

MINUTES
JAMES CITY COUNTY CHESAPEAKE BAY BOARD
REGULAR MEETING
County Government Center, Building F
June 14, 2023
5:00 PM

A. CALL TO ORDER

The Chesapeake Bay Board meeting for Wednesday, June 14, 2023, 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:

Halle Dunn
Charles Roadley, Chair
Larry Waltrip
Scott Maye, Vice Chair
Michael O'Brien

Board Members Absent:

None.

Other Staff Present:

Toni Small, Director, Stormwater and Resource Protection
Michael Woolson, Resource Protection Section Chief, Stormwater and Resource Protection
Robin Benedict, Watershed Planner, Stormwater and Resource Protection
Trevor Long, Watershed Planner, Stormwater and Resource Protection
Liz Parman, Deputy County Attorney, County Attorney's Office

C. MINUTES

1. Minutes from the May 10, 2023 Regular Meeting

A motion to Approve the minutes was made by Mr. Maye.

The minutes were Approved on a voice vote.

D. PUBLIC HEARINGS

1. CBPA-23-0053 : 5932 Montpelier

A motion to Approve w/ Conditions was made by Larry Waltrip, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0
Ayes: Dunn, Maye, O'Brien, Roadley, Waltrip

Ms. Robin Benedict, Watershed Planner, presented the exception request submitted by Ms. Danielle and Mr. Sean Meenan, for encroachments into the Resource Protection Area (RPA)

for the installation of an above-ground swimming pool. The property is further identified as James City County Tax Map Parcel No. 3221200230. 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. Roadley opened the Public Hearing.

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

The Board discussed the pros and cons of the plan.

Mr. Maye indicated support for the plan as presented.

2. CBPA-23-0058 : 112 Discovery Lane

A motion to Approve w/ Conditions was made by Michael O'Brien, the motion result was Passed.

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

Ayes: Maye, O'Brien, Roadley, Waltrip

Nays: Dunn

Mr. Trevor Long, Watershed Planner, presented the exception request submitted by Ms. April Warren, for encroachments into the RPA for the approval of a shed and garden structures. The property is further identified as James City County Tax Map Parcel No. 4730500020. 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.

Staff clarified details of the plan for the Board.

Mr. Roadley opened the Public Hearing.

A. Mr. Benming Zhang, Kaufman & Canoles, P.C., 4801 Courthouse Street, Suite 300, indicated appreciation for the cooperation and support that staff has provided during the preparatory stages of this plan.

B. Mr. Chase Grogg, LandTech Resources, Inc., 205 Bulifants Boulevard, Suite E, clarified details of the plan for the Board. This included describing the existing garden beds as de facto stormwater Best Management Practices (BMPs) facilities as an explanation for utilizing gravel in the seaward 50-foot RPA buffer.

Mr. Roadley closed the Public Hearing.

The Board discussed the pros and cons of the plan.

Mr. O'Brien and Mr. Maye indicated support for the plan as presented.

Mr. Dunn dissented from Mr. O'Brien's and Mr. Maye's opinions, citing the use of gravel in the seaward 50-foot RPA buffer as unnecessary.

Mr. Waltrip indicated support for the plan.

3. CBPA-23-0060 : 499 Jolly Pond Road

A motion to Approve w/ Conditions was made by Halle Dunn, the motion result was Passed.

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

Ayes: Dunn, Maye, O'Brien, Roadley, Waltrip

Ms. Robin Benedict, Watershed Planner, presented the exception request submitted by Mr. Ryan Stephenson, AES Consulting Engineers, on behalf of Colonial Heritage, LLC, for encroachments into the RPA for the installation of a sanitary sewer line. The property is further identified as James City County Tax Map Parcel No. 2240100007. 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. Roadley opened the Public Hearing.

A. Ms. Karen Matula, 500 Jolly Pond Road, inquired about the final condition of the indicated mitigation area.

Staff clarified that the area of natural open space will remain wooded.

Mr. Roadley closed the Public Hearing.

Mr. Dunn indicated support for the plan as presented.

4. CBPA-23-0051 : 108 Brancaster

A motion to Approve w/ Conditions was made by Larry Waltrip, the motion result was Passed.

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

Ayes: Dunn, Maye, O'Brien, Roadley, Waltrip

Mr. Trevor Long, Watershed Planner, presented the exception request submitted by Mr. Chase Grogg, LandTech Resources, Inc., on behalf of Ms. Wendy and Mr. David Budnick, for encroachments into the RPA for the construction of a single-family dwelling. The property is further identified as James City County Tax Map Parcel No. 3810300034. 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.

Staff clarified details of the plan for the Board including the development status of adjacent properties.

Mr. Roadley opened the Public Hearing.

A. Mr. Chase Grogg, LandTech Resources, Inc., 205 Bulifants Boulevard, Suite E, clarified details of the plan and existing site conditions and constraints for the Board. This included a square footage comparison of the proposed house in relation to existing neighboring houses as well as an explanation of the location and size of the proposed driveway.

Mr. Roadley closed the Public Hearing.

The Board discussed the pros and cons of the plan.

5. CBPA-23-0044 : 112 North Turnberry

A motion to Approve w/ Conditions was made by Larry Waltrip, the motion result was Passed.

AYES: 3 NAYS: 2 ABSTAIN: 0 ABSENT: 0

Ayes: Maye, Roadley, Waltrip

Nays: Dunn, O'Brien

Ms. Robin Benedict, Watershed Planner, presented the exception request submitted by Mr. Mark Adam, Black Tip Associates, LLC, on behalf of Ms. Karen and Mr. David Hescoc, for encroachments into the RPA for the construction of a new single-family dwelling. The property is further identified as James City County Tax Map Parcel No. 3721200004. 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.

Staff clarified for the Board that the minimum first-floor house size required by Ford's Colony, the neighborhood in which the site is located, in this vicinity is 1,200 square feet.

Mr. Roadley opened the Public Hearing.

A. Mr. Mark Adam, Black Tip Associates, LLC, 302 A Ewell Road, reviewed details of the plan, including an explanation of the proposed retaining wall in the rear of the home as a means to establish a flat backyard, for the Board. Mr. Adam also described the proposed size of the house as it relates to the requirements established by Ford's Colony. He noted that the house is considered to have a single story with a walk-out basement and that, when assessing the size requirements in Ford's Colony, it is considered to have two stories. He also noted that its size is 2,005 square feet and that the minimum required by Ford's Colony for a house with two stories is 1,200 square feet on the first floor and 2,700 square feet total.

Mr. Roadley closed the Public Hearing.

Mr. Maye indicated concern that the size of the house is not the minimum necessary to afford relief as the proposed size is 75% above the minimum required by Ford's Colony.

Mr. Dunn concurred with Mr. Maye, specifically referencing the precedent already established by previous cases on which the Board has made determinations.

Mr. Roadley described the effects of the proposed swale on the side of the property as slowing down the velocity of the stormwater runoff.

Mr. O'Brien inquired about the size of the house as it relates to the minimum requirements in Ford's Colony, specifically noting that the first floor is 2,005 square feet and the basement adds another 700 square feet to the total size.

Mr. Roadley reopened the Public Hearing.

A. Mr. Adam reiterated that the minimum size required by Ford's Colony in this vicinity is 2,700 square feet. In response to an inquiry made by Mr. O'Brien, Mr. Adam stated that the house is considered to have a single story because the primary living area is above the grade of the land below it.

Mr. O'Brien explained that there is a discrepancy in the logical equivalency of the size requirements being discussed and which area of the house is being considered when determining whether or not it has met the minimum size. He further stated that the size of the basement level should be used when assessing if the house has met the minimum size.

Staff clarified that, as this house is considered to have a single floor, its minimum size requirement is 1,200 square feet.

A. In response to Mr. O'Brien's inquiry about whether or not Ford's Colony would approve

the house with a first floor size of 1,200 square feet and a basement of 700 square feet, Mr. Adam indicated that he would not be able to make a determination.

B. Ms. Karen Hescox, 2008 Glynn Springs Drive, indicated support for the plan as it meets the requirements of their living situation.

Mr. Roadley closed the Public Hearing.

Mr. Maye reiterated the concerns that he raised previously.

Mr. O'Brien indicated concern for the size of the house.

Mr. Waltrip voiced support for the plan's consideration of stormwater runoff.

6. CBPA-23-0041 : 141 Riverview Plantation

A motion to Approve w/ Conditions was made by Scott Maye, the motion result was Passed.

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

Ayes: Maye, O'Brien, Roadley, Waltrip

Nays: Dunn

Mr. Trevor Long, Watershed Planner, presented the exception request submitted by Mr. Edward Jordan, for encroachments into the RPA for the installation of a driveway and site grading. The property is further identified as James City County Tax Map Parcel No. 1640500002. 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.

Staff clarified details of the plan for the Board, including more specifically identifying the proposed location of riprap.

Mr. Roadley opened the Public Hearing.

A. Mr. Edward Jordan, 141 Riverview Plantation Drive, indicated support for the plan.

Mr. Roadley closed the Public Hearing.

The Board discussed the pros and cons of the plan, including the effectiveness of the proposed riprap.

Mr. Dunn voiced concern for the imperviousness of riprap.

Mr. Roadley reopened the Public Hearing.

A. Mr. Jordan reiterated support for the plan, citing its effectiveness at reducing the ongoing erosion at the site.

Mr. Roadley closed the Public Hearing.

7. CBPA-23-0052 : 7260 Osprey Drive

A motion to Defer was made by Scott Maye, the motion result was Passed.

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

Ayes: Dunn, Maye, O'Brien, Roadley, Waltrip

Ms. Robin Benedict, Watershed Planner, presented the exception request submitted by Ms. Susan and Mr. Kevin Cameron, for encroachments into the RPA for the construction and approval of an accessory structure. The property is further identified as James City County Tax Map Parcel No. 1910800001. 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. Roadley opened the Public Hearing.

A. In response to inquiries from the Board, Mr. Kevin Cameron, 7260 Osprey Drive, stated that the accessory structure in the plan was constructed in 2019, that the existing gravel adjacent to the structure was already at the site when he purchased the property in 2014.

Mr. Woolson indicated that he did not recall that the structure was built during a site visit for a matter unrelated to this plan made by staff in 2020. Mr. Woolson also indicated that all or part of the existing gravel could be considered as preexisting in relation to this plan.

Mr. Waltrip stated that the gravel should not be considered as part of this plan if it preexists it.

Mr. Dunn inquired whether or not the preexistence of the gravel affects the Board's consideration of the structure's impacts into the RPA.

Mr. Woolson confirmed that if the structure was constructed solely on top of preexisting gravel, and therefore did not add new impervious cover, then the Board would not need to grant an exception request for its construction. He went on to clarify that the structure is known to be larger than the area that the gravel covered.

Mr. Roadley closed the Public Hearing.

Mr. Maye indicated concern for the plan, citing the amount of impact to the RPA.

Mr. Roadley reopened the Public Hearing.

A. Mr. Cameron requested a deferral of the exception request.

E. BOARD CONSIDERATIONS

None.


F. MATTERS OF SPECIAL PRIVILEGE

None.

G. ADJOURNMENT

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

The meeting adjourned at 7:25 p.m.



Charles Roadley
Chair, Chesapeake Bay Board



Trevor Long
Secretary to the Board