

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD  
MINUTES**

**Wednesday October 14, 2015**

**A. ROLL CALL**

David Gussman  
John Hughes  
Larry Waltrip  
Roger Schmidt

**ABSENT**

William Apperson  
Charles Roadley

**OTHERS PRESENT**

County Staff:

Michael Woolson, Senior Watershed Planner  
Maxwell Hlaven, 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 September 9, 2015 Board Meeting minutes were approved as written.

**C. PUBLIC HEARINGS**

**1. CBE-16-025: Siemietkowski/LandTech – 100 Southern Hills**

Michael Woolson presented the exception request submitted by Matt Connolly of LandTech Resources, Inc on behalf of the property owner, Susan Siemietkowski. The request was for approximately 2,130 sqft of encroachment into the seaward RPA buffer associated with construction of a single family dwelling at 100 Southern Hills in the Ford's Colony subdivision, parcel #3740500126. Mr. Woolson described the existing site conditions and the location of the proposed structure. LandTech hired Mr. Mathew Roth to delineate the wetlands and RPA boundary and the RPA encompassed about 85% of the lot. The Ford's Colony Architectural Review Board had already granted setback variances to enable the house to be moved away from the resource. Mr. Woolson then described the proposed mitigation which included 2 infiltration BMPs. Staff evaluated the application, determined the impacts associated with the project to be severe and recommended approval of the exception request with the conditions outlined in the Resolution to Grant.

Mr. Gussman asked if the delineation done by Mr. Roth was close to the delineation when the lot was platted.

Mr. Woolson said the new delineation was more accurate and was located farther up the slope than the 1988 delineation which could indicate a change in the wetlands or a mapping error on the original plat.

Mr. Hughes asked if the proposed mitigation exceeded the minimum requirements of the County.

Mr. Woolson explained that although encouraged, the County did not require infiltration for mitigation. However, when the plantings were not sufficient, the infiltration measures were considered and in this case the combination exceeded the County requirements.

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

Mr. Hughes liked the proposed mitigation and noted that the lot was platted prior to adoption of the Chesapeake Bay Preservation Ordinance.

All Board members agreed with Mr. Hughes comments.

Mr. Schmidt made a motion to adopt the resolution to grant the exception for Chesapeake Bay Board Case CBE-16-025 at 100 Southern Hills, Parcel ID #3740500126.

The motion was approved by a 4-0 vote.

**RESOLUTION**  
**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 3740500126**

WHEREAS, Matt Connolly of LandTech Resource, Inc., on behalf of Susan Siemietkowski (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 3740500126 and further identified as 100 Southern Hills in the Ford's Colony subdivision (the "Property") as set forth in the application CBE-16-025 for the purpose of constructing a single family dwelling; 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 October 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 federal, state, and local permits as required for the project.
  - 2) A \$3,000 surety will be required in a form acceptable to the County Attorney's office.
  - 3) The Applicant should explore infilling the area between the silt fence and Firestone right-of-way with additional shrubs and understory trees or make a one-time payment to the Chesapeake Bay Mitigation Fund in the amount of \$1,000.
  - 4) This exception request approval shall become null and void if construction has not begun by October 14, 2016.
  - 5) 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-16-029: Hopkins/Walk Wright Construction – 332 Mill Stream Way**

Michael Woolson presented the exception request submitted by Larry Walk of Walk Wright Construction LLC on behalf of the property owners, Keith and Gretchen Hopkins. The request was for approximately 2,550 sqft of encroachment into the RPA buffer associated with construction of a single family dwelling with two garages and two retaining walls at 332 Mill Stream Way in the Settlers Mill at Jamestown subdivision, parcel #4711900017. Mr. Woolson described the existing site conditions and the location of the proposed house and retaining walls. The proposed mitigation plantings fall short of the County requirement however, because the proposed infiltration trenches are designed to handle all the impervious cover and most of the proposed turf, it is Staffs opinion the water quality post construction will be less quantity and better quality then what in on the surrounding developed lots. Staff determined the impacts associated with this project to be moderate and recommended approval of the exception request with the conditions outlined in the Resolution to Grant.

Mr. Hughes and Mr. Gussman asked how the County approved this subdivision with lots in the RPA, after adoption of the Chesapeake Bay Preservation Ordinance in 1990.

Mr. Woolson said the plat for this lot did not show the RPA and he could not determine why the subdivision was approved or how the lots were platted in 1999 without the RPA delineation.

Mr. Hughes asked how other houses in this subdivision that also encroached into the RPA were approved and if they came before this Board. He also asked when the RPA was placed on the County Real Estate Maps.

Mr. Waltrip said he understood how construction would be approved since the plat did not show RPA on the lots. He asked if the home owner was aware of the RPA when they purchased this lot.

Mr. Woolson explained that some of the houses may have been constructed before this Board was created in 2004 or they may have been considered administratively. He estimated the Real Estate mapping was probably updated in 2006 or 2007. He said this application was before the Board because the retaining walls were accessory structures and the two garages could be considered more than the minimum necessary to afford relief from the Ordinance. He did not know when the current owners purchased the lot.

Mr. Gussman opened the public hearing.

Mr. Gussman asked the builder how long he had been building in the County and if he was aware of the RPA.

**A.** Mr. Larry Walk with Walk Wright Construction stated he had been constructing houses in the County since 2006 and was aware of the RPA restrictions. He said the house had been redesigned and reoriented to pull it away from the resource and conservation easement.

**B.** Mr. Keith Hopkins, property owner, stated the lot was purchased last year and he was aware of the Chesapeake Bay Preservation Act but did not know this lot would be a problem. Although he did not provide a copy, he said when he purchased the lot, the previous owner gave him a letter from the County stating a house could encroach into the RPA with mitigation. He also told the Board that the reason for two driveways was because his family had 5 vehicles. He said one of the garages was under the house because there was a large foundation due to the slope of the lot.

Mr. Gussman stated his concern that this lot was platted after adoption of the Ordinance which meant there should be buildable area without encroachment into the RPA. He was also concerned with the 2 driveways and garages and if one was eliminated perhaps the house could be moved forward, reducing the encroachment into the RPA. He suggested the owner request an exception from the County Board of Zoning Appeals to reduce the required setback.

C. Mr. Matt Connolly, engineer with LandTech Resources, Inc who worked on this plan, thought that perhaps the conservation easement indicated on the plat was thought to also be the limits of the RPA in 1999. He also said the owner would be willing to use pervious pavers on the part of the driveway that was impacting the RPA. He added that this pervious pavement and the proposed infiltration trenches would constitute a commercial grade BMP on a residential lot that would retain the 10 year storm and retard the 100 year storm. He said they also explored the setback reduction but the subdivision's Architectural Review Board (ARB) would not approve aligning this house in front of the adjacent homes and crowding the cul-de-sac.

Mr. Hughes and Mr. Gussman asked if the owner would be willing to use the pervious pavers on both driveways all the way to the street.

C. Mr. Connolly thought that would be excessive and would not add much additional infiltration.

B. Mr. Hopkins stated the ARB for this neighborhood requires exposed aggregate driveways visible from the road so the pervious concrete could only be used behind the setback line.

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

Mr. Waltrip and Mr. Schmidt felt that by installing the infiltration trenches and the pervious pavement the applicant would be doing a lot of mitigation and the Board needed to work with them.

Mr. Gussman was still concerned that the lot was approved without the RPA indicated. However he stated this case was a good example of why it was best to have the builder and engineer present to answer questions and suggest solutions.

Mr. Hughes made a motion to modify condition #3 of the Resolution to include the pervious concrete on the west side driveway behind the setback and then adopt the Resolution to grant the exception for Chesapeake Bay Board Case CBE-16-029 at 332 Mill Stream Way, Parcel ID #4711900017.

The motion was approved by a 4-0 vote.

**RESOLUTION**  
**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 4711900017**

WHEREAS, Larry Walk, Walk Wright Construction LLC, on behalf of Keith and Gretchen Hopkins (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 4711900017 and further identified as 332 Mill Stream Way in the Settlers Mill at Jamestown subdivision (the "Property") as set forth in the application CBE-16-029 for the purpose of constructing a single family dwelling and retaining walls; 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 October 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 federal, state, and local permits as required for the project.
  - 2) A \$3,000 surety will be required in a form acceptable to the County Attorney's office.
  - 3) Design and construction of the on-lot runoff reduction/pollutant removal practices as proposed (infiltration facility/pervious concrete on west side driveway behind the setback line) shall generally follow micro-scale specifications found in Virginia DEQ Stormwater Design Specification No. 8 (Infiltration); or alternatively, an equivalent and acceptable published and agreed upon standard for on-lot residential practices. Final design/construction information for the practices shall be submitted to the Engineering and Resource Protection Division for review and approval prior to installation.
  - 4) This exception request approval shall become null and void if construction has not begun by October 14, 2016.
  - 5) 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-16-031: Puryear & KCSA/The Structures Group, Inc – 306 River's Edge**

Michael Woolson presented the exception request submitted by Mr. Michael Matthews of The Structures Group, Inc. on behalf of the property owners Alvin Puryear and Kingsmill Community Service Association (KCSA). The request was for approximately 120 square feet of encroachment into the landward RPA buffer associated with construction of a retaining wall at 306 River's Edge, parcel 5130800014A and the adjacent parcel owned by KCSA 5130800001C. Mr. Woolson described the steep grading that was causing erosion and an unsafe area around the home at 306 River's Edge. Staff reviewed the application, determined the impacts to be minor for this proposal and recommended approval of the exception with the conditions outlined in the Resolution to Grant.

Mr. Gussman opened the public hearing.

A. Mr. Michael Matthews with The Structures Group stated he would be available for questions.

Mr. Gussman closed the public hearing as the Board had no questions and no one else wished to speak.

All Board members agreed this structure was necessary.

Mr. Waltrip made a motion to adopt the resolution to grant the exception for Chesapeake Bay Board Case CBE-16-031 at 306 Rivers Edge and the adjacent common area, Parcel IDs #5130800014A and 5130800001C.

The motion was approved by a 4-0 vote.

**RESOLUTION**  
**GRANTING AN EXCEPTION ON JCC RE TAX PARCELS**  
**5130800014A and 5130800001C**

WHEREAS, Michael Matthews, The Structures Group, on behalf of Alvin Puryear and the Kingsmill Community Service Association (KCSA) (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 parcel of property identified as JCC RE Tax Parcel 5130800014A and further identified as 306 Rivers Edge in the Kingsmill Rivers Edge subdivision and on the adjacent common area owned by KCSA and identified as JCC RE Tax Parcel 5130800001C (the "Property") as set forth in the application CBE-16-031 for the purpose of installing a 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 on October 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 federal, state, and local permits as required for the project, including a Building Permit.
  - 2) A surety of \$500 will be required in a form acceptable to the County Attorney's Office.
  - 3) Project location staked in the field and approved by the Engineering and Resource Protection Division prior to construction.
  - 4) This exception request approval shall become null and void if construction has not begun by October 14, 2016.
  - 5) 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.

**4. CBE-16-033: Anton/Gregg Bleam Landscape – 19 Mile Course**

Michael Woolson presented the exception request submitted by Gregg Bleam Landscape Architect on behalf of the property owner, Susan Anton. The request was for approximately 6,400 sqft of encroachment into the RPA buffer associated with demolition and reconstruction of a single family dwelling and associated terraces and pools, considered accessory in nature, at 19 Mile Course in the Kingsmill subdivision, parcel #5040200019. Mr. Woolson explained this proposal was actually a 14% net reduction in impervious cover mostly in the seaward 50 foot buffer and the mitigation which included over 2,100 sqft of green roof, native ground cover, removal of turf grass and infiltration trenches/dry wells exceeded the standard county planting requirements. Staff determined

the impacts associated with this project to be major and recommended approval of the exception request with the conditions outlined in the Resolution to Grant.

Mr. Hughes asked why the impacts were considered major if they were reducing the impervious cover.

Mr. Woolson said the consideration was based on the resulting total impervious cover in the RPA.

Mr. Gussman opened the public hearing.

A. Mr. Anton, property owner, stated they liked the property site and wanted to improve the structure and restore the vegetation lost from erosion.

Mr. Gussman asked why they were proposing the green roofs.

Mr. Hughes asked what type of ground covers were proposed.

A. Mr. Anton stated he had done a thesis on environmental impacts that he was anxious to practice. He deferred the ground cover explanation to the landscape architects who had also encouraged the green roofs.

B. Will Tremble with Gregg Bleam Landscape Architects, stated they were proposing a variety of native species for maximum cover and survivability. They were proposing sedges, ferns, ginger and foam flower for seasonal impact. The green roofs would be planted with blue grama grass at the recommendation of other green roof architects.

The Board members were impressed with the green roof proposal and Mr. Gussman stated he would like to view the project when it is completed.

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-16-033 at 19 Mile Course, Parcel ID #5040200019.

The motion was approved by a 4-0 vote.

**RESOLUTION**  
**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 5040200019**

WHEREAS, Gregg Bleam, Gregg Bleam Landscape Architect, on behalf of Susan Anton (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 5040200019 and further identified as 19 Mile Course in the Kingsmill subdivision (the "Property") as set forth in the application CBE-16-033 for the purpose of reconstructing a single family dwelling with associated terraces and pools; 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 October 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 federal, state, and local permits as required for the project.
  - 2) Design and installation of the green vegetated roof system shall follow an appropriate industry accepted standard such as Virginia DEQ Stormwater Design Specification No. 5 (Vegetated Roof) or similar ASTM, AIA, or equivalent standard; and
  - 3) Surety of \$8,000 will be required in a form acceptable to the County Attorney's office.
  - 4) A land disturbing/stormwater construction permit application and associated erosion and sediment control plan shall be submitted to the Engineering and Resource Protection Division for review and approval; and
  - 5) This exception request approval shall become null and void if construction has not begun by October 14, 2016.
  - 6) 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. CBE-16-036: SeaWorld Parks/VHB – Busch Gardens Italy**

Michael Woolson presented the exception request submitted by Mr. Piotr Swietuchowski with Vanasse Hangen Brustlin, Inc (VHB) on behalf of the property owner SeaWorld Parks & Entertainment. The request was for approximately 647 square feet of additional impervious cover in the RPA buffer associated with renovation of the Italy Restaurant in Busch Gardens, located at 7841 Pocahontas Trail, parcel 5140100009. Mr. Woolson described the proposed construction and mitigation and advised the Board that the revision in this presentation was submitted after the staff report was written and posted. Staff reviewed the application and revised plan, determined the impacts to be minimal and recommended approval with the conditions outlined in the Resolution to Grant.

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

All Board members agreed that projects in Busch Gardens were always done with concern for the environment.

Mr. Schmidt made a motion to adopt the resolution to grant the exception for Chesapeake Bay Board Case CBE-16-036 for the Busch Gardens Italy Restaurant at 7841 Pocahontas Trail, Parcel ID 5140100009.

The motion was approved by a 4-0 vote.

**RESOLUTION**  
**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 5140100009**

WHEREAS, Piotr Swietuchowski with Vanasse Hangen Brustlin, Inc (VHB), on behalf of Suzy Cheely with SeaWorld Parks & Entertainment, Busch Gardens Williamsburg (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 5140100009 and further identified as Busch Gardens at 7841 Pocahontas Trail (the "Property") as set forth in the application CBE-16-036 for renovation of the Italy restaurant and new elevated decks; 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 October 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 federal, state and local permits as required for the project.
  - 2) Surety of \$750 will be required in a form acceptable to the County Attorney's office.
  - 3) This exception request approval shall become null and void if construction has not begun by October 14, 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.

**6. CBE-16-038: Miller/Hertzler & George – 104 Archers Court**

Michael Woolson presented the exception request submitted by Mr. Phillip Merritt of Hertzler & George on behalf of the property owners Brink and Sandra Miller. The request was for approximately 500 square feet of encroachment into the landward RPA buffer associated with a patio at 104 Archers Court in the Kingspoint subdivision, parcel 4920380017. Mr. Woolson described the property conditions the patio and the proposed mitigation correcting the number of perennials listed in the staff report to from 200 to 50. The applicant was also proposing an infiltration trench for run off from the patio and some of the existing roof top. Mr. Woolson mentioned that the patio was already constructed and last month this Board granted the appeal of violation CBV-16-001 for the County's request to have the patio removed. Staff reviewed this resulting application and mitigation plan, determined the impacts to be minor and recommended approval with the conditions outlined in the Resolution to Grant.

Mr. Gussman opened the public hearing.

A. Joe Hertzler and Phillip Merritt of Hertzler & George advised the Board that the recently received soils report indicated that the infiltration trenches would work in this area.

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

Mr. Hughes and Mr Waltrip both commented that the proposed mitigation was a good plan.

Mr. Waltrip made a motion to adopt the resolution to grant the exception for Chesapeake Bay Board Case CBE-16-038 at 104 Archers Court, Parcel ID 4920380017.

The motion was approved by a 4-0 vote.

**RESOLUTION**  
**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 4920380017**

WHEREAS, Phillip Merritt, Hertzler & George, on behalf of Brink and Sandra Miller, (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 4920380017 and further identified as 104 Archers Court in the Kingspoint subdivision (the "Property") as set forth in the application CBE-16-038 for installation of a 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 on October 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 federal, state and local permits as required for the project.
  - 2) Design and construction of the onlot runoff reduction/pollutant removal practices as proposed (infiltration facility) shall generally follow micro-scale specifications found in Virginia DEQ Stormwater Design Specification No. 8 (Infiltration); or alternatively, an equivalent and acceptable published and agreed upon standard for onlot residential practices. Final design/construction information for the practices shall be submitted to the Engineering and Resource Protection Division for review and approval prior to installation
  - 3) A \$2,500 surety to guarantee the mitigation plan, including native plantings and the proposed onlot runoff and pollutant reduction practice, shall be submitted to the Engineering and Resource Protection Division, in a form acceptable to the County Attorney's office.
  - 4) This exception request approval shall become null and void if construction has not begun by October 14, 2016.
  - 5) 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.

**7. CBE-16-039: Gero – 121 Mathews Grant**

Michael Woolson presented the exception request submitted by property owners Mark and Lisa Gero. The request was for approximately 400 square feet of encroachment into the landward and seaward RPA buffers associated with dry-stacked retaining walls installed to prevent erosion on their property at 121 Mathews Grant in the Kingsmill subdivision, parcel 4940200057. The work was done without realizing approval was required from the Chesapeake Bay Board and the owners came forward on their own accord to seek approval. Mr. Woolson described the property conditions and the plantings that were already installed stating they exceeded the County's standard mitigation requirements. Mr. Woolson advised the Board that Staff could not confirm whether or not the current or previous owners had been informed of the RPA placed on this property in 2004. Staff reviewed the application, determined the impacts to be minimal and recommended approval with the conditions outlined in the Resolution to Grant.

Mr. Waltrip asked what determined a building permit requirement for retaining walls as none was obtained for this project.

Mr. Woolson stated it was currently 3 feet of unbalanced fill.

Mr. Gussman opened the public hearing.

A. Mark Gero stated he was present to answer any questions.

Mr. Gussman closed the public hearing as the Board has no questions and no one else wished to speak.

Mr. Gussman made a motion to adopt the resolution to grant the exception for Chesapeake Bay Board Case CBE-16-039 at 141 Mathews Grant, Parcel ID 4940200057.

The motion was approved by a 4-0 vote.

**RESOLUTION**  
**GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 4940200057**

WHEREAS, Mark and Lisa Gero (the "Applicant") 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 4940200057 and further identified as 121 Mathews Grant in the Kingsmill Tutter's Neck subdivision (the "Property") as set forth in the application CBE-16-039 for the installed dry-stacked retaining walls;

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 October 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 federal, state, and local permits as required for the project, including a Land Disturbing Permit

**D. BOARD CONSIDERATIONS - none**

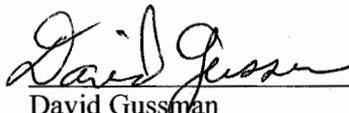
**E. MATTERS OF SPECIAL PRIVILEGE**

Mr. Gussman reminded the Board that due to Veterans Day falling on Wednesday, the next meeting would be held on Thursday, November 12, 2015 and the approval of the 2016 calendar and selection of officers would be on the agenda.

Mr. Waltrip also invited all Board members and the listening audience to the 45<sup>th</sup> anniversary of the Jamestown Airport to be held on Saturday October 17, 2015, from 10 a.m. - 4 p.m.

**F. ADJOURNMENT**

The meeting adjourned at 8:55 p.m.

  
\_\_\_\_\_  
David Gussman  
Chesapeake Bay Board Chair

  
\_\_\_\_\_  
Melanie Davis  
Secretary to the Board