

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD
MINUTES
NOVEMBER 9, 2005 - 7:00 PM**

A. ROLL CALL

Henry Lindsey
David Gussman
John Hughes
Larry Waltrip
William Apperson

ABSENT

None

OTHERS PRESENT

County Staff

B. MINUTES – The September 14, 2005 minutes were approved as presented.

C. PUBLIC HEARINGS

1. Dale H. and Paige P. Sprenkel – 141 Riverview Plantation

Mr. Darryl Cook presented the case as follows: **Project Description:** Mr. Paul White of Paul White Designer and Associates had applied on behalf of Dale and Paige Sprenkel for an exception to the Chesapeake Bay Preservation Ordinance for Resource Protection Area (RPA) impacts associated with the construction of a single family principal structure and an attached garage on the above referenced lot in Riverview Plantation. The principal structure, garage and driveway are proposed to create approximately 1,716 square feet of impervious cover in the RPA.

The lot is 76,743 square feet or 1.76 acres in size. It is located adjacent to the York River on the northeast side and a connected wetlands system is present on the northwest side of the lot. There is currently an existing residence on the lot that is proposed to be demolished and replaced with the new house. The existing house and driveway encroach into the RPA by approximately 573 square feet resulting in a net increase in impervious cover of 1,143 square feet. No mature vegetation will be removed from the lot to allow for construction of the proposed residence.

Background: The lot was recorded in the 1970s prior to the adoption of the Chesapeake Bay Preservation Ordinance. Therefore, there was no RPA present on the lot at recordation or when the existing house was built in 1978. However, on August 6, 1990, the Ordinance went into effect establishing 100-foot RPA buffers around all water bodies with perennial flow. Under the provisions of the Ordinance in effect at that time, perennial water bodies were identified as a solid blue-line stream on the USGS 7-1/2 minute topographic quadrangle maps (scale 1:24000). The York River and the adjacent, connected wetlands on this property were identified as perennial water bodies on the quad map and an RPA buffer was placed on the lot. This 100-foot RPA buffer encompasses about 90% of the lot.

As the lot is currently developed, it is subject to the redevelopment provisions of the Ordinance. According to those provisions, an exception can be granted to encroach into the buffer administratively only if there is no increase in impervious cover and no further encroachment into the buffer. This proposal does result in an increase in both the impervious cover and the encroachment into the RPA. Therefore, the exception must be considered by the Chesapeake Bay Board as part of a public hearing process. When a structure is totally removed as in this case, the application is to be considered as if it were a new application.

Water Quality Impact Assessment: Under Section 23-14 of the amended Ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs. Paul White on behalf of the Sprenkels has submitted a WQIA for this project. The issue before the Chesapeake Bay Board is the RPA impacts associated with clearing, grading and creation of a net increase in 1,143 square feet of new impervious cover in the RPA associated with the construction of the principal structure.

The WQIA proposes to mitigate for the impacts to the RPA by planting 3 native canopy trees, 6 native understory trees, and 9 native shrubs on the lot in 1,100 square feet of landscape beds on the lot in the RPA to help filter nonpoint source pollution. These plants and landscape areas would be in addition to the existing

landscaped areas already in place on the lot and are to be located within the RPA. In addition, gravel will be placed under the new decks to contain water from the decks.

The Sprenkels have submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The Board is to determine whether or not the proposed development is consistent with the spirit and intent of the Ordinance and make a finding based upon the following criteria, as outlined in Section 23-14(c) of the Chesapeake Bay Ordinance:

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 this chapter to other property owners similarly situated in the vicinity;
3. The exception request will be in harmony with the purpose and intent of this chapter, 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; and
5. Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

Recommendations: Staff recommends approval of the exception as the lot was created prior to the establishment of the RPA requirement, the house is located at the front and side building setbacks minimizing the encroachment for this proposal, the project does not confer any special privileges to the applicant, and the exception is not based on self-imposed conditions. Staff recommends approval with the following conditions:

1. Full implementation of the mitigation landscape requirements submitted for the project with the WQIA.
2. The size of the trees planted shall be a minimum of 1-1/2 inch caliper (six to eight feet tall) and the shrubs shall be 3 gallon size.
3. Implementation of the mitigation plan would be guaranteed through the provisions of the Ordinance contained in Sections 23-10(3)d. and 23-17(c) where installation of the plant material is required prior to the certificate of occupancy or through a surety instrument satisfactory to the county attorney.
4. This exception request approval shall become null and void if construction has not begun by November 9, 2006.

All recommendations adopted by the Board must be incorporated into the site plans for the project, which then must be approved by the Environmental Division before construction can begin.

Mr. Lindsey opened the public hearing.

A. Rosina C. Kish, 140 Riverview Plantation Drive, stated she had concerns relating to drainage. She wanted to be assured this project would not add to the drainage problem. She also stated she felt the rules were being bent to help the Sprenkel's build their new house, and she did not want the rules bent regarding the vacant parcel next to her. She felt these were important concerns and referenced the adjacent property owner letter she received from the county notifying her of the project.

Mr. Cook responded that once the building application is received, a staff member would visit the site and evaluate drainage issues. Mr. Cook assured Ms. Kish, that runoff will not be permitted off site. He also stated that it was a law that all adjacent property owners be notified of a project requiring a public hearing.

Mr. Hughes explained the role of the Board was to discuss and evaluate Resource Protection Area (RPA) issues relating to the Chesapeake Bay Act and not other issues such as drainage or building setbacks. However, he stated the Board will instruct staff to evaluate drainage issues regarding this project.

B. Pearce S. Grove, 143 Riverview Plantation Drive, stated he was concerned that the placement of the house on the right side of the property would impact wetlands and possibly create a drainage problem. He requested the Board grant more time before they made a decision so that the neighbors could study the impacts of the project and gain a better understanding of the proposal.

As no one else wished to speak, Mr. Lindsey closed the public hearing.

Mr. Hughes noted that the proposal did show impacts to the RPA buffer, however, he felt the proposed mitigation would improve the existing condition of the lot.

Mr. Waltrip stated he felt the new location of the house would be offset by replacing the gravel drive location. He also stated the elevation issue could be resolved by the developer on the project.

Mr. Apperson stated he had confidence in staff to ensure there would not be a drainage problem.

Mr. Gussman made a motion to approve the exception with staff's recommendations.

The motion was approved by a 5-0 vote.

D. BOARD CONSIDERATIONS - None

1. Calendar Year 2006 Meeting Schedule

The Board adopted the 2006 Chesapeake Bay Board meeting schedule by a voice vote, to be held on the 2nd Wednesday of each month immediately following the Wetlands Board meeting, or at 7:00 PM if a Wetlands Board is not held, provided there are cases to be considered.

E. MATTERS OF SPECIAL PRIVILEGE

Mr. Hughes inquired if staff could grant waivers on new established lots.

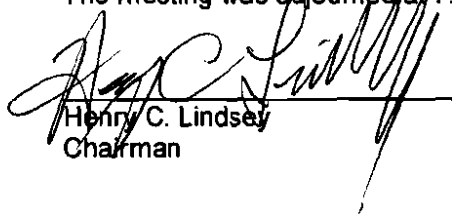
Mr. Cook explained that creating a new parcel which would require encroachment into the RPA for development would not be permitted. If an applicant chose to appeal staff's decision, then the appeal would be heard by the Chesapeake Bay Board.

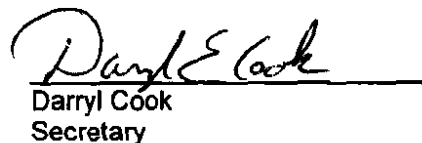
F. ELECTION OF OFFICERS FOR YEAR 2006

Mr. Hughes moved that William Apperson be appointed as Chairman. All members were in favor. Mr. Gussman moved that John Hughes be appointed as Vice-Chairman. All members were in favor. It was the consensus of the Board to re-appoint Darryl Cook as Secretary.

G. ADJOURNMENT

The meeting was adjourned at 7:30 PM.


Henry C. Lindsey
Chairman


Darryl Cook
Secretary