

A G E N D A
JAMES CITY COUNTY CHESAPEAKE BAY BOARD
REGULAR MEETING
County Government Center, Building F
101 Mounts Bay Road, Williamsburg, Virginia 23185
September 9, 2020
5:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MINUTES

1. Minutes from August 12, 2020, Regular Meeting

D. PUBLIC HEARINGS

1. Case No. CBPA-20-0080 : 2844 Castling Crossing

E. BOARD CONSIDERATIONS

F. MATTERS OF SPECIAL PRIVILEGE

G. ADJOURNMENT

ITEM SUMMARY

DATE: 9/9/2020

TO: Chesapeake Bay Board

FROM: Michael Woolson, Chesapeake Bay Board Secretary

SUBJECT: Minutes from August 12, 2020, Regular Meeting

ATTACHMENTS:

	Description	Type
	Minutes	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Chesapeake Bay Group	Woolson, Michael	Approved	9/3/2020 - 10:52 AM
Chesapeake Bay Group	Small, Toni	Approved	9/3/2020 - 4:17 PM
Publication Management	Burcham, Nan	Approved	9/3/2020 - 4:21 PM
Chesapeake Bay Group	Secretary, ChesBay	Approved	9/3/2020 - 4:35 PM

MINUTES
JAMES CITY COUNTY CHESAPEAKE BAY BOARD
REGULAR MEETING
County Government Center, Building F
101 Mounts Bay Road, Williamsburg, Virginia 23185
August 12, 2020
5:00 PM

A. CALL TO ORDER

The Chesapeake Bay Board meeting for August 12, 2020, 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 Members Present:

David Gussman, Chair
William Apperson, Vice Chair
Charles Roadley
Larry Waltrip
Michael O'Brien

Board Members Absent:

Halle Dunn

Other Staff Present:

Toni Small, Director, Stormwater and Resource Protection
Liz Parman, Assistant County Attorney
Michael Woolson, Senior Watershed Planner, Stormwater and Resource Protection
Janice Petty, Stormwater Assistant, Stormwater and Resource Protection

C. MINUTES

1. Minutes from June 10, 2020, Regular Meeting

A motion to Approve the minutes was made by Mr. Gussman. The minutes were approved on a voice vote.

D. PUBLIC HEARINGS

1. Case No. CBPA 20-0053 : 146 Red Oak Landing Road

Mr. Michael Woolson, Senior Watershed Planner, presented the exception request submitted by Mr. Don Newsom, Delightful Gardens Landscape Company (Delightful Gardens), on behalf of Mr. C. Thomas Turbeville, Jr., for encroachments into the Resource Protection Area (RPA) buffer for the construction of a retaining wall located at 146 Red Oak Landing, within the Powhatan Creek watershed. The property is further identified as James City County Tax Map Parcel No. 4730100033. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the attached conditions be incorporated into the approval.

The Board deliberated on the pros and cons of this application.

Mr. Gussman inquired if erosion was occurring on-site.

Mr. Woolson replied in one corner, upslope side of the shed, but deferred to the applicant for answer.

Mr. Gussman opened the Public Hearing.

A. Mr. Don Newsom, Delightful Gardens, outlined the project to the Board.

Mr. Roadley inquired about the amount of sediment loss experienced on-site.

A. Mr. Newsom replied that there was some sediment loss because of the steep drop-off in that area.

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

Mr. Apperson made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA 20-0053 at 146 Red Oak Landing.

A motion to Approve with Conditions was made by Mr. Apperson, the motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1

AYES: Gussman, Apperson, Roadley, O'Brien, Waltrip

NAYS: None

ABSENT: Dunn

E. BOARD CONSIDERATIONS

1. CBPA 19-0087 : 7612 Uncles Neck

Mr. Michael Woolson presented the extension request requested by Ms. Theresa Whelan for encroachments into the RPA buffer for the grading of the bank for access to the beach and pier on the property located at 7612 Uncles Neck within the Yarmouth Creek watershed.

Mr. Roadley made a motion to grant the resolution for extension of Chesapeake Bay Board Case No. CBPA 19-0087 for 7612 Uncles Neck, extended to August 12, 2021.

A motion to Approve the resolution for extension was made by Mr. Roadley, the motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1

AYES: Gussman, Apperson, Roadley, O'Brien, Waltrip

NAYS: None

ABSENT: Dunn

2. Appeal - 4720 Yeardley Loop

Mr. Michael Woolson presented the appeals. The first appeal was from Mr. Richard Cassell, 4720 Yeardley Loop, appealing an administrative decision to remove all improvements on the easement property behind his house, replanting the disturbed area, and a one-time payment of a civil charge.

Staff was alerted in April 2020, that there was some unauthorized tree clearing and removal in the Natural Open Space Easement which is homeowners' association (HOA) property, behind

4720 Yeardeley Loop. Staff went out and investigated, took some pictures, and sent a Notice of Violation to the HOA. Mr. Cassell was also sent a Notice of Violation.

The Deed for Natural Open Space was recorded October 30, 2008, and was put in place for Stormwater purposes. Condition No. 4 of the easement states that the easement property shall remain in its natural condition with respect to natural leaf litter, understory, and tree canopy vegetation.

Mr. Woolson showed pictures of the violation.

Mr. Roadley inquired if the Open Space Easement was to offset any pollutant load that would be otherwise treated by best management practices (BMPs).

Mr. Woolson replied that in this instance it was used to offset conventional BMPs for that portion of the property.

Mr. Roadley noted that there are two appellants. He inquired if recommendations were for each or total.

Mr. Woolson replied that his recommendations are separate.

Mr. Roadley noted that the total fine in this case could be \$10,000.

A. Mrs. Monika Cassell and Mr. Richard Cassell, 4720 Yeardeley Loop, addressed the Board with their concerns asking for an appeal. They are not the owners of the easement property. The Cassell's fence is within three feet of the property line, and where they have grass planted is technically their property. They do not know who cut the trees down.

Mr. Gussman reminded everyone that this is a legal proceeding and it is being recorded.

Mr. Gussman asked if the Cassells cut down any of the trees in the easement. He also inquired if the Cassells had hired anyone to cut down the trees.

A. Mrs. Monika Cassell replied no to both inquiries.

Mr. Gussman inquired if the Cassells know who cut down any of the trees. Discussion ensued about children walking the trails, fruit trees planted, and neighbors getting firewood.

B. William Sleeth, III, Esquire, Gordon Rees Scully Mansukhani, LLP, legal counsel to The Pointe Homes Association residential homeowners association for the neighborhood. The HOA notified the County that trees had been cut down.

C. Ms. Margo Zechman, Treasurer of the HOA Board at The Pointe at Jamestown, 4731 Yeardeley Loop. The HOA did not contact the neighbors on either side of 4720 Yeardeley Loop. She noted trees do come down during storms.

Mr. Roadley inquired concerning the responsible party for a violation on a property.

Mr. Woolson replied that the County always starts with the property owner.

A. Mrs. Monika Cassell and Mr. Richard Cassell responded to remarks. The Cassells provided current pictures to the Board, showing that the picnic table is no longer there. Mrs. Cassell did reach out to Mr. Hamilton, the HOA President and to Ms. Tabitha Clark of Chesapeake Bay Management Inc., (CBM) asking when the last neighborhood inspection had been conducted. Prior to this she understood that there were to be quarterly inspections by

CBM. Ms. Clark informed Mrs. Cassell that the last inspection had been in February 2020.

B. Mr. William Sleeth, III, asked if Ms. Jennifer Smith, the community manager would speak.

D. Ms. Jennifer Smith, work address, 603 Pilot House Drive, Suite 300, Newport News, VA 23606, responded to questions from the Board.

Mr. Roadley inquired if the land was eroding or showing anything detrimental that would contribute to degraded water quality.

Mr. Woolson replied that the loss of canopy cover has prompted herbaceous growth across the course of the summer.

E. Ms. Liz Parham, Assistant County Attorney, described options that the Board could take, including holding either, neither, or both parties responsible. The Board could also modify or add additional conditions and surety.

Mr. O'Brien inquired if the civil penalty would be considered a surety.

E. Liz Parham, replied yes, the penalty can be waived and required as surety instead of a fine, noting whatever conditions were felt appropriate were attached.

Discussion ensued among the Board members.

Mr. Gussman made a motion to grant the Appeal of a Notice of Violation for 4720 Yeardeley Loop.

A motion to Grant the Appeal was made by Mr. Gussman, the motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1

AYES: Gussman, Apperson, Roadley, O'Brien, Waltrip

NAYS: None

ABSENT: Dunn

3. Appeal - Natural Open Space, Phase 2B, The Pointe at Jamestown

Mr. Michael Woolson presented the appeal of Mr. William Sleeth, III, on behalf of The Pointe Homes Association, of an administrative decision to remove all improvements in the easement property behind 4720 Yeardeley Loop, replanting the disturbed area, and a one-time payment of a civil charge.

Mr. Apperson made a motion to deny the Appeal of Notice of Violation for Natural Open Space, Phase 2B, The Pointe at Jamestown.

A motion to Deny the Appeal was made by Mr. Apperson, the motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1

AYES: Gussman, Apperson, Roadley, O'Brien, Waltrip

NAYS: None

ABSENT: Dunn

F. MATTERS OF SPECIAL PRIVILEGE

None

G. ADJOURNMENT

A motion to Adjourn was made by Mr. Apperson and approved on a voice vote.

The meeting adjourned at 6:59 p.m.

ITEM SUMMARY

DATE: 9/9/2020

TO: Chesapeake Bay Board

FROM: Michael Woolson, Senior Watershed Planner

SUBJECT: Case No. CBPA-20-0080 : 2844 Castling Crossing

Mr. Alan Moore has filed an exception request for encroachments into the RPA buffer for a sunroom at 2844 Castling Crossing, JCC Parcel 4812300018.

ATTACHMENTS:

	Description	Type
☐	Staff Report	Staff Report
☐	Resolution	Resolution
☐	Site Plan	Backup Material
☐	2015 Aerial Photography	Backup Material
☐	2019 Aerial Photograph	Backup Material
☐	Public Advertisement	Backup Material
☐	APO Letter	Backup Material
☐	APO Mailing List	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Chesapeake Bay Group	Woolson, Michael	Approved	9/3/2020 - 10:52 AM
Chesapeake Bay Group	Small, Toni	Approved	9/3/2020 - 4:17 PM
Publication Management	Daniel, Martha	Approved	9/3/2020 - 4:30 PM
Chesapeake Bay Group	Secretary, ChesBay	Approved	9/3/2020 - 4:35 PM

**CHESAPEAKE BAY BOARD EXCEPTION No. CBPA-20-0080. 2844 Castling Crossing
Staff Report for the September 9, 2020, Chesapeake Bay Board Public Hearing**

This staff report is prepared by James City County Stormwater 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: Mr. Alan and Mrs. Julie Moore

Agent: Mr. Brian Duval, Elite Comfort Mechanical

Location: 2844 Castling Crossing

Parcel Identification No.: 4812300018

Parcel: Lot 18, Part 1, Lake Powell Forest

Lot Size: 0.14 acres

Area of Lot in Resource Protection Area (RPA): 0.14 acres +/- (100%)

Watershed: Mill Creek (HUC JL 33)

Floodplain: None affecting this property

Proposed Activity: Construction of a sunroom

Impervious Cover: 374 square feet (+/-)

RPA Encroachment: 374 square feet (+/-)

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

BRIEF SUMMARY AND DESCRIPTION OF ACTIVITIES

Mr. Brian Duval, Elite Comfort Mechanical, has applied for a Chesapeake Bay Exception on behalf of Mr. Alan and Mrs. Julie Moore for encroachments into the RPA buffer for the construction of a sunroom on property located at 2844 Castling Crossing within the Mill Creek watershed. The property is further identified as James City County Tax Map Parcel No. 4812300018. The parcel was platted in 1998, prior to the 2004 changes in the Ordinance.

The total lot size of this property is 0.14 acres, of which 100% is located within the RPA. The applicants are proposing to convert an existing deck on the property into a sunroom. The existing deck is the result of a deck expansion constructed in 2016. Staff is not in receipt of any Chesapeake Bay Preservation Area exception request for the expansion. Mitigation requirements for the original request would have equated to the plantings of one canopy tree, two understory trees, and three shrubs. Because there were no approvals for the existing deck to be renovated, mitigation requirements for the proposed renovation equate to two canopy trees, four understory trees, and six shrubs.

STAFF EVALUATION

Staff has evaluated the application and exception request for proposed renovation of the existing deck into a sunroom. This application meets the Ordinance conditions in Sections 23-11 and 23-14 and should be

heard by the Board because the addition is proposed within the seaward 50-foot RPA and because the original construction was not approved by the Board.

CONSIDERATION BY THE CHESAPEAKE BAY BOARD

The Board may grant exceptions to Section 23-7 if the application meets the following five conditions:

1. The exception request is the minimum necessary to afford relief; and
2. Granting the exception will not confer upon the Applicants 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; and
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; and
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; and
5. Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

STAFF RECOMMENDATIONS

Staff's view of this application is that it does meet all five of the conditions as presented above. Should the Board also find that the exception request meets all five of the conditions above, staff suggests the following conditions be incorporated into the approval:

1. The applicant must obtain all other necessary federal, state, and local permits as required for the project; and
2. A mitigation plan equating to the plantings of two canopy trees, four understory trees, and six shrubs be submitted to the James City County Stormwater and Resource Protection Division; and
3. A surety of \$1,000 be paid and in place prior to the commencement of work, in a form acceptable to the James City County Attorney's Office; and
4. This exception request approval shall become null and void if construction has not begun by September 9, 2021; and
5. Written requests for an extension to an exception shall be submitted to the Stormwater and Resource Protection Division no later than July 29, 2021, six weeks prior to the expiration date.

MDW/md
CBPA20-80-2844CastlingXing

Attachments:

1. Resolution
2. Site Plan

RESOLUTION

CASE NO. CBPA 20-0080. 2844 CASTLING CROSSING

JAMES CITY COUNTY CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION

WHEREAS, Mr. Alan and Mrs. Julie Moore (the “Applicants”) have applied to the Chesapeake Bay Board of James City County (the “Board”) on August 11, 2020, 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 Map Parcel No. 4812300018 and further identified as 2844 Castling Crossing (the “Property”) as set forth in the application CBPA 20-0080 for the purpose of constructing a sunroom; 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 Applicants 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. A mitigation plan equating to the plantings of two canopy trees, four understory trees, and six shrubs be submitted to the James City County Stormwater and Resource Protection Division; and
 - c. A surety of \$1,000 be paid and in place prior to the commencement of work, in a form acceptable to the James City County Attorney’s Office; and

- d. This exception request approval shall become null and void if construction has not begun by September 9, 2021; and
- e. Written requests for an extension to an exception shall be submitted to the Stormwater and Resource Protection Division no later than July 29, 2021, six weeks prior to the expiration date.

David Gussman
Chair, Chesapeake Bay Board

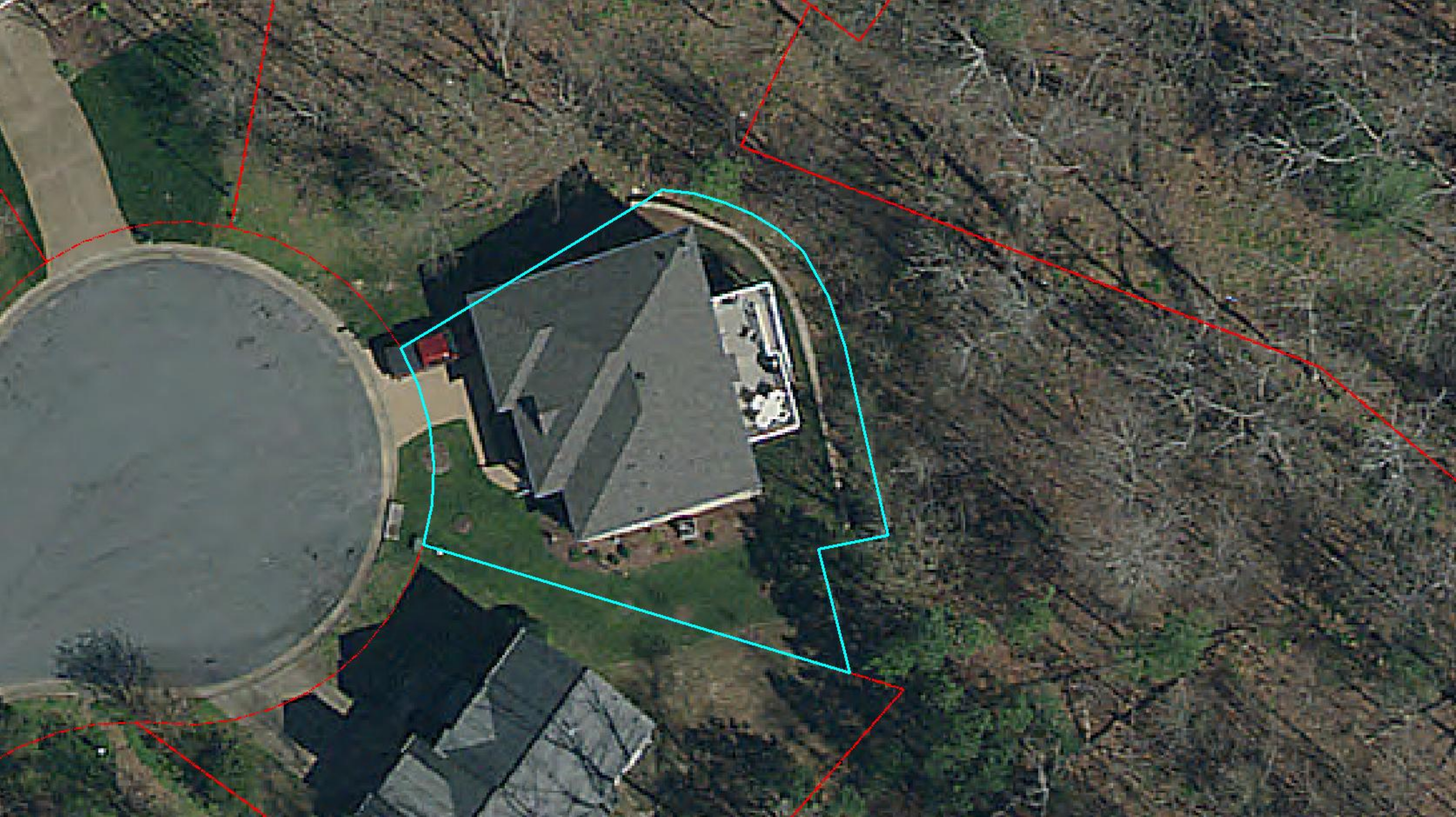
Michael D. Woolson
Secretary to the Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 9th day of September, 2020.

CBPA20-80-2844CastlingXing-res









PUBLIC HEARING NOTICE

THE WETLANDS BOARD AND THE CHESAPEAKE BAY BOARD OF JAMES CITY COUNTY, VIRGINIA WILL HOLD A PUBLIC HEARING **WEDNESDAY SEPTEMBER 9, 2020 AT 5 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:

WJPA 20-0032/VMRC 20-1199: Mr. Daniel Winall of Water's Edge Construction, on behalf of Mark and Maria Velleca, has applied for a wetlands permit for a pier at 6413 Conservancy, JCC Parcel 4930300004.

THE CHESAPEAKE BAY BOARD WILL CONSIDER THE FOLLOWING CASE:

CBPA 20-0080: Mr. Alan Moore has filed an exception request for encroachments into the RPA buffer for a sunroom at 2844 Castling Crossing, JCC Parcel 4812300018.

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

All interested parties are invited to attend the meetings. There is also a call-in option for the public hearings. To participate, call 757-253-6772 to record a comment that will be played during the meeting. Recorded comments must be submitted no later than noon on the day of the meeting. Please give your name and address for the public record and limit comments to five minutes or less. Questions? Call 757-253-6823.

The applications and plans are on file and may be viewed during normal office hours in the Stormwater and Resource Protection Division, 101-E Mounts Bay Road, James City County, Virginia.

NOT FOR PUBLICATION

DISPLAY: WEDNESDAY – September 2 and September 9, 2020.
ACCOUNT NO.: 0011350200 - VIRGINIA GAZETTE

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



General Services

107 Tewning Road
Williamsburg, VA 23188

P: 757-259-4080

General.Services@jamescitycountyva.gov

jamescitycountyva.gov

now
8/19/2020

Capital Projects
107 Tewning Road
Williamsburg, VA 23188
757-259-4080

Fleet
103 Tewning Road
Williamsburg, VA 23188
757-259-4122

Stormwater and
Resource Protection
101-E Mounts Bay Road
Williamsburg, VA 23185
757-253-6670

Facilities & Grounds
113 Tewning Road
Williamsburg, VA 23188
757-259-4080

Solid Waste
1204 Jolly Pond Road
Williamsburg, VA 23188
757-565-0971

August 19, 2020

RE: CBPA-20-0080
2844 Castling Crossing
Deck Conversion to Sunroom

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. Brian DuVal of Elite Comfort Mechanical on behalf of Mr. Alan Moore and Mrs. Julie Moore, for encroachment into the Resource Protection Area (RPA) buffer for the construction of a sunroom on top of an existing deck. The project is located at 2844 Castling Crossing and further identified as JCC Parcel No. 4812300018.

A complete description, plan and other information are on file in the Stormwater 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, September 9, 2020 at 5:00 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,

Michael D. Woolson

Michael D. Woolson
Chesapeake Bay Board Secretary
757-253-6823
michael.woolson@jamescitycountyva.gov

cc: Elite Comfort Mechanical
Mr. Brian DuVal

MDW: jep

Mailing List for: CBPA-20-0080–2844 Castling Crossing – Conversion of Deck to Sunroom

Owner: 4812300018

Moore, Alan D & Julie W
2844 Castling Crossing
Williamsburg, VA 23185-3221

4812300001A- 23.58 A Conservation Area

Lake Powell Forest Owners Association
544 Newtown Road, Suite 128
Virginia Beach, VA 23462-5603

48123000019

Anderson, Donald L & Wanda L
2840 Castling Crossing
Williamsburg, VA 23185-3282

Contractor:

Elite Comfort Mechanical
Attn: Mr. Brian DuVal
2828 Frying Pan Farm Lane
Hayes, VA 23072-3264

4812300016

Holbrook, Justin H & Shante N
2843 Castling Crossing
Williamsburg, VA 23185-3221

4812300015

Hovey, Christopher S & Tracey J
2839 Castling Crossing
Williamsburg, VA 23185-3221