agreed this proposal was well engineered and a good solution for controlling stormwater in the industrial park.

Mr. Hughes made a motion to adopt the Resolution to Grant the Exception for Chesapeake Bay Board Case No. CBE-16-054 at 137 Industrial Boulevard.

The motion was approved: 5-0

Ayes: Roadley, Waltrip, Hughes, Schmidt, Apperson
Nays: None

E. BOARD CONSIDERATIONS

None

F. MATTERS OF SPECIAL PRIVILEGE

None

G. ADJOURNMENT

The meeting adjourned at 8:40 p.m.

William Apperson
Chesapeake Bay Board Vice Chair

Melanie Davis
Secretary to the Board

ITEM SUMMARY

DATE: 4/12/2017
TO: Chesapeake Bay Board
FROM: Michael Woolson, Senior Watershed Planner
SUBJECT: CBE-17-052 : Kingsmill Marina

Patrick Firth, on behalf of the William and Mary sailing club, has applied for an exception for the construction of two accessory structures (sheds) within the RPA on property owned by Escalante Kingsmill LLC near Wareham's Pond and the Kingsmill marina.

ATTACHMENTS:

	Description	Type
▣	staff rep	Cover Memo
▣	res	Resolution
▣	Water Quality Impact Assessment	Backup Material
▣	APO Notification and Advertisement	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Chesapeake Bay Group	Woolson, Michael	Approved	4/5/2017 - 4:43 PM
Chesapeake Bay Group	Holt, Paul	Approved	4/5/2017 - 4:58 PM
Publication Management	Burcham, Nan	Approved	4/6/2017 - 7:37 AM
Chesapeake Bay Group	Secretary, ChesBay	Approved	4/6/2017 - 7:53 AM

CHESAPEAKE BAY BOARD EXCEPTION No. CBE-17-052. William & Mary Sailing Team Sheds Staff Report for the April 12, 2017, 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 AND INFORMATION

Applicant: William & Mary Sailing Team

Agent: Patrick Firth, William & Mary Sailing Team

Location: 1060 Kingsmill Road, Williamsburg, VA 23185

Tax Map/Parcel No.: 5040100002C

Legal Description: Two storage sheds

Lot Size: 190.57 acres

Area of Lot in Resource Protection Area (RPA): 24 acres +/- (8%)

Watershed: James River (HUC JL 35)

Floodplain: Panel 0206D
Zone X, outside the 0.2% annual chance floodplain

Proposed Activity: Two plastic sheds to hold sailing equipment.

Impervious Cover: Approximately 200 square feet

RPA Encroachment: Impervious cover within the seaward 50-foot RPA buffer

Staff Contact: Ashley Tatge, Environmental Inspector Phone: 253-6883

BRIEF SUMMARY AND DESCRIPTION OF ACTIVITIES

The William & Mary Sailing Team has applied for a Chesapeake Bay Exception for encroachments into the RPA buffer for the placement of two plastic sheds to hold sailing equipment at the Kingsmill Marina, within the James River watershed. The property is further identified as James City County Tax Map Parcel No. 5040100002C.

The sheds are sited to the west of the embankment of Wareham's Pond next to an existing Kingsmill storage shed. The sheds are necessary to hold equipment for the William & Mary Sailing Team and cannot be moved any further from the James River, due to feasibility of running the daily sailing practices. The applicant is proposing two shrubs as mitigation for the additional RPA impacts. The proposed mitigation meets the minimum County requirements.

STAFF EVALUATION

Staff has evaluated the application and exception request for the construction of the room addition and finds that the application meets the conditions in Sections 23-11 and 23-14, and should be heard by the Board

because the improvements are accessory in nature. Therefore, this request must be considered by the Board, following a public hearing under the formal exception process.

WATER QUALITY IMPACT ASSESSMENT (WQIA)

A WQIA must be submitted, per Sections 23-11 and 23-14 of the County Ordinance, 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* and has submitted a mitigation proposal. The mitigation proposal consists planting two shrubs and meets the minimum County mitigation requirements.

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. The Chesapeake Bay Board should fully consider Chesapeake Bay Exception CBE-17-052 as outlined and presented above and review the request for exception along with the WQIA. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chesapeake Bay Preservation Ordinance.

STAFF RECOMMENDATIONS

Staff has reviewed the application and exception request and has determined impacts associated with the proposal to be minimal for the proposed development. Staff recommends approval of this exception request with the following conditions incorporated into the approval:

1. The applicant must obtain all other necessary federal, state and local permits and permissions as required for the project; and
2. This exception request approval shall become null and void if sheds have not been placed before April 12, 2018; and
3. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

AT/nb
CBE17-052WMSailTeam

Attachments:

1. Resolution
2. Water Quality Impact Assessment Package

RESOLUTION

CASE NO. CBE-17-052. 1060 Kingsmill Road

JAMES CITY COUNTY CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION

WHEREAS, the William and Mary Sailing Team (the “Applicant”), has applied to the Chesapeake Bay Board of James City County (the “Board”), to request an exception to use of the Resource Protection Area (the “RPA”) on a parcel of property identified as James City County Real Estate Tax Parcel No. 5040100002C and further identified as Kingsmill Marina (the “Property”) as set forth in the application CBE-17-052 for the purpose of placing two sheds; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

NOW, THEREFORE, BE IT RESOLVED that the Chesapeake Bay Board of James City County, Virginia, following a public hearing, by a majority vote of its members FINDS that:

1. The exception request is the minimum necessary to afford relief.
2. Granting the exception will not confer upon the Applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation, of the James City County Code, to other property owners similarly situated in the vicinity.
3. The exception request will be in harmony with the purpose and intent of Chapter 23 of the James City County Code, and is not of substantial detriment to water quality.
4. The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.
5. Reasonable and appropriate conditions are hereby imposed, as set forth below, which will prevent the exception request from causing a degradation of water quality.
6. In granting this exception, the following conditions are hereby imposed to prevent this exception request from causing degradation of water quality:
 - a. The applicant must obtain all other necessary federal, state and local permits required for the project; and
 - b. This exception request approval shall become null and void if sheds have not been placed before April 12, 2018; and
 - c. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

Davis Gussman
Chair, Chesapeake Bay Board

Michael Woolson
Senior Watershed Planner

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 12th day of April, 2017.

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 20__ IN THE COMMONWEALTH OF VIRGINIA, IN THE COUNTY OF JAMES CITY.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

CBE17-052WMSailTeam-res



Chesapeake Bay Preservation Ordinance Sensitive Area Activity Application

Engineering & Resource Protection
JAN 20 2017

RECEIVED

For Office Use Only
CB Number CBE17-0520

Submission Requirements: (Check all applicable)

- A \$25 non-refundable processing fee payable to Treasurer, James City County.
- RPA - landward 50' - Complete Items 1 - 5, and sign on Page 3.
- RPA - seaward 50' - Complete Items 1 - 5, sign on Page 3 and submit an additional \$100 non-refundable fee payable to Treasurer, James City County, for the Chesapeake Bay Board.
- Conservation Easement - Complete Items 1, 2, 3, and 5, and sign on Page 3.
- Steep Slopes \geq 25 percent - Complete Items 1, 2, 3, and 5, and sign on Page 3.
- Attach plans as required (see instruction on Page 4, Item 4).
- Applicable surety as required for mitigation (see Mitigation Rates Table on Page 2).

Upon completion, please return pages 1-3 to the JCC Engineering and Resource Protection Division

Property Owner Information:

Date: 11/29/16

Name: Kevin Kolda ~~Vanterra Kingsmill, LLC~~ Kingsmill Resort
 Address: 1010 Kingsmill Road Williamsburg, VA 23185
 Phone: (757) 564-5845 ~~5325~~ Fax: _____ Email: kevin.kolda@kingsmill.com
mark.phinney@Kingsmill.com

Contact (If different from above):

Name: Patrick L. Firth Phone: (410) 476-7386
 Email: plfirth@email.wm.edu
William mary sailing@gmail.com

Project Information:

Project Address: 1060 Kingsmill Road Williamsburg, VA 23185
 Subdivision Name, Lot, and Section No.: Kingsmill
 Parcel Identification No. or Tax Map No.: 5040100002C
 Date Lot was platted: N/A Line or Bldg Permit No.: N/A

Activity Location and Impacts (Square Feet - SF): (check all that apply)

- | | |
|--|---|
| <input type="checkbox"/> Steep Slopes \geq 25 percent _____ (SF) | <input checked="" type="checkbox"/> RPA - Landward 50' _____ (SF) |
| <input type="checkbox"/> Conservation Easement _____ (SF) | <input checked="" type="checkbox"/> RPA - Seaward 50' _____ (SF) |
| <input type="checkbox"/> Trees to be Removed _____ (#) | <input checked="" type="checkbox"/> Proposed Impervious Cover <u>200</u> _____ (SF) |

Activity Involves: (check all that apply)

- | | | |
|---|---|--|
| <input type="checkbox"/> New principal structure construction | <input type="checkbox"/> Building addition to principal structure | <input type="checkbox"/> Attached Deck |
| <input type="checkbox"/> Permitted buffer modifications: | <input type="checkbox"/> Dead/diseased/dying tree removal | <input type="checkbox"/> Sightline |
| <input checked="" type="checkbox"/> Accessory (Detached) Structure or Patio | <input type="checkbox"/> Invasive/noxious weed removal | <input type="checkbox"/> Access path/trail |
| <input type="checkbox"/> Other: _____ | <input type="checkbox"/> Redevelopment: _____ | |

Chesapeake Bay Preservation Ordinance
Sensitive Area Activity Application

For Office Use Only CE 17-052 CB Number

1. Description of requested sensitive area activity and reason for request:

(In the description, please indicate the reason for the proposed structure or activity, the location, sizes and dimensions of feature. For decks or expansions, indicate if ground floor, first floor or other levels)

Two plastic, deconstructable (92(x), 96(y), 146(z) [in inches]) sheds to hold sailing equipment such as sails, rudders & tillers, spare parts, wet suits, dry suits, life jackets, tools, etc.

2. As per Section 23-9 of the Chesapeake Bay Preservation Ordinance, if there is an on-site sewage disposal system on this property, has it been inspected and/or pumped out in the past five years? Yes No

3. Are permits from other local, State or Federal agencies required for any portion of this project? Yes No
(If yes, please explain) _____

4. Water Quality Impact Assessment

The purpose of a water quality impact assessment is to demonstrate that the project will result in the removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development stormwater run-off and that it will retard runoff, prevent accelerated erosion, promote infiltration, and filter non-point source pollution equivalent to the full undisturbed 100-foot buffer.

A. Why is this encroachment necessary? Can it be relocated to avoid RPA impacts?

Necessary for the W&M Sailing Team to run. It cannot be moved any further away from the James River due to feasibility of running the daily sailing practices.

B. What measures will be used to minimize impervious area? Examples: pervious pavers, removal of existing impervious surfaces (concrete, pavement, etc.) in the RPA not needed for the project

N/A

5. Proposed mitigation measures:

Note: All mitigation measures must be shown in detail on a mitigation plan. Show both location of mitigation measures and plant species if applicable. All mitigation plants must be native species and be located in the sensitive area (RPA or Conservation Easement).

Mitigation Rates Table

Impervious Area (SF)	Mitigation Required	Surety
<400	1 tree and 3 shrubs	\$250
400-1,000	1 canopy tree, 2 understory trees and 3 shrubs per 400 SF (or fraction thereof)	\$1,000
>1,000	Plant at same rate as 400 – 1,000; or may be determined by Director of Engineering and Resource Protection Division	To be determined

Chesapeake Bay Preservation Ordinance
Sensitive Area Activity Application

For Office Use Only CB Number <u>CBE 17-052</u>
--

A. Vegetation/ground cover enhancement of buffer (see Mitigation Rates Table on previous page).

- Number of native canopy trees _____
- Number of native understory trees _____
- Number of native shrubs Two shrubs
- Square feet of native ground cover _____
- Square feet of mulch _____

B. Best Management Practices (BMPs)

- | | |
|---|---|
| <input type="checkbox"/> EC-2 (degradable) erosion control matting | <input type="checkbox"/> Bioretention or rain garden practice |
| <input type="checkbox"/> Dry Swale | <input type="checkbox"/> Infiltration Area/Trench/Drywell |
| <input type="checkbox"/> Silt fence | <input type="checkbox"/> Structural BMP (Wet or Dry Pond) |
| <input type="checkbox"/> Turf (Nutrient) Management Plan | <input type="checkbox"/> Rain Barrel |
| <input type="checkbox"/> Gravel under deck (3" of gravel over synthetic filter fabric under entire deck area) | |
| <input type="checkbox"/> Other: _____ | |

I understand that the following are approval conditions:

- 1) Mitigation for the above activity shall follow the approved mitigation plan and be guaranteed with a form of surety acceptable to the County Attorney.
- 2) Limits of disturbance as shown on the approved plan shall not be exceeded.
- 3) This approval shall become null and void if construction has not begun within 12 months of the approval date.
- 4) Surety will be released following the completion and inspection of mitigation plantings.

Property owner signature [Signature] Date 12/14/16 Ma [Signature]
3-20-16

Program Administrator _____ Date _____
Authorized Signature

Requested April 12, 2017 meeting	For Office Use Only	Surety Amount: _____
		Date/Rec No.: _____
		Fee Paid? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		Amount: <u>25,000</u> Date/Rec No.: <u>4/20/17 32049</u>

es
1/21/17

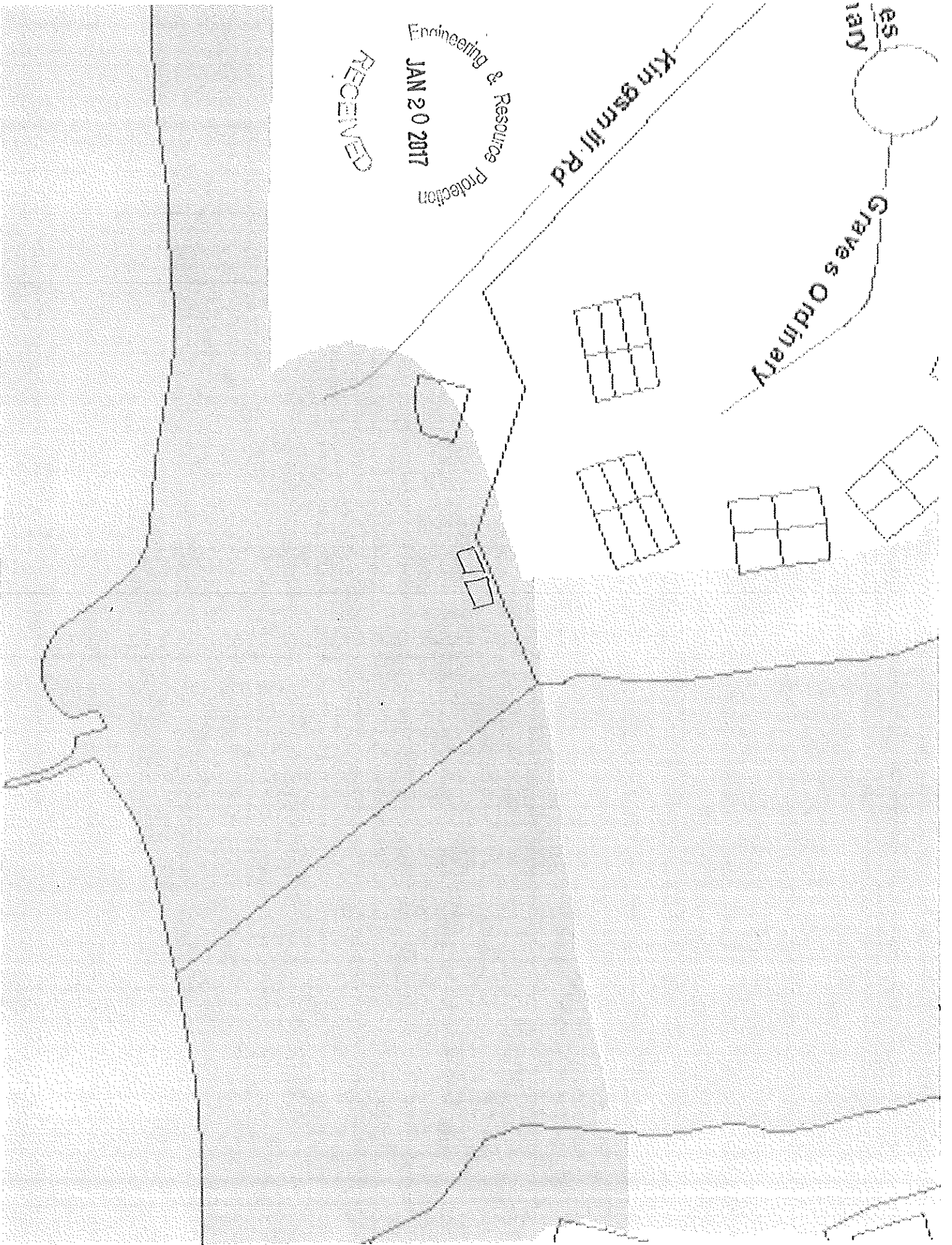


Graves Ordinary

Kin 95 Mill Rd

Engineering & Resources Protection
JAN 20 2017

RECEIVED





Community Development
Engineering and Resource
Protection Division
P.O. Box 8784
Williamsburg, VA 23187-8784

Resource.Protection@jamescitycountyva.gov

Building Safety and Permits
757-253-6620

Engineering and Resource Protection
757-253-6670

Planning
757-253-6685

Zoning Enforcement
757-253-6671

March 22, 2017

Re: W-18-17/VMRC 17-0133 Floating dock at Kingsmill Marina
CBE-17-052 Two storage sheds 1060 Kingsmill Road

Dear Adjacent Property Owner:

In accordance with State and County codes this letter is to notify you that a permit request has been filed with the James City County Wetlands and Chesapeake Bay Boards by Kingsmill Resort, on behalf of the William & Mary Sailing Team, for installation a floating dock and two storage sheds at the Kingsmill Marina, 1060 Kingsmill Road in the Kingsmill on the James subdivision. The property is further identified by James City County Real Estate, as Parcel No. 5040100002C.

The joint permit application, sensitive area activity application, complete description, and other information are on file in the Engineering and Resource Protection Division and are available for inspection during normal business hours, should anyone desire to review them.

The Wetlands and Chesapeake Bay Boards will hold advertised public hearings on **Wednesday, April 12, 2017 at 7 p.m.** in the Board Room of Building F, 101-F, Mounts Bay Road, James City County, Virginia, at which time you may request to speak on the above referenced project.

Sincerely,

Melanie Davis

Melanie Davis
Wetlands Board Secretary

cc: William & Mary Sailing Team
Escalante Kingsmill, LLC

Mailing List for CBE-17-052 – William & Mary Sailing Team /Kingsmill Resort – sheds

Applicant

William & Mary Sailing Team
Attn: Patrick L Firth
400 Brooks Street
Williamsburg, VA 23185
plfirth@email.wm.edu
williamandmarysailing@gmail.com

Owner - 1060 Kingsmill Rd

Escalante Kingsmill, LLC
Attn: Mark Phinney
1010 Kingsmill Road
Williamsburg, VA 23185

5040100007 - Warehams Pond

130 Warehams Pond Rd
Escalante Kingsmill, LLC
2930 Bledsoe St, Ste 124
Fort Worth, TX 76107-2942

5040100004 - 1047 Kingsmill Rd

James City Service Authority
119 Tewning Rd
Williamsburg, VA 23188-2639

Kingsmill Community Services Association

P O Box 348
Williamsburg, VA 23187-0348

5041300001 Graves Ordinary, Pettuss Ordinary and Richmonds Ordinary

Conference Center Condominiums
Unit Owners Association
One Busch Place
Saint Lois, MO 63118-1849



PUBLIC HEARING NOTICE

THE WETLANDS BOARD AND THE CHESAPEAKE BAY BOARD OF JAMES CITY COUNTY, VIRGINIA WILL HOLD PUBLIC HEARINGS **WEDNESDAY APRIL 12, 2017 AT 7 p.m.** IN THE BOARD ROOM OF BUILDING F, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

THE WETLANDS BOARD WILL CONSIDER THE FOLLOWING CASES:

W-04-17/VMRC 16-1341: Steven Wolf has applied for a wetlands permit for installation of a stone sill with associated beach nourishment at 4113 S Riverside Dr. in the Chickahominy Haven subdivision, JCC Parcel No 1910900006.

W-18-17/VMRC 17-0133: The William & Mary Sailing Team and Kingsmill Resort have applied for a wetlands permit to install a floating dock at the Kingsmill Marina at 1060 Kingsmill Rd, JCC Parcel No 5040100002C.

THE CHESAPEAKE BAY BOARD WILL CONSIDER THE FOLLOWING CASES:

CBE-17-052: The William & Mary Sailing Team and Kingsmill Resort have filed an exception request for encroachment into the RPA buffer for the installation of two storage sheds at the Kingsmill Marina, 1060 Kingsmill Rd, JCC Parcel No 5040100002C.

CBE-17-058: Richard Dohmen has filed an exception request for encroachment into the RPA buffer for construction of a retaining wall at 2809 Blue Lake Court in the Lake Powell Pointe subdivision, JCC Parcel No 4830700048.

CBE-17-062: James and Helene Noonan have filed an exception request for encroachment into the RPA buffer for construction of a retaining wall and sidewalk at 104 Abigail Lane, JCC Parcel No 5030400086.

Appeals from decisions under the Chesapeake Bay Preservation Ordinance may also be heard.

All interested parties are invited to attend the meetings. The applications and plans are on file and may be viewed during normal office hours in the Engineering and Resource Protection Division, 101 Mounts Bay Road, Bldg E, James City County, Virginia.

NOT FOR PUBLICATION

DISPLAY: WEDNESDAY – March 29, and April 5, 2017.
ACCOUNT NO.: 0011040200 - VIRGINIA GAZETTE

COPIES: PLANNING
ASSISTANT COUNTY ATTORNEY
WETLAND/CHESAPEAKE BAY BOARD MEMBERS
BOARD OF SUPERVISORS - for CBV-17-062

*MDW
3/21/17*

ITEM SUMMARY

DATE: 4/12/2017
TO: Chesapeake Bay Board
FROM: Michael Woolson, Senior Watershed Planner
SUBJECT: CBE-17-042: 115 Hurlston continued from 3/8/17

Bobby and Jennifer Lappas have filed an exception request for encroachment into the RPA buffer for construction of a patio, sitting wall, fire pit and built-in barbeque at 115 Hurlston in the Ford's Colony subdivision.

ATTACHMENTS:

	Description	Type
▣	Staff Report	Staff Report
▣	Resolution	Resolution
▣	Mitigation Plan	Exhibit
▣	Application	Backup Material
▣	APO Notification and Ad	Backup Material
▣	Revised Mitigation Plan	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Chesapeake Bay Group	Woolson, Michael	Approved	4/6/2017 - 9:18 AM
Chesapeake Bay Group	Holt, Paul	Approved	4/6/2017 - 9:27 AM
Publication Management	Trautman, Gayle	Approved	4/6/2017 - 9:39 AM
Chesapeake Bay Group	Secretary, ChesBay	Approved	4/6/2017 - 9:50 AM

**CHESAPEAKE BAY BOARD EXCEPTION No. CBE-17-042. 115 Hurlston
Staff Report for the April 12, 2017, 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 AND INFORMATION

Applicants: Bobby and Jennifer Lappas

Agent: Jim Gallagher, Green Side Up Landscaping

Location: 115 Hurlston

Tax Map/Parcel No.: 3811300023

Legal Description: Lot 23, Section 30, Ford's Colony

Lot Size: 1.86 acres

Area of Lot in Resource Protection Area (RPA): 1.47 acres +/- (80%)

Watershed: Powhatan Creek (HUC Code JL31)

Floodplain: Panel 0117D
Zone X, outside the 0.2% annual chance floodplain

Proposed Activity: Construction of a paver patio, fire pit and seating wall

Impervious Cover: Approximately 600 square feet

RPA Encroachment: Impervious cover within the landward 50-foot RPA buffer

Staff Contact: Michael D. Woolson, Senior Watershed Planner Phone: 253-6823

BRIEF SUMMARY AND DESCRIPTION OF ACTIVITIES

Jim Gallagher, of Green Side Up Landscaping, on behalf of Bobby and Jennifer Lappas, has applied for a Chesapeake Bay Exception for encroachments into the RPA buffer for the construction of a paver patio, fire pit and seating wall addition associated with a recently constructed single-family dwelling on property known as 115 Hurlston, in the Ford's Colony subdivision and within the Powhatan Creek watershed. The property is further identified as James City County Tax Map Parcel No. 3811300023. The parcel was platted prior to the re-adoption of the Chesapeake Bay Preservation Ordinance in 2004 and the house construction recently completed.

The back right corner of the house was administratively approved in the RPA, CBE-16-088, with the understanding that the mitigation required for that impact would be incorporated in a future plan. That mitigation requirement was one canopy tree and three shrubs. This proposal includes an additional 600 square feet of impervious cover within the RPA. The required mitigation for the new proposal is two units (two canopy trees, four understory trees and six shrubs). The mitigation proposal includes one canopy tree, six understory trees and nine shrubs. The mitigation plan exceeds County requirements.

STAFF EVALUATION

Staff has evaluated the application and exception request for the construction of the patio, fire pit and seating wall and finds that the application meets the conditions in Sections 23-11 and 23-14. The application should be heard by the Board because the improvements are accessory in nature.

WATER QUALITY IMPACT ASSESSMENT (WQIA)

A WQIA must be submitted, per Sections 23-11 and 23-14 of the County Ordinance, for any proposed land disturbing activity resulting from development or redevelopment within RPAs. The applicant has submitted the majority of the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines* and has submitted a mitigation proposal. The mitigation proposal consists of one canopy tree, six understory trees and nine shrubs and exceeds the County mitigation requirements.

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. The Chesapeake Bay Board should fully consider Chesapeake Bay Exception CBE-17-042 as outlined and presented above and review the request for exception along with the WQIA. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chesapeake Bay Preservation Ordinance.

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 approval of this exception request. Should the Board wish to approve, staff recommends that the following conditions be incorporated into the approval:

1. The applicant must obtain all other necessary federal, state and local permits and permissions as required for the project; and
2. Surety of \$1,000 will be required in a form acceptable to the County Attorney's office; and
3. This exception request approval shall become null and void if construction has not begun by April 12, 2018; and
4. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

MW/gt
CBE17-042-115Hurlston-Lappas

Attachments:

1. Resolution
2. Water Quality Impact Assessment Package
3. Mitigation Plan

RESOLUTION

CASE NO. CBE-17-042. 115 HURLSTON

JAMES CITY COUNTY CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION

WHEREAS, Jim Gallagher, of Green Side Up Landscaping, on behalf of Bobby and Jennifer Lappas (the “Applicant”), has applied to the Chesapeake Bay Board of James City County (the “Board”), to request an exception to use the Resource Protection Area (the “RPA”) on a parcel of property identified as James City County Real Estate Tax Parcel No. 3811300023 and further identified as 115 Hurlston in the Ford’s Colony subdivision (the “Property”) as set forth in the application CBE-17-042 for the purpose of constructing a paver patio, fire pit and seating wall; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

NOW, THEREFORE, BE IT RESOLVED that the Chesapeake Bay Board of James City County, Virginia, following a public hearing, by a majority vote of its members FINDS that:

1. The exception request is the minimum necessary to afford relief.
2. Granting the exception will not confer upon the Applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation, of the James City County Code, to other property owners similarly situated in the vicinity.
3. The exception request will be in harmony with the purpose and intent of Chapter 23 of the James City County Code and is not of substantial detriment to water quality.
4. The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.
5. Reasonable and appropriate conditions are hereby imposed, as set forth below, which will prevent the exception request from causing a degradation of water quality.
6. In granting this exception, the following conditions are hereby imposed to prevent this exception request from causing degradation of water quality:
 - a. The applicant must obtain all other necessary federal, state and local permits required for the project; and
 - b. Surety of \$1,000 will be required in a form acceptable to the County Attorney’s office; and
 - c. This exception request approval shall become null and void if construction has not begun by April 12, 2018; and

- d. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

Davis Gussman
Chair, Chesapeake Bay Board

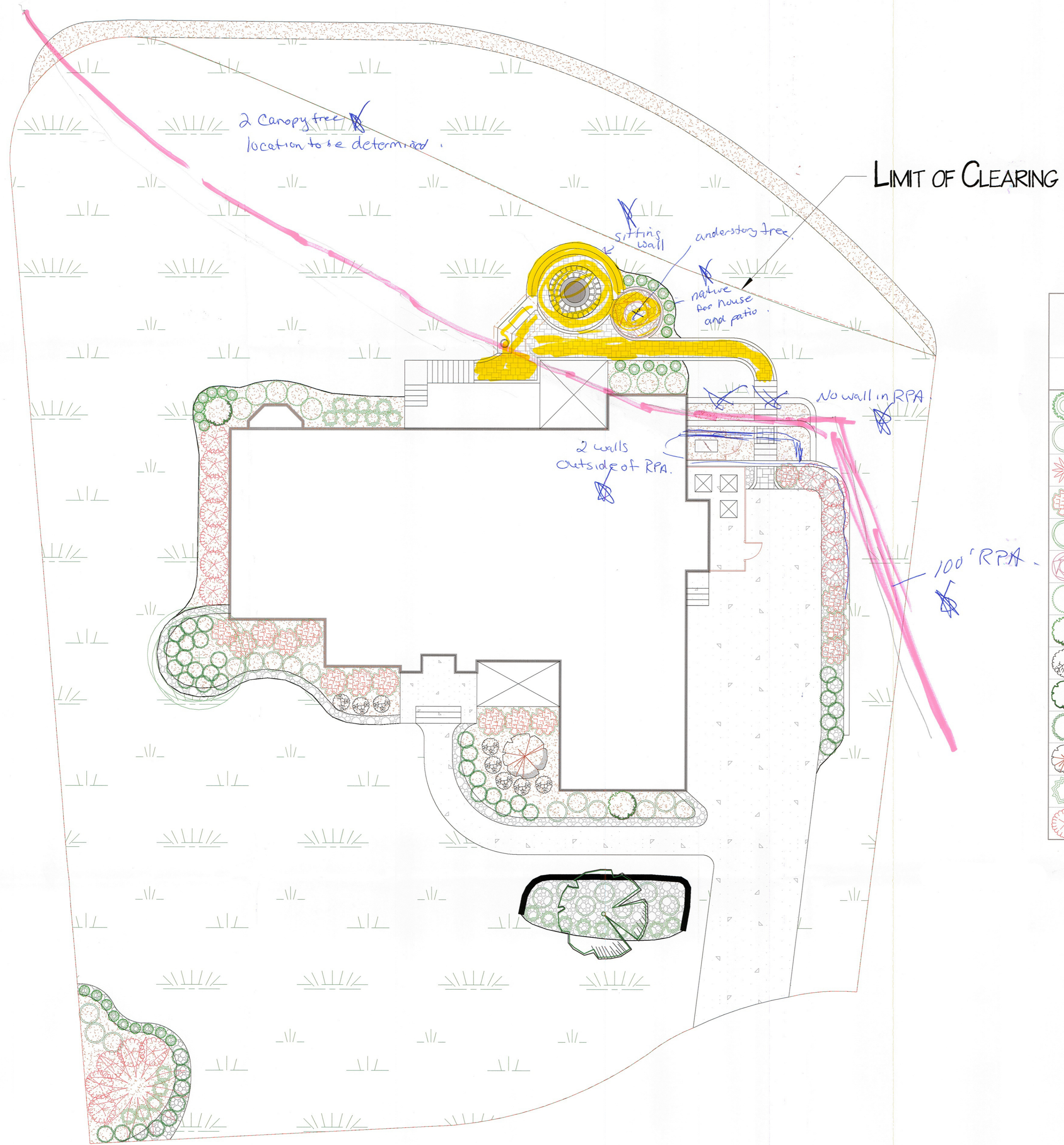
Michael Woolson
Senior Watershed Planner

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 12th day of April, 2017.

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 20__ IN THE COMMONWEALTH OF VIRGINIA, IN THE COUNTY OF JAMES CITY.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____



Full Planting list Not just mitigation

Plant List

	Common Name	Size	Qty
	Cryptomeria, 'Globosa' nana	3 Gal.	29
	Boxwood, Winter Gem	3 Gal.	21
	Cherry, Yoshino	15 Gal.	1
	Cleyera	7 Gal.	15
	Crepe Myrtle, Natchez	15 Gal.	1
	Crepemyrtle, Tonto	15 Gal.	1
	Bennetts Compactum Holly	3 Gal.	8
	Steeds Holly	7 Gal.	2
	Distylium	3 Gal.	8
	Japanese Maple Bloodgood	15 Gal.	1
	Juniper, Blue Rug	3 Gal.	39
	Maple Laceleaf Green	15 Gal.	1
	Gold Mop Cypress	3 Gal.	21
	Viburnum, Spring Bouquet	3 Gal.	17

Revision #:	Scale:	Landscape Plan:
Date: 12/1/2016	3/32" = 1'	Mr. & Mrs. Lappas
		115 Hurlston



Chesapeake Bay Preservation Ordinance Sensitive Area Activity Application

~~Jan 2~~ ~~Dec 28~~ ~~Feb 8~~

Engineering Resource Protection
DEC 28 2016

For Office Use Only
CB Number CPF 17-042

Submission Requirements: (Check all applicable)

- A \$25 non-refundable processing fee payable to Treasurer, James City County.
- RPA - landward 50' - Complete Items 1 - 5, and sign on Page 3.
- RPA - seaward 50' - Complete Items 1 - 5, sign on Page 3 and submit an additional \$100 non-refundable fee payable to Treasurer, James City County, for the Chesapeake Bay Board.
- Conservation Easement - Complete Items 1, 2, 3, and 5, and sign on Page 3.
- Steep Slopes ≥ 25 percent - Complete Items 1, 2, 3, and 5, and sign on Page 3.
- Attach plans as required (see instruction on Page 4, Item 4).
- Applicable surety as required for mitigation (see **Mitigation Rates Table** on Page 2).

Upon completion, please return pages 1-3 to the JCC Engineering and Resource Protection Division

Property Owner Information:

Date: 12/28/16

Name: Bobby and Jenny Lappas
 Address: 105 Ansdate Williamsburg, VA 23188
 Phone: (757) 345-2502 Fax: (757) 564-0299 Email: bobby.lappas@hotmail.com

Contact (if different from above):

Name: Jim GALLAGHER Phone: 757-903-5063
 Email: Jim@GSLANDSCAPING.COM

Project Information:

Project Address: 115 Hurlston
 Subdivision Name, Lot, and Section No.: Fords Colony Lot 23 Section 30
 Parcel Identification No. or Tax Map No.: 3811300023
 Date Lot was platted: 9/19/02 Line or Bldg Permit No.: ~~6162832~~ 116
Attachment 160118 CPB 16-088 ZPD

Activity Location and Impacts (Square Feet - SF): (check all that apply)

- | | |
|--|--|
| <input type="checkbox"/> Steep Slopes ≥ 25 percent _____ (SF) | <input type="checkbox"/> RPA - Landward 50' <u>600</u> (SF) |
| <input type="checkbox"/> Conservation Easement _____ (SF) | <input type="checkbox"/> RPA - Seaward 50' _____ (SF) |
| <input type="checkbox"/> Trees to be Removed _____ (#) | <input type="checkbox"/> Proposed Impervious Cover <u>600</u> (SF) |

Activity involves: (check all that apply)

- | | | |
|---|---|--|
| <input type="checkbox"/> New principal structure construction | <input type="checkbox"/> Building addition to principal structure | <input type="checkbox"/> Attached Deck |
| <input type="checkbox"/> Permitted buffer modifications: | <input type="checkbox"/> Dead/diseased/dying tree removal | <input type="checkbox"/> Sightline |
| <input checked="" type="checkbox"/> Accessory (Detached) Structure or Patio | <input type="checkbox"/> Invasive/noxious weed removal | <input type="checkbox"/> Access path/trail |
| <input type="checkbox"/> Other: <u>paver patio, sitting wall, fire pit built in grill</u> | <input type="checkbox"/> Redevelopment: _____ | |

**Chesapeake Bay Preservation Ordinance
Sensitive Area Activity Application**

For Office Use Only
 DEC 20 2010
 CB Number CE 7-092

1. Description of requested sensitive area activity and reason for request:

(In the description, please indicate the reason for the proposed structure or activity, the location, sizes and dimensions of feature. For decks or expansions, indicate if ground floor, first floor or other levels)

joint patio for both egress stairs

2. As per Section 23-9 of the Chesapeake Bay Preservation Ordinance, if there is an on-site sewage disposal system on this property, has it been inspected and/or pumped out in the past five years? Yes No

3. Are permits from other local, State or Federal agencies required for any portion of this project? Yes No
 (If yes, please explain) not for patio

4. Water Quality Impact Assessment

The purpose of a water quality impact assessment is to demonstrate that the project will result in the removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development stormwater run-off and that it will retard runoff, prevent accelerated erosion, promote infiltration, and filter non-point source pollution equivalent to the full undisturbed 100-foot buffer.

A. Why is this encroachment necessary? Can it be relocated to avoid RPA impacts?

For dual egress

B. What measures will be used to minimize impervious area? Examples: pervious pavers, removal of existing impervious surfaces (concrete, pavement, etc.) in the RPA not needed for the project

5. Proposed mitigation measures:

Note: All mitigation measures must be shown in detail on a mitigation plan. Show both location of mitigation measures and plant species if applicable. All mitigation plants must be native species and be located in the sensitive area (RPA or Conservation Easement).

Mitigation Rates Table

adjust for 600 sq ft

Impervious Area (SF)	Mitigation Required	Surety
<400	1 tree and 3 shrubs	\$250
400-1,000	1 canopy tree, 2 understory trees and 3 shrubs per 400 SF (or fraction thereof)	\$1,000
>1,000	Plant at same rate as 400 – 1,000; or may be determined by Director of Engineering and Resource Protection Division	To be determined

**Chesapeake Bay Preservation Ordinance
Sensitive Area Activity Application**

For Office Use Only
CB Number <u>CBE 17-042</u>

A. Vegetation/ground cover enhancement of buffer (see Mitigation Rates Table on previous page).

<input checked="" type="checkbox"/>	Number of native canopy trees	<u>1</u>
<input checked="" type="checkbox"/>	Number of native understory trees	<u>1</u>
<input checked="" type="checkbox"/>	Number of native shrubs	<u>9</u>
<input type="checkbox"/>	Square feet of native ground cover	
<input type="checkbox"/>	Square feet of mulch	

B. Best Management Practices (BMPs)

<input type="checkbox"/>	EC-2 (degradable) erosion control matting	<input type="checkbox"/>	Bioretention or rain garden practice
<input type="checkbox"/>	Dry Swale	<input type="checkbox"/>	Infiltration Area/Trench/Drywell
<input type="checkbox"/>	Silt fence	<input type="checkbox"/>	Structural BMP (Wet or Dry Pond)
<input type="checkbox"/>	Turf (Nutrient) Management Plan	<input type="checkbox"/>	Rain Barrel
<input type="checkbox"/>	Gravel under deck (3" of gravel over synthetic filter fabric under entire deck area)		
<input type="checkbox"/>	Other:		

I understand that the following are approval conditions:

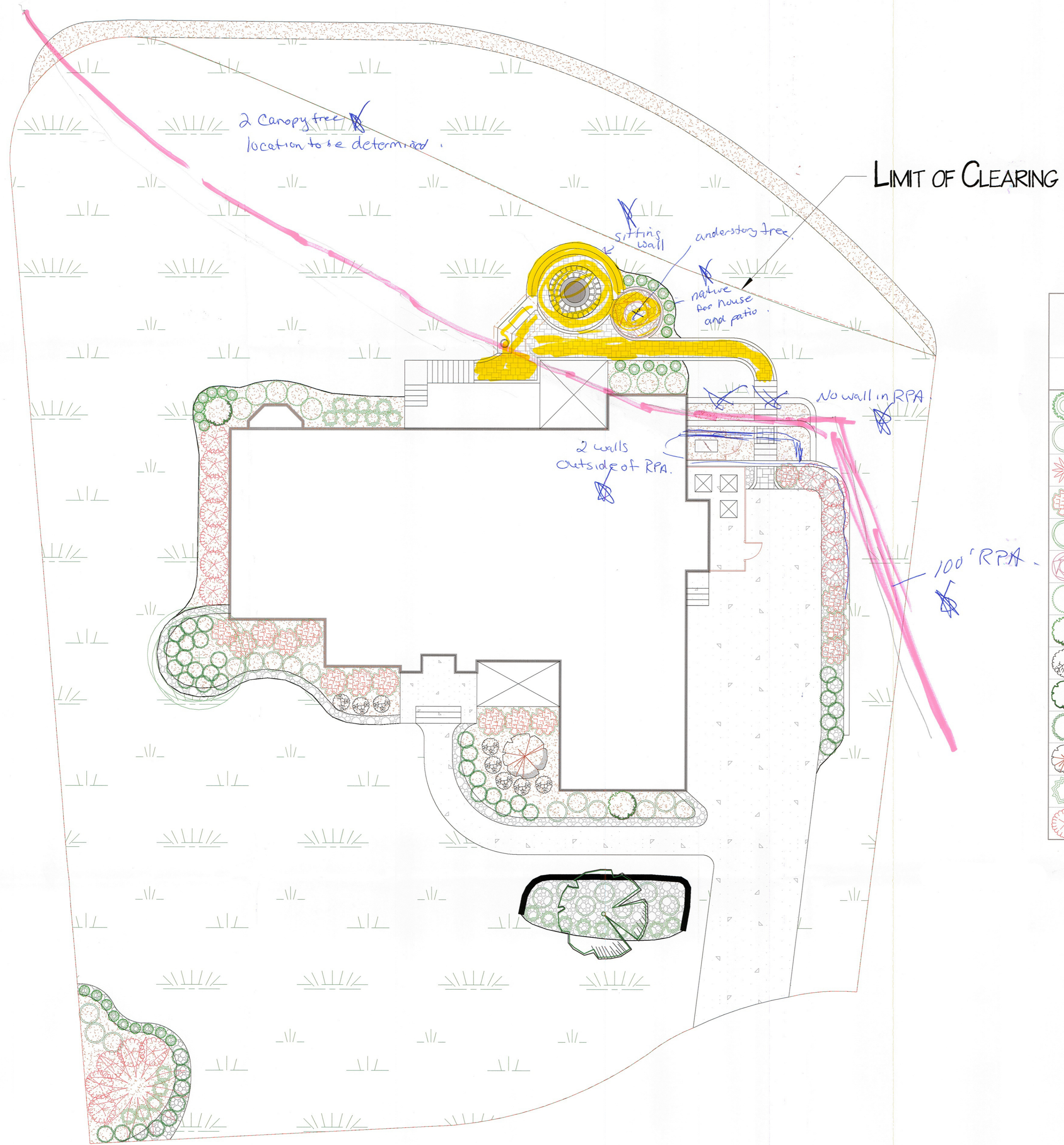
- 1) Mitigation for the above activity shall follow the approved mitigation plan and be guaranteed with a form of surety acceptable to the County Attorney.
- 2) Limits of disturbance as shown on the approved plan shall not be exceeded.
- 3) This approval shall become null and void if construction has not begun within 12 months of the approval date.
- 4) Surety will be released following the completion and inspection of mitigation plantings.

Property owner signature *Bobby Lopez* Date 12-28-16

Program Administrator _____ Date _____

Authorized Signature

<p><i>CBE-16-088 approved 4/13/16.</i> <i>house req'd 1 canopy tree & 3 shrubs.</i> <i>posted \$500</i></p> <p><i>Applicant requested March 8 meeting.</i> <i>Mitigation Surety to be</i></p>	For Office Use Only
	Surety Amount: _____
	Date/Rec No.: _____
	Fee Paid? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Amount: <u>125.00</u> Date/Rec No.: <u>12/25/16 #2037 25.9</u> <u>73039 POF</u>



Full Planting list Not just mitigation

Plant List

	Common Name	Size	Qty
	Cryptomeria, 'Globosa' nana	3 Gal.	29
	Boxwood, Winter Gem	3 Gal.	21
	Cherry, Yoshino	15 Gal.	1
	Cleyera	7 Gal.	15
	Crepe Myrtle, Natchez	15 Gal.	1
	Crepemyrtle, Tonto	15 Gal.	1
	Bennetts Compactum Holly	3 Gal.	8
	Steeds Holly	7 Gal.	2
	Distylium	3 Gal.	8
	Japanese Maple Bloodgood	15 Gal.	1
	Juniper, Blue Rug	3 Gal.	39
	Maple Laceleaf Green	15 Gal.	1
	Gold Mop Cypress	3 Gal.	21
	Viburnum, Spring Bouquet	3 Gal.	17

Revision #:	Scale:	Landscape Plan:
Date: 12/1/2016	3/32" = 1'	Mr. & Mrs. Lappas
		115 Hurlston



**Community Development
Engineering and Resource
Protection Division**

P O Box 8784
Williamsburg, VA 23187
Resource.Protection@jamescitycountyva.gov

Building Safety and Permits
757-253-6620

Engineering and Resource Protection
757-253-6670

Planning
757-253-6685

Zoning Enforcement
757-253-6671

February 15, 2017

RE: CBE-17-042 – 115 Hurlston
Patio, sitting wall, fire pit and built in barbeque

Dear Adjacent Property Owner:

In accordance with State and County Codes, this letter is to notify you that a request has been filed with the James City County Chesapeake Bay Board by Bobby and Jennifer Lappas, for encroachment into the Resource Protection Area (RPA) associated with construction of a patio, sitting wall, fire pit and built in barbeque on their property at 115 Hurlston in the Ford's Colony subdivision. The property is further identified by James City County Real Estate as Parcel No. 3811300023.

A complete description, plan, and other information are on file in the Engineering and Resource Protection Division and are available for inspection during normal business hours, should anyone desire to review them.

The Chesapeake Bay Board will hold an advertised public hearing on **Wednesday, March 8, 2017 at 7 p.m.** in the Board Room of Building F, 101 Mounts Bay Road, James City County, Virginia, at which time you may request to speak on the above referenced project.

Sincerely,

Melanie Davis

Melanie Davis
Chesapeake Bay Board Secretary
757-253-6866

cc: Bobby and Jennifer Lappas
Green Side Up Landscaping, Inc

Mailing List for: CBE-17-042 – 115 Hurlston - Patio, sitting wall, fire pit and built in barbeque

Owner - 3811300023- 115 Hurlston
Bobby and Jennifer Lappas
107 Dyke
Williamsburg, VA 231889135

3811000021
James and Sheila Wheaton
108 Dunes
Williamsburg, VA 231888906

Green Side Up Landscaping, Inc.
Jim Gallagher
jim@gsulandsaping.com
119 Montrose
Williamsburg, VA 231887402

3811000001A - Common Area
Ford's Colony at Williamsburg Homeowners
Association
100 Manchester Drive
Williamsburg, VA 231887404

3811300022 - 119 Hurlston
Robert and Kathleen Malanga
3652 Holly Harbor Drive
Southport, NC 28461

3811300024
Jeffrey and Deborah Ambrose
109 Hurlston
Williamsburg, VA 231888940

3811300021
Howard and Maria Hopkins
120 Hurlston
Williamsburg, VA 231888940

3811300020
Ralph and Deborah Abrams
116 Hurlston
Williamsburg, VA 231888940

3811300019
Gregory and Susan Russell
108 Hurlston
Williamsburg, VA 231888940

3811300031
Richard and Colleen Horne
105 Mossock
Williamsburg, VA 231888939

3811300033
Mark and Ann Chisam
184 Southport
Williamsburg, VA 231888937

3811000020
Ahmed Hassan and Dawn Foxwell
112 Dunes
Williamsburg, VA 231888906



PUBLIC HEARING NOTICE

THE WETLANDS BOARD AND THE CHESAPEAKE BAY BOARD OF JAMES CITY COUNTY, VIRGINIA WILL HOLD PUBLIC HEARINGS **WEDNESDAY MARCH 8, 2017 AT 7 p.m.** IN THE BOARD ROOM OF BUILDING F, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

THE WETLANDS BOARD WILL CONSIDER THE FOLLOWING CASES:

W-14-15/VMRC 15-0679: Michael and Maureen O'Brien have re-applied for a wetlands permit for installation of a stone sill with associated beach nourishment at 7588 Uncles Neck in the River's Bend at Uncles Neck subdivision, JCC Parcel No 2010200022.

W-17-17/VMRC 17-0074: Shawn and Dawn Lemon have applied for a wetlands permit to construct a 5ft x 240ft open-pile pier at 7596 Uncles Neck in the River's Bend at Uncles Neck subdivision, JCC Parcel No 2010200024.

W-19-17/VMRC 17-0176: Richard and Myra Nuzzo have applied for a wetlands permit to install a stone revetment at 7600 Uncles Neck in the River's Bend at Uncles Neck subdivision, JCC Parcel No 2010200025.

THE CHESAPEAKE BAY BOARD WILL CONSIDER THE FOLLOWING CASES:

CBE-16-054: Nice Commercial Properties, LLC has filed an exception request for encroachment into the RPA buffer for installation of a BMP at 137 Industrial Blvd in Hankins Industrial Park, JCC Parcel No 1240100062.

CBE-17-042: Bobby and Jennifer Lappas have filed an exception request for encroachment into the RPA buffer for construction of a patio, sitting wall, fire pit and built in barbeque at 115 Hurlston in the Ford's Colony subdivision, JCC Parcel No 3811300023.

CBE-17-048: Patricia Overman and Jennifer Privette have filed an exception request for encroachment into the RPA buffer for construction of an addition to the principal structure at 7515 Oak Cove Road, JCC Parcel No 1910100013.

Appeals from decisions under the Chesapeake Bay Preservation Ordinance may also be heard.

All interested parties are invited to attend the meetings. The applications and plans are on file and may be viewed during normal office hours in the Engineering and Resource Protection Division, 101 Mounts Bay Road, Bldg E, James City County, Virginia.

NOT FOR PUBLICATION

DISPLAY: WEDNESDAY – February 22, and March 1, 2017.

ACCOUNT NO.: 0011040200 - VIRGINIA GAZETTE

COPIES: PLANNING
ASSISTANT COUNTY ATTORNEY
WETLAND/CHESAPEAKE BAY BOARD MEMBERS

Engineering & Resource Protection
DEC 28 2016
RECEIVED

Revision Submitted
Engineering & Resource Protection
MAR 1 6 2017
RECEIVED



Mitigation Plant List

- 1 Red Maple
- 2 Red Bud
- 2 Serviceberry
- 2 Dogwood
- 6 Wax Myrtle
- 3 Rhododendron

Revision #:
Date: 12/1/2016
Scale: 3/32" = 1'
Landscape Plan:
Mr. & Mrs. Lappas
115 Hurston

ITEM SUMMARY

DATE: 4/12/2017
TO: Chesapeake Bay Board
FROM: Michael Woolson, Senior Watershed Planner
SUBJECT: CBE-17-058 : 2809 Blue Lake Court

Richard Dohmen has filed an exception request for encroachment into the RPA buffer for construction of a retaining wall at 2809 Blue Lake Court in the Lake Powell Pointe subdivision.

ATTACHMENTS:

	Description	Type
▣	Staff Report	Staff Report
▣	Resolution	Resolution
▣	Water Quality Impact Assessment	Backup Material
▣	Mitigation Plan	Backup Material
▣	APO Notification and Advertisement	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Chesapeake Bay Group	Woolson, Michael	Approved	4/6/2017 - 9:05 AM
Chesapeake Bay Group	Holt, Paul	Approved	4/6/2017 - 9:11 AM
Publication Management	Trautman, Gayle	Approved	4/6/2017 - 9:43 AM
Chesapeake Bay Group	Secretary, ChesBay	Approved	4/6/2017 - 9:50 AM

**CHESAPEAKE BAY BOARD EXCEPTION No. CBE-17-058. 2809 Blue Lake Court
Staff Report for the April 12, 2017, 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 AND INFORMATION

Applicant: Richard Dohmen

Agent: Dan O'Neill, Old Virginia Landscapes

Location: 2809 Blue Lake Court

Tax Map/Parcel No.: 4830700048

Legal Description: Lot 48, Phase 3, Lake Powell Pointe

Lot Size: 0.68 acres

Area of Lot in Resource Protection Area (RPA): 0.37 acres +/- (54%)

Watershed: Mill Creek (HUC Code JL33)

Floodplain: Panel 0201D
Zone X, outside the 0.2% annual chance floodplain

Proposed Activity: Construction of a retaining wall

Impervious Cover: Approximately 160 square feet

RPA Encroachment: Impervious cover within the landward 50-foot RPA buffer

Staff Contact: Michael D. Woolson, Senior Watershed Planner Phone: 253-6823

BRIEF SUMMARY AND DESCRIPTION OF ACTIVITIES

Dan O'Neill, of Old Dominion Landscapes, on behalf of Richard Dohmen, has applied for a Chesapeake Bay Exception for encroachments into the RPA buffer for the construction of a retaining wall on property known as 2809 Blue Lake Court, in the Lake Powell Pointe subdivision and within the Mill Creek watershed. The property is further identified as James City County Tax Map Parcel No. 4830700048. The parcel was platted in 1999, prior to the 2004 re-adoption of the Chesapeake Bay Preservation Ordinance and the house administratively approved and built in 2006.

The existing retaining wall is experiencing failure and the owner wishes to replace it with a stone retaining wall for more durability. The old retaining wall will stay in place to the greatest extent practicable, with the top several boards being removed. Mitigation required for this application would be one unit, which equates to one canopy tree, two understory trees and three shrubs. The proposed mitigation of 11 shrubs meets these requirements.

STAFF EVALUATION

Staff has evaluated the application and exception request for the construction of the retaining wall and finds that the application meets the conditions in Sections 23-11 and 23-14. The application should be heard by the Board because the improvements are accessory in nature.

WATER QUALITY IMPACT ASSESSMENT (WQIA)

A WQIA must be submitted, per Sections 23-11 and 23-14 of the County Ordinance, 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* and has submitted a mitigation proposal. The mitigation proposal consists of 11 shrubs and meets the minimum County mitigation requirements.

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. The Chesapeake Bay Board should fully consider Chesapeake Bay Exception CBE-17-058 as outlined and presented above and review the request for exception along with the WQIA. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chesapeake Bay Preservation Ordinance.

STAFF RECOMMENDATIONS

Staff has reviewed the application and exception request and has determined impacts associated with the proposal to be minor for the proposed development. Staff recommends approval of this exception request. Should the Board wish to approve, staff recommends that the following conditions be incorporated into the approval:

1. The applicant must obtain all other necessary federal, state and local permits and permissions as required for the project; and
2. Surety of \$500 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 12, 2018; and
4. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

MW/gt
CBE17-058-2809BlueLkCt-Dohmen

Attachments:

1. Resolution
2. Water Quality Impact Assessment Package
3. Mitigation Plan

RESOLUTION

CASE NO. CBE-17-058. 2809 BLUE LAKE COURT

JAMES CITY COUNTY CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION

WHEREAS, Dan O'Neill of Old Dominion Landscapes, on behalf of Richard Dohmen (the "Applicant"), has applied to the Chesapeake Bay Board of James City County (the "Board") on April 12, 2017, to request an exception to use the Resource Protection Area (the "RPA") on a parcel of property identified as James City County Real Estate Tax Parcel No. 4830700048 and further identified as 2809 Blue Lake Court in the Lake Powell Pointe subdivision (the "Property") as set forth in the application CBE-17-058 for the purpose of installing a retaining wall; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

NOW, THEREFORE, BE IT RESOLVED that the Chesapeake Bay Board of James City County, Virginia, following a public hearing, by a majority vote of its members FINDS that:

1. The exception request is the minimum necessary to afford relief.
2. Granting the exception will not confer upon the Applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation, of the James City County Code, to other property owners similarly situated in the vicinity.
3. The exception request will be in harmony with the purpose and intent of Chapter 23 of the James City County Code and is not of substantial detriment to water quality.
4. The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.
5. Reasonable and appropriate conditions are hereby imposed, as set forth below, which will prevent the exception request from causing a degradation of water quality.
6. In granting this exception, the following conditions are hereby imposed to prevent this exception request from causing degradation of water quality:
 - a. The applicant must obtain all other necessary federal, state and local permits and permissions as required for the project; and
 - b. A surety of \$500 will be required in a form acceptable to the County Attorney's Office to guarantee the mitigation plantings; and

- c. This exception request approval shall become null and void if construction has not begun by April 12, 2018; and
- d. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

Davis Gussman
Chair, Chesapeake Bay Board

Michael Woolson
Senior Watershed Planner

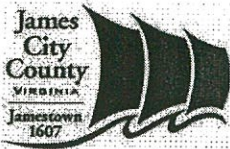
Adopted by the Chesapeake Bay Board of James City County, Virginia, this 12th day of April, 2017.

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 20__ IN THE COMMONWEALTH OF VIRGINIA, IN THE COUNTY OF JAMES CITY.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

CBE17-058-2809BlueLkCt-Dohmen-res



Chesapeake Bay Preservation Ordinance Sensitive Area Activity Application

Engineering & Resource Protection
RECEIVED
FEB 14 2011

For Office Use Only
CB Number CBE# 17058

Submission Requirements: (Check all applicable)

- A \$25 non-refundable processing fee payable to Treasurer, James City County.
- RPA - landward 50' - Complete Items 1 - 5, and sign on Page 3.
- RPA - seaward 50' - Complete Items 1 - 5, sign on Page 3 and submit an additional \$100 non-refundable fee payable to Treasurer, James City County, for the Chesapeake Bay Board.
- Conservation Easement - Complete Items 1, 2, 3, and 5, and sign on Page 3.
- Steep Slopes \geq 25 percent - Complete Items 1, 2, 3, and 5, and sign on Page 3.
- Attach plans as required (see instruction on Page 4, Item 4).
- Applicable surety as required for mitigation (see **Mitigation Rates Table** on Page 2).

Upon completion, please return pages 1-3 to the JCC Engineering and Resource Protection Division

Property Owner Information:

Date: 2-15-17

Name: RICHARD DOHMEN
 Address: 2809 BLUE LAKE CT, WILLIAMSBURG, VA 23185
 Phone: 757-328-0188 Fax: _____ Email: rdohmen@cox.net

Contact (if different from above):

Name: _____ Phone: _____
 Email: _____

Project Information:

Project Address: 2809 Blue Lake Court
 Subdivision Name, Lot, and Section No.: Lake Powell Pointe L-48 P3
 Parcel Identification No. or Tax Map No.: 4830700048
 Date Lot was platted: 10/14/99 Line or Bldg Permit No.: _____

Activity Location and Impacts (Square Feet - SF): (check all that apply)

- | | |
|--|---|
| <input type="checkbox"/> Steep Slopes \geq 25 percent _____ (SF) | <input type="checkbox"/> RPA - Landward 50' _____ (SF) |
| <input type="checkbox"/> Conservation Easement _____ (SF) | <input type="checkbox"/> RPA - Seaward 50' _____ (SF) |
| <input type="checkbox"/> Trees to be Removed _____ (#) | <input type="checkbox"/> Proposed Impervious Cover _____ (SF) |

Activity involves: (check all that apply)

- | | | |
|--|---|--|
| <input type="checkbox"/> New principal structure construction | <input type="checkbox"/> Building addition to principal structure | <input type="checkbox"/> Attached Deck |
| <input type="checkbox"/> Permitted buffer modifications: | <input type="checkbox"/> Dead/diseased/dying tree removal | <input type="checkbox"/> Sightline |
| <input type="checkbox"/> Accessory (Detached) Structure or Patio | <input type="checkbox"/> Invasive/noxious weed removal | <input type="checkbox"/> Access path/trail |
| <input checked="" type="checkbox"/> Other: <u>REPLACING A FAILING RETAINING WALL (WOOD) WITH A STONE RETAINING WALL.</u> | <input type="checkbox"/> Redevelopment: | |

For Office Use Only <i>CB</i> CB Number <i>17-058</i>

1. Description of requested sensitive area activity and reason for request:

(In the description, please indicate the reason for the proposed structure or activity, the location, sizes and dimensions of feature. For decks or expansions, indicate if ground floor, first floor or other levels)

ORIGINAL RETAINING WALL HAS FAILED AND IS FALLING APART (WOOD ROTTING). NON-INDIGENOUS ALL DIET IS NOW ERODING INTO THE RPA. PLAN IS TO REPLACE THE ORIGINAL WALL AT THE BOTTOM OF THE HILL ON HARD DIET NOT FILL DIET. NO TREES NEED TO BE REMOVED. REQUEST TO REMOVE THE WEEDS ALONG THE PROPOSED BASE OF NEW WALL.

2. As per Section 23-9 of the Chesapeake Bay Preservation Ordinance, if there is an on-site sewage disposal system on this property, has it been inspected and/or pumped out in the past five years? Yes No
3. Are permits from other local, State or Federal agencies required for any portion of this project? Yes No
(If yes, please explain) *JCC BUILDING PERMITS*

4. Water Quality Impact Assessment

The purpose of a water quality impact assessment is to demonstrate that the project will result in the removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development stormwater run-off and that it will retard runoff, prevent accelerated erosion, promote infiltration, and filter non-point source pollution equivalent to the full undisturbed 100-foot buffer.

A. Why is this encroachment necessary? Can it be relocated to avoid RPA impacts?

B. What measures will be used to minimize impervious area? Examples: pervious pavers, removal of existing impervious surfaces (concrete, pavement, etc.) in the RPA not needed for the project

5. Proposed mitigation measures:

Note: All mitigation measures must be shown in detail on a mitigation plan. Show both location of mitigation measures and plant species if applicable. All mitigation plants must be native species and be located in the sensitive area (RPA or Conservation Easement).

Mitigation Rates Table

Impervious Area (SF)	Mitigation Required	Surety
<400	1 tree and 3 shrubs	\$250
400-1,000	1 canopy tree, 2 understory trees and 3 shrubs per 400 SF (or fraction thereof)	\$1,000
>1,000	Plant at same rate as 400 – 1,000; or may be determined by Director of Engineering and Resource Protection Division	To be determined

**Chesapeake Bay Preservation Ordinance
Sensitive Area Activity Application**

For Office Use Only
CB Number <u>CBE #17-058</u>

A. Vegetation/ground cover enhancement of buffer (see Mitigation Rates Table on previous page).

Number of native canopy trees _____
 Number of native understory trees _____
 Number of native shrubs _____
 Square feet of native ground cover _____
 Square feet of mulch _____

B. Best Management Practices (BMPs)

<input type="checkbox"/> EC-2 (degradable) erosion control matting	<input type="checkbox"/> Bioretention or rain garden practice
<input type="checkbox"/> Dry Swale	<input type="checkbox"/> Infiltration Area/Trench/Drywell
<input checked="" type="checkbox"/> Silt fence	<input type="checkbox"/> Structural BMP (Wet or Dry Pond)
<input type="checkbox"/> Turf (Nutrient) Management Plan	<input type="checkbox"/> Rain Barrel
<input type="checkbox"/> Gravel under deck (3" of gravel over synthetic filter fabric under entire deck area)	
<input type="checkbox"/> Other: _____	

I understand that the following are approval conditions:

- 1) Mitigation for the above activity shall follow the approved mitigation plan and be guaranteed with a form of surety acceptable to the County Attorney.
- 2) Limits of disturbance as shown on the approved plan shall not be exceeded.
- 3) This approval shall become null and void if construction has not begun within 12 months of the approval date.
- 4) Surety will be released following the completion and inspection of mitigation plantings.

Property owner signature *Richard D. Stone* Date 2-14-17

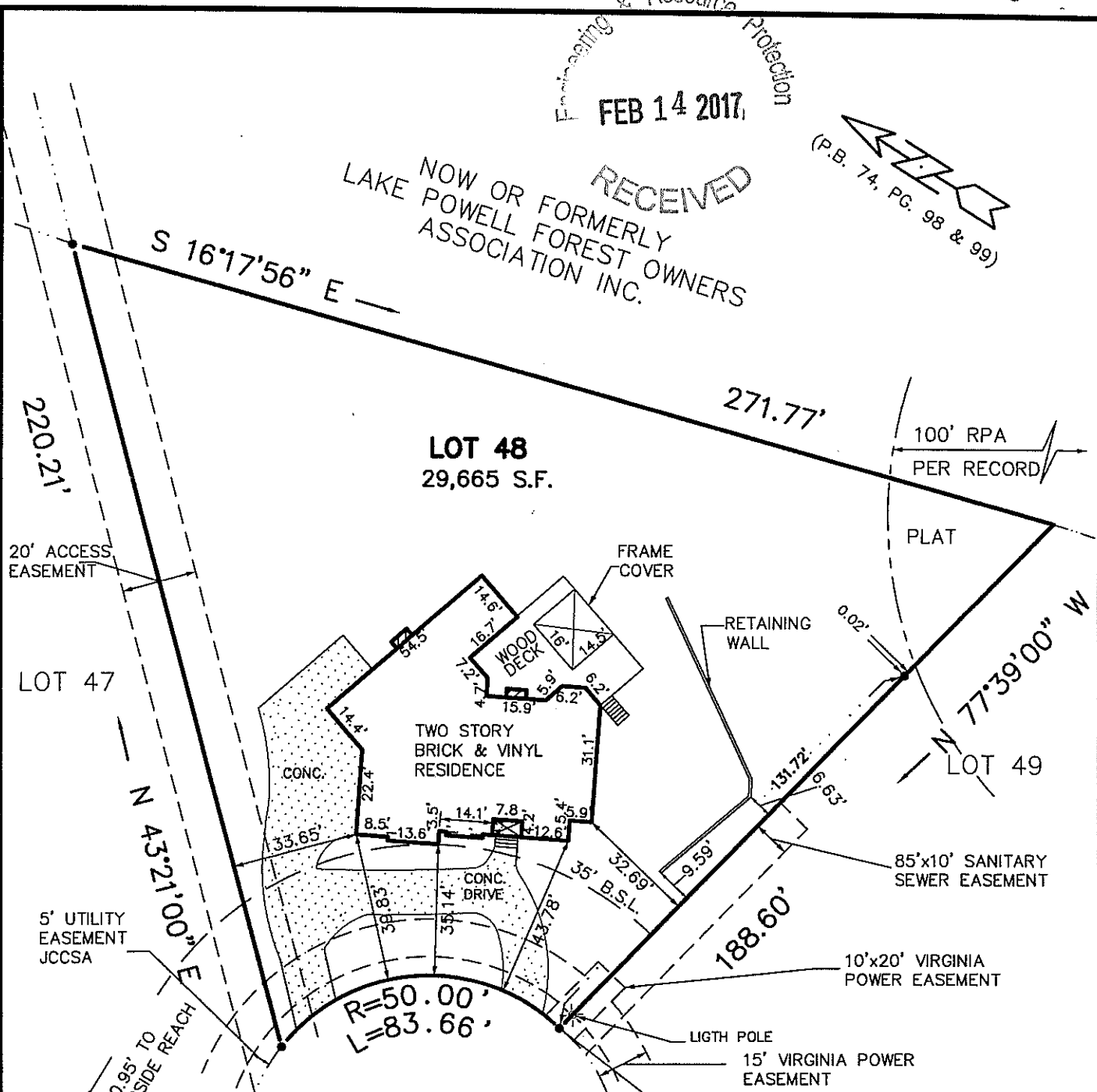
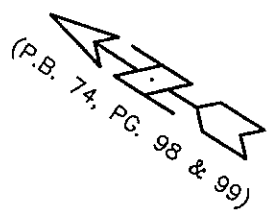
Program Administrator _____ Date _____

Authorized Signature _____

For Office Use Only	Surety Amount: _____ Date/Rec No.: _____ Fee Paid? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Amount: <u>25.00</u> Date/Rec No.: <u>2/14/17 # 3063</u> <u>100 pd 3/1/17</u> <u>Rec # 3071</u>
---------------------	--

Engineering & Resource Protection
 FEB 14 2017
 RECEIVED

NOW OR FORMERLY
 LAKE POWELL FOREST OWNERS
 ASSOCIATION INC.



BLUE LAKE COURT

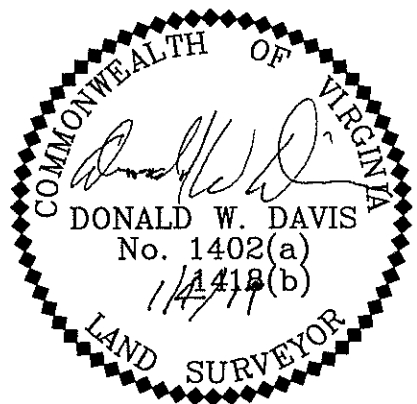
NOTES:
 1) UTILITY CONNECTIONS UNDERGROUND (50' R/W)

2) PROPERTY SHOWN HEREON IS LOCATED IN ZONE 'X' AS SHOWN ON FLOOD INSURANCE RATE MAP COMMUNITY NUMBER 510201, MAP NUMBER 51095C0201D, EFFECTIVE DATE DECEMBER 16, 2015.

3) THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT. PROPERTY MAY BE SUBJECT TO EASEMENTS AND SERVITUDES OF RECORD.

SYMBOLS :

- PIPE FOUND
- IRON PIPE SET
- IRON ROD FOUND
- CONC. MONUMENT



JOB LOCATION : # 2809 BLUE LAKE COURT

PLAT OF THE PROPERTY OF:
RICHARD D. DOHMEN & PISSAMAI K. DOHMEN

I, *Donald W. Davis*
 HEREBY CERTIFY THAT THE SURVEY REPRESENTED BY THIS PLAT WAS MADE BY ME ON THIS DATE AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF THERE ARE NO ENCROACHMENTS OF BUILDINGS UNLESS SHOWN HEREON.
 DAVIS & ASSOCIATES, P.C.
 SURVEYORS - PLANNERS
 YORK COUNTY, VIRGINIA

LOT 48
 SUBDIVISION OF
LAKE POWELL POINTE
 PHASE THREE
 JAMESTOWN MAGISTERIAL DISTRICT
 JAMES CITY COUNTY - VIRGINIA
 (P.B. 74, PG. 98 & 99)



**Community Development
Engineering and Resource
Protection Division**

P O Box 8784
Williamsburg, VA 23187
Resource.Protection@jamescitycountyva.gov

Building Safety and Permits
757-253-6620

Engineering and Resource Protection
757-253-6670

Planning
757-253-6685

Zoning Enforcement
757-253-6671

March 22, 2017

RE: CBE-17-058 – 2809 Blue Lake Court
Retaining Wall

Dear Adjacent Property Owner:

In accordance with State and County Codes, this letter is to notify you that a request has been filed with the James City County Chesapeake Bay Board by Mr. Richard Dohmen, for encroachment into the Resource Protection Area (RPA) associated with construction of a retaining wall, on his property at 2809 Blue Lake Court in the Lake Powell Pointe subdivision. The property is further identified by James City County Real Estate as Parcel No.4830700048.

A complete description, plan, and other information are on file in the Engineering and Resource Protection Division and are available for inspection during normal business hours, should anyone desire to review them.

The Chesapeake Bay Board will hold an advertised public hearing on **Wednesday, April 12, 2017 at 7 p.m.** in the Board Room of Building F, 101 Mounts Bay Road, James City County, Virginia, at which time you may request to speak on the above referenced project.

Sincerely,

Melanie Davis

Melanie Davis
Chesapeake Bay Board Secretary
757-253-6866

cc: Richard Dohmen
Dan O'Neill/Old Virginia Landscape

Mailing List for: CBE-17-058 – 2809 Blue Lake Court – Dohmen/O’Neill - retaining wall

Owner - 4830700048

Richard and Pissamai Dohmen
2809 Blue Lake Court
Williamsburg, VA 23185-3275

Dan O’Neill

Old Virginia Landscape
OLDVA925@gmail.com

4830700049 - 2812 Blue Lake Court

Thomas and Joanne Medina
Unit 7800, Box 226
DPO AP 965490226

4741200050

Kenneth and Susan Moorman
2808 Blue Lake Court
Williamsburg, VA 23185-3267

4741200051

Robert and Cathy Wildman
2804 Blue Lake Court
Williamsburg, VA 23185-3267

4741200044

Edward Ribock
5208 Pierside Reach
Williamsburg, VA 23185-3268

4741200043

Clive Vanorden
5216 Pierside Reach
Williamsburg, VA 23185-3277

4741200047

Brian and Jennifer Muse
2805 Blue Lake Court
Williamsburg, VA 23185-3275

4830900001A - Conservation Area P-6 Lake

Powell Forest

Lake Powell Forest Owners Association, Inc
544 Newtown Road, Ste 128
Virginia Beach, VA 23466-2209

Lake Powell Pointe Owners Association, Inc
5332 Hillside Way
Williamsburg, VA 23185



PUBLIC HEARING NOTICE

THE WETLANDS BOARD AND THE CHESAPEAKE BAY BOARD OF JAMES CITY COUNTY, VIRGINIA WILL HOLD PUBLIC HEARINGS **WEDNESDAY APRIL 12, 2017 AT 7 p.m.** IN THE BOARD ROOM OF BUILDING F, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

THE WETLANDS BOARD WILL CONSIDER THE FOLLOWING CASES:

W-04-17/VMRC 16-1341: Steven Wolf has applied for a wetlands permit for installation of a stone sill with associated beach nourishment at 4113 S Riverside Dr. in the Chickahominy Haven subdivision, JCC Parcel No 1910900006.

W-18-17/VMRC 17-0133: The William & Mary Sailing Team and Kingsmill Resort have applied for a wetlands permit to install a floating dock at the Kingsmill Marina at 1060 Kingsmill Rd, JCC Parcel No 5040100002C.

THE CHESAPEAKE BAY BOARD WILL CONSIDER THE FOLLOWING CASES:

CBE-17-052: The William & Mary Sailing Team and Kingsmill Resort have filed an exception request for encroachment into the RPA buffer for the installation of two storage sheds at the Kingsmill Marina, 1060 Kingsmill Rd, JCC Parcel No 5040100002C.

CBE-17-058: Richard Dohmen has filed an exception request for encroachment into the RPA buffer for construction of a retaining wall at 2809 Blue Lake Court in the Lake Powell Pointe subdivision, JCC Parcel No 4830700048.

CBE-17-062: James and Helene Noonan have filed an exception request for encroachment into the RPA buffer for construction of a retaining wall and sidewalk at 104 Abigail Lane, JCC Parcel No 5030400086.

Appeals from decisions under the Chesapeake Bay Preservation Ordinance may also be heard.

All interested parties are invited to attend the meetings. The applications and plans are on file and may be viewed during normal office hours in the Engineering and Resource Protection Division, 101 Mounts Bay Road, Bldg E, James City County, Virginia.

NOT FOR PUBLICATION

DISPLAY: WEDNESDAY – March 29, and April 5, 2017.
ACCOUNT NO.: 0011040200 - VIRGINIA GAZETTE

COPIES: PLANNING
ASSISTANT COUNTY ATTORNEY
WETLAND/CHESAPEAKE BAY BOARD MEMBERS
BOARD OF SUPERVISORS - for CBV-17-062

*MDW
3/21/17*

ITEM SUMMARY

DATE: 4/12/2017
TO: Chesapeake Bay Board
FROM: Michael Woolson, Senior Watershed Planner
SUBJECT: CBE-17-062 : 104 Abigail Lane

James and Helene Noonan have filed an exception request for encroachment into the RPA buffer for construction of a retaining wall and sidewalk at 104 Abigail Lane in the Kingsmill subdivision.

ATTACHMENTS:

	Description	Type
▣	staff rep	Cover Memo
▣	Resolution	Resolution
▣	Water Quality Impact Assessment	Backup Material
▣	Mitigation Plan	Backup Material
▣	APO Notification and Advertisement	Cover Memo

REVIEWERS:

Department	Reviewer	Action	Date
Chesapeake Bay Group	Woolson, Michael	Approved	4/5/2017 - 4:43 PM
Chesapeake Bay Group	Holt, Paul	Approved	4/5/2017 - 5:00 PM
Publication Management	Burcham, Nan	Approved	4/6/2017 - 7:41 AM
Chesapeake Bay Group	Secretary, ChesBay	Approved	4/6/2017 - 7:54 AM

**CHESAPEAKE BAY BOARD EXCEPTION No. CBE-17-062. 104 Abigail Lane
Staff Report for the April 12, 2017, 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 AND INFORMATION

Applicants: James and Helene Noonan

Agent: Mitchell Foos, The King's Garden

Location: 104 Abigail Lane

Tax Map/Parcel No.: 5030400086

Legal Description: Lot 86, Phase 2, Tazewell's 100, Kingsmill

Lot Size: 0.76 acres

Area of Lot in Resource Protection Area (RPA): 0.67 acres +/- (88%)

Watershed: College Creek (HUC Code JL34)

Floodplain: Panel 0206D
Zone AE, base flood elevation 7.0 ft MSL
Zone X, outside the 0.2% annual chance floodplain

Proposed Activity: Construction of two retaining walls and a sidewalk

Impervious Cover: Approximately 300 square feet

RPA Encroachment: Impervious cover within the landward 50-foot Resource Protection Area (RPA) buffer

Staff Contact: Michael D. Woolson, Senior Watershed Planner Phone: 253-6823

BRIEF SUMMARY AND DESCRIPTION OF ACTIVITIES

Mitchell Foos of The King's Garden, on behalf of James and Helene Noonan, has applied for a Chesapeake Bay Exception for encroachments into the RPA buffer for the construction of two retaining walls and sidewalk on property known as 104 Abigail Lane, in the Tazewell's 100 section of the Kingsmill subdivision and within the College Creek watershed. The property is further identified as James City County Tax Map Parcel No. 5030400086. The parcel was platted in 1981 and the house built in 1983, prior to the 1990 adoption of the Chesapeake Bay Preservation Ordinance.

The purpose of the retaining walls are to prevent erosion and to lessen the slope for safety purposes. The impervious cover for this application is approximately 300 square feet. The required mitigation is one planting unit, which equates to one canopy tree, two understory trees and three shrubs. The proposed mitigation plan has two canopy trees, four understory trees and 15 shrubs, exceeding the County requirements.

STAFF EVALUATION

Staff has evaluated the application and exception request for the construction of the retaining walls and sidewalk and finds that the application meets the conditions in Sections 23-11 and 23-14. The application should be heard by the Board, because the improvements are accessory in nature.

WATER QUALITY IMPACT ASSESSMENT (WQIA)

A WQIA must be submitted, per Sections 23-11 and 23-14 of the County Ordinance, 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* and has submitted a mitigation proposal. The mitigation proposal consists of two canopy trees, four understory tree and 15 shrubs and exceeds the County mitigation requirements.

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. The Chesapeake Bay Board should fully consider Chesapeake Bay Exception CBE-17-062 as outlined and presented above and review the request for exception along with the WQIA. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chesapeake Bay Preservation Ordinance.

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 approval of this exception request. Should the Board wish to approve, staff recommends that the following conditions be incorporated into the approval:

1. The applicant must obtain all other necessary federal, state and local permits and permissions as required for the project; and
2. Surety of \$1,000 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 12, 2018; and
4. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

MDW/nb
CBE17-062-104AbigailLn-Noonan

Attachments:

1. Resolution
2. Water Quality Impact Assessment Package
3. Mitigation Plan

RESOLUTION

CASE NO. CBE-17-062. 104 ABIGAIL LANE

JAMES CITY COUNTY CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION

WHEREAS, Mitchell Foos of The King's Garden, on behalf of James and Helene Noonan (the "Applicant"), has applied to the Chesapeake Bay Board of James City County (the "Board") on April 12, 2017, to request an exception to use the Resource Protection Area (the "RPA") on a parcel of property identified as James City County Real Estate Tax Parcel No. 5030400086 and further identified as 104 Abigail Lane in the Kingsmill subdivision (the "Property") as set forth in the application CBE-17-062 for the purpose of installing two retaining walls and a sidewalk; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

NOW, THEREFORE, BE IT RESOLVED that the Chesapeake Bay Board of James City County, Virginia, following a public hearing, by a majority vote of its members FINDS that:

1. The exception request is the minimum necessary to afford relief.
2. Granting the exception will not confer upon the Applicant any special privileges denied by Chapter 23, Chesapeake Bay Preservation, of the James City County Code, to other property owners similarly situated in the vicinity.
3. The exception request will be in harmony with the purpose and intent of Chapter 23 of the James City County Code and is not of substantial detriment to water quality.
4. The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.
5. Reasonable and appropriate conditions are hereby imposed, as set forth below, which will prevent the exception request from causing a degradation of water quality.
6. In granting this exception, the following conditions are hereby imposed to prevent this exception request from causing degradation of water quality:
 - a. The applicant must obtain all other necessary federal, state and local permits and permissions as required for the project; and
 - b. A surety of \$1,000 will be required in form acceptable to the County Attorney's Office to guarantee the mitigation plantings; and
 - c. This exception request approval shall become null and void if construction has not begun by April 12, 2018; and

- d. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than six-weeks prior to the expiration date.

Davis Gussman
Chair, Chesapeake Bay Board

Michael Woolson
Senior Watershed Planner

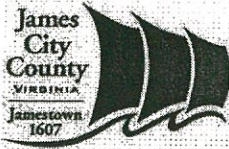
Adopted by the Chesapeake Bay Board of James City County, Virginia, this 12th day of April, 2017.

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 20__ IN THE COMMONWEALTH OF VIRGINIA, IN THE COUNTY OF JAMES CITY.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

CBE17-062-104AbigailLn-Noonan-res



Engineering
MAR 1 2017
Protection

Chesapeake Bay Preservation Ordinance Sensitive Area Activity Application

For Office Use Only
CB Number CBE17-002

Submission Requirements: (Check all applicable)

- A \$25 non-refundable processing fee payable to Treasurer, James City County.
- RPA - landward 50' - Complete Items 1 - 5, and sign on Page 3.
- RPA - seaward 50' - Complete Items 1 - 5, sign on Page 3 and submit an additional \$100 non-refundable fee payable to Treasurer, James City County, for the Chesapeake Bay Board.
- Conservation Easement - Complete Items 1, 2, 3, and 5, and sign on Page 3.
- Steep Slopes \geq 25 percent - Complete Items 1, 2, 3, and 5, and sign on Page 3.
- Attach plans as required (see instruction on Page 4, Item 4).
- Applicable surety as required for mitigation (see **Mitigation Rates Table** on Page 2).

Upon completion, please return pages 1-3 to the JCC Engineering and Resource Protection Division

Property Owner Information:

Date: 2/28/2017

Name: Jim + Lairy Noonan
 Address: 104 Abigail Lane, Kingsmill
 Phone: 757-291-9174 Fax: _____ Email: lairy.noonan@gmail.com

Contact (if different from above):

Name: Mitchell Foos The Kings Garden LLC Phone: (757) 903-8221
 Email: kingsgardenva@gmail.com

Project Information:

Project Address: 104 Abigail Lane Kingsmill, Williamsburg, Va 23185
 Subdivision Name, Lot, and Section No.: Tazewells 100, Lot 86 Phase 2
 Parcel Identification No. or Tax Map No.: 5030400086
 Date Lot was platted: _____ Line or Bldg Permit No.: _____

Activity Location and Impacts (Square Feet - SF): (check all that apply)

- | | |
|--|---|
| <input checked="" type="checkbox"/> Steep Slopes \geq 25 percent <u>500</u> (SF) | <input checked="" type="checkbox"/> RPA - Landward 50' <u>500</u> (SF) |
| <input type="checkbox"/> Conservation Easement _____ (SF) | <input type="checkbox"/> RPA - Seaward 50' _____ (SF) |
| <input type="checkbox"/> Trees to be Removed _____ (#) | <input checked="" type="checkbox"/> Proposed Impervious Cover <u>300</u> (SF) |

Activity involves: (check all that apply)

- | | | |
|---|---|---|
| <input type="checkbox"/> New principal structure construction | <input type="checkbox"/> Building addition to principal structure | <input type="checkbox"/> Attached Deck |
| <input type="checkbox"/> Permitted buffer modifications: | <input type="checkbox"/> Dead/diseased/dying tree removal | <input type="checkbox"/> Sightline |
| <input checked="" type="checkbox"/> Accessory (Detached) Structure or Patio | <input type="checkbox"/> Invasive/noxious weed removal | <input checked="" type="checkbox"/> Access path/trail |
| <input checked="" type="checkbox"/> Other: <u>Retention wall + Sidewalk Parking</u> | <input type="checkbox"/> Redevelopment: _____ | |

**Chesapeake Bay Preservation Ordinance
Sensitive Area Activity Application**

Engineering & Resource Protection
MAR 1 2017

RECEIVED

For Office Use Only
CB Number BE17-062

1. Description of requested sensitive area activity and reason for request:

(In the description, please indicate the reason for the proposed structure or activity, the location, sizes and dimensions of feature. For decks or expansions, indicate if ground floor, first floor or other levels)

Retention wall to stop ground erosion, slow water for infiltration, and reclaim property area for personal use.

2. As per Section 23-9 of the Chesapeake Bay Preservation Ordinance, if there is an on-site sewage disposal system on this property, has it been inspected and/or pumped out in the past five years? Yes No N/A

3. Are permits from other local, State or Federal agencies required for any portion of this project? Yes No
(If yes, please explain) Building Permit for Retention Wall over 3'

4. Water Quality Impact Assessment

The purpose of a water quality impact assessment is to demonstrate that the project will result in the removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development stormwater run-off and that it will retard runoff, prevent accelerated erosion, promote infiltration, and filter non-point source pollution equivalent to the full undisturbed 100-foot buffer.

A. Why is this encroachment necessary? Can it be relocated to avoid RPA impacts?

To slow/stop erosion/reclaim property for use
If cannot be relocated

B. What measures will be used to minimize impervious area? Examples: pervious pavers, removal of existing impervious surfaces (concrete, pavement, etc.) in the RPA not needed for the project

Possibility of pervious pavers, although our main improvement will be installing turf + plantings to soak up ground water.

5. Proposed mitigation measures:

Note: All mitigation measures must be shown in detail on a mitigation plan. Show both location of mitigation measures and plant species if applicable. All mitigation plants must be native species and be located in the sensitive area (RPA or Conservation Easement).

Mitigation Rates Table

Impervious Area (SF)	Mitigation Required	Surety
<400	1 tree and 3 shrubs	\$250
400-1,000	1 canopy tree, 2 understory trees and 3 shrubs per 400 SF (or fraction thereof)	\$1,000
>1,000	Plant at same rate as 400 – 1,000; or may be determined by Director of Engineering and Resource Protection Division	To be determined

**Chesapeake Bay Preservation Ordinance
Sensitive Area Activity Application**

Engineering & Resource Protection
MAR 1 2017

For Office Use Only
CB Number CE17-062

A. Vegetation/ground cover enhancement of buffer (see Mitigation Rates Table on previous page).

- ① Number of native canopy trees 2
- ② Number of native understory trees 4
- ③ Number of native shrubs 12 - 15
- ④ Square feet of native ground cover 200 ff²
- Square feet of mulch 600 ff²

B. Best Management Practices (BMPs)

- EC-2 (degradable) erosion control matting
- Dry Swale
- Silt fence (during construction)
- Turf (Nutrient) Management Plan
- Gravel under deck (3" of gravel over synthetic filter fabric under entire deck area)
- Other: _____
- Bioretention or rain garden practice
- Infiltration Area/Trench/Drywell
- Structural BMP (Wet or Dry Pond)
- Rain Barrel

I understand that the following are approval conditions:

- 1) Mitigation for the above activity shall follow the approved mitigation plan and be guaranteed with a form of surety acceptable to the County Attorney.
- 2) Limits of disturbance as shown on the approved plan shall not be exceeded.
- 3) This approval shall become null and void if construction has not begun within 12 months of the approval date.
- 4) Surety will be released following the completion and inspection of mitigation plantings.

Property owner signature Rainey Noonan Date 3/1/2017
 Program Administrator _____ Date _____
 Authorized Signature _____

For Office Use Only

Surety Amount: _____
Date/Rec No.: _____
Fee Paid? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Amount: <u>125.00</u>
Date/Rec No.: <u>3/1/17 43013</u>

104

Abigail Lane

CBE17-062

King's Mill



Contact:

Mitch Foss

(a)

The King's Garden

757-903

8221

(cell)

Engineering & Resource Protection
 MAR 1 2017
 RECEIVED

Planting Plan

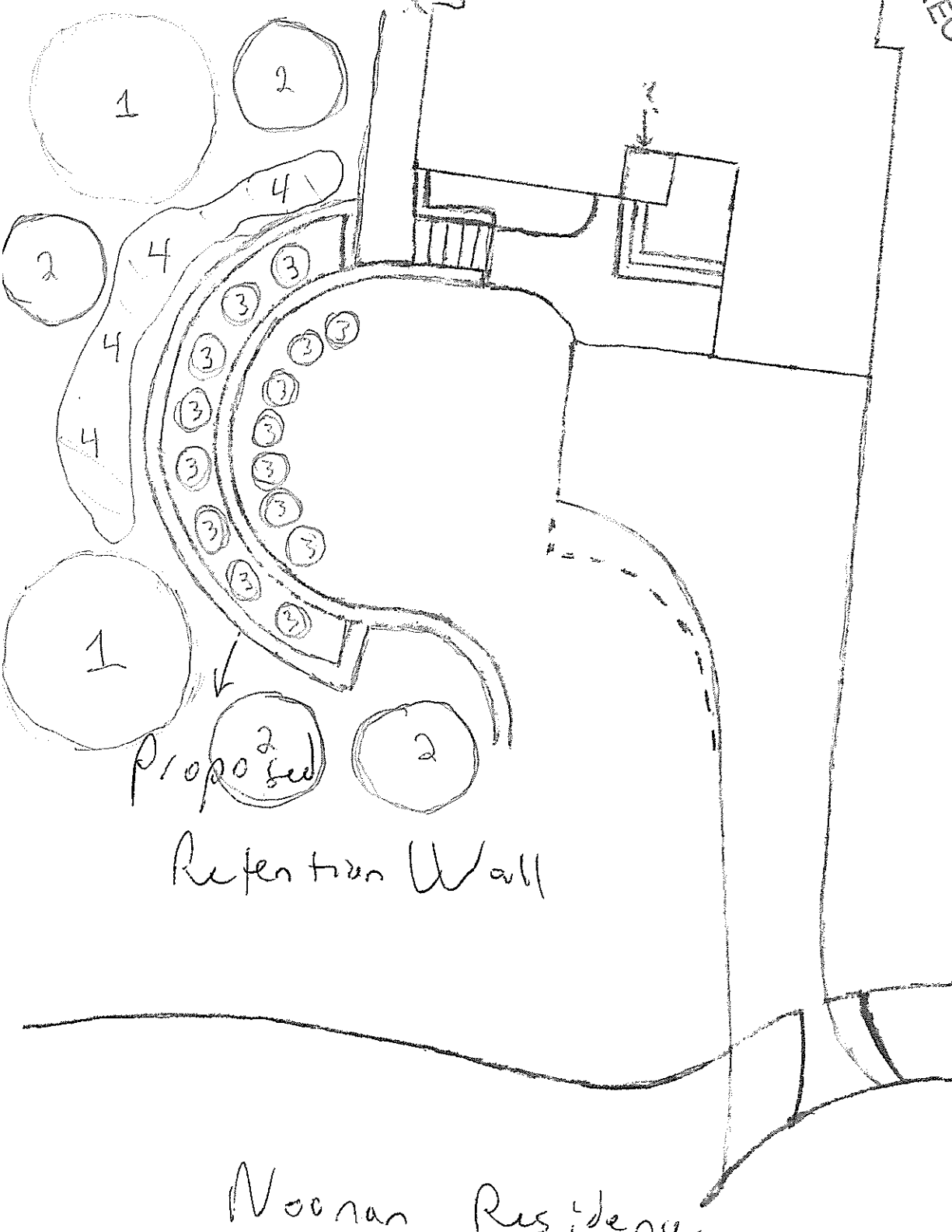
104

Abigail Lane

CBE HOBZ Lane

King's Mill

Engineering & Resource Protection
 MAR 1 2017
 RECEIVED



Contact:

Mitch Foos

(a)

The King's Garden

757-903

8221

(cell)

Plant/Tree List

1. October Glo Maple
2. Native Amer Dogwood
3. (G) Yaupeu Holly (E) Boxwood, An (H) Ruby Ribbles Grass
4. Vinca Minor (Perennials)

Noonan Residence

Planting Plan

104

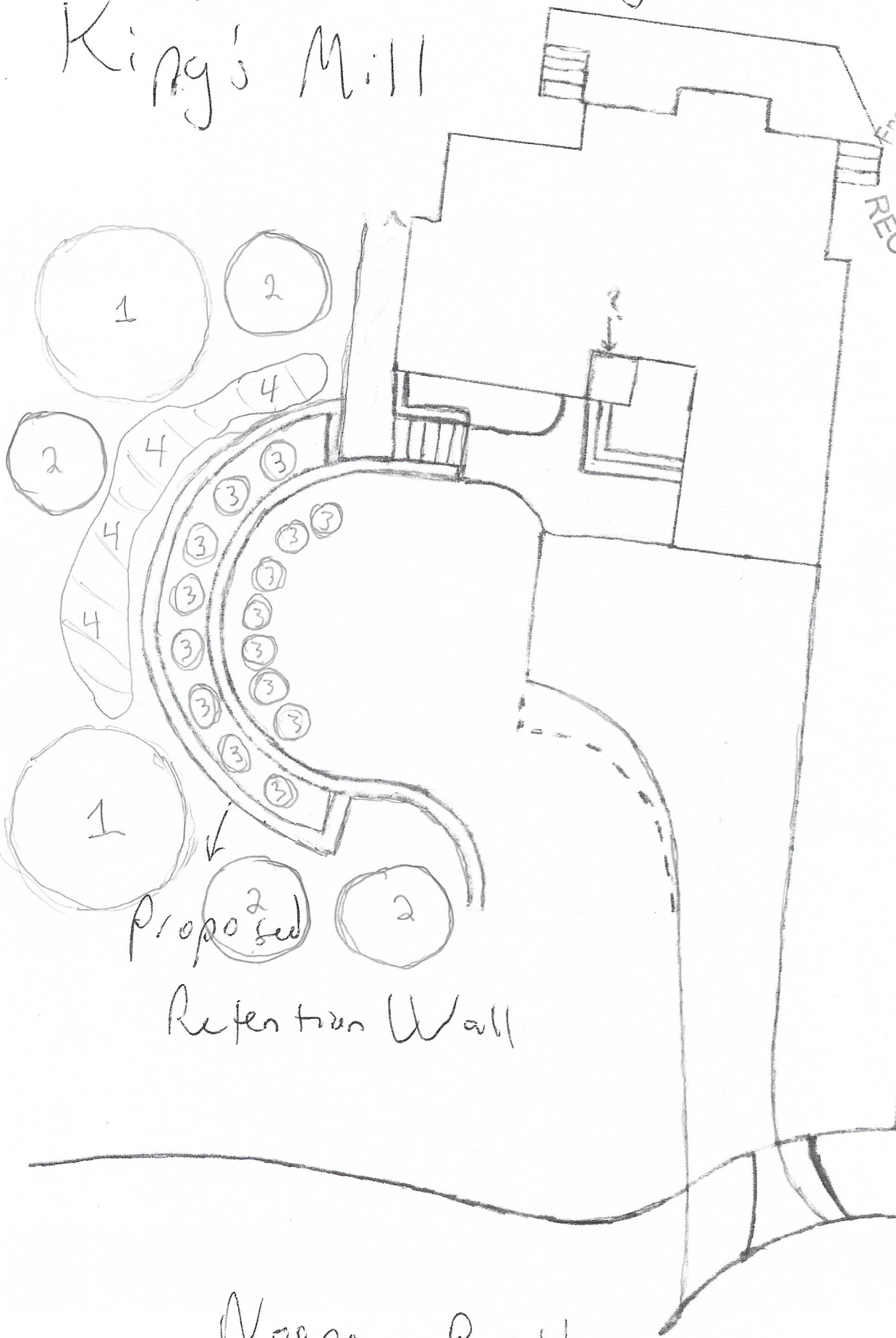
Abigail Lane

CBE/HOBZ

Lane

King's Mill

Engineering & Resource Protection
MAR 1 2017
RECEIVED



Contact:

Mitch Foos

(a)

The King's

Garden

757-903

8221

(cell)

Plant/tree List

1. October Glory Maple
2. Native American Dogwood
3. (6) Japan Holly
(5) Boxwood, Amer.
- (4) Ruby Ribbons Grass
4. Vinca Minor (Perrisinkle) Pachysandra

Noonan Residence



**Community Development
Engineering and Resource
Protection Division**

P O Box 8784
Williamsburg, VA 23187
Resource.Protection@jamescitycountyva.gov

Building Safety and Permits
757-253-6620

Engineering and Resource Protection
757-253-6670

Planning
757-253-6685

Zoning Enforcement
757-253-6671

March 22, 2017

RE: CBE-17-062 – 104 Abigail Lane
Retaining Wall and Sidewalk

Dear Adjacent Property Owner:

In accordance with State and County Codes, this letter is to notify you that a request has been filed with the James City County Chesapeake Bay Board by James and Helene Noonan, for encroachment into the Resource Protection Area (RPA) associated with construction of a retaining wall and sidewalk, on their property at 104 Abigail Lane in the Kingsmill subdivision. The property is further identified by James City County Real Estate as Parcel No. 5030400086.

A complete description, plan, and other information are on file in the Engineering and Resource Protection Division and are available for inspection during normal business hours, should anyone desire to review them.

The Chesapeake Bay Board will hold an advertised public hearing on **Wednesday, April 12, 2017 at 7 p.m.** in the Board Room of Building F, 101 Mounts Bay Road, James City County, Virginia, at which time you may request to speak on the above referenced project.

Sincerely,

Melanie Davis

Melanie Davis
Chesapeake Bay Board Secretary
757-253-6866

cc: James and Helene Noonan
Mitchell Foos

Mailing List for: CBE-17-062 – 104 Abigail Lane – Noonan/Kings Garden - retaining wall & sidewalk

Owner - 5030400086
James and Helene Noonan
104 Abigail Lane
Williamsburg, VA 23185-6506

5140100008 - 199 Mounts Bay Road
Kingsmill Community Services Association
P O Box 348
Williamsburg, VA 23187-0348

Mitchell Foos
kingsgardenva@gmail.com

5030400090
Brian and Tia Adams
105 Burwell Court
Williamsburg, VA 23185-6507

5030400085
David and Mary Stansbury
113 Abigail Lane
Williamsburg, VA 23185-6506

5030400084
Charles and Ann Boppe
109 Abigail Lane
Williamsburg, VA 23185-6506

5030400083
Christopher Martens
105 Abigail Lane
Williamsburg, VA 23185-6506

5030400082
Charles and Carol Sifton
101 Abigail Lane
Williamsburg, VA 23185-6506

5030400088 - 100 Abigail Lane
Fred and Sharyn Manfredonia
14 Sanders Place
Bulter, NJ 07405-1212

5030400081
Joseph and Lois Richardson
512 E Tazewells Way
Williamsburg, VA 23185-6516

5030400087 - 102 Abigail Lane
James City Service Authority
119 Tewning Road
Williamsburg, VA 23188-2639



PUBLIC HEARING NOTICE

THE WETLANDS BOARD AND THE CHESAPEAKE BAY BOARD OF JAMES CITY COUNTY, VIRGINIA WILL HOLD PUBLIC HEARINGS **WEDNESDAY APRIL 12, 2017 AT 7 p.m.** IN THE BOARD ROOM OF BUILDING F, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

THE WETLANDS BOARD WILL CONSIDER THE FOLLOWING CASES:

W-04-17/VMRC 16-1341: Steven Wolf has applied for a wetlands permit for installation of a stone sill with associated beach nourishment at 4113 S Riverside Dr. in the Chickahominy Haven subdivision, JCC Parcel No 1910900006.

W-18-17/VMRC 17-0133: The William & Mary Sailing Team and Kingsmill Resort have applied for a wetlands permit to install a floating dock at the Kingsmill Marina at 1060 Kingsmill Rd, JCC Parcel No 5040100002C.

THE CHESAPEAKE BAY BOARD WILL CONSIDER THE FOLLOWING CASES:

CBE-17-052: The William & Mary Sailing Team and Kingsmill Resort have filed an exception request for encroachment into the RPA buffer for the installation of two storage sheds at the Kingsmill Marina, 1060 Kingsmill Rd, JCC Parcel No 5040100002C.

CBE-17-058: Richard Dohmen has filed an exception request for encroachment into the RPA buffer for construction of a retaining wall at 2809 Blue Lake Court in the Lake Powell Pointe subdivision, JCC Parcel No 4830700048.

CBE-17-062: James and Helene Noonan have filed an exception request for encroachment into the RPA buffer for construction of a retaining wall and sidewalk at 104 Abigail Lane, JCC Parcel No 5030400086.

Appeals from decisions under the Chesapeake Bay Preservation Ordinance may also be heard.

All interested parties are invited to attend the meetings. The applications and plans are on file and may be viewed during normal office hours in the Engineering and Resource Protection Division, 101 Mounts Bay Road, Bldg E, James City County, Virginia.

NOT FOR PUBLICATION

DISPLAY: WEDNESDAY – March 29, and April 5, 2017.
ACCOUNT NO.: 0011040200 - VIRGINIA GAZETTE

COPIES: PLANNING
ASSISTANT COUNTY ATTORNEY
WETLAND/CHESAPEAKE BAY BOARD MEMBERS
BOARD OF SUPERVISORS - for CBV-17-062

*MDW
3/21/17*

ITEM SUMMARY

DATE: 4/12/2017
TO: Chesapeake Bay Board
FROM: Michael Woolson, Senior Watershed Planner
SUBJECT: CBV 17-012: 9388 Ashlock Court

Don and Anne Perkins have filed an appeal to a Notice of Violation issued on March 3, 2017 for the removal of an unapproved patio in the RPA buffer on property located at 9388 Ashlock Court in the Stonehouse Glen subdivision.

ATTACHMENTS:

	Description	Type
▣	Staff Memo	Cover Memo
▣	res	Resolution
▣	Exhibit A	Backup Material
▣	Exhibit B	Backup Material
▣	Exhibit C	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Chesapeake Bay Group	Woolson, Michael	Approved	4/6/2017 - 10:07 AM
Chesapeake Bay Group	Holt, Paul	Approved	4/6/2017 - 10:11 AM
Publication Management	Burcham, Nan	Approved	4/6/2017 - 10:17 AM
Chesapeake Bay Group	Secretary, ChesBay	Approved	4/6/2017 - 10:20 AM

M E M O R A N D U M

DATE: April 12, 2017

TO: The Chesapeake Bay Board

FROM: Michael D. Woolson, Senior Watershed Planner

SUBJECT: Appeal of Notice of Violation – 9388 Ashlock Court

Don and Anne Perkins, residing at 9388 Ashlock Court, have filed an appeal to the James City County Chesapeake Bay Board (Board) on March 15, 2017. The Perkins are appealing an administrative order to remove a patio from the Resource Protection Area (RPA).

Background Information

On or about December 29, 2016, staff became aware that a patio was built within the RPA at the rear of the home at 9388 Ashlock Court, within the Stonehouse Glen subdivision. Staff has no record of any approvals being issued for this patio.

On March 3, 2017, staff issued a Notice of Violation (NOV) to The Perkins stating that there was no Exception Request on file at the Engineering and Resource Protection Division office for the patio, that the patio was in violation of the Chesapeake Bay Preservation Ordinance and that the patio needed to be removed and the disturbed area restored with native trees and shrubs (Exhibit A).

On March 15, 2017, Mr. Perkins submitted a written appeal of the NOV, meeting the 30-day deadline as stated in the Ordinance. In their appeal letter, Mr. Perkins mentions a sign that was installed in the woods and how it is 16 feet away from the patio (Exhibit B).

The Perkins built the patio in question sometime between 2013 and 2015, according to public records (Exhibit C).

Staff Guidance and Recommendations

Staff has reviewed the appeal and violation documents and offers the following information for the Board's consideration.

1. Donald and Anne Perkins are currently the owners of the property, 9388 Ashlock Court, where a violation of the RPA has taken place.
2. The lot was platted on July 7, 2006 and the house built in 2007.
3. The patio was built sometime between 2013 and 2015. There is room outside of the RPA for the same sized patio to have been built.

Section 23-17(b) of the Ordinance gives guidance to the Board and states "In rendering its decision, the Board shall balance the hardship to the property owner with the purpose, intent and objectives of this chapter. The Board shall not decide in favor of the appellant unless it finds:

1. The hardship is not generally shared by other properties in the vicinity;
2. The Chesapeake Bay, its tributaries and other properties in the vicinity will not be adversely affected; and
3. The appellant acquired the property in good faith and the hardship is not self-inflicted.”

Staff’s guidance to the Board on deciding this matter is as follows:

1. The hardship is shared by other properties within the Stonehouse Glen subdivision that have RPA on them.
2. The granting of the appeal in this case will adversely affect the Chesapeake Bay, its tributaries and other properties in the vicinity. In this specific case, granting relief to the appellant resulting from the violation of the Ordinance may result in other, similar unauthorized actions by other property owners in the vicinity.
3. The appellant acquired the property in good faith, but the hardship is self-inflicted.

Staff contends that the owner did know that there was RPA on the property when they bought the property. Staff believes that the patio should be removed and the area revegetated with native trees and shrubs, per the NOV. There is room outside of the RPA for the patio to have been placed. However, should the Board grant the appeal, the Board should direct the appellant to submit a Sensitive Area Activity Application and Application Fee for a public hearing at the next available Chesapeake Bay Board meeting. Staff requests that the Board double the required mitigation for that application.

MDW/nb
AplNOV-9388AshlockCt-mem

Attachments:

1. Resolution
2. Exhibit A - Perkins NOV, March 3, 2017
3. Exhibit B - Perkins Appeal, March 15, 2017
4. Exhibit C - 2013 and 2015 Aerial Photography

RESOLUTION

GRANTING AN APPEAL ON JAMES CITY COUNTY REAL ESTATE

TAX PARCEL NO. 0530700011

WHEREAS, Mr. Don Perkins, (the “Appellant”) has submitted a request to the Chesapeake Bay Board of James City County (the “Board”) to appeal a Notice of Violation (NOV) (CBV-17-012) dated March 3, 2017, ordering the removal of a patio in the Resource Protection Area (RPA), on a property identified as James City County Real Estate Tax Parcel No. 0530700011 and further identified as 9388 Ashlock Court in the Stonehouse Glen subdivision (the “Property”); and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

NOW, THEREFORE, following a public meeting on April 12, 2017, the Chesapeake Bay Board of James City County by a majority vote of its members FINDS that all of the following conditions have been met:

1. The hardship is not generally shared by other properties in the vicinity;
2. The Chesapeake Bay, its tributaries and other properties in the vicinity will not be adversely affected: and
3. The appellant acquired the property in good faith and the hardship is not self-inflicted.

THEREFORE, the Chesapeake Bay Board of James City County is granting the appeal filed by Mr. Perkins on April 12, 2017 and overturning the March 3, 2017 NOV issued by James City County Engineering and Resource Protection Division.

In granting this appeal, the following conditions are hereby imposed to prevent this project from causing degradation of water quality:

1. Submit a Sensitive Area Activity Application and Application Fee for the patio for review and approval by the Chesapeake Bay Board at a public hearing, at the next available Chesapeake Bay Board meeting.
2. The required mitigation rates are doubled for the impervious impact to the RPA from the patio.

Davis Gussman
Chair, Chesapeake Bay Board

Michael Woolson
Senior Watershed Planner

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 12th day of April, 2017.

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 20__ IN THE COMMONWEALTH OF VIRGINIA, IN THE COUNTY OF JAMES CITY.

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

ApINOV-9388AshlockCt-res



Community Development
Engineering and Resource
Protection Division
101 Mounts Bay Road, Bldg. E
Williamsburg, VA 23187

resource.protection@jamescitycountyva.gov

Building Safety & Permits
757-253-6620

Engineering & Resource Protection
757-253-6670

Neighborhood Development
757-253-6640

Planning
757-253-6685

Zoning Enforcement
757-253-6671

NOTICE OF VIOLATION
of James City County's Environmental Regulations

March 3, 2017

Donald and Anne Perkins
9388 Ashlock Court
Toano, Virginia 23168

Re: **Chesapeake Bay Preservation Ordinance Violation**
9388 Ashlock Court
James City County PIN 0530700011
CBV-17-012

Dear Mr. and Mrs. Perkins:

On or about December 29, 2016, it was brought to the attention of the James City County Engineering and Resource Protection Division staff that work had occurred within the resource protection area (RPA) and recorded natural open space easement on this property. The work in question is the patio and possible fire pit. There is no active exception request on file for the RPA impact nor approval letter for work within the easement in our office. Section 23-7 of the James City County Chesapeake Bay Preservation Ordinance (CBPO), which regulates activities within the RPA, prohibits removal of vegetation without approval from the Engineering and Resource Protection Division. Furthermore, conditions 1 and 4 of the Deed of Easement require written permission of the County Engineer.

The patio is a violation of the CBPO, subject to a Civil Penalty of up to \$5,000.00 for each day of the violation. Please see the attached map for a general location of the violation area. The patio is also a violation of conditions 1 and 4 of the Deed of Easement. A copy of the recorded deed is provided for your records.

Please be advised that this is an official notification that the patio within the limits of the RPA buffer is a CBPO violation. In order to rectify this violation, please contact our office at your earliest convenience to arrange for a meeting with representatives of the Engineering and Resource Protection Division staff to discuss removing the patio and restoring the RPA buffer by entering into a Chesapeake Bay Restoration Agreement with new tree and shrub planting native to Virginia. You may also be responsible for a one-time payment of a civil charge, the amount of which is to be determined by the County.

Per Section 23-17 of the Chesapeake Bay Preservation Ordinance, the "owner of property subject to an administrative decision, order or requirement under this chapter may appeal by submitting a written application for review to the board no later than 30 days from the rendering of such decision, order or requirement. The board shall hear the appeal as soon as practical after receipt of the application." The Board that this section refers to is the Chesapeake Bay Board.

Please contact our office at 757-253-6670 to discuss this matter within the next 30 days. After 30 days from the date of this letter, the matter is no longer appealable to the Chesapeake Bay Board.

Sincerely,



Michael Woolson
Senior Watershed Planner
Engineering and Resource Protection Division

cc: Scott Thomas, Engineering and Resource Protection Division Director, via email
Max Hlavin, Assistant County Attorney, via email
Paul Holt, Development Manager, via email
Christy Parrish, Zoning Administrator, via email

Michael Woolson

From: perk03@verizon.net
Sent: Wednesday, March 15, 2017 9:06 AM
To: Michael Woolson
Subject: appeal meeting

Michael,

Good Morning,

I want to thank your for meeting with us yesterday afternoon. As you know we did not agree with your decision about the future of our patio and we would like to move forward with a appeal meeting with the board on 4/12/17 @ 7pm. I did go home yesterday and measure the edge of the patio to the sign that is present and its 16 ft. to the sign from the edge. I believe that if you were to bring anyone back there and ask them where they thought the protected area would be they would indicate the area past the sign and along the wooded edge just as we were told and thought since we have lived there.

Again thanks for your time and your more than welcome to come out and look the area over for yourself. Please keep us updated if the date and time of the meeting changes.

Don & Anne Perkins

9388 Ashlock Ct.

Toano VA

757-903-5663

