

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD
MINUTES**

Wednesday February 11, 2015

A. ROLL CALL

ABSENT

David Gussman - Chair
William Apperson
Charles Roadley
John Hughes
Larry Waltrip

OTHERS PRESENT

County Staff:

Michael Woolson, Senior Watershed Planner
Scott J. Thomas, Director Engineering and Resource Protection
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 January 14, 2015 Board Meeting minutes were approved as written.

C. PUBLIC HEARINGS

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

Michael Woolson, Senior Watershed Planner presented the exception request from property owner Klaus Husslein, for construction of a deck extension and a gazebo replacement impacting approximately 502 square feet of the landward RPA buffer on his property at 153 Thomas Dale in the Kingsmill subdivision, Parcel #5030700029. The application had been revised from the original proposal in December, by reducing the size of the deck and gazebo and eliminating a proposed retaining wall thereby reducing the impervious cover by approximately 200 square feet. Mr. Woolson displayed photographs and explained the current conditions of the site and structures. The applicant also submitted a planting plan for 8 shrubs that meets the mitigation requirements for the proposal. Staff determined impacts to be moderate and recommended approval of the revised exception request with the conditions outlined in the Resolution to Grant the Exception.

Mr. Gussman said it looked like there had been a compromise from the original proposal and this revision was more acceptable.

A. Mr. Klaus Husslein, the property owner, stated that in addition to the reductions listed in the report he also eliminated the proposed back fill for the retaining wall.

Mr. Roadley stated the Board was impressed with the current condition of the buffer on this lot and asked Mr. Husslein to try and resist any attempts to landscape the area.

Mr. Apperson also thanked Mr. Husslein for revising his application and maintaining the natural buffer.

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

Mr. Apperson made a motion to adopt the resolution to grant the exception for Chesapeake Bay Board Case CBE-15-028 at 153 Thomas Dale Parcel #5030700029.

The motion was approved by a 5-0 vote.

RESOLUTION
GRANTING AN EXCEPTION ON JCC RE TAX PARCEL #5030700029

WHEREAS, Mr. Klaus Husslein, (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. 5030700029 and further identified as 153 Thomas Dale in the Kingsmill subdivision (the “Property”) as set forth in the application CBE-15-028 for the purpose of constructing a deck addition, and a gazebo; 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 December 10, 2014 and continued to February 11, 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 federal, state, and local permits as required for the project.
 - 2) Surety of \$1,000 will be required in a form acceptable to the County Attorney’s office to guarantee the mitigation (plants and gravel).
 - 3) This exception request approval shall become null and void if construction has not begun by February 11, 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.

2. CBE-15-052: Xanterra Kingsmill – Kingsmill River Course

Michael Woolson, Senior Watershed Planner presented the exception request for construction of a retaining wall at the 13th hole tee box creating approximately 60 square feet of impervious cover within the seaward RPA buffer next to the Kingsmill Pond on the Kingsmill River Course, identified as parcel #5030100001.

The proposed retaining wall will be replacing a failing deck structure that was constructed prior to the RPA designation around the pond. Mr. Woolson described the current conditions of the site, the proposed wall construction, and the proposed mitigation. Staff determined impacts to be minimal and recommended approval of the exception request with the conditions outlined in the Resolution to Grant the Exception.

Mr. Gussman said he noticed the application stated this tee box repair was necessary for the championship LPGA tournament.

Mr. Apperson asked why the tee box was in this specific location if the site was 188 acres.

Mr. Woolson confirmed this was the tee box used in the professional tournaments and explained the 188 acres was the entire parcel size not the 13th hole.

Mr. Gussman opened the public hearing.

A. Mr. Ray Nice, contractor for the project said he had nothing to add to the presentation but was available to answer any questions.

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

Mr. Hughes made a motion to adopt the resolution to grant the exception for Chesapeake Bay Board Case CBE-15-052 for the Kingsmill River Course 13th hole repair on parcel #5030100001.

The motion was approved by a 5-0 vote.

RESOLUTION
GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 5030100001

WHEREAS, Mr. Kevin Kolda of Xanterra/Kingsmill Resort, (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 5030100001 and further identified as Kingsmill River Course, at 1010 Kingsmill Road (the "Property") as set forth in the application CBE-15-052 for construction of a retaining wall and associated fill at the 13th hole tee box; 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 February 11, 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 including a building permit from the County Building Safety and Permits Division for the construction of the retaining wall.
 - 2) A surety of \$500.00 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 February 11, 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.

3. CBE-15-051: Allen Parker Builders – 129 Montrose

Michael Woolson, Senior Watershed Planner presented the exception request for construction of a single family home and attached deck at 129 Montrose in the Ford's Colony Subdivision, parcel #3720200166. The proposal will impact approximately 400 square feet of the seaward RPA buffer and 2315 square feet of the landward RPA buffer. Mr. Woolson described the current conditions of the lot including recent wetlands delineation, the topography, and the location and required easements for the sanitary sewer. The proposed mitigation includes an infiltration trench and fully complies with the requirements for the proposal. 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. Gussman said he could not see a better way to situate a house on this difficult lot.

Mr. Roadley stated the presentation anticipated and answered most of the questions the Board might have. He asked if the trench would receive direct flow from the house gutters or just general lot runoff.

Mr. Gussman opened the public hearing.

A. Mr. Allen Parker, the applicant, said he always had and would continue to abide by the regulations. He responded to Mr. Roadley that the roof runoff would be directed to the infiltration trench.

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

Mr. Roadley made a motion to adopt the resolution to grant the exception for Chesapeake Bay Board Case CBE-15-051 at 129 Montrose, parcel #3720200166.

The motion was approved by a 5-0 vote.

RESOLUTION **GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 3720200166**

WHEREAS, Mr. Allen Parker, (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 3720200166 and further identified as 129 Montrose in the Ford's Colony subdivision (the "Property") as set forth in the application CBE-15-051 for the purpose of constructing an single family home and attached 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 February 11, 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 \$7,000 will be required in a form acceptable to the County Attorney's office to guarantee the mitigation plan and plantings prior to a clearing permit being issued by the County.
 - 3) This exception request approval shall become null and void if construction has not begun by February 11, 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.

D. BOARD CONSIDERATIONS - None

E. MATTERS OF SPECIAL PRIVILEGE - None

F. ADJOURNMENT

The meeting adjourned at 7:34 p.m.


David Gussman
Chesapeake Bay Board Chair


Melanie Davis
Secretary to the Board