

MINUTES
JAMES CITY COUNTY CHESAPEAKE BAY BOARD
REGULAR MEETING
County Government Center, Building F
101 Mounts Bay Road, Williamsburg, VA 23185
April 12, 2017
7:00 PM

A. CALL TO ORDER

The Chesapeake Bay Board meeting for April 12, 2017, 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
Charles Roadley
Larry Waltrip

Absent:

William Apperson
John Hughes

Others Present:

County Staff (Staff):

Michael Woolson, Senior Watershed Planner
Fran Geissler, Acting Director, Engineering and Resource Protection
Ashley Tatge, Inspector, Engineering and Resource Protection
Maxwell Hlavin, Assistant County Attorney
Liz Parman, Assistant County Attorney
Melanie Davis, Secretary to the Board

C. MINUTES

1. March 8, 2017, Regular Meeting Minutes

The minutes were approved as written.

D. PUBLIC HEARINGS

Prior to starting the public hearings, Staff formally reminded the Board, all applicants and the public that three affirmative votes are required for approvals.

1. Chesapeake Bay Board Case No. CBE 17-052 - Kingsmill Marina

Ashley Tatge presented the exception request submitted by the William & Mary Sailing Team, for encroachment into the Resource Protection Area (RPA) buffer, to place two storage sheds at the Kingsmill Marina, located at 1060 Kingsmill

Road on the James River and further identified as James City County Parcel No. 3811300023. The presentation described the current site conditions, the purpose of the proposed structures and the required mitigation. Staff reviewed the application, determined the associated impacts to be minimal and recommended approval with the conditions outlined in the Resolution.

Mr. Roadley noticed there would be no tree clearing and the area was currently being used for storing kayaks.

Mr. Gussman opened the Public Hearing.

A. Mr. Thomas Griffiths, current Commodore of the William & Mary Sailing Team, stressed the importance of the sheds to store sailing equipment and stated they would not be used for storing the gas tanks. He also told the Board the sailing team was very environmentally conscience and were in the process of adopting the Jamestown Beach for beach clean-up.

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 No. CBE-17-052 for two storage sheds at the Kingsmill Marina.

The motion was Approved: 3-0

Ayes: Roadley, Waltrip, Gussman
Absent: Hughes, Apperson

2. Chesapeake Bay Board Case No. CBE 17-042 : 115 Hurlston

Michael Woolson presented the exception request submitted by Jim Gallagher of Green Side Up Landscaping, on behalf of property owners, Bobby and Jennifer Lappas. The request was for approximately 600 square feet of encroachment into the Resource Protection Area (RPA) buffer to construct a paver patio, fire pit and seating wall at 115 Hurlston in the Ford's Colony subdivision, within the Powhatan Creek watershed and further identified as James City County Parcel No. 3811300023. This exception request was continued from the March 8, 2017 meeting for completion and submission of an adequate mitigation plan. The plan was submitted and approved by Staff. Staff determined the associated impacts to be minimal and recommended approval with the conditions outlined in the Resolution.

Mr. Gussman asked the purpose of a concrete structure shown in one of the presentation photographs.

Mr. Woolson explained it was a private irrigation well and was where the site had been over cleared.

Mr. Gussman asked if the County regulated irrigation wells.

Mr. Woolson stated a permit would be required from the state Health Department and the James City Service Authority.

Mr. Roadley asked if staff was concerned with the runoff from the proposed patio.

Mr. Woolson said the proposed mitigation was not directly behind the patio, but was more important for the proposed turf grass.

A. Mr. Jim Gallagher with Green Side Up Landscaping, contractor for project, was available to answer any questions from the Board.

Mr. Gussman closed the Public Hearing as no one else wished to speak.

Mr. Roadley stated the requested encroachment was proposed within the limits of clearing already approved by the County so he would not oppose the request. He did state it was preferred that accessory structures be included with the exception requests for the principal structures.

Mr. Roadley made a motion to adopt the Resolution to Grant the Exception for Chesapeake Bay Board Case No. CBE-17-042 at 115 Hurlston.

The motion was Approved: 3-0

Ayes: Roadley, Waltrip, Gussman

Absent: Hughes, Apperson

3. Chesapeake Bay Board Case No. CBE 17-058 : 2809 Blue Lake Court

Michael Woolson presented the exception request submitted by Mr. Dan O'Neill of Old Dominion Landscapes, on behalf of the property owner, Mr. Richard Dohmen. The exception request was for encroachment into the Resource Protection Area (RPA) buffer to construct a retaining wall at 2809 Blue Lake Court, in the Lake Powell Pointe subdivision, within the Mill Creek watershed. The property is further identified as James City County Parcel No. 4830700048. The presentation described the current site conditions, the construction of the wall and the proposed mitigation. Staff determined impacts for this proposal to be minor and recommended approval with the conditions outlined in the Resolution.

Mr. Waltrip asked why the wall was proposed in the indicated location.

Mr. Woolson deferred to the applicant but stated the existing wall was failing.

Mr. Gussman opened the Public Hearing.

A. Mr. Dan O'Neil, owner of Old Dominion Landscapes, described the poor installation and condition of the existing wall. He explained how the proposed wall would be constructed, its infiltration features, how it would prevent further site erosion and how it would protect the RPA.

Mr. Gussman closed the Public Hearing as no one else wished to speak.

Mr. Roadley said he was initially concerned with the extent of encroachment; however, after Mr. O'Neil's comments and because of the existing site erosion, he was satisfied with the proposal.

The other Board members agreed with Mr. Roadley's comments.

Mr. Waltrip made a motion to adopt the Resolution to Grant the Exception for Chesapeake Bay Board Case No. CBE-17-058 at 2809 Blue Lake Court.

The motion was Approved: 3-0

Ayes: Roadley, Waltrip, Gussman

Absent: Hughes, Apperson

4. Chesapeake Bay Board Case No. CBE 17-062 : 104 Abigail Lane

Michael Woolson presented the exception request submitted by Mr. Mitchell Foos of The King's Garden Landscaping, on behalf of the property owners, James and Helen Noonan. The exception request was for encroachment into the Resource Protection Area (RPA) buffer to construct two retaining walls and a sidewalk at 104 Abigail Lane, in the Kingsmill subdivision, within the College Creek watershed. The property is further identified as James City County Parcel No. 5030400086. The presentation described the current site conditions, the construction of the walls and sidewalk, and the proposed mitigation. Staff determined impacts for this proposal to be minor and recommended approval with the conditions outlined in the Resolution.

Mr. Roadley asked if the retaining walls would be staggered or at one level and if there was a proposed collection system for discharge from the driveway.

Mr. Woolson said they would be staggered and the intention was to create a collection system.

Mr. Gussman opened the Public Hearing.

A. Mr. Mitchell Foos, owner of The King's Garden Landscaping, commented that the purpose of the project was to prevent erosion and protect the usable area of the lot. He also explained the proposed infiltration method.

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 No. CBE-17-062 at 104 Abigail Lane.

The motion was Approved: 3-0

Ayes: Roadley, Waltrip, Gussman

Absent: Hughes, Apperson

E. BOARD CONSIDERATIONS

1. Chesapeake Bay Violation Appeal Case No. CBV-17-062 : 9388 Ashlock Court

Michael Woolson presented the appeal submitted by Don and Anne Perkins. The appeal was of an administrative order to remove a patio from the Resource Protection Area (RPA) buffer on their property at 9388 Ashlock Court in the Stonehouse Glen subdivision. The property is further identified as James City County Parcel No. 0530700011. Mr. Woolson explained the RPA delineation existed when the Perkins purchased the property and there was sufficient area outside of the RPA for the patio. Based on the guidance in Section 23-17(b) of the Chesapeake Bay Preservation Ordinance, Staff believes the patio should be removed from the RPA and the area revegetated with native trees and shrubs. However, if the Board wishes to grant the appeal, the applicant should be required to submit a Sensitive Area Activity Application with double mitigation requirements, for a public hearing consideration, at the next available Chesapeake Bay Board meeting.

Mr. Roadley asked if the patio was pavers or concrete with a retaining wall behind it. He also asked if the slope behind the wall was stable.

Mr. Woolson said the patio was constructed with pavers. The wall was a stacked seating wall and the area behind the wall was stable.

Mr. Waltrip asked if any fill was used for construction of the patio.

Mr. Woolson could not confirm or deny the use of fill.

Mr. Gussman asked Mr. Woolson for the scenario and timeline should the Board not grant the appeal.

Mr. Woolson explained the violation would stand and the applicant would need to remove the portion of the patio in the RPA and restore the area with native plantings. Staff would work with the applicant to have this completed in a timely manner. The applicant also had an option to appeal this Board's decision in the Civil Court.

A. Mr. Don Perkins, the property owner, submitted photos of the site and explained no trees were removed for installation of the patio. The area was already bare and he believed it had been used for trash during the construction of the house. He also stated the only RPA location sign was located 16 feet beyond the end of the patio and therefore they had not intentionally encroached into the RPA.

B. Mrs. Anne Perkins, the property owner, was concerned with having to plant trees in the RPA and described the difficulties they had getting anything they planted to survive.

Mr. Roadley stated the issue was not only the violation but the cumulative impacts to the RPA. He understood the confusion due to the location of the RPA sign; however, it is also an owner's responsibility to reference the plat of their property

and be aware of the actual sensitive area location. He was inclined to grant the appeal and require the submission of an application for the encroachment into the RPA.

Mr. Waltrip agreed an application should come back before a full Board and be considered as an exception request.

Mr. Gussman said he would grant an after-the-fact exception if it was something he would approve as a proposed exception. In this case, he would not approve this as an exception request therefore, he could not vote to grant the appeal.

Mr. Woolson stated the applicant had an option to request a deferral of the Board's decision in order for their appeal to be considered by a full five-member Board.

Mr. and Mrs. Perkins both stated they could not wait another month for a decision. They asked what the next steps would be.

Mr. Woolson and Mr. Gussman advised them to contact Staff for guidance.

Mr. Roadley made a motion to adopt the Resolution to grant the appeal of the Notice of Violation, Chesapeake Bay Board Case CBV-17-012, at 9388 Ashlock Court.

The motion to Approve was Denied: 2-1

Ayes: Roadley, Waltrip

Nays: Gussman

Absent: Hughes, Apperson

F. MATTERS OF SPECIAL PRIVILEGE

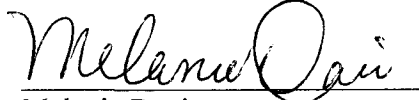
None

G. ADJOURNMENT

The meeting adjourned at 8:50 p.m.



David Gussman
Chesapeake Bay Board Chair



Melanie Davis
Secretary to the Board