

MINUTES
JAMES CITY COUNTY CHESAPEAKE BAY BOARD
REGULAR MEETING
County Government Center, Building F
101 Mounts Bay Road, Williamsburg, Virginia 23185
October 14, 2020
5:00 PM

A. CALL TO ORDER

The Chesapeake Bay Board meeting for October 14, 2020, 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
Halle Dunn
Charles Roadley
William Apperson
Larry Waltrip

Board Members Absent:

None

Other Staff Present:

Toni Small, Director, Stormwater and Resource Protection
Liz Parman, Assistant County Attorney
Michael Woolson, Senior Watershed Planner, Stormwater and Resource Protection
Trevor Long, Watershed Planner, Stormwater and Resource Protection
Janice Petty, Stormwater Assistant, Stormwater and Resource Protection

Mr. Roadley arrived during the first Public Hearing.

C. MINUTES

1. Minutes from September 9, 2020, Regular Meeting

A motion to Approve the minutes was made by Mr. Gussman. The minutes were approved on a voice vote.

D. PUBLIC HEARINGS

1. Case No. CBPA 20-0092 : 4041 Bradshaw Ordinary

The Applicant requested that the case be deferred until the November 12, 2020 meeting.

Mr. Dunn made a motion to Defer Chesapeake Bay Board Case No. CBPA 20-0092 at 4041 Bradshaw Ordinary.

A motion to Defer was made by Mr. Dunn, the motion result was:
AYES: 4 NAYS: 0 ABSTAIN: 0 ABSENT: 1
AYES: Gussman, Dunn, Apperson, Waltrip
NAYS: None
ABSENT: Roadley

2. Case No. CBPA 20-0091 : 8810 Pocahontas Trail

Mr. Trevor Long, Watershed Planner, presented the exception request submitted by Ms. Maria Gauvin on behalf of Heritage Community, LLC, for encroachments into the Resource Protection Area (RPA) buffer for the installation of a mobile home located at 8810-35B Pocahontas Trail, within the Skiffes Creek watershed. The property is further identified as James City County Tax Map Parcel No. 5920100003. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

The Board deliberated on the pros and cons of this application.

Mr. Roadley inquired if a single-family home had burned down, would the owner need to come before the Board to rebuild in the same footprint.

Mr. Long replied no, as long as the rebuilding occurred on the existing foundation.

Mr. Gussman opened the Public Hearing.

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

Mr. Roadley stated that we treat a mobile home differently because it does not have a foundation. He suggested that the \$1,000 mitigation requirement be waived.

Mr. Gussman made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA 20-0091 at 8810-35B Pocahontas Road, with the condition to waive the \$1,000 mitigation. Plantings may be done, but are not required.

A motion to Approve with Conditions was made by Mr. Gussman, the motion result was:
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0
AYES: Gussman, Dunn, Roadley, Apperson, Waltrip
NAYS: None
ABSENT: None

3. Case No. CBPA 20-0088 : 2509 Goodrich Durfey

Mr. Trevor Long, Watershed Planner, presented the exception request submitted by Mr. John Blankenship, for encroachments into the RPA buffer for the construction of a patio and a fire pit located at 2509 Goodrich Durfey, within the College Creek watershed. The property is further identified as James City County Tax Map Parcel No. 4840200068. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

The Board deliberated on the pros and cons of this application.

Mr. Gussman opened the Public Hearing.

A. Mr. John Blankenship, 2509 Goodrich Durfey, outlined the project to the Board.

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

Mr. Roadley made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA 20-0088 at 2509 Goodrich Durfey.

A motion to Approve with Conditions was made by Mr. Roadley, the motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

AYES: Gussman, Dunn, Roadley, Apperson, Waltrip

NAYS: None

ABSENT: None

4. Case No. CBPA 20-0094 : 2425 Manion Drive

Mr. Michael Woolson, Senior Watershed Planner, presented the exception request submitted by Mr. Allen Parker, Allen Parker Builder, Inc., on behalf of Mr. Dennis and Mrs. Jennifer Organ, for encroachments into the RPA buffer for the construction of a dock house and patio located at 2425 Manion Drive, within the James River watershed. The property is further identified as James City County Tax Map Parcel No. 4630100002. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

The Board deliberated on the pros and cons of this application.

Mr. Gussman opened the Public Hearing.

A. Mr. Allen Parker, Allen Parker Builder, Inc., outlined the project to the Board.

Mr. Roadley inquired about the mitigation, plantings, and means to control stormwater runoff.

A. Mr. Parker explained the planning concerning the location of the dock house. He committed to an infiltration trench in addition to the plantings.

Mr. Roadley stated that he appreciated the offer of the infiltration trench and a planted bed that could be attractive to the eye.

Mr. Gussman stated that he also appreciated the thought and planning put into designing this plan, pulling the house out of the RPA, resulting in really minimizing the disturbance into the RPA.

Mr. Gussman inquired about the infiltration trench being added to the exception.

Mr. Woolson replied that the minutes would reflect the infiltration trench and a surety will be required and in place to make sure that it is installed.

Mr. Waltrip inquired about the trench and phasing of the project.

A. Mr. Parker replied that he would only be working on the topside of the project.

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

Mr. Waltrip made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA 20-0094 at 2425 Manion Drive.

A motion to Approve with Conditions was made by Mr. Waltrip, the motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0
AYES: Gussman, Dunn, Roadley, Apperson, Waltrip
NAYS: None
ABSENT: None

5. Case No. CBPA 20-0096 : 289 Mill Stream Way

Mr. Trevor Long, Watershed Planner, presented the exception request submitted by Mr. Aaron Williams, Williams Landscaping & Design, Inc. on behalf of Mr. Kevin and Mrs. Tami Potter for encroachments into the RPA buffer for the construction of a patio, three retaining walls with steps and landings and paver patio located at 289 Mill Stream Way, within the Mill Creek watershed. The property is further identified as James City County Tax Map Parcel No. 4711800040. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

The Board deliberated on the pros and cons of this application.

Mr. Gussman opened the Public Hearing.

A. Mr. Aaron Williams, Williams Landscaping & Design, Inc., outlined the project to the Board.

Mr. Gussman inquired about the location of the retaining wall being 15 feet from the wetlands.

A. Mr. Williams replied that the retaining wall was approximately 10 feet away from the wetlands and explained the construction methods and materials of the walls.

Mr. Gussman stated that they were adding over 1,000 square feet of impervious surface.

A. Mr. Williams replied that he could resubmit with permeable pavers or even gravel in that area.

Mr. Waltrip inquired about the erosion.

A. Mr. Williams replied that the erosion would be dealt with during the construction.

B. Mr. Kevin Potter, owner, agreed about the erosion and explained about the condition of the backyard.

Mr. Roadley pointed out several situations in the past with Ordinance changes and slopes in backyards with retaining walls serving a purpose to minimize ongoing erosion.

Mr. Gussman outlined his criteria about trying to protect water quality. He suggested the applicant request a deferral and resubmit a modified proposal.

B. Mr. Potter asked if the small retaining wall under the new construction could be approved tonight as it is holding up the construction.

Mr. Woolson replied the wall could be approved tonight with the remainder of the project deferred, with the understanding that the remainder of the project be acted upon by the Board at the next meeting.

Ms. Liz Parman recommends that the Board adopt a motion to defer the entire application

instead of approving part of it.

B. Mr. Potter requested a deferral until next month.

Mr. Gussman left the Public Hearing open.

Mr. Woolson replied that he could take up to two Board members to the site at one time.

Mr. Dunn made a motion to Defer Chesapeake Bay Board Case No. CBPA 20-0096 at 289 Mill Stream Way.

A motion to Defer was made by Mr. Dunn, the motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

AYES: Gussman, Dunn, Roadley, Apperson, Waltrip

NAYS: None

ABSENT: None

6. Case No. CBPA 20-0097 : 111 Cove Road

Mr. Michael Woolson, Senior Watershed Planner, presented the exception request submitted by Mr. Chase Grogg, Landtech Resources, Inc., on behalf of Mr. Joseph and Mrs. Katherine Dvorak, for encroachments into the RPA buffer for the construction of a carport at 111 Cove Road, within the College Creek watershed. The property is further identified as James City County Tax Map Parcel No. 4910240009. The presentation described the current and proposed site conditions. If the Board approved the request, staff asked that the suggested conditions be incorporated into the approval.

Mr. Gussman opened the Public Hearing.

A. Mr. Joe Dvorak, owner, was available to answer questions from the Board.

Mr. Roadley inquired about the carport as there is a garage in place.

A. Mr. Dvorak replied that it was the most efficient time to build a carport while the house is under construction.

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

Mr. Apperson made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA 20-0097 at 111 Cove Road.

A motion to Approve with Conditions was made by Mr. Apperson, the motion result was:

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

AYES: Gussman, Dunn, Roadley, Apperson, Waltrip

NAYS: None

ABSENT: None

7. Case No. CBPA 20-0090 : 20 Marclay Road

Mr. Waltrip recused himself from the Public Hearing and left the building.

Mr. Michael Woolson, Senior Watershed Planner, presented the exception request submitted by Mr. Daniel Winall, Waters Edge Construction on behalf of Mr. Larry Waltrip, Short Neck, LLC, for encroachments into the RPA buffer for the construction of a retaining wall and two

revetments to protect and stabilize the shoreline at 20 Marclay Road, within the College Creek watershed. The property is further identified as James City County Tax Map Parcel No. 4820100012. The presentation described the current and proposed site conditions. This Chesapeake Bay exception is associated with Wetlands Permit WJPA-20-0023 for a wharf and retaining wall. If the Board approved the request, staff asked that the attached condition be incorporated into the approval.

The Board deliberated on the pros and cons of this application.

Mr. Roadley inquired about the purpose of the southern revetment and erosion in this area along with northern revetment.

Mr. Woolson replied that the bank was vertical and slightly undercut and discussed vegetation and the confirmed wetland line.

Mr. Gussman discussed the wetlands portion of the project which was heard at the October 14, 2020, Wetlands Board meeting and the Chesapeake Bay exception.

Mr. Gussman opened the Public Hearing.

A. Dr. John Milliman, 124 Northpoint Drive, explained about how the circulation of the creek would change, erosion would increase, and noted that wetlands would be excavated.

Mr. Gussman reiterated that questions regarding the wetlands aspect of this project should be addressed to the Virginia Marine Resource Commission (VMRC) as they are the regulatory agency that addresses those issues.

B. Mr. William J. Schneider, 135 Kingspoint Drive, explained his objections to the installation of the retaining wall and revetments.

C. Ms. Mary Louis Chapman, 104 Crestwood Drive, explained her concern over the potential ruination of the creek with the huge marina.

D. Ms. Carolyn Imoehl, 221 Southpoint Drive, explained her concern for the detrimental effects on College Creek.

E. Mr. Daniel Schmidt, 218 Southpoint Drive, explained why he would hate to see the vegetation lost along College Creek.

Mr. Woolson stated there were four call-in comments to be played for the record.

Ms. Liz Parman explained that James City County was now accepting call-in comments because of the current pandemic.

F. Mr. Scott Lerberg, 212 Southpoint Drive, expressed his opposition to this project.

G. Mr. Eric McDonald, 127 Kingspoint Drive, expressed his opposition to the marina expansion.

H. Ms. Tracy Sohoni, 106 Cove Road, requested that the Board reject this application in the RPA.

I. Ms. Elizabeth McCoy, 105 Wakerobin Road, voiced her opposition to this project. The Board should reject the proposal and instead a issue restoration order per Virginia law.

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

Mr. Roadley stated that comments had suggested potential illegal activity along the shoreline.

Mr. Woolson replied that he was informed that some work had been done on the shoreline approximately 10 to 15 years ago as Mr. Schneider stated, but he could not find any Wetlands permit in the County records for the work. It was an overlay of the concrete that had been previously placed. County historical photographs do show a revetment in that area since the 1970s.

Mr. Gussman stated that there were a lot of valid comments tonight. He noted that some of the comments are coming to the wrong Board. Comments regarding the wetlands aspect of the project need to be directed to the VMRC. He explained that the Board has a narrow focus that includes the riprap revetments and a small section of wooden bulkhead that is being placed in the uplands.

Mr. Woolson stated that no hearing has been set by the VMRC for this case.

Mr. Roadley discussed the term "marina". His understanding is that this is a private pier for Mr. Waltrip's private use.

Mr. Woolson replied that this is a private facility. Mr. Waltrip provided boat registrations and a list of family members who would be permitted to use the dock to the VMRC.

Mr. Roadley inquired if the VMRC had ruled if the wetlands application was a private or commercial pier.

Mr. Woolson replied that this is private pier and not a commercial enterprise according to Mr. Jeff Madden of VMRC.

Mr. Roadley stated that if it is deemed a commercial project, then the Board does have jurisdiction.

Mr. Woolson affirmatively replied.

Mr. Gussman reopened the Public Hearing.

D. Ms. Imoehl explained that the Waltrip family has allowed an honor pay system, allowing people to come over and use the boat ramp.

J. Mr. David Stanhope, 111 Archer's Hope Drive, explained that if the rock is placed above mean high water that the rock would provide no protection or stabilization of the shoreline. There is no erosion there above the waterline.

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

Mr. Dunn stated he had a problem with the southern revetment, being undercut at the bank and putting stone above it.

Mr. Roadley shared his concern the southern portion. He said there might need to be more clearing to help stabilize, which would end up with more vegetation being removed.

Mr. Woolson explained the construction of the revetments, and noted that as Mr. Stanhope pointed out, the current structure could get undermined.

Mr. Gussman inquired if building the revetments in the uplands would have an impact on water quality.

Mr. Apperson explained what the Board members are charged with by the General Assembly and guidelines that they are given to make decisions.

Mr. Apperson made a motion to Adopt the resolution for Chesapeake Bay Board Case No. CBPA 20-0090 at 20 Marclay Road.

A motion to Approve with Conditions was made by Mr. Apperson, the motion result was:

AYES: 2 NAYS: 2 ABSTAIN: 0 ABSENT: 1

AYES: Gussman, Apperson

NAYS: Roadley, Dunn

ABSTAIN: none

ABSENT: Waltrip

Mr. Woolson explained that a motion requires three affirmative votes to pass, therefore the motion failed.

Mr. Gussman stated that an exception was not granted for this case.

E. BOARD CONSIDERATIONS

None

F. MATTERS OF SPECIAL PRIVILEGE

Mr. Woolson announced that the November meeting would be held on Thursday, November 12, 2020, due to the Veterans Day Holiday on the regularly scheduled meeting date.

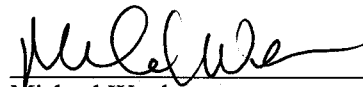
G. ADJOURNMENT

A motion to Adjourn was made by Mr. Gussman and approved on a voice vote.

The meeting adjourned at 7:39 p.m.



David Gussman
Chair, Chesapeake Bay Board



Michael Woolson
Secretary to the Board