

**JAMES CITY COUNTY CHESAPEAKE BAY BOARD
MINUTES**

Wednesday January 13, 2016

A. ROLL CALL

David Gussman
John Hughes
William Apperson
Charles Roadley
Roger Schmidt - Alternate

ABSENT

Larry Waltrip

OTHERS PRESENT

County Staff:

Michael Woolson, Senior Watershed Planner
Melissa MacIntyre, Environmental Inspector II
Scott J. Thomas, Director of Engineering and Resource Protection
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 November 12, 2015 Board Meeting minutes were approved as written.

C. PUBLIC HEARINGS

1. CBE-15-097: Anthony – 112 North Trace – Continued from July 8, 2015

Senior Watershed Planner, Michael Woolson advised the Board that the applicant had withdrawn the exception request and the only required action was to close the public hearing.

No one else wished to speak on this case.

Mr. Gussman closed the public hearing.

2. CBE-16-059: Toby Development/Moore & Sons Builders – 4029 S Riverside Drive

Environmental Inspector, Melissa MacIntyre presented the exception request submitted by David Moore on behalf of Toby Development LLC for approximately 2,936 sqft of encroachment into the RPA buffer associated with construction of a single family dwelling with attached deck on pilings, at 4029 S. Riverside Drive in the Chickahominy Haven subdivision, parcel #1910300005. Ms. MacIntyre described the existing site conditions, the location of the proposed house and deck, and the proposed mitigation planting which meet the County standard requirements. 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 the Exception.

Mr. Hughes asked if three trees shown in the displayed photographs of the property, would be removed.

Ms. MacIntyre assumed they would be removed based on the location of the house and the limits of clearing indicated on the submitted plan.

Mr. Gussman and Mr. Roadley asked if the septic fields could be relocated so the house might be moved out of the seaward buffer.

Ms. MacIntyre stated the location of the septic field was determined by the state Environmental Health Department based on the property setback lines and the location of the proposed and neighboring wells.

Mr. Apperson advised that the proposed American Holly and Mountain Laurel mitigation shrubs were not well suited for areas prone to flooding. He suggested the applicant substitute a more appropriate native shrub for this area.

Mr. Gussman asked if the applicant was locked into using the species specified in the mitigation plan.

Ms. MacIntyre stated the applicant could substitute other plants with Staff's approval and in any case, the mitigation surety would be held for one growing season to guarantee the survival of the plants.

Mr. Hughes said the proposed driveway was gravel and the applicant would need to request another exception if this changed.

Mr. Gussman opened the public hearing.

A. David Moore, owner Toby Development, confirmed that the location of the septic field was approved by the Health Department and was based on the location of the neighboring well. He stated he had made every effort to locate the house as far out of the 50 foot buffer as possible.

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

Mr. Roadley thanked the applicant for his efforts to move the proposed structure out of the 50 ft RPA buffer.

Mr. Schmidt made a motion to adopt the Resolution to Grant the Exception for Chesapeake Bay Board Case CBE-16-059 at 4029 S Riverside Drive, Parcel ID #1910300005.

The motion was approved by a 5-0 vote.

RESOLUTION
GRANTING AN EXCEPTION ON JCC RE TAX PARCEL 1910300005

WHEREAS, Mr. David Moore, on behalf of Toby Development LLC (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 1910300005 and further identified as 4029 S Riverside Drive in the Chickahominy Haven subdivision (the "Property") as set forth in the application CBE-16-059 for the purpose of constructing a single family dwelling 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 13, 2016, 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 from James City County Building Safety and Permits Division.
 - 2) A \$2,000 surety will be required in a form acceptable to the County Attorney's office, to guarantee full implementation of the RPA Mitigation Plan submitted with the WQIA for this project.
 - 3) This exception request approval shall become null and void if construction has not begun by January 12, 2017.
 - 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.

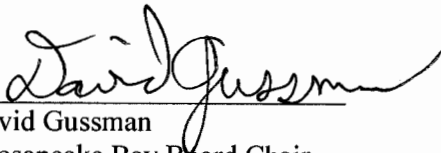
D. BOARD CONSIDERATIONS - none

E. MATTERS OF SPECIAL PRIVILEGE

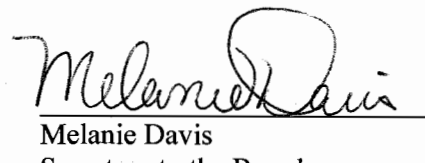
Mr. Hughes asked Staff to look into a possible violation on Powhatan Creek and advise the Board of their findings at next month's meeting.

F. ADJOURNMENT

The meeting adjourned at 7:20 p.m.



David Gussman
Chesapeake Bay Board Chair



Melanie Davis
Secretary to the Board