

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD
MINUTES
February 11, 2010**

A. ROLL CALL

William Apperson – Vice Chairman
Larry Waltrip
Richard Mason – Alternate
Charles Roadley - Alternate

ABSENT

John Hughes
David Gussman
Terence Elkins

OTHERS PRESENT

County Staff (Staff)

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. MINUTES

The January 14, 2010 Board Meeting minutes were approved as written.

C. PUBLIC HEARINGS

1. CBE-10-038 – Cooke's Gardens – Continued from 11/18/09

Mike Woolson, Sr. Watershed Planner stated that Mr. Charlie Martino of Cooke's Garden Center had respectfully requested a continuance of Chesapeake Bay Board Case CBE-10-038 until the June 9, 2010 meeting of the Chesapeake Bay Board, to allow him the time to finalize the requested site plans.

Staff concurred with this request.

Mr. Roadley made a motion to grant the continuation of Chesapeake Bay Board Case number CBE-10-038 to June 9, 2010.

The motion was approved by a 4-0 vote

2. CBE-10-056 – McQuillan – 4347 Sprucemont

Pat Menichino, Compliance Specialist, presented the following case:

Existing Site Data & Information

Applicant:	Richard and Ila Jean McQuillan
Land Owner:	Richard and Ila Jean McQuillan
Location:	4347 Sprucemont, Colonial Heritage, Williamsburg, Virginia
Parcel Identification:	2340800010
Lot Size:	.12 acres
RPA Area on Lot:	.12 acres or 100 % of the lot.
Watershed:	Yarmouth Creek, Sub-watershed 104 (HUC JL-28)
Proposed Activity:	Installation of a 16 linear feet of 6" x 6" timber retaining wall & approximately 70 linear feet of 36" wide exposed aggregate walkway.

Proposed Impacts

Impervious Area: 218 square feet
RPA Encroachment: In both the landward and seaward 50 foot RPA Buffers.

Brief Description and Summary

Richard and Ila Jean McQuillan, 4347 Sprucemont, Williamsburg, VA applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer, for the construction of 16 linear ft of 6 "x 6" timber retaining wall & approximately 70 linear ft of exposed aggregate walkway within the landward and seaward 50 foot RPA buffers. The wall and walkway will create 218 square feet of impervious area within the RPA Buffer.

A detailed RPA Mitigation Planting Plan (Plan) has been provided along with the exception request for your review. The plan proposes to mitigate for the RPA impacts by planting (1) tree and (3) native shrubs, in mulch planting beds to help filter runoff. The amount of plantings proposed meets the standard mitigation planting requirements of the County for impervious impacts.

Background

The lot was recorded prior to the 2004 Ordinance revisions and no RPA existed 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 feature adjacent to the side of the lot was identified requiring that a 100 foot RPA buffer be established on the lot.

In this case, the exception request is for a timber retaining wall and exposed aggregate walkway within the landward and seaward 50 foot buffers. This request does not qualify for an administrative waiver because it is for an accessory structure. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing.

Water Quality Impact Assessment (WQIA)

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) tree and (3) native shrubs, in mulch planting beds on the lot to help filter nonpoint source pollution.

Staff Recommendations

The issue before the Board is the addition of the 218 square feet of impervious area within the RPA buffer. 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.

Staff evaluated the potential adverse impacts of this proposal and determined them to be minimal. Any impacts will be offset by the proposed mitigation plan.

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

1. The applicant must obtain all other permits required from agencies that may have regulatory authority over the proposed activities, including a James City County building permit if required.
2. Full implementation of the RPA Mitigation Plan submitted with the WQIA and any additional Board mitigation requirements shall be guaranteed through the provisions of the Ordinance contained in Sections 23-10(3) d. and 23-17(c), a form of surety satisfactory to the County Attorney.
3. This exception request approval shall become null and void if construction has not begun by February 10, 2011, or all required mitigation plantings are not completed by that expiration date.
4. Written requests for an extension to an exception shall be submitted to the Environmental Division no later than 2 weeks prior to the expiration date.

Mr. Waltrip asked if the proposed encroachment was in the landward or seaward buffer.

Mr. Menichino stated the project would encroach into both buffers.

Mr. Roadley asked if the stoop and walk were omitted from the original development plan.

Mr. Menichino stated he believed it was not part of the original plan for the home.

Mr. Waltrip stated the proposal appeared to be necessary for use of the back door.

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

All Board members stated they had no objection to the proposal.

Mr. Apperson made a motion to adopt the resolution granting the exception on Chesapeake Bay Board case number CBE-10-056 on tax parcel #2340800010.

The motion was approved by a 4-0 vote.

D. BOARD CONSIDERATIONS - None

E. MATTERS OF SPECIAL PRIVILEGE

1 Housing and Community Redevelopment (OHCD) Project Proposal – Mike Woolson

Mike Woolson, James City County Sr. Watershed Planner, stated the purpose of this presentation was to gather input and information from the Chesapeake Bay Board (Board) on a proposed layout for the Forest Heights Rd. & Neighbors Dr. redevelopment as it pertained to the Chesapeake Bay Preservation Ordinance (Ordinance) and was not to be perceived as a tacit approval for the proposal. He briefly described the purpose and design of the proposal and advised the Board that the proposed encroachment into the Resource Protection Area (RPA) for the required BMPs, did not meet all of the conditions for administrative approval under the criteria listed in Sec. 23-7 (a) (4) of the Ordinance.

He introduced Mr. Aaron Small with AES Engineering Consultants and Mr. Keith Denny with the OHCD to further explain the proposal and answer questions from the Board.

Mr. Mason voiced concern that this presentation was soliciting comments from the Board without an application for a public hearing and was therefore outside the purview of this Board.

Mr. Woolson explained the OHCD was seeking comments and suggestions that might be incorporated into the block grant proposal for this neighborhood upgrade and Staff felt the OHCD should be aware if this Board was not open to allowing BMP's within the RPA, before proceeding with the grant proposal.

Mr. Roadley stated he felt the Board could discuss the project and make comments or suggestions without inferring approval.

Mr. Apperson and Mr. Waltrip stated they were interested in hearing about the proposal and the project.

Aaron Small, AES Engineering Consultants, described the current conditions of the area and the benefits from the proposed project. He offered illustrations of the proposed locations for the BMPs and described their structure and encroachment into the RPA. He cited a precedent for allowing BMPs in the RPA referencing the Ironbound Square Project and stating this proposed layout would also capture runoff from an adjacent parcel.

Mr. Apperson asked if there were any existing stormwater controls in the area and asked if one of the proposed BMPs could be moved farther south.

Mr. Roadley asked how much runoff would be captured from the adjacent parcel and how the BMPs would be connected to receiving waters. He asked about the current condition of the streams in the area and asked staff what conditions of the Ordinance were not met for administrative approval.

Mr. Small stated the proposed BMP locations were based on topography and the only current treatment for stormwater runoff in the area was the buffer itself. Regarding the outlet protection, they were looking at using stilling basins at the outfalls. He stated this proposal would capture about half of the runoff from the impervious area as indicated on a conceptual site plan for the adjacent parcel.

Mr. Woolson stated there was trash and debris in the wetland as well as the RPA. Although he had not looked at the channels for degradation, based on his experience there would be areas showing stresses from the uncontrolled runoff. He explained the criteria not met for administrative approval was Sec. 23-7 (a) (4) (c), the Phase 1 modification granted by the state for a stormwater master plan proposed by the County and approved by the Department of Conservation and Recreation (DCR) on a regional basis.

Mr. Waltrip asked if there were any other viable options for this project.

Mr. Small stated there were other options but this proposal was best at meeting the stormwater requirements of the County.

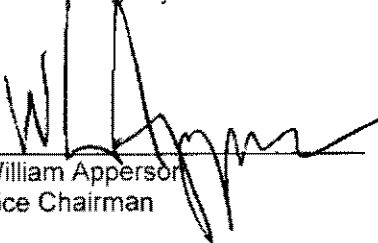
Mr. Roadley stated on a final proposal he would be looking for the reasons this option was selected over others, more specific topography, and specific information on the BMP outfalls.

Mr. Apperson said it appeared this proposal would improve existing conditions in the area.

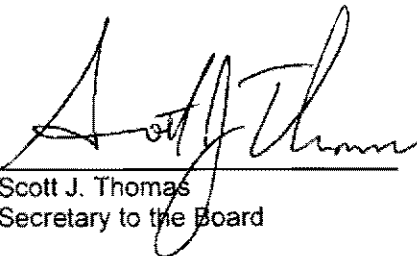
Mr. Mason made no comments.

F. ADJOURNMENT

The meeting adjourned at 7:47 PM.



William Apperson
Vice Chairman



Scott J. Thomas
Secretary to the Board