

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD  
MINUTES  
Wednesday February 13, 2013**

**A. ROLL CALL**

**ABSENT**

David Gussman - Chair  
John Hughes  
Larry Waltrip  
William Apperson  
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 December 12, 2012 Board Meeting minutes were approved as written.

**C. PUBLIC HEARINGS**

**1. CBE-13-031 – Snow/Delightful Gardens – 1536 Harbor Rd - Continued from 11/14/12**

Michael Woolson, Senior Watershed Planner explained this application was withdrawn from consideration after the encroachment into the conservation easement as denied by him acting as County Engineer. The options for the applicant were to appeal the denial or withdraw this exception request and re-apply with a revised plan. The applicant chose to withdraw the exception request. He advised the Board that other than closing the public hearing, no further action was required for this case.

Mr. Gussman closed the public hearing.

**2. CBE-13-049 – Snow/Delightful Gardens – 1536 Harbor Rd**

Michael Woolson, Senior Watershed Planner presented this case for an exception request submitted by Don Newsom, Delightful Gardens Landscape Company on behalf of property owner Brenda Snow (the applicant), for encroachment into the Resource Protection Area (RPA) at 1536 Harbor Rd in the Governor's Land at Two Rivers subdivision, Parcel No. 4310200008. The exception request was for approximately 1,250 square feet of impervious cover associated with the installation of a pervious paver patio and walkway to the beach, and a two level deck. This project also lies in a conservation easement that required and received approval from the County Planning Commission and Mr. Woolson acting as County Engineer. The applicant must also receive approval from the Governor's Land Foundation Architectural Review Board.

Significant revisions to the November plan are a reduction in the impervious cover, elimination of all turf grass within the easement/RPA; replanting with a combination of trees, shrubs, and perennials; gravel under the deck to prevent accelerated erosion; and a pervious paver system patio design. It is the opinion of Staff that all of the

changes will be an improvement of water quality over the original design and existing conditions. Staff determined impacts associated with the proposal to be moderate and the proposed mitigation measures exceeded standard mitigation requirements. Staff recommended the Board approve this Chesapeake Bay Exception with the conditions specified in the Resolution to Grant.

Mr. Gussman asked if approval from the Planning Commission for encroachment into the conservation easement was just for this case or if it would be required for all conservation easement encroachments.

Mr. Woolson explained the requirement was based on the Deed of Easement language. Staff has only found this applicable to the Governor's Land subdivision as it was drafted prior to the formation of the Chesapeake Bay Board and early after adoption of the County Chesapeake Bay Preservation ordinance.

Mr. Gussman opened the public hearing.

**A.** Don Newsom, Delightful Gardens Landscape Company stated he worked closely with Staff to incorporate the described plan revisions to alleviate the run off issues including the addition of rain barrels and re-piping to the gravel under the deck. He stressed the importance of the requested improvements to home owner.

All Board members expressed their appreciation for Mr. Newsom's willingness to work with Staff and stated they felt the proposed plan was an improvement over the existing conditions.

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

Mr. Apperson made a motion to adopt the resolution granting the exception for Chesapeake Bay Board case CBE-13-049 at 1536 Harbor Road, Parcel No. 4310200008.

The motion was approved by a 5-0 vote

## **RESOLUTION**

### **GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 4310200008**

WHEREAS, Mr. Don Newsom with Delightful Gardens Landscape Co., on behalf of property owner Brenda Snow, (the "Applicant") has appeared before the Chesapeake Bay Board of James City County (the "Board") on February 13, 2013 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. 4310200008 and further identified as 1536 Harbor Road in The Governor's Land at Two Rivers subdivision (the property") as set forth in the application CBE-13-049 for the purpose of installing a patio, deck and walkway; 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 County must receive from the Applicant, a written copy of any approvals from the Governor's Land Foundation prior to starting construction.
  - 3) The Applicant shall follow the County's Pervious Paver Block System Guidelines for installation of the patio paver system.
  - 4) Surety of \$3,000 will be required in a form acceptable to the County Attorney's office prior to starting construction.
  - 5) This exception request approval shall become null and void if construction has not begun by February 13, 2014.
  - 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 - None**

**E. MATTERS OF SPECIAL PRIVILEGE**

1. The Board had a brief discussion on possibly setting guidelines for overlapping RPA and conservation easements.
2. Mr. Hughes asked if the County GIS mapping for wetlands would show the historic changes on the Powhatan Creek.

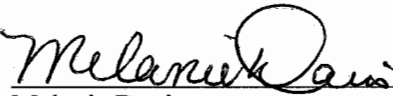
Mr. Woolson stated the archived mappings would show the changes to the shoreline but not the delineations.

Mr. Roadley stated Google Earth, available to anyone, had useful historical wetlands information.

**F. ADJOURNMENT**

The meeting adjourned at 7:30 p.m.

  
David Gussman  
Chair

  
Melanie Davis  
Secretary to the Board