



**NEW KENT COUNTY
WETLANDS/BEACHES & CHESAPEAKE BAY BOARD MEETING
THURSDAY, MAY 4, 2017 AT 6:00 PM
COUNTY ADMINISTRATION BUILDING BOARD ROOM
MINUTES**

A MEETING OF THE NEW KENT COUNTY CHESAPEAKE BAY PRESERVATION BOARD WAS HELD ON THE 4TH DAY OF MAY IN THE YEAR TWO THOUSAND SEVENTEEN IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6:00 P.M.

IN RE: ROLL CALL

Attendance:

Mr. Julian Ward	Present
Ms. Jean Street	Absent
Mr. Lyle Gleason	Present
Mr. John Bragg	Present
Mr. Wakie Howard	Absent
Ms. Sarah Richardson	Absent <i>Arrived at 6:02PM</i>

Also present:

Mr. Matt Smolnik, Community Development Director
Mrs. Connie Bennett, Professional Engineer
Mrs. Gail Carey, Administrative Assistant, Environmental Department
Mr. Joseph Foulis, Applicant CBPA 005-17
Mr. Christopher Kelm, Applicant CBPA 006-17
Mrs. Virginia Kelm, Applicant CBPA 006-17

The meeting was called to order at 6:00 PM and a quorum was established.

IN RE: DECLARATION OF POLICY FROM THE LAWS OF VIRGINIA

Chairman Bragg read the declaration of policy from the laws of Virginia relating to the Marine Resources of Virginia and the New Kent County Code relating to Chesapeake Bay regulations.

IN RE: ANNUAL REORGANIZATION OF OFFICERS FOR 2017

Mr. Smolnik opened the nominations for 2017 Chair. A motion was made by Mr. Howard and seconded by Mr. Gleason to nominate Mr. Bragg as the 2017 Chair. The members were polled and the motion was passed.

A motion was made by Mr. Bragg and seconded by Mr. Howard to nominate Mr. Gleason as the 2017 Vice Chair. The members were polled and the motion was passed.

IN RE: APPROVAL OF MINUTES

A motion was made by Mr. Gleason and seconded by Ms. Richardson to approve the November 3, 2016 minutes. The Board members were polled and the motion was passed.

IN RE: NEW BUSINESS CBPA 005-17

Application **CBPA 005-17**: Mrs. Bennett presented her staff report on application CBPA 005-17, submitted by Mr. Joseph Foulis on behalf of Mr. Wesley Wilkes, for an exception to construct a bulkhead in the 100 ft. RPA buffer at Tax Map Parcel#30A-3-590, GPIN#I09-3763-2194. Mrs. Bennett confirmed the lot was created prior to 1989 and the bulkhead is located along the lake shoreline in the seaward 50 ft. portion of the RPA. Mrs. Bennett stated the lake in Woodhaven Shores was manmade and did not require an application from VMRC. Mrs. Bennett also mentioned that there would be

some fill placed in behind the bulkhead. The applicant was only proposing to remove one (1) dead tree and then backfilling in that location. Mrs. Bennett informed the Board that the applicant had also noted the erosion was occurring along the lake shoreline. Mrs. Bennett confirmed there was minor erosion at the shoreline and the existing bulkhead was to be replaced/repared. Mrs. Bennett stated that the site plan which was submitted provided for mitigation, however, the mitigation was not specific to the area and the number of plantings. Mrs. Bennett confirmed that she had visited the site and noted the proposed bulkhead was needed.

At 6:13PM, the Public Hearing was opened.

Mr. Foulis informed the Board of the extent of the erosion on the shoreline throughout the years.

At 6:14PM, the Public Hearing was closed.

Mrs. Bennett confirmed to Mr. Bragg that while the plantings would assist with the stormwater, the minimal disturbance did not require plantings.

It was confirmed by Mr. Foulis a wall was being designed to filter the water. The water would filter through the fabric, number 57 stone and then filter out onto the lake. Mr. Foulis also confirmed that any disturbance would be based on the removal of mitigation.

Mr. Bragg inquired if there were any other comments or questions pertaining to the application. Since there were no further comments or questions, Mr. Bragg opened the floor for possible motions.

Mr. Howard made a motion to approve application CBPA 005-17 with the improved WQIA (reflected zero plantings other than the normal reclamation of work). This motion was seconded by Mr. Gleason. The Board members were polled and the motion was passed.

IN RE: NEW BUSINESS CBPA 006-17

Application **CBPA 006-17**: Mrs. Bennett presented her staff report on application CBPA 006-17, submitted by Mr. and Mrs. Christopher Kelm, for an exception to construct two (2) retaining walls, pool, pool shed and deck-patio/walkway in the 100 foot RPA buffer at Tax Map Parcel #32-4-1, GPIN# I14-3882-3618. Mrs. Bennett informed the Board the lot was created after the Chesapeake Bay regulations; therefore, any encroachment required Board approval. Mrs. Bennett mentioned the mitigation for the pool and proposed retaining walls within the landward 50-foot portion of RPA and a portion of the retaining wall and a small portion of the walkway are in the 50-foot seaward portion of the RPA. The retaining wall was previously installed; however, it is a part of the exception since the walls were not previously permitted. Mrs. Bennett also mentioned that a mitigation plan in the form of a WQIA was submitted for the RPA buffer based upon the established rates set forth in the Buffer Mitigation Manual published by DEQ for every 400 square feet of disturbance, mitigation to include one (1) canopy tree, two (2) understory or evergreens and three (3) shrubs. However, the submitted WQIA did not account for the additional disturbance that has already occurred in the RPA. The property owners provided additional drawings to clarify the proposed encroachments into the RPA which also must be mitigated.

Mrs. Bennett went on to inform the Board that the applicant stated the soils had eroded behind the house in the RPA. A site inspection observed that although the RPA was bare, the only apparent erosion was due to disturbance by the property owner. Also, any work in the buffer would fall under the Chesapeake Bay requirements because the lot was created after 1989. Mrs. Bennett confirmed to the Board that the proposed retaining wall and walkway had already been installed and noted disturbance had occurred in the RPA for access to and for the proposed construction of the pool and retaining walls.

Mrs. Bennett also stated that adding a pool, accessory structure, could add to the ongoing erosion issues. If the pool construction and retaining walls in the RPA were granted, this would grant special privileges to a homeowner with a lot created after 1989. Mrs. Bennett noted that the retaining walls and walkway, do not meet the intent of regulations but do help stabilize the site and provide access. Mrs. Bennett did note that a mitigation plan had been submitted for the application.

Mr. Kelm confirmed that the existing retaining wall was constructed the previous year (2016) and confirmed the house was constructed in 2002. Mr. Kelm also added that more erosion had occurred on the property as a result of Hurricanes Isabel and Gaston and explained why retaining walls were necessary. Efforts to control or minimize the ongoing erosion included

bringing in mulch and soil, as well as constructing the existing retaining wall. In addition, the dam located near the property had broken twice and although it had been repaired, the water level is currently higher than in 2005.

Mrs. Kelm provided drawings to the Board members of the property and discussed the ongoing erosion problems at the property, as well as the request for a pool and an addition. Mrs. Kelm explained to the Board due to the layout of the property, not many options exist for the placement of a pool and addition.

The Public Hearing was opened at 6:50PM. Since there were no comments, the Public Hearing was closed at 6:51PM.

Mrs. Richardson inquired how the applicant decided on the number of retaining walls.

Mr. Kelm replied that any wall over four (4) feet required engineering and he felt that three (3) walls at three (3) feet high would justify and did not want the footing to be washed out.

After a discussion on possible locations for a pool and addition, the Board members agreed upon a motion.

Mr. Gleason made a motion, seconded by Ms. Richardson, to approve the modifications part of application CBPA 006-17 to not include the pool construction, but to include the walkway and retaining walls with the following conditions: A revised plan and WQIA to be resubmitted to address the modifications in the RPA buffer; All vegetation must be installed and maintained in a healthy and vigorous growing condition. Two (2) years following installation any vegetation that dies, becomes diseased, or fails to flourish must be replaced. Revised information shall be submitted within thirty (30) days.

The Board members were polled and the motion was passed.

IN RE: POSSIBLE JULY MEETING DATE

Mrs. Bennett informed the Board members the tentative July meeting date would conflict with the scheduled Board of Supervisors meeting. If any applications were received and be reviewed during a July meeting, the meeting date would need to be on Wednesday, July 12, 2017.

IN RE: ADJOURNMENT

A motion to adjourn the meeting was made at 7:26PM by Mr. Bragg and all were in favor.

Respectfully submitted,

Gail Carey, Recording Secretary