

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD
MINUTES**

Wednesday January 14, 2015

A. ROLL CALL

ABSENT

David Gussman
William Apperson
Charles Roadley
John Hughes
Larry Waltrip

OTHERS PRESENT

County Staff:

Michael Woolson, Senior Watershed Planner
Greg Johnson, Senior Inspector
Maxwell Hlavin, 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 December 10, 2014 Board Meeting minutes were approved as written.

C. PUBLIC HEARINGS

1. CBE-15-028: Husslein – 153 Thomas Dale – continued from 12/10/14

Michael Woolson, Senior Watershed Planner advised the Board that Mr. Husslein, was unable to meet with staff and requested a deferral to the February 11, 2015 meeting.

Mr. Apperson 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, February 11, 2015.

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

2. CBE-15-042: Howe/Roth – 181 Southport

Senior Inspector Greg Johnson presented the exception request from Mr. and Mrs. Kasey Howe for approximately 4,161 square feet of encroachment into the RPA buffer for construction of a single family home and deck at 181 Southport in the Ford's Colony subdivision, Parcel #3811300035. The applicant made every effort to adjust the proposed structure out of the seaward buffer without requiring further exceptions from Ford's Colony. Staff reviewed the exception request and determined the impacts to be high for the proposed plan of development. However, the proposed mitigation measures of 8 planting units meets the standard requirements and Staff recommended approval of the request with the conditions listed in the Resolution to Grant the Exception.

Mr. Gussman asked if the site plan in the Board package was different for the one in the presentation and if it was different from the new plan submitted on January 13, 2015. He also asked for clarification on the impervious area in the seaward RPA.

Mr. Johnson stated the plan in the presentation was the same as the one in the Board package and he believed the plan submitted on January 13, 2015 showed more plantings and was harder to read but nothing had changed on the location of the house. He stated the highlighted area on the presentation plan was the impervious area.

Mr. Hughes stated the presented plans were very difficult to understand and asked why the encroachment into the 50 foot RPA was not highlighted.

Mr. Apperson agreed the presented plan was hard to understand and asked if there would be any difference in RPA encroachment if the house was rotated.

Michael Woolson apologized that the overhead projector was no longer available to display a larger plan review drawing. He stated that 1,324 square feet of impervious area was in the 50 foot seaward RPA buffer. He explained that the house was positioned within the Ford's Colony setbacks and the applicant already received an exception from Ford's Colony for the maximum allowable encroachment into this setback. He also described how and when the wetlands and the RPA were configured on this lot.

Mr. Waltrip felt there really wasn't any way to better position the house within the setbacks.

Mr. Gussman stated these setbacks were imposed by the subdivision not the County and felt an additional exception for further encroachment could come from Ford's Colony, and the County setbacks might be less.

Mr. Roadley stated the mitigation described in the project summary submitted by Roth Environmental, LLC included an infiltration basin below the deck and a second infiltration basin if needed. He asked if all the roof runoff would be directed to the first infiltration basin and where a second basin would be located.

Mr. Gussman opened the public hearing.

A. Matt Roth with Roth Environmental, LLC presented to the Board a highlighted drawing that better depicted the location of the impervious cover. He then explained the project, from the existing site conditions to the multiple building configurations, including reducing the size for minimum encroachment into the RPA. He pointed out that the proposed RPA encroachment for this house was less than the encroachment on the adjacent properties. He stated that the infiltration basin and pervious pavers under the deck as well as enrollment in the 'Turf Love' program were proposed to reduce the required mitigation plantings. In response to Mr. Roadley's question he explained that all of the roof runoff would not be directed to the first infiltration basin and a second basin would only be constructed if the first one would not achieve the 10% pollutant reduction in stormwater flow off the impervious areas. If needed the second basin would be located behind the house. At Mr. Gussman's request he explained the construction of the infiltration basin.

Mr. Gussman asked how they would determine if the second basin was needed.

Mr. Woolson explained it would be an engineering calculation and would be included in the mitigation plan.

Mr. Waltrip asked if the adjacent properties were developed before the current wetland and RPA restrictions were placed on these lots.

A. Mr. Roth responded to Mr. Waltrip that he believed they were.

Mr. Roadley explained the Board's concerns for protection of the resource and asked that they strongly consider installing the second infiltration basin to capture all of the roof runoff.

Mr. Hughes asked what the County side yard setbacks were.

Mr. Woolson explained this property was zoned R4 which means there are no County setbacks. R4 setbacks are determined by the individual subdivisions and in Ford's Colony it is 20 feet.

Mr. Waltrip asked how much setback encroachment the applicant was requesting from Ford's Colony.

B. Mr. Kasey Howe, property owner stated the most Ford's Colony would allow was a 5 foot encroachment which they have taken for the construction of this house.

Mr. Apperson stated and Mr. Roth confirmed that the site plan had been manipulated to have the least possible impact to RPA. It appeared the applicant and his representative had put a great deal of time and expense into this design and proposal. He felt this design was better than a lot of previous designs in Ford's Colony.

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

Mr. Gussman stated the plan would be more acceptable with the second infiltration basin and asked if that could be a condition of the Resolution to Grant the Exception.

Mr. Roadley made a motion to adopt the Resolution to Grant the Exception for Chesapeake Bay Board case CBE-15-042 with a mitigation plan to include 8 planting units and a primary and secondary infiltration basin at 181 Southport, Parcel ID 3811300035.

The motion was approved by a 5-0 vote.

RESOLUTION
GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 3811300035

WHEREAS, Kasey and Angeliki Howe (the "Applicants") have 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. 3811300035 and further identified as 181 Southport in the Ford's Colony subdivision (the "Property") as set forth in the application CBE-15-042 for the purpose of constructing a 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 on January 14, 2015, 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 \$4,000 will be required in a form acceptable to the County Attorney's office to guarantee the mitigation plantings.
 - 3) This exception request approval shall become null and void if construction has not begun by January 15, 2016.
 - 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.
 - 5) Submittal and County approval of a Mitigation Plan that includes 8 planting units and a primary and secondary infiltration basin will be required.

D. BOARD CONSIDERATIONS - None


E. MATTERS OF SPECIAL PRIVILEGE - None

F. ADJOURNMENT

The meeting adjourned at 8:05 p.m.



David Gussman
Chesapeake Bay Board Chair



Melanie Davis
Secretary to the Board