

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD
MINUTES
December 12, 2007**

A. ROLL CALL

ABSENT

Henry Lindsey
John Hughes
David Gussman
William Apperson
Larry Waltrip

OTHERS PRESENT

County Staff

B. MINUTES

The November 14, 2007 Board Meeting minutes were approved as presented.

C. PUBLIC HEARINGS

1. CBE-07-080 – Chris and Julie Rouzie – 144 Holdsworth Rd

Pat Menichino presented the case stating that Christopher & Julie Rouzie, 144 Holdsworth Road, Williamsburg, Virginia, applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) to encroach into the Resource Protection Area (RPA) buffer, for the construction of a wood deck of approximately 1079 sqft. The applicants also requested approval for 296 sqft of RPA impacts associated with the construction of a redesigned driveway entrance and enlarged parking area. The applicant's exception request identified only the 296 sqft of RPA impacts. The lot is located on Kingsmill Pond and was recorded prior to the 1990 adoption of the Ordinance. Following the Ordinance revisions in 2004, Kings Mill Pond was evaluated as perennial thereby requiring a 100' RPA buffer. The lot is 0.651 acres in size and the RPA buffer encompass approximately 85% of the lot or 0.553 acres. The proposed wood deck encroachment is in the seaward 50' RPA buffer as is a portion of the proposed driveway improvements. The remainder of the proposed driveway improvement is within the landward 50' RPA buffer.

The RPA Mitigation Plan provided along with the exception request proposes to mitigate for the RPA impacts by planting (19) native canopy trees, (10) native understory trees and (15) native shrubs in planting beds to filter runoff. The amount of proposed plantings exceeds the standard mitigation planting requirements of the County. In addition, the applicant proposes a "french drain" infiltration area to receive runoff from the driveway.

Staff evaluated the requests and determined them to be accessory in nature.

Staff offers the following information as guidance to the Board concerning this application.

1. The applicant applied for and received administrative approval on August 6, 2007 for impacts associated with 982 sqft of RPA encroachment for the construction of an addition to the principal dwelling and for the expansion of an existing second floor wood deck attached to the rear of the dwelling. The applicant also received administrative approval for a new attached wood deck located on the south side of the dwelling. The site plan submitted to the Environmental Division as part of the August 6, 2007 administrative approval showed only one deck on the rear of the dwelling. The applicant also requested and received approval for the removal of 14 canopy trees in the RPA buffer to allow for the proposed construction.

2. The current exception request before the Board is for a third wood deck to be constructed and attached to the rear of the dwelling at the first floor level. This deck would be situated underneath the second floor deck. Although staff does not add the impervious area of the lower deck when calculating the total impervious area of a project, the installation of a lower deck is still considered an impact and encroachment into the RPA buffer.
3. Staff considers the installation of multiple decks on a dwelling to be accessory in nature and exceeding the "minimum necessary to afford relief".
4. The applicant and staff have worked together on the proposed redesigned driveway and the plan submitted with this application generally reflects this effort to minimize RPA impacts. However, the plan as submitted lacks details necessary for the approval of this application. The plan does not show the type of material to be used to construct the proposed driveway. The plan indicates proposed retaining walls but no information was submitted about them. The application also proposes that a "french drain" will be constructed, but no specific information on the drain was submitted and the plan does not show the location of the drain.
5. The proposed mitigation-planting plan is adequate in plant quantities but is inadequate in the selection of planting locations.

Brief History

The lot was recorded before the adoption of the Ordinance, and no RPA was identified on the lot at that time. In 2004, the Ordinance requirements related to the determination of perennial flow were changed requiring that perennial water bodies be identified based on a field evaluation. A perennial water body at the rear of the lot was identified requiring that a 100-foot RPA buffer be established on the lot around the stream. This 100-foot RPA buffer encompasses about 85% of the lot.

In this case, the exception request is for encroachments by accessory structures within the 50-foot buffer and therefore must be processed by the Chesapeake Bay Board after a public hearing.

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.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a WQIA for this project and proposes to mitigate for the impacts to the RPA by planting, (19) native canopy trees, (10) native understory trees, and (15) native shrubs, in the RPA on the lot to help filter nonpoint source pollution.

The issue before the Board is the addition of the 1079 sqft lower deck encroaching into the 50-foot RPA buffer and the proposed 296 sqft of driveway improvements. The Board is to determine whether or not this proposal is consistent with the spirit and intent of the Ordinance and make a finding based upon the criteria outlined in Section 23-14(c) of the Ordinance.

Recommendations

The Ordinance does not authorize staff to give administrative approval for the placement of accessory structures within the buffer. To be consistent with the ordinance requirements staff cannot support the approval of this exception request. Staff contends that this proposal for a third deck request does not meet the intent of the Ordinance. Staff is not opposed to the proposed driveway improvements but the application and plan lack information and are not adequate. Therefore, staff does not support the granting of this exception request.

If the Board votes to approve the exception request, staff recommends the following conditions be incorporated into the approval:

1. A revised plan must be submitted to the Environmental Division (Division) with all required information and will be subject to Division review and approval. The applicant must obtain all other permits required from agencies that have regulatory authority over the proposed activities.
2. Full implementation of the RPA Mitigation Plan submitted with the WQIA and any additional Board mitigation requirements must be completed prior to the issuance of the final certificate of occupancy or final inspection conducted by the Division of Code Compliance.
3. The size of the mitigation trees shall be 1 ½ caliper, and the shrubs shall be 3-5 gallon size. All trees and shrubs shall be native species approved by the Division.
4. Surety for the implementation of the RPA Mitigation Plan shall be provided in a form satisfactory to the County Attorney, pursuant to sections 23-10(3)(d) and 23-17(c) of the James City County Code.
5. This exception request approval shall become null and void if construction has not begun by December 12, 2008.

All recommendations adopted by the Board must be incorporated into the site plans for the project, which then must be approved by the Division before construction can begin. If the Board grants the exception, the proposed RPA Mitigation Plan is in accordance with the standard mitigation requirements for impervious surfaces.

Mr. Hughes asked if the inadequacies in the plan regarding the driveway material, retaining walls, french drain, and mitigation plantings had been addressed.

Mr. Lindsey asked how the Board could vote on the exception without the necessary information.

Mr. Menichino stated the applicant had not supplied any additional information and if they desired, the Board could defer their decision on that portion of the exception request.

Mr. Waltrip asked for an explanation of the encroachment that was administratively approved.

Mr. Menichino displayed the plans that were administratively approved on August 6, 2007. He stated the original house had an upper deck with a walkway underneath and explained that the administrative approval was only for an addition, a side deck, and expansion of the rear upper deck. He then displayed the plans submitted with this exception request, and indicated the area of additional encroachment into the RPA proposed for the lower deck.

Mr. Hughes asked for more clarification on the driveway encroachment areas to be considered by the Board.

Mr. Menichino referred to the site plan supplied by the applicant and stated the areas in red depicted the proposed driveway expansion.

Mr. Apperson opened the public hearing.

A. Chris Rouzie, property owner and applicant, stated he had discussed the proposed expansion of the deck with the County before he purchased the property and understood the administrative approval was for square footage of additional encroachment into the RPA. He believed the additional encroachment would be the same for a one or a two level deck. He stated he wanted the Board to make a decision on the deck as soon as possible so construction could continue. He stated the driveway expansion was necessary for maneuverability and safety and the proposed retaining wall would replace an existing retaining wall however, he would agree to a deferment on the Board's decision on these items until he could provide the information the County requested. He also asked for a deferment on the mitigation-planting plan for proposed encroachments.

B. Lloyd Stevens, Stevens Builders, contractor for the project, stated the lower paver deck was necessary to prevent erosion because of the severe slope of the property. He added that previous erosion had caused stress cracks in the foundation.

Mr. Menichino displayed the original site plan that showed a 275-sqft walkway under an upper level deck. He explained the original administrative approval was for expansion of the upper deck and the proposal now before the Board was to create a 1,079 square foot, suspended, brick paver, patio in place of the original walkway. He added that the proposed patio was considered an accessory structure, extended beyond the approved upper deck and would be a third deck on the property.

A. Chris Rouzie stated the plans originally submitted to the County always depicted both decks and therefore he believed the administrative approval he received on August 6, 2007 for 982 sqft of additional encroachment into the buffer included the lower deck.

Mr. Apperson closed the public hearing as no one else wished to speak.

Mr. Hughes stated he believed the lower deck directly underneath the upper deck was not additional encroachment into the RPA. However, he was concerned with the encroachment for the driveway and the incomplete mitigation plan.

Mr. Waltrip and Mr. Gussman stated it appeared to be a misunderstanding between the applicant and staff.

Mr. Lindsay stated the two story deck could be considered excessive and more than the minimum necessary to afford relief. He also believed the Board did not have enough information to decide this case.

Mr. Hughes stated the applicant had a letter approving 982 sqft of encroachment.

Mr. Apperson stated he understood the encroachment for the lower deck but was concerned with the encroachment for the driveway.

Mr. Hughes made a motion to adopt a resolution for tax map # 5010300088 granting the exception for a lower deck not to exceed the 982 sqft of encroachment into the RPA approved administratively on August 6, 2007.

The motion was approved by a 4-1 vote

AYE: Hughes, Waltrip, Apperson, Gussman (4). NAY: Lindsey (1)

Mr. Hughes made a motion to reopen the public hearing on case CBE-07-080 for the driveway, retaining walls and mitigation-planting plan, allowing the applicant time to provide the information requested by staff.

The motion was approved by a 5-0 vote.

Mr. Apperson reopened the public hearing for Case CBE-07-080.

2. CBE-07-095 – Bruce West – 6313 Adam's Hunt Dr

Pat Menichino presented the case stating Bruce West, 6313 Adams Hunt Drive, applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for Resource Protection Area

(RPA) impacts associated with an existing 20' x 12' elevated wood deck, a proposed brick paver driveway expansion, brick paver patio, a trellis and 75 linear feet of 30" high retaining wall. The applicant requested that the Board grant an after the fact approval for the deck with 240 sqft of impervious area. The applicant also requested Board approval for installation of 1160 sqft of sand set, brick pavers. The total increase of impervious area requested by the applicant was 1,400 sqft. The lot was recorded after adoption of the Ordinance but no RPA was identified on the lot at the time of recordation. The lot is 0.434 acres and the RPA buffer encompass approximately 99% of the lot or 0.429 acres. The existing deck encroachment is in the seaward 50' RPA buffer and the proposed driveway, patio, trellis and retaining wall would be in the landward 50' RPA buffer.

The RPA Mitigation Plan provided with the exception request proposes to mitigate for the 1,400 sqft of impervious impacts in the RPA by planting four (4) native canopy trees, eight (8) native understory trees and twelve (12) native shrubs in planting beds to filter runoff from the proposed impervious areas. This plan meets the standard mitigation planting requirements of the County. In addition the applicant proposes a gravel infiltration pit, 18" dia. x 24" deep to receive runoff from the existing 20' x 12' deck.

Staff evaluated the requests and determined them to be accessory in nature. Staff has not administratively approved the installation of accessory structures within the RPA. The Board has in the past, granted exceptions for accessory structures within the RPA buffer.

Staff offers the following information as guidance to the Board concerning this application.

1. The construction of the existing elevated 20' x 12' deck did not receive authorization from the County. The applicant was aware of the existence of an RPA buffer on his property prior to the construction of this deck. The applicant filed for an after the fact building permit with the Codes Compliance Division on 9/19/07 and as result of that application the Environmental staff was notified and required the applicant to file for a Chesapeake Bay Board exception. There is also second elevated deck attached to this residence at the opposite end of the structure.
2. Staff considers the installation of multiple decks to be accessory in nature and exceeding the "minimum necessary to afford relief".
3. The proposed 24' x 40' driveway expansion is requested to allow for a turnaround area and possible off street parking. The applicant has proposed to construct this expansion using sand set, brick pavers as a method to decrease impervious runoff. The 10 x 20' sand set, brick paver patio is adjacent and attached to the driveway.
4. The proposed 75 linear feet of timber retaining wall is required to create a level area to construct the sand set, brick paver driveway, and patio.
5. The proposed trellis structures if approved with this exception will have no adverse affect on water quality.
6. The RPA Mitigation Plan meets the County's requirements.
7. Staff believes that the adverse water quality impacts caused by the installation of these accessory structures can be offset through mitigation.
8. The Ordinance provides that the Board can impose additional mitigation requirements to offset potential water quality impacts.

Brief History

The lot was recorded after adoption of the Ordinance, but before 2004 when the Ordinance requirements related to the determination of perennial flow were changed, requiring that perennial water bodies be identified based on a field evaluation. A perennial stream at the rear of the lot was identified requiring that a 100-foot RPA buffer be established on the lot around the stream. This 100-foot RPA buffer encompasses about 95% of the lot.

According to provisions of Section 23-7 (c) 2 (b); when application of the buffer would result in the loss of a buildable area on a lot or parcel recorded between August 6, 1990, and January 1, 2004, encroachments into the buffer may be allowed through an administrative process.

In this case, the exception request is for encroachments by accessory structures within the 100-foot buffer and therefore must be processed by the Chesapeake Bay Board after a public hearing.

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.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a WQIA for this project and proposes to mitigate for the impacts to the RPA by planting four (4) native canopy trees, eight (8) native understory trees, and twelve (12) native shrubs in planting beds in the RPA on the lot to help filter nonpoint source pollution.

The issue before the Board is the addition of 1,400 sqft of impervious cover in the RPA associated with the deck, sand set brick paver driveway and patio, retaining wall and trellis. The Board is to determine whether or not this is consistent with the spirit and intent of the Ordinance and make a finding based upon the criteria outlined in Section 23-14(c) of the Chesapeake Bay Ordinance.

Recommendations

The Ordinance does not authorize staff to give administrative approval for the placement of accessory structures within the 100-foot buffer. To be consistent with the ordinance requirements Staff cannot support the approval of this exception request. If the Board votes to approve the exception request, then staff recommends the following conditions be incorporated into the approval:

1. The applicant must obtain all permits required from other agencies that have regulatory authority over the proposed activities.
2. Full implementation of the RPA Mitigation Plan submitted with the WQIA and any additional Board mitigation requirements must be completed prior to the issuance of the final certificate of occupancy or final inspection conducted by the Division of Code Compliance.
3. The size of the mitigation trees shall be 1 ½ caliper, and the shrubs shall be 3-5 gallon size. All trees and shrubs shall be native species approved by the Environmental Division.
4. Surety for the implementation of the RPA Mitigation Plan shall be provided in a form satisfactory to the County Attorney, pursuant to sections 23-10(3)(d) and 23-17(c) of the James City County Code.
5. This exception request approval shall become null and void if construction has not begun by December 12, 2008.

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. If the Board grants the exception, the proposed RPA Mitigation Plan is in accordance with the standard mitigation requirements for impervious surfaces.

Mr. Gussman asked how staff knew that the applicant was aware of the RPA buffer on his lot.

Mr. Menichino stated the applicant had previously submitted an exception request for a detached deck. He was advised it would require approval from this Board and the application was withdrawn. He later constructed the existing deck without a building permit.

Mr. Apperson opened the public hearing.

A. Bruce West, owner, stated the original building permit application and exception request were for a larger deck. He spoke with Darryl Cook, previous Environmental Director, and was told if he reduced

the size of the deck, it could be approved administratively. He reduced the size of the deck but changed his mind before receiving the signed waiver from Darryl Cook. Later, when his brother-in-law became available, he built the deck and then applied for an after-the-fact permit. At that time, he filled out the RPA exception request for the deck, driveway, patio, trellis, and retaining wall. He apologized for not obtaining the waiver and building permit for the deck.

Mr. Apperson closed the public hearing as no one else wished to speak.

Mr. Hughes stated the majority of the property was in the RPA; the applicant intended to get a permit and discussed the project with the County.

Mr. Lindsey stated the deck was well constructed

Mr. Gussman advised the applicant to always obtain a permit before beginning construction.

Mr. Hughes made a motion to adopt the resolution for case CBE-07-095 granting an exception on tax parcel # 3120400029

The motion was approved by a 5-0 vote

3. CBE-07-105 – Ann and Garland Gray – 202 The Maine

Pat Menichino presented the case stating that Ann and Garland Gray, 202 The Maine, applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for Resource Protection Area (RPA) impacts associated with the installation of a new wood staircase to be attached to an existing wood deck and a 5'x3' brick paver landing pad. The proposed staircase will provide access to the ground from the existing elevated deck. The lot is .766 acres in size and the RPA buffer encompasses approximately 30% of the lot or 0.22 acres. The proposed encroachment is in the landward 50' RPA buffer.

An RPA Mitigation Plan provided with the exception request proposes to mitigate for the 78 sqft of new staircase and brick paver pad by planting (3) three native shrubs in a planting bed to filter runoff from the proposed impervious areas. This plan meets the standard mitigation requirements of the County.

Staff offers the following information as guidance to the Board concerning this application.

1. A proposed staircase and brick paver pad have been reviewed and evaluated by staff as accessory in nature, but may be evaluated by the Board as a safety feature.
2. The RPA Mitigation Plan meets the County's requirements.
3. Staff believes that the adverse impacts caused by the installation of these accessory structures are minor in nature with minimal impact.
4. The Ordinance provides that the Board can impose additional mitigation requirements to offset potential water quality impacts.

Brief History

The lot was recorded prior to the adoption of the Ordinance and therefore there was no RPA present on the lot at the time of recordation. On August 6, 1990, the Ordinance went into effect establishing 100-foot RPA buffers around all water bodies with perennial flow. The James River is located at the rear of this property therefore; there is a 100-foot RPA buffer landward of the river that encompasses about 30% of the lot.

According to provisions of Section 23-12; The Manager through an administrative process may permit the continued use, alteration, or expansion of any structure in existence on August 6, 1990. However, this exception request is for the installation of a wood staircase and brick paver pad that staff has determined it to be accessory in nature.

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.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a WQIA for this project and proposes to mitigate for the impacts to the RPA by planting, (3) three native shrubs, within a mulched bed in the RPA on the lot to help filter nonpoint source pollution.

The issue before the Board is the addition of 78 sqft of impervious cover in the RPA associated with the staircase and brick paver pad. The Board is to determine whether or not this is consistent with the spirit and intent of the Ordinance and make a finding based upon the criteria outlined in Section 23-14(c) of the Ordinance.

Recommendations

The Ordinance does not authorize staff to give administrative approval for the placement of accessory structures within the 100-foot buffer. To be consistent with the ordinance requirements staff can not support the approval of this exception request. However, the staircase could be considered as a safety feature to allow for emergency access from the existing elevated deck down to the ground.

If the Board votes to approve the exception request, staff recommends the following conditions be incorporated into the approval:

1. Full implementation of the RPA Mitigation Plan submitted with the WQIA and any additional Board mitigation requirements must be completed prior to the issuance of the final certificate of occupancy.
2. The size of the shrubs shall be 3-5 gallon container size. All vegetation shall be native species approved by the Environmental Division.
3. Surety for the implementation of the RPA Mitigation Plan if required, shall be provided in a form satisfactory to the County Attorney, pursuant to sections 23-10(3)(d) and 23-17(c) of the James City County Code.
4. This exception request approval shall become null and void if construction has not begun by December 12, 2008.

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. If the Board grants the exception, the proposed RPA Mitigation Plan is in accordance with the standard mitigation requirements for impervious surfaces.

Mr. Apperson opened the public hearing.

Mr. Lindsey asked if a safety structure could be considered an accessory structure.

Mr. Menichino stated they were an accessory to the existing deck.

A. Garland Gray, property owner, stated the steps would be constructed of a synthetic material rather than wood.

Mr. Apperson closed the public hearing as no one else wished to speak.

Mr. Apperson made a motion to adopt the resolution for case CBE-07-105 granting an exception on tax parcel # 4540200074

The motion was approved by a 5-0 vote

4. CBE-07-113 – Salvador deLeon - 2823 King Rook Court

Pat Merichino presented the case stating Salvador deLeon, 2823 King Rook Court, applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for Resource Protection Area (RPA) impacts associated with the installation of a new wood staircase to be attached to an existing wood deck. The proposed staircase was to provide access to the ground from the existing elevated deck. The lot 0.174 acres and the RPA buffer encompass approximately 45% of the lot or 0.078 acres. The proposed encroachment is in the landward 50' RPA buffer.

The RPA Mitigation Plan provided with the exception request proposes to mitigate for the 60 sqft of new staircase by planting (1) one native tree in a planting bed to filter runoff from the proposed impervious areas. This plan meets the standard mitigation requirements of the County.

Staff evaluated the request, and determined it to be accessory in nature.

Staff offers the following information as guidance to the Board concerning this application.

1. Staff has evaluated the proposed staircase as an accessory structure but it may be evaluated by the Board as a safety feature.
2. The RPA Mitigation Plan meets the County's requirements.
3. Staff believes that the adverse impacts caused by the installation of this accessory structure are minor in nature with minimal impact.
4. The Ordinance provides that the Board can impose additional mitigation requirements to offset potential water quality impacts.

Brief History

The lot was recorded after January 1, 2004 when the Ordinance requirements related to the determination of perennial flow were changed requiring that perennial water bodies be identified based on a field evaluation. A perennial stream has been identifying at the rear of the lot requiring that a 100-foot RPA buffer be established on the lot around the stream. This 100-foot RPA buffer encompasses about 45% of the lot.

This exception request is for an accessory structure encroachment in the RPA buffer and therefore must be processed by the Chesapeake Bay Board after a public hearing.

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.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a WQIA for this project and proposes to mitigate for the impacts to the RPA by planting, (1) one native tree, within a mulched bed in the RPA on the lot to help filter nonpoint source pollution.

The issue before the Board is the addition of 60 sqft of impervious cover in the RPA associated with the staircase. The Board is to determine whether or not this is consistent with the spirit and intent of the Ordinance and make a finding based upon the criteria outlined in Section 23-14(c) of the Ordinance.

Recommendations

The Ordinance does not authorize staff to give administrative approval for the placement of accessory structures within the 100-foot buffer. To be consistent with the ordinance requirements Staff cannot support the approval of this exception request for the staircase. However, the staircase could be considered as a safety feature to allow for emergency access from the existing elevated deck down to the ground.

If the Board votes to approve the exception request, staff recommends the following conditions be incorporated into the approval:

1. Full implementation of the RPA Mitigation Plan submitted with the WQIA and any additional Board mitigation requirements must be completed prior to the issuance of the final certificate of occupancy.
2. The size of the tree shall be 1 ½" caliper size or 6'- 8' tall. All vegetation shall be native species approved by the Environmental Division.
3. Surety for the implementation of the RPA Mitigation Plan if required, shall be provided in a form satisfactory to the County Attorney, pursuant to sections 23-10(3)(d) and 23-17(c) of the James City County Code.
4. This exception request approval shall become null and void if construction has not begun by December 12, 2008.

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. If the Board grants the exception, the proposed RPA Mitigation Plan is in accordance with the standard mitigation requirements for impervious surfaces.

Mr. Apperson opened the public hearing.

Mr. Hughes asked if a landing would also be installed at the bottom of the steps.

A. Salvador deLeon, property owner, stated he would install a step off area at the bottom of the steps.

Mr. Waltrip stated this appeared to be a safety issue.

Mr. Apperson closed the public hearing as no one else wished to speak.

Mr. Hughes made a motion to adopt the resolution for case CBE-07-113 granting an exception on tax parcel 4830900107.

The motion was approved by a 5-0 vote.

D. BOARD CONSIDERATIONS - none

E. MATTERS OF SPECIAL PRIVILEGE

Jennifer Lyttle, Assistant County Attorney, informed the Board the Wetlands case for Walker Ware would be heard in Circuit Court on January 16, 2008 at 10:00 am. However, the Board members did not need to attend.

Scott Thomas, Environmental Director, informed the Board that to not delay the permitting process, staff tries to process RPA waiver requests as quickly as possible and relies heavily on the information submitted by the applicant. He stated only a site plan showing the location of the RPA and the area of the proposed encroachment, a description of the project, and a mitigation-planting plan are required. The construction plans required for the building permit are not required or submitted with an RPA waiver request. He added that staff is considering a revision to the RPA Waiver Application to prevent the type of misunderstanding that occurred in case CBE-07-080.

Mr. Gussman asked if the Board could adopt a resolution allowing administrative approval for safety features such as steps.

Mr. Menichino and Ms. Lyttle both advised the Board that this type of proposal had been previously discussed but according to the regulations set forth by the Chesapeake Bay Local Assistance Board (CBLAB), all requests for accessory structures in the RPA must be decided by the Board.

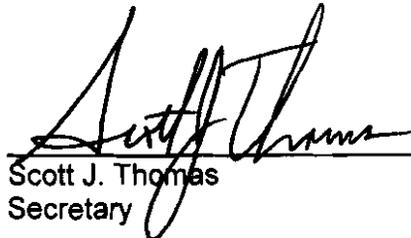
The Board and staff discussed considering steps proposed as a safety feature, on a deck attached to a principal structure, as a part of the principal structure thereby allowing administrative approval instead of considering them as accessory structures requiring Board approval.

G. ADJOURNMENT

The meeting adjourned at 10:20 PM.



William Anderson
Chairman



Scott J. Thomas
Secretary