

AGENDA
JAMES CITY COUNTY CHESAPEAKE BAY BOARD
REGULAR MEETING
COUNTY GOVERNMENT CENTER BOARD ROOM
101 MOUNTS BAY ROAD, WILLIAMSBURG, VA 23185
November 8, 2023
5:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MINUTES

1. Minutes from the October 11, 2023, Regular Meeting

D. PUBLIC COMMENT

E. PUBLIC HEARING(S)

1. CBPA-23-0123 : 4388 Landfall Drive

F. BOARD CONSIDERATION(S)

1. Election of Officers for 2024
2. CBPA-21-0178 : 5508 Swan Road
3. CBPA-21-0130 : 115 Heathery

G. MATTERS OF SPECIAL PRIVILEGE

H. ADJOURNMENT

MINUTES
JAMES CITY COUNTY CHESAPEAKE BAY BOARD
REGULAR MEETING
COUNTY GOVERNMENT CENTER BOARD ROOM
101 MOUNTS BAY ROAD, WILLIAMSBURG, VA 23185
October 11, 2023
5:00 PM

A. CALL TO ORDER

The Chesapeake Bay Board meeting for October 11, 2023, 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. PUBLIC COMMENT

The Public Comment Agenda item was moved during the meeting to come after the Roll Call Agenda item was completed.

None.

C. ROLL CALL

Board Members Present:

Larry Waltrip
Michael O'Brien
Scott Maye, Vice Chair
Leslie Bowie

Board Members Absent:

Charles Roadley, Chair

Other Staff Present:

Toni Small, Director, Stormwater and Resource Protection
Michael Woolson, Resource Protection Section Chief, Stormwater and Resource Protection
Robin Benedict, Watershed Planner, Stormwater and Resource Protection

D. MINUTES

1. Minutes from the September 13, 2023, Regular Meeting

A motion to Approve the minutes was made by Mr. O'Brien.

The minutes were Approved on a voice vote.

E. BOARD CONSIDERATION(S)

1. Election of Officer : Board Secretary

A motion to Appoint Ms. Robin Benedict, Watershed Planner, as Secretary of the Chesapeake Bay Board was made by Ms. Bowie and Approved by a unanimous voice vote.

F. PUBLIC HEARING(S)

1. CBPA-23-0109 : 3508 Pine Ridge Road

A motion to Approve w/ Conditions was made by Ms. Bowie, the motion result was Passed.

Ayes: 4 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Bowie, Maye, O'Brien, Waltrip

Absent: Roadley

Ms. Robin Benedict, Watershed Planner, presented the exception request submitted by Ms. Erica Bridgette, GC Commercial, Inc., on behalf of Mr. Benjamin and Ms. Courtney Kreicar, for encroachments into the Resource Protection Area (RPA) for the construction of a porch and deck. The property is further identified as James City County Real Estate Tax Map Parcel No. 1220600110. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

Mr. Maye opened the Public Hearing.

A. Mr. Kevin Warren, GC Commercial, Inc., 3 Pennington Avenue, Newport News, Virginia, clarified details of the plan for the Board, including that there will not be any trees removed.

Mr. Maye closed the Public Hearing.

The Board discussed the pros and cons of the plan.

2. CBPA-23-0106 : 97 Shellbank

A motion to Approve w/ Conditions was made by Mr. Waltrip, the motion result was Passed.

Ayes: 4 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Bowie, Maye, O'Brien, Waltrip

Absent: Roadley

Ms. Robin Benedict, Watershed Planner, presented the exception request submitted by Mr. James and Ms. Shirley Fast, for encroachments into the RPA for the installation of a patio and firepit. The property is further identified as James City County Real Estate Tax Map Parcel No. 4530200018. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

Staff clarified details of the plan for the Board.

Mr. Maye opened the Public Hearing.

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

The Board discussed the pros and cons of the plan.

3. CBPA-23-0113 : 1580 Harbor Road

A motion to Approve w/ Conditions was made by Mr. O'Brien, the motion result was Passed.

Ayes: 4 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Bowie, Maye, O'Brien, Waltrip
Absent: Roadley

Ms. Robin Benedict, Watershed Planner, presented the exception request submitted by Mr. Ronald Curtis, Ronald Curtis Builders, on behalf of Mr. Thomas and Ms. Mary Wilkinson, for encroachments into the RPA for the construction of a deck. The property is further identified as James City County Real Estate Tax Map Parcel No. 4310200019. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

Mr. Maye opened the Public Hearing.

A. Mr. Chase Grogg, LandTech Resources, Inc., 205 Bulifants Boulevard, Suite E, provided additional insights into the plan.

Mr. Maye closed the Public Hearing.

The Board discussed the pros and cons of the plan.

4. CBPA-23-0101 : 104 Colonel's Way

A motion to Approve w/ Conditions was made by Ms. Bowie, the motion result was Passed.

Ayes: 4 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Bowie, Maye, O'Brien, Waltrip

Absent: Roadley

Ms. Robin Benedict, Watershed Planner, presented the exception request submitted by Mr. Ryan Linnekin, Williams Landscape & Design, Inc., on behalf of Mr. Paul Byron and Ms. Aimee Eileen McLendon, for encroachments into the RPA for the installation of a patio. The property is further identified as James City County Real Estate Tax Map Parcel No. 5030300019. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

Staff clarified details of the plan for the Board.

Mr. Maye opened the Public Hearing.

A. Mr. Ryan Linnekin, Williams Landscape & Design, Inc., 1554 Penniman Road, offered further insights into the plan for the Board, including a description of the proposed infiltration trench.

Mr. Maye closed the Public Hearing.

The Board discussed the pros and cons of the plan, including the extent to which the proposed mitigation plantings go beyond the typical requirement.

5. CBPA-23-0083 : 113 Glasgow

A motion to Deny was made by Mr. O'Brien, the motion result was Passed.

Ayes: 3 NAYS: 1 ABSTAIN: 0 ABSENT: 1

Ayes: Bowie, Maye, O'Brien

Nays: Waltrip

Absent: Roadley

Ms. Robin Benedict, Watershed Planner, presented the exception request submitted by Ms.

Angela Whitehead, Soil Horizons, LLC, on behalf of Mr. John and Ms. Sheree Ann Konstantinou, for encroachments into the RPA for the construction of a single-family dwelling. The property is further identified as James City County Real Estate Tax Map Parcel No. 3820200058. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

Staff clarified details of the plan for the Board, including an explanation of the floodplain delineation at the site and how matters related to the floodplain are outside the Board's purview.

Mr. Maye opened the Public Hearing.

A. Ms. Angela Whitehead, Soil Horizons, LLC, 2 Whittakers Mill Road, offered further details about the plan, including the proposed size of the house in comparison to both the size requirements set by Ford's Colony and the sizes of nearby houses. Ms. Whitehead also explained how adjacent properties will not be affected by surface runoff from the site during a 100-year storm event, and how the site and soil conditions are not suitable for constructing an on-site stormwater Best Management Practices (BMP) facility.

Mr. Maye closed the Public Hearing.

Mr. O'Brien expressed concern for the plan, indicating that it is not the minimum necessary to afford relief and that the proposed mitigation does not sufficiently offset an apparent degradation to water quality.

Mr. Maye concurred with Mr. O'Brien's opinions.

Mr. Waltrip indicated that, in the absence of any concern for flooding raised by adjacent property owners, there is not sufficient evidence that flooding at the site would become an issue. Mr. Waltrip also commended the apparent efforts made to work within the given site constraints and suggested that further mitigation could be provided.

Ms. Bowie indicated concern for the impact of the plan on the existing wetlands.

G. MATTERS OF SPECIAL PRIVILEGE

None.

H. ADJOURNMENT

A motion to Adjourn was made by Mr. O'Brien and approved on a voice vote.

The meeting adjourned at 6:11 p.m.

**CHESAPEAKE BAY BOARD EXCEPTION No. CBPA-23-0123. 4388 Landfall Drive
Staff Report for the November 8, 2023, Chesapeake Bay Board Public Hearing**

This staff report is prepared by the 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

Applicant: Mr. William Trolan

Agent: Mr. Ryan Linnekin, Williams Landscape & Design

Location: 4388 Landfall Drive

Parcel Identification No.: 4732400082

Parcel: Lot 82, Phase 4, Landfall at Jamestown

Lot Size: 0.47 acres

Area of Lot in Resource Protection Area (RPA): 0.24 acres (51%)

Watershed: Powhatan Creek (JL31)

Floodplain: Zone AE - Base flood elevation 8 feet mean sea level

Proposed Activity: Construction of two retaining walls, upland riprap area, and river rock area

Impervious Cover: 718 square feet

RPA Encroachment: 718 square feet, seaward 50-foot RPA

Staff Contact: Robin Benedict, Watershed Planner Phone: 253-6781

BRIEF SUMMARY AND DESCRIPTION OF ACTIVITIES

Mr. Ryan Linnekin, Williams Landscape & Design, has applied for a Chesapeake Bay Exception on behalf of Mr. William Trolan for encroachments into the RPA buffer for the construction of two retaining walls, upland riprap area, and river rock area located at 4388 Landfall Drive within the Landfall at Jamestown subdivision and the Powhatan Creek watershed. The property is further identified as James City County Real Estate Tax Map Parcel No. 4732400082. The parcel was platted in 2001, prior to the changes to the Chesapeake Bay Preservation Ordinance in 2004; however, the Ordinance change did not affect the RPA on this lot.

The total lot size of this property is 0.47 acres, of which 51% is located within the RPA. The applicant is proposing to construct two retaining walls, an upland riprap area, and a river rock area surrounding an existing yard drain. Additionally, the applicant is proposing to repair sinkholes behind an existing bulkhead by installing crushed stone in those voided areas. The area between the existing bulkhead and lower retaining wall is proposed to be top dressed with stone. Total impacts to the RPA associated with this proposal equate to 718 square feet of impacts to the seaward 50-foot RPA. This project will also encroach on a conservation easement located behind the house. Required mitigation for this amount of impervious impacts equals two planting units (two canopy trees, four understory trees, and six shrubs). The applicant has provided a mitigation plan that satisfies the mitigation requirements.

In July 2016, the applicant proposed the installation of a shed, patio, walkway, and herb garden and were granted exception CBE-16-0104. At this time, the applicant proposed a mitigation plan that equated to six understory trees and 20 shrubs. The previously approved mitigation should remain on the property or should be replanted to satisfy the conditions of the previous exception.

STAFF EVALUATION

Staff has evaluated the application and exception request for the construction of two retaining walls, upland riprap area, and river rock area. This application meets the Ordinance conditions in Sections 23-11 and 23-14 and should be heard by the Board because the construction of two retaining walls, an upland riprap area, and river rock area are considered accessory in nature.

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 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; 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 nonconforming 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 has reviewed the application and exception request and has determined the impacts associated with the proposal to be moderate for the proposed development. Staff recommends approval for this exception request and if the Board wishes to approve the request, staff recommends 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. An affidavit must be recorded in the Williamsburg/James City County Courthouse prior to project start; and
3. The Applicant must submit a surety of \$2,000 in a form acceptable to the James City County Attorney's Office to guarantee the mitigation plantings; and
4. The Applicant must ensure that the previous mitigation from CBE-16-0104 is present on the property or replanted to satisfy the conditions of the exception request; and
5. This exception request approval will become null and void if construction has not begun by November 8, 2024; and

6. Written requests for an extension to an exception must be submitted to the Stormwater and Resource Protection Division no later than September 27, 2024, six weeks prior to the expiration date.

RB/md
CBPA23-123_4388LandfallDr

- Attachments:
1. Resolution
 2. Site Plan

RESOLUTION

CASE NO. CBPA-23-0123. 4388 LANDFALL DRIVE

JAMES CITY COUNTY CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION

WHEREAS, Mr. Ryan Linnekin, Williams Landscape & Design, on behalf of Mr. William Trolan (the “Applicant”), has applied to the Chesapeake Bay Board of James City County (the “Board”) on November 8, 2023, to request an exception to use the Resource Protection Area (the “RPA”) on a parcel of property located at 4388 Landfall Drive (the “Property”) and further identified as James City County Real Estate Tax Map Parcel No. 4732400082, as set forth in the application CBPA-23-0123 for the purpose of constructing two retaining walls, an upland riprap area, and river rock area; and

WHEREAS, the Board has heard the arguments presented and 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, finds that the application meets all the requirements for an exception to the Chesapeake Bay Preservation Ordinance and therefore **APPROVES** the exception request for Chesapeake Bay Board Case No. CBPA-23-0123, subject to the following conditions:

1. The Applicant must obtain all other necessary federal, state, and local permits as required for the project; and
2. An affidavit must be recorded in the Williamsburg/James City County Courthouse prior to project start; and
3. The Applicant must submit a surety of \$2,000 in a form acceptable to the James City County Attorney’s Office to guarantee the mitigation plantings; and
4. The Applicant must ensure that the previous mitigation from CBE-16-0104 is present on the property or replanted to satisfy the conditions of the exception request; and
5. This exception request approval will become null and void if construction has not begun by November 8, 2024; and
6. Written requests for an extension to an exception must be submitted to the Stormwater and Resource Protection Division no later than September 27, 2024, six weeks prior to the expiration date.

Charles Roadley
Chair, Chesapeake Bay Board

Robin Benedict
Secretary to the Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 8th day of November, 2023.

RESOLUTION

CASE NO. CBPA-23-0123. 4388 LANDFALL DRIVE

JAMES CITY COUNTY CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION

WHEREAS, Mr. Ryan Linnekin, Williams Landscape & Design, on behalf of Mr. William Trolan (the “Applicant”), has applied to the Chesapeake Bay Board of James City County (the “Board”) on November 8, 2023, to request an exception to use the Resource Protection Area (the “RPA”) on a parcel of property located at 4388 Landfall Drive (the “Property”) and further identified as James City County Real Estate Tax Map Parcel No. 4732400082, as set forth in the application CBPA-23-0123 for the purpose of constructing two retaining walls, an upland riprap area, and river rock area; and

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

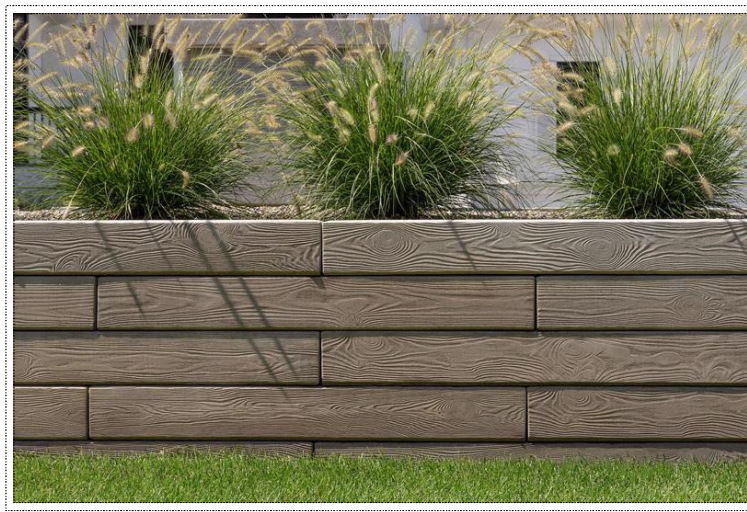
NOW, THEREFORE, BE IT RESOLVED that the Chesapeake Bay Board of James City County, Virginia, following a public hearing, finds that the application does not meet all the requirements for an exception to the Chesapeake Bay Preservation Ordinance and therefore **DENIES** the exception request for Chesapeake Bay Board Case No. CBPA-23-0123.

Charles Roadley
Chair, Chesapeake Bay Board

Robin Benedict
Secretary to the Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 8th day of November, 2023.

CBPA23-123_4388LandfallDrDny-res



Techo Bloc Borealis Wall



Brick Shimmer Course Gravel Path



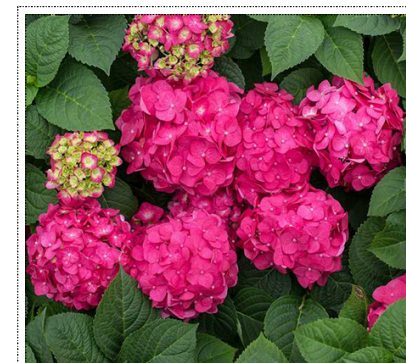
FXLuminaire CB Pathlight



Boxwood Baby Gem



Bluestem Big Red October Grass



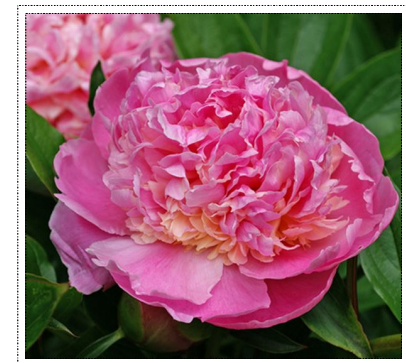
Hydrangea Endless Summer Crush



Broom Sedge



Switch Grass Purple Tears



Peony Sorbet



Fountain Grass Red Head

NEW CHIPPED STONE PATH & BRICK SHINNER COURSE

CHIPPED GRAVEL AREA - 180 SQ'
CLAY BRICK SHINNER BORDER - 85 L'

RETAINING WALL ALONG TOP OF SLOPE

TECHO BLOC - BOREALIS WALL

Qty	Botanical Name	Common Name	Size/Condition
Trees			
3	CERCIS CANADENSIS 'FOREST PANSY'	REDBUD FOREST PANSY	#25
Shrubs			
20	BUXUS MICROPHYLLA VAR JAPONICA 'GREGEM'	BOXWOOD BABY GEM	#3
10	HYDRANGEA MACROPHYLLA 'BALIMACFIVE'	HDRANGEA ENDLESS SUMMER CRUSH	#3
Ornamental Grasses			
12	ANDROPOGON GERARDII 'RED OCTOBER'	BLUESTEM BIG RED OCTOBER	#3
35	ANDROPOGON VIRGINICUS	BROOM SEDGE	#3
9	PENNISETUM ALOPECUROIDES 'RED HEAD'	GRASS FOUNTAIN RED HEAD	#3
26	PANICUM VIRGATUM 'PURPLE TEARS'	SWITCH GRASS PURPLE TEARS	#3
Perennials and Annuals			
3	PAEONIA x SORBET	PEONY SORBET RASPBERRY	#3

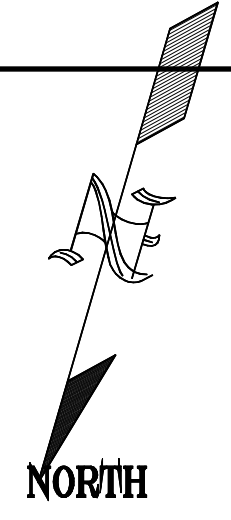
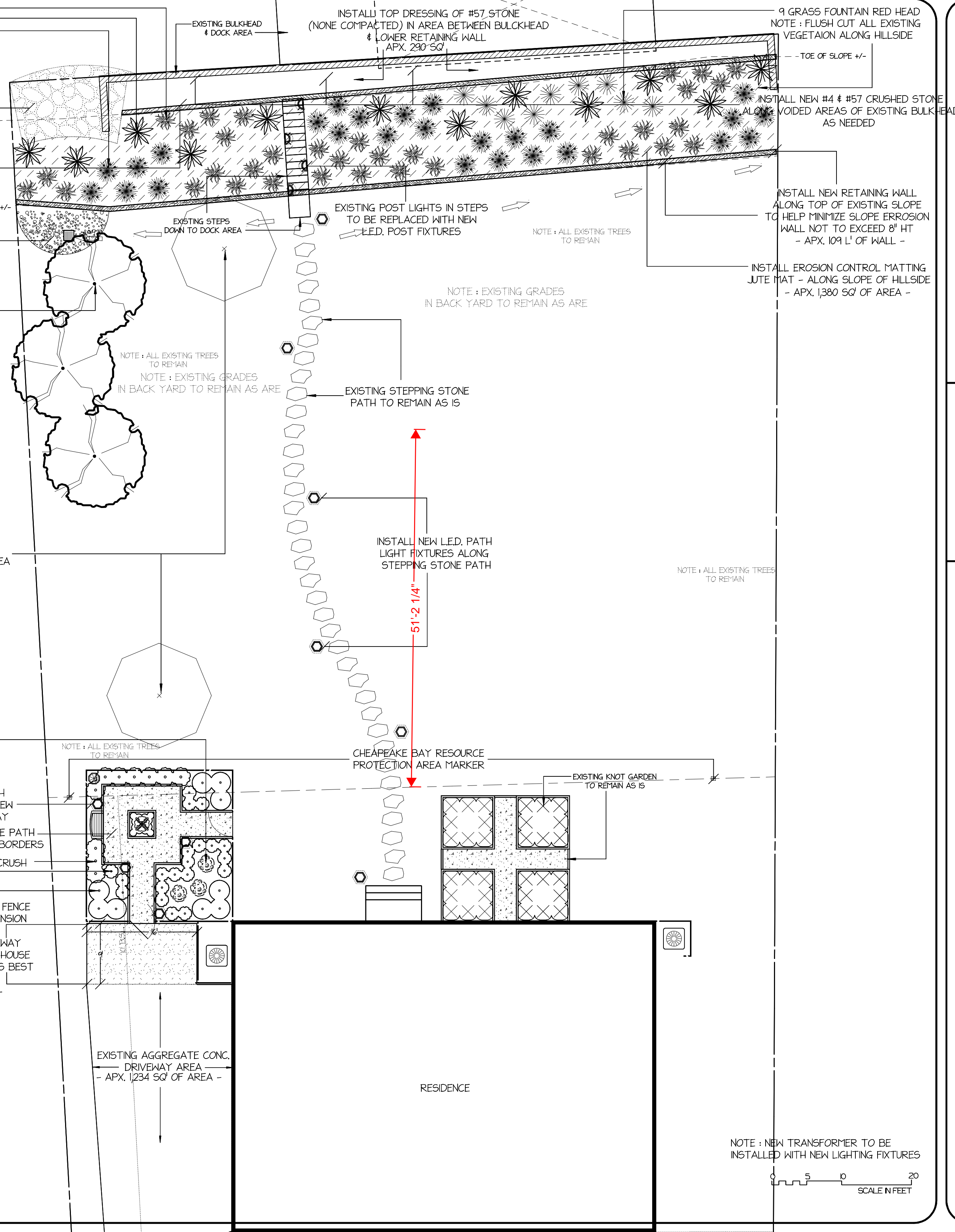
- 35 BROOM SEDGE
- 12 BLUESTEM BIG RED OCTOBER
- 26 SWITCH GRASS PURPLE TEARS
- ADD ADDITIONAL RIP-RAP STONE TO AREA FOR EROSIONS CONTROL ALONG END OF BULK HEAD & EXISTING SLOPE @ CORNER OF PROPERTY - APX. 150 SQ' OF AREA -
- INSTALL NEW RETAINING WALL ALONG BOTTOM OF EXISTING SLOPE TO HELP MINIMIZE SLOPE ERRORSION WALL NOT TO EXCEED 24" HT - APX. 94 L' OF WALL -

- INSTALL RIVER ROCK AROUND EXISTING YARD DRAIN CATCH BASIN - APX. 75 SQ' OF 5-8 -
- # 3-5 RIVER ROCK -
- 3 REDBUD FOREST PANSY

- 3 PEONY SORBET RASPBERRY

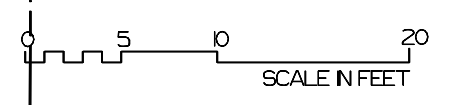
NOTE : REMOVE 2 EXISTING DEAD TREES IN BACK YARD AREA

- INSTALL NEW L.E.D. PATH LIGHT FIXTURES ALONG NEW CHIPPED STONE WALKWAY
- INSTALL NEW CHIPPED STONE PATH WITH BRICK SHINNER COURSE BORDERS
- 10 HDRANGEA ENDLESS SUMMER CRUSH
- 20 BOXWOOD BABY GEM
- 9 TRANSPLANTED BOXWOOD
- RESET EXISTING WOODEN FENCE TO NEW DRIVEWAY EXPANSION
- EXPAND AGGREGATE DRIVEWAY AREA BACK TO CORNER OF HOUSE TO MATCH EXISTING CONC. AS BEST AS POSSIBLE - APX. 144 SQ' OF AREA -



TROLAN RESIDENCE

4388 LANDFALL DRIVE
WILLIAMSBURG, VA.
DATE 11/14/22
DRAWING # LANDSCAPE PLAN : SLOPE RESTORATION
PRJ # -01
SCALE 1" = 10'
RVSN : 02/26/23





General Services
107 Tewning Road
Williamsburg, VA 23188
P: 757-259-4080
General.Services@jamescitycountyva.gov
jamescitycountyva.gov

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
757-259-6670

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

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

«Last_Name»
«Address_Line_1»
«City», «State» «Zip_Code»

RE: CBPA-23-0123
4388 Landfall Dr
Construction of two retaining
walls, installation of rip-rap

October 18, 2023

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. Ryan Linnekin, Williams Landscape & Design, on behalf of Mr. William Trolan, for encroachments into the Resource Protection Area buffer for the construction of two retaining walls and installation of rip-rap. The project is located at 4388 Landfall Dr, JCC Tax Map Parcel No. 4732400082.

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, November 8, 2023, 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,

Robin Benedict

Robin Benedict
Chesapeake Bay Board Secretary
757-253-6781
Robin.Benedict@jamescitycountyva.gov

Case Number: CBPA-23-0123

PIN	Last Name	Address Line 1	City	State	Zip Code
4730100054	DAVIS, JEFFERSON H JR & MARY ELLEN	343 NECK O LAND RD	WILLIAMSBURG	VA	23185-3133
4732400083	LIEBLER, JONATHAN W TRUSTEE &	4392 LANDFALL DR	WILLIAMSBURG	VA	23185-2305
	Ryan Linnekin Williams Landscape & Design	1554 Penniman Rd	Williamsburg	VA	23185-
4732400081	SWYNFORD, AGNEW III & SUSAN J	4384 LANDFALL DR	WILLIAMSBURG	VA	23185-2305
4732400082	TROLAN, WILLIAM LEE TRUSTEE	4388 LANDFALL DR	WILLIAMSBURG	VA	23185-2305



PUBLIC HEARING NOTICE

THE CHESAPEAKE BAY BOARD OF JAMES CITY COUNTY, VIRGINIA, WILL HOLD A PUBLIC HEARING ON **WEDNESDAY, NOVEMBER 8, 2023 AT 5:00 P.M.** IN THE COUNTY GOVERNMENT CONFERENCE ROOM OF BUILDING F, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

THE CHESAPEAKEBAY BOARD WILL CONSIDER THE FOLLOWING CASE:

CBPA-23-0123: Mr. Ryan Linnekin, Williams Landscape & Design, on behalf of Mr. William Trolan, has applied for a Chesapeake Bay Exception for the construction of two retaining walls and installation of rip-rap on property located at 4388 Landfall Dr, JCC Tax Map Parcel No. 4732400082.

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

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 – October 25, 2023 and November 1, 2023
ACCOUNT NO. CU00015112
VIRGINIA GAZETTE
1/8 PAGE, VERTICAL, B/W

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD
BYLAWS**

ARTICLE I. LEGAL AUTHORITY

The objectives and procedures of the James City County Chesapeake Bay Board are those set forth in Title 4, Chapter 50 of the Virginia Administrative Regulations and Chapter 23 of the Code of James City County, Virginia

ARTICLE II. MEMBERSHIP

Membership of the Board shall consist of members and alternate member(s) as appointed pursuant to Section 28.2-1303 of the Code of Virginia, 1950 as amended. In the event of the absence of any member, the alternate member(s) selected to serve at the concurrent Wetlands Board meeting shall also serve as the alternate member(s) for the Board.

ARTICLE III. OFFICERS AND THEIR DUTIES

Section 1. The officers of the Chesapeake Bay Board shall consist of a Chairman, Vice-Chairman and a Secretary. Other than Secretary, all officers shall be appointed members.

Section 2. The Chairman shall preside at all meetings and hearings, serve as spokesman for the Board, and carry out any other duties as necessary. For the convenience of the Board and citizens, the Chairman may make procedural decisions as needed when circumstances are clear or of a minor nature. The Chairman or his designee shall notify the Board of Supervisors at least 30 days prior to the expiration of any member's term and notify the Board of Supervisors if any vacancy occurs. In the event a member is absent from a board meeting, the Chairman shall select an alternate member to serve in place of the absent member.

Section 3. The Vice-Chairman shall perform the duties of the Chairman in his/her absence.

Section 4. The Secretary shall be provided by the County government and shall be responsible for keeping the minutes and other records of the Board, arranging site inspections, maintaining a file of all site inspections, preparing the annual report, preparing agendas, providing notice of meetings to members, arranging legal notice of hearings, attending to correspondence, providing staff assistance, and such other duties as needed.

Section 5. Special committees may be appointed by the Chairman for the purposes and terms which the Board approves.

ARTICLE IV.

ELECTION OF OFFICERS

Section 1. Nominations and elections shall be at the November meeting of each year. If the November meeting is not held, nominations and elections shall be at the December meeting. The positions shall be effective January 1st of the following year.

Section 2. A candidate shall be elected by a quorum and shall serve for one (1) full year or until his/her successor is elected.

Section 3. Vacancies in offices shall be filled by normal election procedure at the next meeting.

Section 4. Officers may succeed themselves.

ARTICLE V.

MEETINGS AND HEARINGS

Section 1. Regular meetings of the Board shall be held on the second Wednesday of each month either immediately following the adjournment of the Wetlands Board meeting or if there is no Wetlands Board meeting at 5:00 P.M., in the Board room of the County Government Center Complex. When the second Wednesday falls on a legal holiday, the Board shall meet as determined by the Chairman in consultation with the Secretary. Upon the Chairman's decision or vote of a majority, a regular or special meeting may be canceled or rescheduled. Special meetings may be called by the Chairman, in consultation with the Secretary.

Section 2. A majority of the members of the Board shall constitute a quorum. A quorum is necessary to conduct a meeting.

Section 3. All meetings at which official action is taken shall be open to the general public and to any governmental agency.

Section 4. The filing deadline for public hearing items to appear on the agenda shall be forty-two (42) days prior to the meeting.

Section 5. Upon receipt of a written request for appeal, the Secretary shall place the appeal on the agenda for the next regularly scheduled meeting occurring at least 14 days from the date of receipt of the written appeal. An appeal may be scheduled for a later meeting at the request of the appellant.

Section 6. The order of business at regular meetings shall be:

- A. Call to Order and Roll Call
- B. Statement of Board Purposes: "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.”

- C. Approval of Minutes
- D. Unfinished Business
- E. Public Hearings
- F. Board Considerations
- G. Matters of Special Privilege
- H. Adjournment

Section 7. In addition to those required by law, the Board may hold other public hearings.

Section 8. Public hearings shall be conducted in the following order: opening, staff report (with comments from state and/or federal agencies as appropriate), applicant, and other interested parties.

Section 9. Applicants and other interested parties shall give their full name and address, after being recognized by the Chairman. A record shall be kept of those speaking before the Board by the Secretary. Physical evidence submitted to the Board becomes the property of the Board and is retained as part of the case record.

Section 10. For each public hearing item, presentations by staff, applicants, individuals or groups shall be limited as follows:

- a. Presentations by staff and applicants are limited to 15 minutes each;
- b. Comments by individuals are limited to 5 minutes each;
- c. Comments by citizen groups are limited to 10 minutes each; and
- d. At a meeting, the time limits set forth in a, b and/or c above may be extended at the discretion of the Chair.

Section 11. Appeals shall also be heard by the Board at regular meetings under Board Considerations. Appeals shall be conducted in the following order: opening, staff report, and appellant statement.

Section 12. For each appeal, presentations by staff and appellant shall be limited to 15 minutes each but such limits may be extended at the discretion of the Chair.

Section 13. Extension requests submitted in writing, in accordance with the Board’s resolution granting the waiver or exception, shall be heard by the Board at regular meetings under Board Considerations.

ARTICLE VI. MOTIONS AND VOTING

Section 1. Business will be conducted according to Robert’s Rules of Order Newly Revised, 10th Edition, as adopted for small bodies; provided, however, the Board may amend by Resolution the Rules as it deems appropriate. The following rules shall apply:

- a. Members are not required to obtain floor before making motions or speaking, which they can do while seated.
- b. Motions need not be seconded.
- c. There is no limit to the number of times a member can speak to a question, and motions to close or limit debate generally should not be entertained.
- d. Informal discussion of a subject is permitted while no motion is pending.
- e. The Chairman can speak in discussion without leaving the chair; and can make motions and votes on all questions.
- f. A motion to reconsider may be made at (i) the next succeeding regular meeting; or (ii) at the next regular meeting following the discovery of additional information or a changed situation that has developed since the taking of the vote.

Section 2. A member not voting on a case must cite “conflict of interest” or any legal prohibition which precludes voting.

Section 3. If the application receives less than four affirmative votes from a seven-member board or less than three affirmative votes from a five-member board, the permit shall be denied.

Section 4. Permits shall have a time limit and conditions, or “no conditions” specified.

Section 5. The Secretary shall record motions and voting in the minutes.

ARTICLE VII. VIOLATIONS

Section 1. In cases of violations, restoration will be the primary goal of legal action.

Section 2. In cases of after-the-fact applications, the option of restoration must be considered before evaluating the project on its merits.

Section 3. Violations must be corrected prior to issuing a permit on the same piece of property for another project.

ARTICLE VIII.

AMENDMENTS

Section 1. These bylaws may be amended or suspended by a majority vote of the appointed members of the Board.

ADOPTED: September 12, 2007

AMENDED: October 8, 2008

AMENDED: October 12, 2011

AMENDED: October 9, 2013

AMENDED: March 12, 2014

AMENDED: May 10, 2017

MEMORANDUM

DATE: November 8, 2023

TO: The Chesapeake Bay Board

FROM: Robin Benedict, Watershed Planner

SUBJECT: Chesapeake Bay Board Exception No. CBPA-21-0178. 5508 Swan Road

Mr. Jason Hoyle is requesting a two-year extension to CBPA-21-0178, originally granted on January 12, 2022. Staff concurs with this request, with the stipulation that all permit conditions, except for the expiration date, be reauthorized and that the new date of expiration be January 12, 2026. This is the second extension request for this project.

RB/ap
CBPA21-178_5508SwanRdExt-mem

Attachment

RESOLUTION

CASE NO. CBPA-21-0178. 5508 SWAN ROAD

JAMES CITY COUNTY CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION

WHEREAS, Mr. Jason Hoyle (the “Applicant”), has requested an extension for the exception granted by the Chesapeake Bay Board of James City County (the “Board”) on January 12, 2022. The exception request is for the use of the Resource Protection Area (the “RPA”) on a parcel of property located at 5508 Swan Road (the “Property”) and further identified as James City County Real Estate Tax Map Parcel No. 3140600011, as set forth in the application CBPA-21-0178 for the purpose of constructing 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, finds that the application meets all the requirements for an exception to the Chesapeake Bay Preservation Ordinance and therefore **APPROVES** the exception request for Chesapeake Bay Board Case No. CBPA-21-0178, subject to the following conditions:

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 as required for the project, including the submission of an Erosion and Sediment Control Plan, a Land Disturbing Permit, and a Surety; and

- b. The submittal of a mitigation plan equating to one canopy tree, two understory trees, and three shrubs be submitted to the Stormwater and Resource Protection Division; and
- c. A surety of \$500 be submitted in a form acceptable to the James City County Attorney's Office to guarantee the mitigation plantings; and
- d. This exception request approval shall become null and void if construction has not begun by January 11, 2026; and
- e. Written requests for an extension to an exception shall be submitted to the Stormwater and Resource Protection Division no later than November 30, 2025, six weeks prior to the expiration date.

Charles Roadley
Chair, Chesapeake Bay Board

Robin Benedict
Secretary to the Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 8th day of November, 2023.

CBPA21-178_5508SwanExtApp-res

RESOLUTION

CASE NO. CBPA-21-0178. 5508 SWAN ROAD

JAMES CITY COUNTY CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION

WHEREAS, Mr. Jason Hoyle (the “Applicant”), has requested an extension for the exception granted by the Chesapeake Bay Board of James City County (the “Board”) on January 12, 2022. The exception request is for the use of the Resource Protection Area (the “RPA”) on a parcel of property located at 5508 Swan Road (the “Property”) and further identified as James City County Real Estate Tax Map Parcel No. 3140600011, as set forth in the application CBPA-21-0178 for the purpose of constructing 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, finds that the application does not meet all the requirements for an exception to the Chesapeake Bay Preservation Ordinance and therefore **DENIES** the exception request for Chesapeake Bay Board Case No. CBPA-21-0178.

Charles Roadley
Chair, Chesapeake Bay Board

Robin Benedict
Secretary to the Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 8th day of November, 2023.

CBPA21-178_5508SwanExtDny-res

MEMORANDUM

DATE: November 8, 2023

TO: The Chesapeake Bay Board

FROM: Robin Benedict, Watershed Planner

SUBJECT: Chesapeake Bay Board Exception No. CBPA-21-0130. 115 Heathery

Mr. Martino Nguyen is requesting a two-year extension to CBPA-21-0130, originally granted on January 12, 2022. Staff concurs with this request, with the stipulation that all permit conditions, except for the expiration date, be reauthorized and that the new date of expiration be January 12, 2026. This is the second extension request for this project.

RB/md
CBPA21-130_115HthryExt-mem

Attachment

RESOLUTION

CASE NO. CBPA-21-0130. 115 HEATHERY

JAMES CITY COUNTY CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION

WHEREAS, Elite E and E Investments, LLC (the “Applicant”), has requested an extension for the exception granted by the Chesapeake Bay Board of James City County (the “Board”) on January 12, 2022. The exception request is for the use of the Resource Protection Area (the “RPA”) on a parcel of property located at 115 Heathery (the “Property”) and further identified as James City County Real Estate Tax Map Parcel No. 3810400146, as set forth in the application CBPA-21-0130 for the purpose of constructing a single-family dwelling; 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, finds that the application meets all the requirements for an exception to the Chesapeake Bay Preservation Ordinance and therefore **APPROVES** the exception request for Chesapeake Bay Board Case No. CBPA-21-0130, subject to the following conditions:

1. The exception request is the minimum necessary to afford relief; and
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; 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 hereby imposed, as set forth below, which will prevent the exception request from causing a degradation of water quality; and
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 as required for the project, including a building permit if necessary; and

- b. The submittal of a mitigation plan equating to five planting units (five canopy trees, 10 understory trees, and 15 shrubs) be submitted to the Stormwater and Resource Protection Division; and
- c. A surety of \$4,500 be submitted in a form acceptable to the James City County Attorney's Office to guarantee the mitigation plantings; and
- d. A payment into the Chesapeake Bay Mitigation Fund in the amount of \$2,250; and
- e. This exception request approval shall become null and void if construction has not begun by January 12, 2026; and
- f. Written requests for an extension to an exception shall be submitted to the Stormwater and Resource Protection Division no later than November 30, 2025, six weeks prior to the expiration date.

Charles Roadley
Chair, Chesapeake Bay Board

Robin Benedict
Secretary to the Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 8th day of November, 2023.

CBPA21-130_115HthryExtApp-res

RESOLUTION

CASE NO. CBPA-21-0130. 115 HEATHERY

JAMES CITY COUNTY CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION

WHEREAS, Elite E and E Investments, LLC (the “Applicant”), has requested an extension for the exception granted by the Chesapeake Bay Board of James City County (the “Board”) on January 12, 2022. The exception request is for the use of the Resource Protection Area (the “RPA”) on a parcel of property located at 115 Heathery (the “Property”) and further identified as James City County Real Estate Tax Map Parcel No. 3810400146, as set forth in the application CBPA-21-0130 for the purpose of constructing a single-family dwelling; 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, finds that the application does not meet all the requirements for an exception to the Chesapeake Bay Preservation Ordinance and therefore **DENIES** the exception request for Chesapeake Bay Board Case No. CBPA-21-0130.

Charles Roadley
Chair, Chesapeake Bay Board

Robin Benedict
Secretary to the Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 8th day of November, 2023.

CBPA21-130_115HthryExtDny-res