

MINUTES
JAMES CITY COUNTY CHESAPEAKE BAY BOARD
REGULAR MEETING
County Government Center, Building F
101 Mounts Bay Road, Williamsburg, VA 23185
May 11, 2016
7:00 PM

A. CALL TO ORDER

The May 11, 2016 Chesapeake Bay Board meeting was called to order.

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. ROLL CALL

Board Members Present:

David Gussman - Chair
Larry Waltrip
John Hughes
Charles Roadley

Absent:

William Apperson

Others Present:

County Staff:

Michael Woolson, Senior Watershed Planner
Maxwell Hlaven, Assistant County Attorney
Melanie Davis, Secretary to the Board

C. MINUTES

1. Minutes from April 11, 2016 NOVUS Training
Approved as written.
2. Minutes from April 13, 2016 meeting
Approved as written.

D. PUBLIC HEARINGS

1. CBE-16-086 : 223 Oakmere Park

Senior Watershed Planner, Michael Woolson presented the exception request submitted by Stan Stinnett, Coastal Construction and Development, on behalf of Randy and Sandra Welsh, for 5011 sqft of encroachment into the RPA buffer for construction of a single family home. The property is within the Ford's Colony subdivision and the Powhatan Creek watershed and the entire lot is within the RPA buffer. Mr. Woolson's presentation described the current site conditions, the proposed construction and the proposed mitigation. 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.

Mr. Gussman opened the public hearing.

A. Matt Roth, Roth Environmental LLC, explained that surrounding development over the years has resulted in changes to the stormwater flow patterns. Changes to the hydrology and poor soil conditions, in conjunction with changes to the wetlands delineation manual and changes to indicators for wetlands species have caused an expansion of the wetland areas on this lot. However, the lot was platted as buildable and the submitted application is for a moderately sized house for the neighborhood, situated with the least amount of impact as possible. He described the use of mitigation for stabilization and nutrient uptake. He also explained that the use of an infiltration area was considered but due to the high water table, was not feasible.

Mr. Roadley asked if the developer was going to occupy the house or was there a contract buyer.

A. Mr. Roth said it would be a spec house.

Mr. Roadley understood the issues with this lot but was concerned with the ability of future owners to maintain the lot as proposed. He asked if the applicant had considered using only mulch as opposed to a turf lawn and commented that the shading effect from the surrounding trees would prevent a desirable yard anyway.

A. Mr. Roth said eliminating all turf was not compatible with any other lot in the neighborhood and would be a negative in trying to sell the home.

Mr. Hughes was also concerned with future owners disregarding the conditions imposed to protect the wetlands. He asked if the applicant would consider including a notice with the closing documents regarding the restrictions on this lot.

A. Mr. Roth said they would and asked if the County had specific language that could be incorporated.

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

Mr. Gussman felt the applicant had done a good job of minimizing the impact on a difficult lot. He asked the legal staff for guidance on a document for future or prospective owners of this lot.

Assistant County Attorney, Maxwell Hlaven suggested an affidavit signed by the current property owner be recorded in the land records. It would then be part of the chain of title for the property.

Mr. Woolson advised the Board that this was not an unusual situation and Staff was always in communication with realtors and home owners regarding the restrictions on lots. In addition, the Chesapeake Bay Preservation ordinance required posting RPA signs prohibiting the removal of vegetation. Therefore he felt Staff could handle future encroachments without the deed restriction.

The Board members felt this was an extreme case and were concerned with the future

use of this lot because it was not just the RPA buffer but, actual wetlands that could be impacted. They felt the requirement of an affidavit was reasonable under these conditions.

Mr. Roadley was also concerned with the proposed limits of clearing in proximity to the wetlands.

A. At the chairman's request, Mr. Roth approached the Board with a revised plan replacing the proposed turf grass with mulch on the north side of the property, closest to the wetlands.

Mr. Roadley felt this revision was helpful but was still concerned with long term protection of the wetlands on this lot.

Mr. Hughes stated the revised plan would become part of the record and a condition of the Exception but, also wanted to require a recorded affidavit as a condition.

Mr. Woolson asked if the Board wished to review the affidavit before it was recorded. Mr. Hughes stated that as long as it was acceptable to the County Attorney, the Board did not need to review it before it was recorded. However, the Board members did want to see a copy of it for reference.

Mr. Waltrip stated the affidavit would protect future owners as well as the County.

Mr. Roadley made a motion to defer action on Chesapeake Bay Board Case CBE-16-086 at 223 Oakmere Park until the June meeting, to afford the applicant and County time to revise the Resolution and draft the affidavit.

Mr. Gussman asked the applicant if that was acceptable.

A. Mr. Roth said he thought the decision had already been made to require an affidavit and revised clearing plan so he did not see the need for a deferral.

A motion to Deny was made by Charles Roadley, the motion result was .

AYES: 1 NAYS: 3 ABSTAIN: 0 ABSENT: 1

Ayes: Roadley

Nays: Gussman, Hughes, Waltrip

Absent: Apperson

Mr. Hughes made a motion to adopt the Resolution for Chesapeake Bay Board Case CBE-16-086 at 223 Oakmere Park, revised to include the replacement of turf with mulch on the north side of the property and the recordation of a signed affidavit approved by the County Attorney's office, regarding the RPA restrictions on this lot.

A motion to Approve w/ Conditions was made by John Hughes, the motion result was .

AYES: 4 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Gussman, Hughes, Roadley, Waltrip

Absent: Apperson

2. CBE-16-089 : 159 Jackson Street

Senior Watershed Planner, Michael Woolson presented the exception request submitted by Arthur Echoles, for 224 sqft of encroachment into the RPA buffer for construction of a storage shed. The property is within the Skiffes Creek watershed and the entire lot is within the RPA buffer. Mr. Woolson's presentation described the current site conditions, the proposed construction and stated that the required mitigation had already been installed. Staff determined the impacts associated with this project to be minimal and recommended approval of the exception request with the conditions outlined in the Resolution.

Mr. Gussman opened the public hearing.

A. Mr. Echoles explained his need to have a place to store tools and material for making repairs to his home.

Mr. Hughes made a motion to adopt the Resolution for Chesapeake Bay Board Case CBE-16-089 at 159 Jackson Street.

A motion to Approve was made by John Hughes, the motion result was .
AYES: 4 NAYS: 0 ABSTAIN: 0 ABSENT: 1
Ayes: Gussman, Hughes, Roadley, Waltrip

Absent: Apperson

E. BOARD CONSIDERATIONS


None


F. MATTERS OF SPECIAL PRIVILEGE

None

G. ADJOURNMENT

The meeting adjourned at 8:10 pm


William Apperson
Chesapeake Bay Board Vice Chair


Melanie Davis
Secretary to the Board