

JAMES CITY COUNTY CHESAPEAKE BAY BOARD

MINUTES

Wednesday March 13, 2013

A. ROLL CALL

David Gussman - Chair
John Hughes
Larry Waltrip
Charles Roadley
Louis Bott – Alternate

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 February 13, 2013 Board Meeting minutes were approved as written.

C. PUBLIC HEARINGS

1. CBE-13-039 – Colonial Heritage LLC/AES – Phase 5, Section 1 – sewer utility crossing

Tina Creech Senior Inspector, presented this case for an exception request submitted by AES Consulting Engineers on behalf of Colonial Heritage, LLC (the applicant), for encroachment into the Resource Protection Area (RPA) at 499 Jolly Pond Road, Parcel No. 4310200008. The exception request was for approximately 39,134 of impact associated with construction of a sanitary sewer utility crossing for the Colonial Heritage Phase 5, Section 1 project (James City County Plan #S-0041-2012). Ms. Creech explained that the submitted Water Quality Impact Assessment (WQIA) also included impacts for road crossings that were being processed administratively. She described the current conditions of the, the proposed and the erosion control measures that would be installed for the project. Staff reviewed the application, determined the impact to be low and recommended approval of the exception request with the conditions specified in Resolution to Grant.

Mr. Gussman asked how mitigation credits purchased from the Great Dismal Swamp Restoration Bank were applicable to this project.

Mr. Woolson explained that the U S Army Corps of Engineers (Corps) allows for impacts to be offset by the purchase of mitigation credits from a mitigation bank servicing the immediate or adjacent Hydraulic Unit Code (HUC) of the project. Apparently this bank met those requirements. Basically, as long at the Corps is satisfied, it is acceptable to the County.

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

Mr. Roadley made a motion to adopt the resolution granting the exception for Chesapeake Bay Board case CBE-13-039 for Colonial Heritage Phase 5, Section 1 at 499 Jolly Pond Rd, Parcel No. 2240100007.

The motion was approved by a 5-0 vote

RESOLUTION

GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 2240100007

WHEREAS, AES Consulting Engineers, (the "Applicant") on behalf of the developer, Colonial Heritage, LLC (the "Owner") has appeared before the Chesapeake Bay Board of James City County (the "Board") on March 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. 2240100007 and further identified as 499 Jolly Pond Road (the "Property") as set forth in the application CBE-13-039 for the purpose of constructing a sanitary sewer utility crossing for the Colonial Heritage, Phase 5, Section 1 project 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) Construction shall be in accordance with the provisions of approved County subdivision plan No S-0041-2012.
 - 3) All natural open space and deed of easements for Phase 5, per the approved Stormwater Master Plan, must be recorded with the subdivision plan
 - 4) This exception request approval shall become null and void if construction has not begun by March 13, 2014.
 - 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-13-065 – Housing Partnerships – Chisel Run Rd – Single family home

Michael Woolson, Senior Watershed Planner presented this case for an exception request submitted by Housing Partnerships, Inc. (the applicant), for encroachment into the Resource Protection Area (RPA) associated with construction of a single family home and patio or deck on a lot to be platted off Chisel Run Road, a portion of a parcel currently identified at Parcel No. 3330100004 and labeled "Lot B" on the plan of development. The exception request was for approximately 2,450 square feet of disturbance and 300 square feet impervious cover in the landward RPA buffer. Mr. Woolson explained the encroachment for clearing on the parcel labeled

“Lot A” would be processed administratively and the remaining acreage on this parcel, will be an open space easement dedicated to James City County. Staff reviewed the application, determined the impacts to be moderate and recommended approval of the exception request with the conditions specified in the Resolution to Grant.

Mr. Hughes asked why the applicant did not just build on “Lot B” and later subdivide for “Lot A”.

Mr. Woolson explained that “Lot B” would have been large enough to locate the house outside of the RPA and then there would not have been enough buildable area to create a second lot.

Mr. Gussman asked if there was any possibility of further development or impacts in the proposed easement.

Mr. Woolson said at this time the only impact would be for utility maintenance and the Board of Supervisors would need to approve any additional development on this parcel.

Mr. Roadley asked the width of the sewer easement and if it would be maintained by the James City Service Authority (JCSA). He also asked where the mitigation plantings would be located and recommended restoration of the buffer rather than landscaping for the house.

Mr. Woolson responded that the sewer easement was approximately 10 feet wide and contained the laterals for both lots. JCSA would maintain the portion outside of the lots and the homeowners would be responsible for maintaining the area on their lots. The mitigation plantings would be located along the clearing in a rain garden format and the buffer restoration requirement was discussed with the applicant.

Mr. Gussman opened the public hearing.

A. John Horne, Housing Partnerships stated he would answer any questions from the Board.

Lola Perkins, Assistant County Attorney, clarified that the proposed conservation easement was not a condition staff was recommending the Board impose. The proposed planting were sufficient to mitigate for the impacts to the RPA.

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-13-065 on a parcel off of Chisel Run Rd, a portion of Parcel No. 3330100004 labeled “Lot B”.

The motion was approved by a 5-0 vote

RESOLUTION

GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 3330100004

WHEREAS, Housing Partnerships, Inc (the “Applicant”) has appeared before the Chesapeake Bay Board of James City County (the “Board”) on March 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. 3330100004 and further identified as an unaddressed parcel (Lot B) off of Chisel Run Road (the “Property”) as set forth in the application CBE-13-065 for the purpose of constructing a single family home and patio; 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) Submittal and approval of a planting plan prior issuing the clearing permit.
 - 3) This exception request approval shall become null and void if construction has not begun by March 13, 2014.
 - 4) 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-13-071 – Portela/Winall – 10142 Sycamore Landing Rd – slope stabilization

Michael Woolson, Senior Watershed Planner presented this case for an exception request submitted by Danny Winall, Water's Edge Construction on behalf of property owner Ms. Deborah Portela (the applicant), for encroachment into the Resource Protection Area (RPA) associated with the re-grading of an existing failing slope and the subsequent stabilization and re-planting associated with the installation of a stone revetment at 10142 Sycamore Landing Road, Parcel No. 0720300008. The exception request was for approximately 4,200 square feet of impact to both the landward and seaward RPA buffers. Mr. Woolson explained that a Joint Permit Application (JPA #13-0132) was submitted for the revetment and it was determined by the Virginia Marine Resource Commission (VMRC) that the impacted wetlands were beach and dune type wetlands. As James City County has not implemented a Coastal Dunes and Beach ordinance, the wetlands impact will not be considered by the local Wetlands Board. Mr. Woolson described significant erosion to this shoreline that has occurred since 2002. Staff reviewed the application, determined the impacts to be moderate and recommended approval of the exception request with the conditions specified in the Resolution to Grant.

All Board members agreed the stabilization was needed.

Mr. Roadley asked if the County was considering adopting a Beach and Dune ordinance. He was sympathetic to an applicant having to visit multiple boards for a project that was so sorely needed.

Mr. Woolson stated at this time there was no plan for such an ordinance. It would require a request, perhaps from this Board, to be considered.

Mr. Hughes asked if a surety amount for the mitigation had been determined.

Mr. Woolson responded that a surety amount of \$2,000 was required and was now specified in the Resolution to Grant the exception.

Mr. Gussman opened the public hearing.

The Board members asked how the slope would be graded, if the excess dirt would be removed from the site and what type of vegetation mix would be used for stabilization.

A. Danny Winall, Water's Edge Construction agent and contractor for the project, explained how the slope would be graded. The intent was to use all the existing dirt without having to bring in or remove any fill. He stated he was working with Staff to determine the best available mix for stabilizing the slope.

Mr. Roadley asked if the slope failed because the existing structure was not high enough.

A. Mr. Winall stated the existing riprap was minimal, probably placed by hand years ago and definitely not sufficient for the conditions at this shoreline.

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

Mr. Roadley made the statement that this project was not a negative for the RPA. Given the requirements of the state's Chesapeake Bay TMDL Watershed Implementation Plan for the reduction of nutrients and sediment runoff into the bay, this type of project not only serves the applicant by protecting their lot from further erosion but also performs a public service by eliminating the significant runoff of sediment into the bay.

Mr. Bott made a motion to adopt the resolution granting the exception for Chesapeake Bay Board case CBE-13-071 at 10142 Sycamore Landing Rd, Parcel No. 0720300008.

The motion was approved by a 5-0 vote

RESOLUTION

GRANTING AN EXCEPTION ON JCC RE TAX PARCEL NO. 0720300008

WHEREAS, Mr. Danny Winall, Waters Edge Construction (the "Applicant") on behalf of Deborah Portela, (the "Owner") has appeared before the Chesapeake Bay Board of James City County (the "Board") on March 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. 0720300008 and further identified as 10142 Sycamore Landing Road (the "Property") as set forth in the application CBE-13-071 for the purpose of re-grading a failing slope and the subsequent stabilization and re-planting associated with the installation of a stone revetment; 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) A pre-construction meeting shall be held on-site prior to commencing work.
 - 3) A mitigation planting plan shall be submitted prior to the pre-construction meeting. The mitigation plan shall have a minimum 5 trees and 15 shrubs as well as the proposed native grass species.
 - 4) The mitigation plantings shall meet James City County standards with all proposed trees being a minimum of .5 inch caliper and the shrubs a minimum #3 can size (21" to 24" tall shrub).
 - 5) Implementation of the mitigation plan shall be guaranteed through the provision of Chapter 23, Chesapeake Bay Preservation, of the James City County Code, Sections 23-10(3) d and 23-17(c) by providing a surety of \$2,000 in a form satisfactory to the County Attorney.
 - 6) This exception request approval shall become null and void if construction has not begun by March 13, 2014.
 - 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.

D. BOARD CONSIDERATIONS

1. CBE-11-079 – HHHunt Communities/WEG – White Hall Offsite Sanitary Sewer Extension Request

Michael Woolson, Senior Watershed Planner presented this case for a second extension to an exception granted March 9, 2011 for approximately 9,040 square feet of encroachment into the Resource Protection Area (RPA) for installation of an offsite sanitary sewer utility. The project has been delayed acquiring the necessary easements from offsite properties. Staff recommended approval of the extension request to March 13, 2014 with the conditions specified in the original Resolution to Grant the exception.

Mr. Hughes made a motion to adopt the resolution granting the extension of the Chesapeake Bay Board exception for case CBE-11-079, the White Hall Offsite Sanitary Sewer Crossing to March 13, 2014.

The motion was approved by a 4-0-1 (Mr. Roadley abstained)

RESOLUTION

GRANTING AN EXTENSION OF AN EXCEPTION ON JCC RE TAX PARCEL NOS. 1220100022, 1310100003 and 1240100011

WHEREAS, HHHunt Communities, (the "Applicant") has requested a second one (1) year extension of the exception granted by the Chesapeake Bay Board of James City County (the "Board") on March 9, 2011, the exception being for encroachment into the Resource Protection Area (RPA) starting on a parcel of property identified as 3611 Rochambeau Drive – JCC RE Tax Parcel No. 1220100022,

continuing behind the Williamsburg Christian Academy at 101 School House Lane –Tax Parcel No. 1310100003, ending at a manhole on 8290 Richmond Road –Tax Parcel No. 1240100011 (the “Property”) as set forth in the application CBE-11-079 for installation of a gravity sanitary sewer for the White Hall Offsite Sanitary Sewer project (the “Project”);

WHEREAS, pursuant to the conditions set forth in the granted exception, the Applicant is able to request an additional extension by submitting such request to the Engineering and Resource Protection Division no later than two weeks prior to the expiration date; and

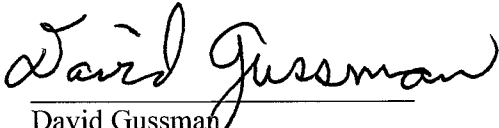
WHEREAS, the Applicant timely submitted a request for an extension.

NOW, THEREFORE, having considered the Applicant’s request for an additional one (1) year extension of the exception granted on March 9, 2011 for application CBE-11-079, the Chesapeake Bay Board of James City County by a majority vote of its members **GRANTS** the request for an extension until March 13, 2014, with all conditions imposed in granting the exception remaining in full force and effect for the term of the extension.


E. MATTERS OF SPECIAL PRIVILEGE

F. ADJOURNMENT

The meeting adjourned at 8:15 p.m.



David Gussman
Chair



Melanie Davis
Secretary to the Board