

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD  
MINUTES  
Wednesday September 12, 2012**

**A. ROLL CALL**

William Apperson – Vice Chair  
John Hughes  
Larry Waltrip  
Roger Schmidt – Alternate  
Louis Bott - Alternate

**ABSENT**

David Gussman  
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 August 8, 2012 Board Meeting minutes were approved as written.

**C. PUBLIC HEARINGS**

**1. CBE-13-006 – Forsyth/Boyd Nursery – 1784 Cypress Isle**

Michael Woolson, Senior Watershed Planner presented the case for the exception request submitted by Wesley Boyd, Boyd Nurseries, Inc. on behalf of property owner Judy Forsyth, for encroachment in to the Resource Protection Area (RPA) at 1784 Cypress Isle in the Governor's Land subdivision, Parcel No. 4321400003. The exception request was for approximately 600 square feet of impervious cover associated with a pervious paver walkway system to access the water. The project is associated with a shoreline project presented to and approved by the James City County Wetlands Board at the meeting prior to this one. This exception request was before the Board because Staff determined the proposed walkway to be more than the minimum necessary to afford relief. Staff determined the impacts to be moderate, the mitigation plan exceeds the County requirements for the proposed impervious cover and Staff recommended approval of the exception with the conditions listed in the Resolution to Grant the Exception.

Mr. Apperson made a recommendation that red cedar also be considered as a mitigation plant.

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

Mr. Schmidt made a motion to adopt the resolution granting the exception for Chesapeake Bay Board case CBE-13-006 at 1784 Cypress Isle, Parcel No 4321400003.

The motion was approve by a 5-0 vote

## RESOLUTION

### GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 4321400003

WHEREAS, Mr. Wesley Boyd, on behalf of Ms. Judy Forsyth, (the "Applicant") appeared before the Chesapeake Bay Board of James City County (the "Board") on September 12, 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. 4321400003 and further identified as 1784 Cypress Isle, The Governor's Land at Two Rivers subdivision (the "Property") as set forth in the application CBE-13-006 for the purpose of constructing a pervious paver walkway system; 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; and
  - 2) Applicant shall follow the County's Pervious Paver Block System Guidelines for installation of the walkway paver system; and
  - 3) Surety of \$5,000.00 will be required in a form acceptable to the County Attorney's office (can be the same surety for Wetlands case W-03-13); and
  - 4) This exception request approval shall become null and void if construction has not begun by September 12, 2013; and
  - 5) Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 2 weeks prior to the expiration date.

**2. CBE-13-005 – Perry/Delightful Gardens – 108 Holly Grove**

Tina Creech, Senior Inspector presented the case for the exception request submitted by Don Newsom, Delightful Gardens Landscape Company on behalf of property owner John Perry, for encroachment in to the Resource Protection Area (RPA) at 108 Holly Grove in the Settlers Mill subdivision, Parcel No. 4711700002. The exception request was for approximately 150 square feet of impervious cover associated with the installation of two retaining walls within the seaward RPA buffer. Staff recommended approval of the exception with the conditions listed in the Resolution to Grant the Exception.

Mr. Bott asked why the retaining walls were needed.

Ms. Creech stated there was not usable space in the back yard due to the steep slope.

Mr. Schmidt asked if both walls would be 4 feet tall.

Mr. Apperson opened the public hearing.

A. Don Newsom, Delightful Gardens Landscape Company stated 4 feet would be the maximum height. He described how the soil would be leveled between the two walls to stabilize the terrain. He also clarified that the both adjacent properties affected by construction had the same owner, and he had obtained the written approval for access.

Ms. Creech concurred with the need for stabilization and stated there was excessive erosion already on the property.

Mr. Apperson 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-13-005 at 108 Holly Grove, Parcel No. 4711700002.

The motion was approve by a 5-0 vote

**RESOLUTION**

**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 4711700002**

WHEREAS, Mr. Don Newsom, Delightful Gardens Landscape Company on behalf of John Perry (the "Applicant") appeared before the Chesapeake Bay Board of James City County (the "Board") on September 12, 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. 4711700002 and further identified as 108 Holly Grove in the Settlers Mill subdivision (the "Property") as set forth in the application CBE-13-005 for the purpose of constructing two retaining walls; 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 local permits as required for the project.
  - 2) Surety of \$250.00 will be required in a form acceptable to the County Attorney's office.
  - 3) The applicant must submit written approval from the adjacent property owners that are affected by the 6' wide construction access areas.
  - 4) This exception request approval shall become null and void if construction has not begun by September 12, 2013.
  - 5) Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 2 weeks prior to the expiration date.

**D. BOARD CONSIDERATIONS - none**


**E. MATTERS OF SPECIAL PRIVILEGE**

Mr. Apperson again thanked Staff for their work with County citizens.

**F. ADJOURNMENT**

The meeting adjourned at 8:15 p.m.

  
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William Apperson  
Vice-Chair

  
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Michael Woolson  
Secretary to the Board