

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD  
MINUTES**

**Wednesday December 10, 2014**

**A. ROLL CALL**

William Apperson – Vice Chair  
Charles Roadley  
John Hughes  
Larry Waltrip  
Louis Bott – Alternate

**ABSENT**

David Gussman

**OTHERS PRESENT**

County Staff:

Michael Woolson, Senior Watershed Planner  
Amy Parker, Senior Inspector  
Allison Kotula, Assistant County Attorney  
Melanie Davis, Secretary to the Board

**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 13, 2014 Board Meeting minutes were approved as written.

**C. PUBLIC HEARINGS**

**1. CBE-15-029: Westmoreland Corp – 124 Nottinghamshire**

Amy Parker, Senior Environmental Inspector presented the exception request from Westmoreland Corporation for construction of a single family home, patio and retaining wall impacting approximately 3,020 square feet of the RPA buffer of the lot identified as 124 Nottinghamshire and Parcel #3233100032 in the Ford's Colony subdivision. The issues for the Board's consideration were the portion of the house in the seaward RPA buffer and the two accessory structures, a deck and retaining wall. The proposed mitigation plantings met or exceeded the minimum requirements. Staff determined impacts to be moderate and recommended approval of the exception request with the conditions outlined in the Resolution to Grant the Exception.

Mr. Apperson opened the public hearing.

**A.** Mr. Eason Park with Westmoreland Corporation thanked staff for their presentation and stated he would answer any questions from the Board.

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

All Board members agreed the proposed impacts met the condition of minimum necessary to afford relief and were unavoidable on this lot which was platted prior to adoption of the ordinance.

Mr. Hughes made a motion to adopt the Resolution to Grant the Exception for Chesapeake Bay Board case CBE-15-029 at 124 Nottinghamshire, Parcel ID 3233100032.

The motion was approved by a 5-0 vote.

**RESOLUTION**  
**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL #3233100032**

WHEREAS, Ms. Mary Brinkley with Westmoreland Corporation, (the “Applicant”) has applied to the Chesapeake Bay Board of James City County (the “Board”) 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. 3233100032 and further identified as 124 Nottinghamshire in the Ford’s Colony subdivision (the “Property”) as set forth in the application CBE-15-029 for the purpose of constructing a single family home, patio and 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) Full implementation of the RPA Mitigation Plan submitted with the WQIA and any additional Board mitigation requirements shall be guaranteed through the provisions of the Ordinance contained in Sections 23-10(3) (d) and 23-17(c) which is providing a surety of \$3,000 in a form satisfactory to the County Attorney.
  - 3) This exception request approval shall become null and void if construction has not begun by December 10, 2015.
  - 4) Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 6 weeks prior to the expiration date.

**1. CBE-15-028: Husslein – 153 Thomas Dale**

Amy Parker, Senior Environmental Inspector presented the exception request from property owner Klaus Husslein, for construction of a deck addition, a gazebo and a retaining wall impacting approximately 680 square feet of the landward RPA buffer on his property at 153 Thomas Dale in the Kingsmill subdivision, Parcel #5030700029. A mitigation planting plan and plant list were not submitted with the application and would be required prior to plant installation. Staff determined impacts to be moderate and recommended approval of the exception request with the conditions outlined in the Resolution to Grant the Exception.

Mr. Hughes asked where the mitigation plantings would be installed and also if erosion was an issue on this property.

Ms. Parker stated there did not appear to be any erosion and although a mitigation plan was not submitted she believed the proposed fill behind the retaining wall was to create a bed for the required plantings.

Mr. Roadley asked if staff discussed the size of the deck addition with the applicant.

Ms. Parker stated they had not.

Mr. Apperson opened the public hearing.

Mr. Apperson asked the property owner if they had installed the current plantings in the RPA buffer.

A. Mrs. Kerstin Husslein, the property owner, responded the plantings existed when they purchased the house last year. She stated the purpose of the deck addition was for access from the existing upper deck to the existing lower deck.

Mr. Bott was concerned with the size of the proposed structures, as it appeared the existing decks were already approximately 609 square feet. He said he would also like to see a mitigation plan.

All Board members were concerned with the disturbance of an already well vegetated buffer.

Mr. Woolson briefly discussed the Board's concerns with the Mrs. Husslein and then advised the Board that she wished to request a deferral to the next board meeting in order to complete a mitigation plan for their review.

Mr. Roadley asked staff to also discuss the size of the proposed deck addition with the applicant.

Mr. Hughes asked staff to stake the location of the proposed structures in the field.

Mr. Roadley made a motion to defer the decision on Chesapeake Bay Board case CBE-15-028 at 153 Thomas Dale and continue the public hearing to the next board meeting on Wednesday, January 14, 2015.

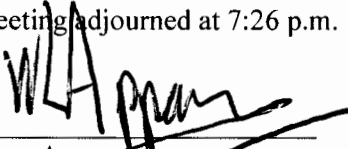
The motion to defer was approved by a 5-0 vote.

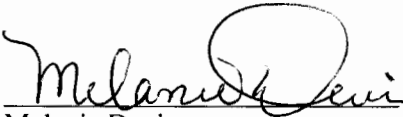
**D. BOARD CONSIDERATIONS - None**

**E. MATTERS OF SPECIAL PRIVILEGE - None**

**F. ADJOURNMENT**

The meeting adjourned at 7:26 p.m.

  
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William Apperson  
Chesapeake Bay Board Vice Chair

  
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Melanie Davis  
Secretary to the Board