

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD
MINUTES
May 9, 2012**

A. ROLL CALL

ABSENT

David Gussman – Chair
Larry Waltrip
John Hughes
Charles Roadley
Louis Bott for William Apperson

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 April 11, 2012 Board Meeting minutes were approved as written.

C. PUBLIC HEARINGS

1. CBE-12-095 - Rolston – 1404 Katherine Shaye

Tina Creech, Senior Inspector presented the case for the exception request from Mr. David Rolston. The request was for encroachment into the seaward 50 foot Resource Protection Area (RPA) buffer for approximately 181 square feet of impervious cover associated with construction of a raised terrace/patio addition at 1404 Katherine Shaye Lane in the Governor's Land subdivision, Parcel No. 4310800002.

Staff recommended approval of the exception request with conditions specified in the Resolution.

Mr. Gussman opened the public hearing.

A. Mr. Rolston, applicant and property owner told the Board the reason for the addition was for placement of a hot tub. He described the aspects of the structure that were standards required by the Governor's Land Foundation. He also stated there was no room between the proposed patio/terrace and the existing fence/tie wall for mitigation plantings.

Mr. Hughes asked if mitigation plantings could be installed on the outside of the fence/tie wall.

Mr. Roadley asked if the fence/tie wall reduced runoff from the fescue lawn and impervious areas on the property. He also asked if an infiltration feature could be installed next to the proposed patio/terrace addition.

A. Mr. Rolston said the wall did reduce the runoff and the fill from construction of the proposed addition would level the area and further reduce the runoff. He stated that Governor's Land Foundation covenants restricted planting on the outside of the fence/tie wall and he did not believe there was room for an infiltration feature between the proposed structure and the fence/tie wall.

Mr. Hughes asked where the existing french drains outlet.

Mr. Waltrip asked the height of the proposed structure and how the hot tub would be drained.

A. Mr. Rolston said the french drains outlet at the tie wall and the hot tub would be drained into the yard. He added that the hot tub would contain fresh water and an ozone generator would be used instead of chemicals. The proposed patio/terrace addition was approximately 2 feet above ground level.

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

Mr. Hughes made a motion to adopt the resolution granting the exception for Chesapeake Bay Board case CBE-12-095 at 1404 Katherine Shaye Lane, Parcel No. 4310800002.

The motion was approve by a 5-0 vote.

RESOLUTION

GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 4310800002

WHEREAS, Mr. David R. Rolston, (the "Applicant") has appeared before the Chesapeake Bay Board of James City County (the "Board") on May 9, 2012 to request an exception to the use of the Resource Protection Area (the "RPA") on a parcel of property identified as JCC RE Tax Parcel No. 4310800002 and further identified as 1404 Katherine Shaye Lane in the Governor's Land subdivision (the "Property") as set forth in the application CBE-12-095 for the purpose of constructing a raised terrace / patio, approximately 181 square feet of impervious area; and

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

NOW, THEREFORE, following a public hearing, the Chesapeake Bay Board of James City County by a majority vote of its members FINDS that:

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:

- 1) The applicant must obtain all other necessary federal, state and local permits as required for the project.
- 2) An acceptable mitigation planting plan that meets the non-native plant material policy created in 2008 must be submitted and approved by May 31, 2012. Surety of \$250 in a form acceptable to the County Attorney's office will be required to guarantee the mitigation plantings.
- 3) This exception request approval shall become null and void if construction has not begun by May 9, 2013.
- 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.

2. CBE-12-097 - Stanford – 138 Riverview Plantation

Tina Creech, Senior Inspector presented the case for the exception request from Mr. Donald Stanford. The request was for encroachment into the seaward 50 foot Resource Protection Area (RPA) buffer for approximately 140 square feet of impervious cover associated with placement of a storage shed at 138 Riverview Plantation Road, in the Riverview Plantation subdivision, Parcel No. 1640600003.

Staff recommended approval of the exception request with conditions specified in the Resolution.

Mr. Waltrip asked if the cinder block and wood base was installed prior to submission of the exception request.

Ms. Creech stated there was a shed of approximately the same size previously in this location, which was removed before the exception request was submitted to the County.

Mr. Gussman opened the public hearing.

A. Mr. Stanford, applicant and property owner confirmed the cinder blocks and wood base were placed for approval from the Riverview Plantation Housing Association. He stated his previous shed was destroyed by storms and he needed the shed because there was not garage on his property.

Mr. Roadley asked Mr. Stanford if he knew how long the previous shed was in this location.

A. Mr. Stanford said he purchased the property from the original owners and believed the shed was constructed with the house.

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

Mr. Bott made a motion to adopt the resolution granting the exception for Chesapeake Bay Board case CBE-12-097 at 138 Riverview Plantation, Parcel No. 1640600003.

The motion was approved by a 5-0 vote

RESOLUTION

GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 1640600003

WHEREAS, Mr. Donald Stanford, (the "Applicant") has appeared before the Chesapeake Bay Board of James City County (the "Board") on May 9, 2012 to request an exception to the use of the Resource Protection Area (the "RPA") on a parcel of property identified as JCC RE Tax Parcel No. 1640600003 and further identified as 138 Riverview Plantation Drive in the Riverview Plantation subdivision (the "Property") as set forth in the application CBE-12-097 for the purpose of installing a storage shed, approximately 140 square feet of impervious area; and

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

NOW, THEREFORE, following a public hearing, the Chesapeake Bay Board of James City County by a majority vote of its members FINDS that:

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:
 - 1) The applicant must obtain all other necessary federal, state and local permits as required for the project.
 - 2) Mitigation plantings shall meet James City Count standards and shall be guaranteed with a \$250 surety in a form acceptable to the County Attorney as per the provisions contained in Sections 23-10(3) (d) and 23-17(c) of the Ordinance.
 - 3) This exception request approval shall become null and void if construction has not begun by May 9, 2013.
 - 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.

3. CBE-12-101 – Cao – 144 Macaulay Road

Tina Creech, Senior Inspector presented the case for the exception request from property owners, Lan Cao and Bill Van Alstyne. The request was for encroachment into the seaward 50 foot Resource Protection Area (RPA) buffer for approximately 177 square feet of impervious cover associated with the installation of a retaining wall for a kayak landing to access Kingsmill pond at 144 Macaulay Road, in the Kingsmill subdivision, Parcel No. 5030200134

Staff recommended approval of the exception request with conditions specified in the Resolution.

Mr. Roadley asked for clarification on the steps and a description of the proposed landing.

Ms. Creech and Mr. Woolson stated that although the steps and landing were considered access to the water and therefore only subject to an administrative review, they were included in the report to describe the purpose of the proposed wall.

Mr. Hughes asked if Kingsmill or any of the adjacent property owners had commented on the application.

Mr. Woolson informed the Board that one property owner reviewed the drawings but had no comments and no comments were received from the Kingsmill Community Service Association (KCSA).

Mr. Waltrip asked if stone would be used in the landing.

Mr. Woolson said he understood it would just be a flat dirt surface for launching the kayaks.

Mr. Roadley asked if the kayaks would be stored on the landing.

Ms Creech said the application included a kayak rack in the upland area.

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

Mr. Roadley stated the application was mostly for water dependent structures and he supported the request. He then made a motion to adopt the resolution granting the exception for Chesapeake Bay Board case CBE-12-101 at 144 Macaulay Road, Parcel No. 5030200134

The motion was approved by a 5-0 vote

RESOLUTION

GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 5030200134

WHEREAS, Mr. Lan Cao and Mr. Bill Van Alstyne, (the "Applicants") have appeared before the Chesapeake Bay Board of James City County (the "Board") on May 9, 2012 to request an exception to the use of the Resource Protection Area (the "RPA") on a parcel of property identified as JCC RE Tax Parcel No. 5030200134 and further identified as 144 Macaulay Road in the Kingsmill subdivision (the "Property") as set forth in the application CBE-12-101 for the purpose of constructing a small landing and retaining wall shed, approximately 177 square feet of impervious area; and

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

NOW, THEREFORE, following a public hearing, the Chesapeake Bay Board of James City County by a majority vote of its members FINDS that:

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:
 - 1) The applicant must obtain all other necessary federal, state and local permits as required for the project.
 - 2) Mitigation plantings shall meet James City County standards and shall be guaranteed with a \$250 surety in a form acceptable to the County Attorney as per the provisions contained in Sections 23-10(3) (d) and 23-17(c) of the Ordinance.
 - 3) This exception request approval shall become null and void if construction has not begun by May 9, 2013.
 - 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.

D. BOARD CONSIDERATIONS - None

E. MATTERS OF SPECIAL PRIVILEGE - None

F. ADJOURNMENT

The meeting adjourned at 8:15 p.m.


David Gussman
Chair


Michael Woolson
Secretary to the Board