

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

A. ROLL CALL

David Gussman - Chair
John Hughes
Larry Waltrip
Charles Roadley
Roger Schmidt

ABSENT

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 November 14, 2012 Board Meeting minutes were approved as written.

C. PUBLIC HEARINGS

1. CBE-13-023 – Davies/Williams Landscape & Design – 2517 Manion

Michael Woolson, Senior Watershed Planner presented this case for an exception request submitted by Mr. Aaron Williams, Williams Landscape and Design, Inc. on behalf of property owner Robert Davies (the Applicant), for use of the Resource Protection Area (RPA) at 2517 Manion Drive in the Drummonds Field subdivision, Parcel No. 4630200006. The exception request was for approximately 568 square feet of impervious cover associated with the installation of two retaining walls and access steps resulting in approximately 2,625 square feet of encroachment into the seaward RPA buffer. Mr. Woolson described the construction of the proposed retaining walls and displayed photographs of the existing conditions and active erosion on the property. Staff evaluated the application and considers the impacts to be moderate and the minimum necessary to afford relief. The proposed mitigation plantings, nutrient management plan and bio-retention strip exceed the standard County mitigation requirements. Staff recommended approval of the exception request.

Mr. Schmidt asked if the proposed wall would tie into the existing walkway and pier on this property.

Mr. Roadley asked Mr. Woolson if he knew the base elevation of the wall.

Mr. Woolson stated it would tie in however the pier was a community pier located on an access easement between the properties. He deferred Mr. Roadley's question to the applicant.

Mr. Gussman continued the public hearing and asked if anyone wished to speak on this case.

A. Aaron Williams, agent for Mr. Davies stated Mr. Woolson had done an excellent job of presenting the case and reiterated the main reason for the project was to stop the active erosion. He also pointed out that some of the existing turf grass would be replaced with more appropriate wetlands plants. The segmented block used to construct the wall was consistent with the material used on the neighboring property and allowed for filtration. In response to Mr. Roadley, he stated the maximum height of the wall would be 4 feet above grade.

Mr. Woolson added that the base of the wall would be between 8 and 9 ½ feet above sea level.

Mr. Schmidt asked if the two adjacent properties had completed similar projects.

Mr. Woolson stated one property had completed a similar project approved in 2007 the other property had not applied for or completed any shoreline or RPA work.

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

All Board members agreed it was a good plan and necessary to protect the property.

Mr. Hughes made a motion to adopt the resolution granting the exception for Chesapeake Bay Board case CBE-13-023 at 2517 Manion Drive, Parcel No. 4630200006.

The motion was approved by a 5-0 vote

RESOLUTION

GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 4630200006

WHEREAS, Mr. Aaron Williams with Williams Landscape and Design, Inc, on behalf of property owner Robert Davies, (the "Applicant") has appeared before the Chesapeake Bay Board of James City County (the "Board") on December 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. 4630200006 and further identified as 2517 Manion Drive in the Drummonds Field subdivision (the "Property") as set forth in the application CBE-13-023 for the purpose of constructing two retaining walls and steps; 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) No woody vegetation may be removed without prior approval from the Engineering and Resource Protection Division.
 - 3) Additional erosion and sediment controls may be necessary as directed by the Engineering and Resource Protection Division.
 - 4) A pre-construction meeting must be held on-site prior to work commencing.
 - 5) Surety of \$8,000 will be required in a form acceptable to the County Attorney's office.
 - 6) This exception request approval shall become null and void if construction has not begun by December 12, 2013.
 - 7) 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-13-040 – Witcofski – 158 Wareham's Point

Michael Woolson, Senior Watershed Planner presented this case for an exception request submitted by Robert Witcofski (the Applicant), for use of the Resource Protection Area (RPA) at 158 Wareham's Point in the Wareham's Point section of the Kingsmill subdivision, Parcel No. 5041900158. The exception request was for approximately 60 square feet of impervious cover associated with the installation of a retaining wall constructed with 6" X 6" treated timbers and approximately 800 square feet of encroachment into the landward RPA buffer. The purpose of the wall is to lessen the rear yard land slope and help promote infiltration of rainwater. As the proposed wall will extend onto the adjacent Kingsmill Community Service Association (KCSA) property it will require their written permission. Staff reviewed the application and considers the RPA impacts to be minor and as no trees are being removed and they are repairing the existing slope, agrees with no planting mitigation. Staff recommended approval of the exception request.

Mr. Schmidt asked how the wall would be constructed.

Mr. Gussman opened the public hearing.

A. Mr. Al Brenick, contractor for the project described how the wall and drainage system would be constructed.

Mr. Roadley asked Mr. Brenick if he had considered the potential impact on the existing trees.

A. Mr. Brenick stated that only one beech tree might be close enough to be impacted and the proposed stone drainage system would provide air to the shallow roots.

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

Mr. Roadley was still concerned with the impact on the trees and thought perhaps staff should monitor the site long term.

Mr. Woolson said he was not concerned about the impact on the trees, as they were not planning on digging a foundation that would cut into the root system.

Mr. Schmidt made a motion to adopt the resolution granting the exception for Chesapeake Bay Board case CBE-13-040 at 158 Wareham's Point, Parcel No. 5041900158.

The motion was approved by a 5-0 vote.

RESOLUTION

GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 5041900158

WHEREAS, Robert and Louann Witcofski, (the "Applicant") appeared before the Chesapeake Bay Board of James City County (the "Board") on December 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. 5041900158 and further identified as 158 Wareham's Point in the Kingsmill subdivision (the "Property") as set forth in the application CBE-13-040 for the purpose of installing a retaining wall; 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) The Applicant must obtain approval from the Kingsmill Community Service Association (KCSA) and provide evidence to County staff, for the work proposed on KCSA property.
 - 3) A surety of \$250 will be required in a form acceptable to the County Attorney's office.
 - 4) This exception request approval shall become null and void if construction has not begun by December 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.

3. CBE-13-042 – Walk Wright Construction – 109 Cartgate

Tina Creech, Senior Inspector presented the case for the exception request submitted by Mr. Larry Walk, Walk Wright Construction, LLC (the Applicant), for encroachment in to the Resource Protection Area (RPA) at 109 Cartgate in the Ford's Colony subdivision, Parcel No. 3241000022. The exception request was for approximately 2,275 square feet of impervious cover associated with the construction of a single family home and deck. The application proposed approximately 4,200 square feet of encroachment into the seaward RPA buffer and approximately 2,300 square feet of encroachment into the landward RPA buffer. In the presentation Ms. Creech display the site plan submitted by the Applicant depicting the location of the RPA buffers and proposed house. She also displayed photographs of the existing site conditions. Staff recommended approval of the exception request with the conditions listed in the Resolution to Grant the Exception.

Mr. Roadley stated the site plan showed the house extending beyond a building setback line and asked if this would be an issue. He added that it looked like a very difficult lot.

Mr. Woolson explained that the setback line was not from the County. It was established by Ford's Colony and the Applicant would need to have their approval for encroaching into this area. He further explained that RPA buffers shown on the plat were surveyed, recently delineated by Roth Environmental. The lot was platted prior to 1990 adoption of the Ordinance in 1990 but would not be approved by today's standards.

Mr. Roadley asked if any infiltration systems had been discussed with the Applicant.

Ms. Creech stated this would be discussed with submission and review of the required mitigation plan.

Mr. Gussman opened the public hearing.

Mr. Roadley asked if this would be Mr. Walk's residence and if he was the original property owner.

A. Larry Walk, the Applicant stated he recently purchased the lot to construct a single family home but, it would not be his residence.

Mr. Roadley stated he understood this was a legally platted lot and only asked that Mr. Walk incorporate as much infiltration as possible into the mitigation plan.

Mr. Schmidt asked if there was a minimum elevation requirement on the lot.

Mr. Woolson stated there was no floodplain on the lot so there was no elevation requirement for this regulation.

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

Mr. Hughes stated because the lot was platted prior to adoption of the Ordinance, the Board and County could only make sure there was an adequate mitigation plan.

Mr. Roadley made a motion to adopt the resolution granting the exception for Chesapeake Bay Board case CBE-13-042 at 109 Cartgate, Parcel No. 3241000022

The motion was approve by a 5-0 vote.

RESOLUTION

GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 3241000022

WHEREAS, Mr. Larry Walk, Walk Wright Construction, LLC (the "Applicant") appeared before the Chesapeake Bay Board of James City County (the "Board") on December 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. 3241000022 and further identified as 109 Cartgate in the Ford's Colony subdivision (the "Property") as set forth in the application CBE-13-042 for the purpose of constructing a new single family home and deck: 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) Surety of \$9,000 will be required in a form acceptable to the County Attorney's office.
 - 3) Applicant may pay up to 50% of the surety amount to the Chesapeake Bay Mitigation Fund. The remaining surety cost will require on site planting mitigation.
 - 4) Applicant must submit the mitigation plan for approval prior to construction.
 - 5) This exception request approval shall become null and void if construction has not begun by December 12, 2013.
 - 6) 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

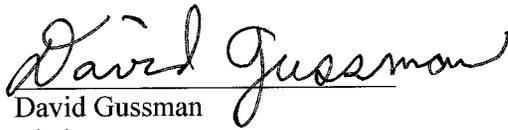
1. Change date of January meeting

All Board members were in favor of changing the meeting date from Wednesday, January 9, 2013 to Thursday January 10, 2013.

E. MATTERS OF SPECIAL PRIVILEGE

F. ADJOURNMENT

The meeting adjourned at 8:00 p.m.


David Gussman
Chair


Michael Woolson
Secretary to the Board