



# STAFFORD COUNTY CHESAPEAKE BAY BOARD

## Meeting Minutes

Monday, December 16, 2019 at 6:00 pm  
Board Chambers of the George L. Gordon, Jr. Government Center

A. Call to Order

B. Roll Call

Members Present: Mary Rust, Dan Adams, Ben Rudasill, Sue Henderson, Anthony Pineau

Members Absent: Frank Rubio, Jim Riutta

Staff Present: Trent Funkhouser, John Saunders, Scott Rae, Ben Foster, Cindy Bush

C. Determination of a Quorum

A quorum was established with 5 of the 7 members present.

D. Public Presentations

There were no presentations by members of the public.

E. Approval of Minutes

Ms. Henderson made a motion to approve the September 16, 2019 meeting minutes, which was seconded by Mr. Pineau. The motion passed 5-0.

F. Public Hearings

1. CBB 19-02 adv. (19-03) Bickford Assisted Living Facility 50 Mine Road, Stafford, VA 22554 (Parcel# 20YY-1 & 2077-2)

Mr. Foster presented the application for Special Exception request to allow for an approximant 2,513 square foot encroachment associated with 2 tiered retaining walls within the landward 50 feet of the 100 foot-wide Critical Resource Protection Area (CRPA) buffer on Assessor's Parcel 20YY-1 and 20YY-2. Some background includes the property was reserved and had a conditional use Permit approved in February of 2019. That showed no RPA on the site, 2017 letter from County Staff stating to remove the CRPA designation. The study concluded the stormwater facility on the adjacent property reverted to a natural state and contains a wetland. Prior to the parental flow determination the applicant had made progress on architectural and engineering designs on the proposed Assisted Living Facility assuming there was no CRPA buffer. Staff recommends approval

provided that the encroachment shall be mitigated by at least 7 plant units and approved grading plan to be revised to be consistent with the grading shown on the Special Exception submittal. Mr. Foster introduced the applicant Richard Eby of Eby Realty Group. Mr. Eby stated this is our typical building we plan to build in Stafford County this is a prototype building we designed to this site with the assumption that was no RPA on the site. We have gone through all the entitlements necessary, this design is based on 28 years of experience and is specifically designed to meet the needs of our residents. This facility would not be easy to change the design because of State requirements. Mr. Saunders stated in 2017 staff went to the proposed site and did a study during drought conditions and determined that the stream was not perennial and that there was no RPA which generated a letter to the applicant. Ms. Rust inquired about the vegetation. Mr. Foster replied the proposed planting of seven (7) plant units to compensate for the 2,513 square feet of encroachment meets the suggested planting requirements of Appendix D of the Riparian Buffer Guidance Manual. However, the location of the canopy trees in relation to the retaining walls may compromise the structures. Staff suggests substituting small shrubs in place of the 6 canopy trees proposed near the retaining walls in accordance with the 'Vegetation Replacement Rates' table in Appendix D of the Riparian Buffer Guidance Manual. If plantings should not feasibly be located in the disturbed CRPA, than a location that surplus vegetation may be suitably installed adjoining the subject stream should be chosen as an alternative. Ms. Rust asked what will be the highest retaining wall height. Mr. Foster stated 7 feet.

Mr. Rudasill made a motion to approve the Special Exception Application CBB 19-02, which was seconded by Ms. Henderson. The motion passed 5-0.

2. CBB 19-03 Truslow Road, Stafford, VA 22405(Parcel 53A-1-3E

Mr. Foster presented the Special Exception request is to allow for the construction of a 12-foot by 24-foot above-ground pool to encroach within the landward 50 feet of the 100 foot-wide Critical Resource Protection Area (CRPA) buffer on Assessor's Parcel 53A-1-3E. The subject property is located at 33 Truslow Road within the Falmouth Election District. The property consists of four accessory structures and a primary structure with approximately 7,500 square feet of pavement. Falls Run is directly adjacent the property. Site topography is relatively flat with a gradual westerly slope towards the tributary. The property lies within the 100-year and 500-year flood zones with the pool being proposed in the 100-year flood zone. Nearly the entire property is encumbered by CRPA. A citizen complaint was made on February 6, 2019 that the subject property was conducting work without the issuance of a building permit. On February 22, 2019, a building permit application for a deck (RC19165107) and another for a pool (PO19165108) were submitted in an effort to comply with the Notice of Correction issued by the building department. A third building application was submitted for a 3-season room (RC19165685) on March 22, 2019. During the review of these applications, the applicant was made aware the applications would be subject to a Chesapeake Bay Administrative and/or Special Exception review and approval. Ben Foster and Joe Fiorello conducted a site visit on March 20, 2019 with Robert Reed of the building division and witnessed partially completed construction of a 3-season room with associated deck and the layout location of the proposed pool. Staff discussed Building Code and Chesapeake Bay Preservation Area ("the ordinance") compliance procedures with Mr. Snellings. Because the lot was platted prior to the adoption of the ordinance, it was determined that the addition to the primary structure (3-season room and deck) could be handled through the administrative waiver process. The proposed pool would go before the board as staff does not have the authority to administratively permit accessory structures in the 100-foot CRPA.

Staff recognizes that nearly the entire parcel is encumbered by CRPA and that there is no place to locate the pool outside of the buffer. However, staff also recognizes the parcel currently consists of approximately 40% impervious cover consisting of a principal structure (residence), four accessory structures, and a large driveway/parking area. Staff does not support another accessory use on an already largely developed and utilized property. The primary use of this parcel (residence) is being achieved.

Mr. Reese with Legacy Engineering explained the day the Chesapeake Bay Ordinance was passed everything about this property became non-compliant. Property as it sits right now is more conforming today as it was on the day of the adoption of the ordinance because Mr. Snellings has planted trees that he thought would be beneficial. It was property intended to reduce pollutants and sediment, It was determined at the time of the adoption and ordinance that a 100ft buffer would remove 40% of the pollutants 75 % sediment. You can't say that every drop of water that drops into the pool causes water to flow out of the swimming pool even the idea that you got 1283 square feet of impervious area is a bit of a misnomer but staff has no other way of addressing it. So for those reasons we believe that this use is keeping with the spirit of the intent and although it may be considered a self-imposed requirement he has not option to utilize his property other than going through this process. We respectfully request your approval.

Ms. Rust opened up discussion to the board, Ms. Rust stated after looking at the application you are very full on this property a pool at this point is an extreme request. I don't think this is a necessity or a hardship I would call this an accessory item. Mr. Pineau stated this is a 12x24 above ground pool if we were talking about something being built into the ground I think there should be more restrictions and more consideration place upon this request. I'm not sure what the risks associated with an above ground pool are? Mr. Foster responded with an above ground pool a portion of that pool is still going to be somewhat underground to the existing grade. The grade slopes toward the stream so leveling would need to take place. Mr. Rudasill inquired about obtaining a permit to put the pool on the property. Mr. Foster replied there is a 12x10 shed in the location of the proposed pool which is proposed to be removed for the pool to be built in its place. Ms. Henderson asked is it to be moved or removed. Mr. Foster replied removed. Mr. Adams stated the ordinance specifies 5 criteria that must be met in order for us to grant a special exception. Mr. Rae replied the criteria are in place to provide the Board a foundation for discussing the application. This is an opportunity for the Board to get some vegetation or additional measures on the property to bring it more into conformance with the current regulations. Ms. Rust stated this is a self-imposed hardship I don't think a accessory pool is absolute necessity, the owner is already adding a sunroom which is creation more of a hard scape so to add on to that on this particular lot I don't think is a necessity. Mr. Reese stated Mr. Snellings is willing to increase the plantings on the property so what this means is you would now have the lot better than it has ever been since the adoption of the ordinance. If there is a condition imposed he is more than willing to accommodate. Mr. Saunders stated if you feel inclined to approve would to consider utilize the stormwater management criteria for water quality against the disturbed area using the new development spreadsheet and the purchase of offsite nutrient credits to mitigate some of the water quality impact. Ms. Henderson asked for clarification the drawings and photos we have indicate the pool is not where we are seeing it, the pool actually will be moving to where the shed is sitting in these photos. Mr. Foster replied what is shown on the WQIA is the location of the proposed pool. Ms. Rust inquired if staff was working with the applicant on the plantings that will be needed. Mr. Foster replied the applicant has already planted above and beyond the requirements. Mr. Rudasill made a motion to approve the Special Exception Application CBB 19-03, which was seconded by Mr. Pineau. The motion passed 4-1.

3. CBB 19-04 (Parcel 53A-13E) AP 19153051 Potomac Church Apts.

Mr. Rae presented the special exemption request construction of four Apartment Buildings with 144 units and a Club house. The propose encroachment includes the construction of Sanitary Sewer connection and a level one Retention Pond which serves as a Stormwater Management measure the level one retention pond is within the RPA does not qualify as a allowed use therefore a Special Exception is being requested. The Sanitary Sewer connection is approved through the exemption process. Staff recognizes the use / modification of the existing measure in the CRPA could be consistent with the Ordinance provided the stormwater measure is designed and installed consistent with regulatory criteria wet pond. Potomac Church Apartments is located just South of the Hospital near the recently constructed Abberley Apts . The subject property currently supports and isolated wetland having an indirect connection to the emergent wetland. The isolated wetland, having no surficial connection to the broader wetland, are not considered to be encumbered by and 100-foot resource protection buffer. Impacts / permitting of the on-site wetland are administered by the Commonwealth's Dept. of Environmental Quality and the Army Corps of Engineers. Mr. Pyle with Bowman Consulting Group stated Scott Rae has covered all aspects of the Application and asked the Board if there were any questions regarding the application. Ms. Rust inquired about the difference in the original application that stated there were 128 units and then changed to 144 why was this change made. Mr. Rae replied this was simply a typo. Ms. Rust also inquired about the pond that is present, what will happen to the pond as it stands now. Mr. Pyle stated if the application is approved the embankment will be rebuilt properly meeting the requirements clay core and perimeter liner which will create a properly designed embankment that will do its job and treat the water per the state and stormwater regulations. Ms. Rust inquired about the parking and going over into the RPA. Mr. Pyle stated there may be some confusion between the Wetlands which was the larger hatched area. Ms. Rust stated there is a fringe there but not actually in the RPA . Mr. Pyle confirmed. Ms. Henderson stated the current conditions presumably was created in the 70's for this pond and the two outflows that are currently going into the pond, would it be safe to say we believe that this is partly what has contributed to creating this emergent wetland. Mr. Saunders replied on the upstream of that. Ms. Rust reiterated her concern about the encroachment. Mr. Saunders pointed out that this is really an existing encroachment it there today it is something that is in place today more than likely would remain. Mr. Pyle confirmed and also stated there was already an embankment in the RPA that was built 20 years before Chesapeake Bay ordinance was in place. It is a poor embankment that is in need of repairs and we are proposing will fix this issue and will provide local quantity and quality of stormwater treatment. Mr. Rae asked the Board consider approval of CBB 19-04 upon the three conditions Enhanced Landscaping Plan, Increasing elevation of the Pond from 114 to 116 and an energy dissipater a stilling basin at the outfall.

Mr. Pineau made a motion to approve the Special Exception Application CBB 19-04 with the three conditions, which was seconded by Mr. Adams. The motion passed 3-2.

G. New Business

None

With no further business to discuss, the meeting adjourned at 9:12 pm.