

MINUTES
JAMES CITY COUNTY CHESAPEAKE BAY BOARD
REGULAR MEETING
County Government Center, Building F
101 Mounts Bay Road, Williamsburg, VA 23185
June 8, 2016
7:00 PM

A. CALL TO ORDER

The June 8, 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:

William Apperson - Vice Chair
John Hughes
Charles Roadley
Roger Schmidt

Absent:

David Gussman
Larry Waltrip

Others Present:

County Staff:

Michael Woolson, Senior Watershed Planner
Scott J Thomas, Director Engineering and Resource Protection
Maxwell Haven, Assistant County Attorney
Melanie Davis, Secretary to the Board

C. MINUTES

1. Minutes from 5/11/16 meeting

Approved as written.

D. PUBLIC HEARINGS

1. CBE-16-098 : WISC Indoor Pool Facility

Senior Watershed Planner, Michael Woolson presented the exception request submitted by Ryan Stevenson, AES Consulting Engineers, on behalf of LaRS Group, for encroachments into the RPA buffer for grading impacts and the installation of a storm drain system associated with the building of an indoor pool and locker room on the Williamsburg Indoor Soccer Complex (WISC) property located at 5700 and 5720 Warhill Trail. The plan of development for this project is currently going through the review process under assigned County Plan No. SP-20-16. Mr. Woolson's presentation described the current site conditions and the proposed mitigation. He also explained that the RPA impacts had been significantly reduced from the original proposal. Staff

determined the impacts to be minor and recommended approval of the exception request with the conditions outlined in the Resolution.

Mr. Roadley asked if the applicant had considered alternatives to avoid encroachment into the RPA. He asked if the existing stormwater facility had been evaluated for its ability to treat this proposed addition and also asked if there was concern about erosion control with the fill in the steep slope area.

Mr. Woolson said he anticipated a retaining wall instead of the graded slope but that alternative was not put forth, instead the grading impact was reduced. He believed the existing stormwater facility was designed for the ultimate build-out of the site. He said the site plan called for super silt fence for erosion and sediment control during construction, then there would be coconut fiber matting and mitigation to restore the area after construction.

Mr. Apperson opened the public hearing.

A. Joseph Swanenburg a County resident, approved the purpose of the project but was concerned with the proposed location because of the impact to the RPA. He had previously sent an email to this Board regarding these concerns and a copy of this email was in the Board packet. He also sent an email to the Board of Supervisors commenting that they had not been informed of the environmental constraints, impact to stormwater and all required permits, when they approved the lease amendment for WISC on April 26, 2016. He suggested the Chesapeake Bay Board place a condition on their approval or defer their decision until the Board of Supervisors could consider these issues.

B. Chris Henderson a County resident, agreed with Mr. Swanenburg and was also concerned with the ability of the existing BMP to meet the County's MS4 permit requirements. He also questioned the accuracy of the wetlands delineation indicated on the plan.

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

Mr. Roadley asked the applicant if the capacity of the existing BMP had been evaluated, if any further use of the property behind this building was anticipated or if the re-vegetated area would remain undisturbed, and what if any alternatives were considered for this expansion. He then asked if an Army Corp of Engineers (ACOE) permit would be required for this project as mentioned by Mr. Swanenburg.

C. Jason Grimes with AES, said the BMP had been renovated in the past five years, was evaluated with the last expansion of the facility and had sufficient capacity to handle this expansion. He had no knowledge of any additional disturbance anticipated in this area. The impacts originally proposed for this project were significantly reduced and there were no other areas considered for this expansion. He also stated the wetlands had been delineated and confirmed by the ACOE in the past six months and an ACOE permit was not required for this project.

Mr. Roadley then asked Staff to comment on the County's MS4 permit and the TMDL requirements.

Mr. Scott Thomas stated he had complete confidence that the existing stormwater

system was sufficient to handle this expansion and would be compliant with the County's MS4 permit and TMDL.

Mr. Apperson thanked Mr. Swanenburg and Mr. Henderson for their comments and concerns but felt this plan was well engineered and was confident in Staff's evaluation.

Mr. Roadley had some concern with the steep slope impacts but felt the impact to the RPA which would be re-vegetated was a minor encroachment.

Mr. Hughes also stated the RPA encroachment was minor and some of the concerns that were raised were not within the purview of this Board.

Mr. Schmidt made a motion to adopt the Resolution granting the exception for Chesapeake Bay Board case CBE-16-098 at 5700 and 5720 Warhill Trail.

The motion was approved by a 4-0-1 vote.

Ayes: Apperson, Hughes, Roadley, Schmidt

Absent: Gussman

2. CBE-16-097 : 7564 Uncles Neck

Senior Watershed Planner, Michael Woolson presented the exception request submitted by Blake and Sally Ryan, for encroachment into the RPA buffer to construction a 48 sqft platform as part of an administratively approved staircase, for access to a pier on the Chickahominy River. Mr. Woolson's presentation described the current site conditions, the proposed staircase and platform construction and the required mitigation. Staff determined the impacts associated with this project to be minor and recommended approval of the exception request with the conditions outlined in the Resolution.

Mr. Roadley asked if the current site was stable.

Mr. Woolson responded it was and he saw no evidence of current or past erosion.

Mr. Apperson asked when a structure would be considered a platform as opposed to a pier.

Mr. Woolson stated a pier begins when it ties into the natural grade.

Mr. Hughes asked what was the allowable width for an access path to be administratively considered.

Mr. Woolson stated four to six feet would be reasonable. Other than for an ADA requirement anything wider would be considered more than the minimum necessary to afford relief.

Mr. Apperson opened and then closed the public hearing as no one wished to speak on this case.

Mr. Roadley and Mr. Apperson both asked that the applicant take care to not destabilize

the slope.

Mr. Roadley made a motion to adopt the Resolution granting the exception for Chesapeake Bay Board case CBE-16-097 at 7564 Uncles Neck.

The motion was approved by a 4-0-1 vote.

Ayes: Apperson, Hughes, Roadley, Schmidt

Absent: Gussman

3. CBE-16-093 : 116 Nottinghamshire

Senior Watershed Planner, Michael Woolson presented the exception request submitted by Larry Walk with Walk Wright Construction, for 3271 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 majority of the lot is within the RPA buffer. Mr. Woolson's presentation described the current site conditions, the proximity to the wetlands, the proposed construction that included 672 sqft of encroachment into the seaward RPA buffer, 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. Apperson opened the public hearing.

Mr. Roadley asked the applicant if he would consider eliminating the turf on the site and if he would be agreeable to recording an affidavit regarding the restrictions on this lot so that future owners would be well informed.

A. Larry Walk, Walk Wright Construction, said the proposed turf was minimal. If mandated by this Board he would be agreeable to an affidavit after he had a chance to review it.

Mr. Hughes asked staff what an affidavit would contain.

Mr. Max Hlaven Assistant County Attorney, explained an affidavit states the grantor is the current owner and grantee and the listed property is located within the RPA with specific restrictions. The Resolution, site plan and mitigation plan are attached to the affidavit. The owner is to have this affidavit with attachments recorded and proof of recordation provided to the County.

Mr. Roadley asked the applicant if he wished to defer his exception request pending review of the affidavit.

A. Mr. Walk indicated he did not.

Mr. Roadley made a motion to adopt the Resolution granting the exception for Chesapeake Bay Board case CBE-16-093 at 116 Nottinghamshire with the added condition that an affidavit indicating the property was in an RPA along with the Resolution and mitigation plan be recorded for future owners.

The motion was approved by a 4-0-1 vote.

Ayes: Apperson, Hughes, Roadley, Schmidt

Absent: Gussman

E. BOARD CONSIDERATIONS

None

F. MATTERS OF SPECIAL PRIVILEGE

Mr. Hughes asked if Staff could make comments regarding an affidavit on future cases similar to this one on Nottinghamshire and the one last month on Oakmere Park.

Mr. Woolson said he would take into consideration adding the affidavit requirement for single family homes that encroached into the seaward buffer.

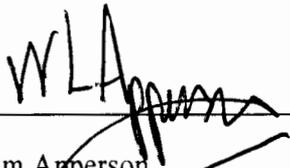
Mr. Roadley thought staff might be able to offer additional suggestions to protect these areas.

Mr. Apperson agreed with trying to protect the RPA but was concerned with attachments to deeds that might lower the value of lots. He asked Mr. Hlavin if there was anything in the affidavits that would not be facts already known and decided by this Board and the property owner.

Mr. Hlavin stated there was not and in signing the affidavit the owner would agree with its contents.

G. ADJOURNMENT

The meeting adjourned at 8:15 pm



William Apperson
Chesapeake Bay Board Vice Chair



Melanie Davis
Secretary to the Board