

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD  
MINUTES  
JUNE 08, 2011**

**A. ROLL CALL**

David Gussman – Chair  
Larry Waltrip  
William Apperson  
Roger Schmidt - Alternate

**ABSENT**

John Hughes  
Charles Roadley

**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 May 11, 2011 Board Meeting minutes were approved as written.

**C. PUBLIC HEARINGS**

**1. CBE-11-118: Hart/Williams Landscape – 104 Baemore**

Michael Woolson, Senior Watershed Planner presented the following case information:

**Existing Site Data & Information**

Applicant:	Aaron Williams; Williams Landscape and Design
Land Owner:	Paul and Jamie Hart
Location:	104 Braemore
Parcel:	Lot 32, Ford's Colony Subdivision
Parcel Identification:	3720500032
Lot Size:	0.51 +/- acres
RPA Area on Lot:	52% (0.25 +/- acres)
Watershed:	Powhatan Creek; Non-Tidal Mainstem (HUC Code JL31)
Proposed Activity:	Installation of retaining walls and associated walkway

**Proposed Impacts**

Impervious Area:	275 square feet
RPA Encroachment:	Landward 50 foot RPA Buffer

**Brief Summary and Description of Activities**

Mr. Aaron Williams on behalf of Paul Hart of 104 Braemore in the Ford's Colony Subdivision applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for encroachment into the RPA buffer for construction of three stone retaining walls and an associated stone walkway totaling approximately 275 square feet. The proposed retaining walls measure 1x25', 1x20', and 1x30' respectively. The proposed stone walkway measures approximately 5x40'. All of the proposed features lay within the landward 50' RPA Buffer adjacent to the home which is currently under construction.

A 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 one (1) native understory tree and forty-five (45) native shrubs in various areas with the RPA Buffer surrounding the residence. The number of plantings proposed exceeds the standard mitigation planting requirements of the County for the impervious cover impacts presented within this application.

### **Staff Recommendations**

The issue before the Board is the addition of 275 square feet of impervious area within the landward RPA buffer for construction of the three retaining walls and the walkway. 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. There are five review criteria within this section of the ordinance.

Staff has fully reviewed the application and exception request and has determined impacts associated with the proposal to be minimal and adequately offset with implementation of the mitigation plan. If the Board favors the resolution to grant approval, staff recommends the incorporation of the following conditions into the approval:

1. The applicant must obtain all other necessary local permits as required for the project.
2. All proposed mitigation plantings shall meet James City County standards of 1" caliper for the canopy and understory trees and proposed shrubs shall be minimum three gallon size.
3. 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) which is providing a form of surety satisfactory to the County Attorney.
4. This exception request approval shall become null and void if construction has not begun by June 8, 2012 or all improvements including the required mitigation plantings are not completed by that expiration date.
5. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than two weeks prior to the expiration date.

### **Background**

Based on staff review of County records, the lot was recorded following the adoption of the Ordinance in 1990, and no RPA existed on the lot at the time of plat recordation. The Ordinance was revised in 2004 and it was determined that the adjacent pond was perennially fed and subsequently a RPA has been located on this lot. As the retaining walls and walkway are considered accessory in nature, they cannot be administratively approved and therefore in accordance with section 23-14 of the Ordinance, an exception request must be considered by the Chesapeake Bay Board following public hearing under the formal exception process. The exception request before the board, and decision to approve or deny by resolution, is for encroachment into the RPA buffer for the construction three retaining walls and a stone walkway approximately 275 square feet in size.

For the Board's information, a previous exception was granted to the landowner by the Board on August 11, 2010 for the construction of the principal structure (house), attached deck, and patio. As the home is not yet completed, the mitigation measures that were previously required in CBE-11-001 have not yet been implemented. Surety is currently in place to guarantee those plantings approved under the previous exception.

### **Water Quality Impact Assessment (WQIA)**

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation 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 *County Sensitive Area Activity Application* and a required mitigation plan, both of which are included in the case report packet. The map provided shows features of the proposal along with a mitigation plan for native plantings.

**Consideration by the Chesapeake Bay Board**

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-11-118 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-11-118 are included for the Board's use and decision.

Mr. Gussman asked if the requirements for the previous exception were still in place and if there were any conflicts between the two exceptions.

Mr. Woolson stated the submitted mitigation plan was comprehensive, including the mitigation for both exceptions.

Mr. Gussman opened the public hearing.

A. Mr. Aaron Williams, Williams Landscape and Design, concurred with Staff's presentation of the project and stated the reason for the walls was to provide access from the driveway to the patio and to prevent erosion.

Mr. Apperson asked why the native plants were crossed out on the mitigation plan.

Mr. Woolson explained the plants were highlighted not crossed out.

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

Mr. Apperson made a motion to grant the exception request for Chesapeake Bay Board case #CBE-11-118 at 104 Braemore, Parcel ID #3720500032.

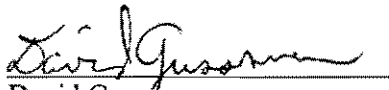
The motion was approved by a 4-0 vote.

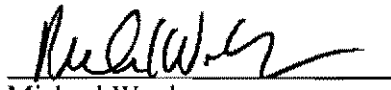
**D. BOARD CONSIDERATIONS - None**

**E. MATTERS OF SPECIAL PRIVILEGE - None**

**F. ADJOURNMENT**

The meeting adjourned at 7:15 PM.

  
David Gussman  
Chair

  
Michael Woolson  
Senior Watershed Planner