

STAFFORD COUNTYCHESAPEAKE BAY BOARD MINUTES
September 21, 2015

The regular monthly meeting of the Stafford County Chesapeake Bay Board of September 21, 2015, was called to order at 7:30 p.m. by Chesapeake Bay Board Chairman, Jim Riutta, in the Board of Supervisors Chambers in the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Jim Riutta, Mary Rust, Andy Pineau and Ben Rudasill

MEMBERS ABSENT: Sam Hess

STAFF PRESENT: Amber Forestier, Joseph Fiorello and Denise Knighting

GUEST PRESENT: Jeffrey Madden, Virginia Marine Resources Commission

ROLL CALL

Mr. Riutta called roll and it was determined there was a quorum with four members present. He asked if there were any public presentations. With no one coming forward he stated that this was the first meeting of the Chesapeake Bay Board and there were no minutes to approve, so he moved on to the public hearings.

PUBLIC PRESENTATIONS

None

APPROVAL OF MEETING MINUTES

None

PUBLIC HEARINGS

1. Chesapeake Bay Board Permit CBB15-01 - Requests a Special Exception per Stafford County Code, Section 27B-8(b)(5)b. "Critical Resource Protection Area (CRPA) buffer requirements," to allow the construction of a detached garage within the landward 30 feet of the 100 foot-wide CRPA buffer on Assessor's Parcel 18E-2-43. The property is zoned A-2, Agricultural, located at 7 Pleasure Court in The Estates subdivision.

Mrs. Forestier stated staff visited the site on April 2, 2015 and assessed the site conditions. The aerial view with the topography shown is included as Attachment 3 and site photographs are included as Attachment 5. She stated the parcel has steep stream valleys along the property lines on the east and west. The eastern stream is considered perennial and therefore requires a 100 foot wide Critical Resource Protection area buffer. The split-level which allows access to the back of the house on the left side has a moderate slope. There is a 10 foot wide path which allows access to the back of the house on the left side, which is terraced with low block walls. Behind the house, the entire right side of the open yard is encumbered by the well, septic tank and drainfield locations, and there are also required setbacks from those locations by the Health Department. The proposed garage would be placed in the flatter area behind and to the left of the house. It would be located as close to the septic tank as possible, a minimum of 10 feet as shown in Attachment 6. She stated the maximum encroachment was up to 30 feet. The subdivision was platted in 1984 and the house was built in 1989. The Chesapeake Bay Act regulations did not come into effect in this area until 1991. The RPA buffer did not exist when the

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house and the lots were created. Currently there would be more buildable area behind the house because we have a 25 foot requirement from the house back. If the Board is inclined to approve the request, staff recommends the following conditions 1) the garage shall be built in the location shown on the plan, with a maximum encroachment within the CRPA buffer of 30 feet. 2) Clearing and grading within the RPA buffer shall be limited to a maximum of 10 feet beyond the garage walls, while not exceeding the 30 foot maximum encroachment. 3) Replanting of a 1,600 square foot area RPA buffer that currently exists as lawn per the guidelines in Appendix A in the Riparian Buffer Modification and Mitigation Manual as required by Section 27B-8(b)(2) of the Code. She stated if the garage was attached to the house as an addition, it would have been able to go through a waiver process rather than a special exception. But this is an accessory use and by definition accessory uses are not allowed in an RPA. So the fact that this house actually has no way to attach the garage to it also adds to the problems with the site.

Mr. Riutta opened the public hearing and asked the applicant or contractor to come forward.

Steven Sakry stated he purchased the house in 2000 and did not find out about the RPA until 2 years ago when he was doing some grading work around the wall. He stated he would like to build in the back and that was the only reasonable location for a garage. He stated he could not build on the front because the house was close to the cul-de-sac. In keeping the proper setbacks and distance from the septic system the back was the best location. He stated his goal was to have the garage to allow him to do project in his retirement, which was a quality of life and allows him to have a usable garage space. The current garage is a tuck under with a post in the middle and was 18 and ½ feet by 18 and ½ feet. He stated he would be happy to answer any question.

Mr. Riutta stated with no one else present he would close the public hearing and bring it back to the Board for discussion. He stated from the photographs he saw a carport or deck on the right of the house. He asked if there was a possibility to close that area to add garage space.

Mr. Sakry stated that area was a deck and underneath was a storage area for his lawnmower and things like that. He stated he believed it was 35 feet from the corner of the deck to the property line and with a 10 foot setback he would have to remove the deck to build a garage.

Mr. Riutta stated the drawings show there is 39 feet from the corner of the home to the property line.

Mr. Sakry stated the deck was 14 feet.

Mr. Riutta suggested relocating the deck and actually building the garage or expanding the existing garage.

Mr. Sakry stated the patio door from the bedroom goes out on the deck. So removing the deck would remove access from the master bedroom. He stated that area would also require a lot of excavation and 6 to 8 feet of concrete on the right hand side to hold the hillside back. He stated he never considered tearing the deck off, but did look at that area. He stated he did not want to spend so much money for a garage that was not large enough to do what he wanted to do.

Mr. Pineau asked if there was a drive way off of the asphalt driveway that would take you back to the proposed garage area.

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Mr. Sakry stated on the left side of the house, yes. He stated several years ago approximately 6 loads of dirt were brought in to make that area a little more level and that was how he gets to the back yard and would access the proposed garage.

Mr. Pineau asked if the RPA buffer only applied to the eastern stream. He asked if there was a buffer for the western stream.

Mrs. Forestier stated no, it was not considered perennial. She stated it has never been studied and probably would never be because the subdivision pre-existed the Chesapeake Bay regulations. She stated the way it was originally determined the streams were perennial was by looking at a USGS map and was shown as a solid line and if the person looking at the topography thought it was, then it was. She stated in 2003 perennial flow studies were a requirement.

Mr. Sakry stated if his lot was level he would build the garage in the non-RPA area. He stated the only worry he would have on the left side of the house was the setback from the road, but it drops twenty-some feet.

Mr. Riutta asked if staff prepared the drawing.

Mrs. Forestier stated yes.

Mr. Riutta asked if the darker line at the rear left corner of the house was the approximate setback.

Mrs. Forestier stated the dark line around the house was actually a wall. She explained because of the slope they have 2 walls that come down. She stated Mr. Sakry would have to setback from the wall to get access to construct and get around the proposed garage.

Mr. Sakry stated the wall is also saving the flowering cherry tree.

Mrs. Forester asked the Board members to look at the picture labeled "Left Side", that shows the wall and the slope.

Mr. Riutta asked what type of garage was proposed to be built. He asked if it was a steel frame.

Mr. Sakry stated he would build a wood frame.

Mrs. Rust asked if it was more like a pole building.

Mr. Sakry stated no, he would build it was a concrete slab and 2x6 walls.

Mrs. Rust stated it would not have a dirt floor.

Mr. Sakry stated no.

Mrs. Forestier stated that would require building permits and if there were restrictions it would have to be marked first and someone would go out and make sure the setbacks were met.

Mr. Riutta asked if it was possible to build another retaining wall to bring the building forward and slightly left of the existing wall.

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Mrs. Forestier stated an additional retaining wall would require engineered drawings and third party inspections for the fill to make sure it was stable to withstand the weight. She stated it may be more damaging to the stream channel on the left hand side which currently has a forested buffer. She stated there would also be added cost.

Mr. Sakry stated he would be better off to sell the house and move.

Mrs. Rust asked how practical was it to put the size garage proposed.

Mr. Sakry stated because then they would stay.

Mrs. Rust stated eventually someone else would own the property.

Mr. Sakry stated if they owned a boat or anything other than 2 small cars, they would probably appreciate the garage.

Mrs. Rust stated in this area you are not allowed to have a temporary structure this close to an endangered area and stated Mr. Sakry was proposing a fairly large permanent structure for a garage to redo cars and possibly store materials in the buffer area.

Mr. Sakry stated there would not be any outside storage, it would all be inside.

Mrs. Rust stated she was concerned because it was a very large structure but she did not think it was practical for that property.

Mr. Sakry stated when he spoke to Zoning a couple of years ago they told him as long as he did not build the garage larger than the footprint of the house.

Mrs. Forestier stated yes, but that was for zoning purposes. She asked Mr. Sakry the smallest garage he could use.

Mr. Sakry stated 32X40 or 30X40, because he would need enough room to have 1 parking for a completed vehicle and an area to work on another. He explained when you tear a vehicle apart you need an area for the frame and an area for the body and engine work.

Mr. Riutta asked if there was room to go wider.

Mr. Sakry showed a picture and stated the septic tank was to the left and approximately 36 feet to the tree and then the lot starts to drop down. That was why he chose 32 feet wide, but it may be best to only go 30 wide once someone looks at the soil. He stated if he went wider he would have to remove trees and start going downhill.

Mr. Riutta asked staff if they said there were no rules that allow going within the buffer.

Mrs. Forestier stated yes. She gave example of Aquia Harbour where homes were already built within 50 feet of the water. She stated the way the code is written it addresses the principal structure not the accessory structure.

Mr. Pineau asked Mr. Sakry if he was prepared to install the recommended vegetation by the County.

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Mr. Sakry stated he felt it would be very important to have shrubbery and mulching around the garage.

Mrs. Forestier stated they would have to follow the guidelines in the mitigation manual that require native plantings and such. She stated that would be one of the conditions that Mr. Sakry would be required to have a replanting plan approved by County staff.

Mr. Sakry stated he thought that should clear on concise before he does any site preparation, so he would do everything right from the beginning.

Mr. Riutta stated permanent storage structures are not permitted within the 100 foot buffer area.

Mr. Sakry stated once he found out about the RPA he started reading and realized this was clear cut and serious. He stated it was not part of his primary residence and he did not need it for handicap access. He stated it was going to be a shop to improve his quality of life

Mrs. Forestier stated attached garages have been approved in the past.

Mr. Sakry stated he thought that putting downspouts and draitile on and around the garage and providing a rock drain area would not be more detrimental than the current condition of the lot.

Mrs. Rust stated water still travels downhill.

Mr. Sakry stated yes, but it could travel downhill in draitile and empty into a rock type of structure. Currently there is no control.

Mrs. Rust stated it would not be running off of a hard structure, currently the water runs into dirt, soil, grass and shrubbery and it is filtered as it goes down to the creek.

Mr. Sakry stated it was also picking up something to filter out, whereas off the roof, it would not pick up any nutrients or soil and it would be controlled all the way to the non-RPA stream. He stated in his opinion it would be just like having a curb and gutter for your storm sewer.

Mr. Rudasill stated there would be 1500 square feet of roof draining into a gutter and running to a collection point at the stream.

Mr. Sakry stated yes, he would have it drain a little distance away from the stream and rock a rectangular or teardrop area. He stated when he moved into the house there was moisture on the crawl space side because water would sit. He dug in draitile from all the downspouts and routed it to PVC pipe further down the hill that filters through mulch. He stated he would do the garage area the same way.

Mrs. Forestier stated if the concern was the stormwater run-off, she could talk to the Stormwater Engineers and see if the soil types were amenable to low impact development.

Mr. Sakry stated he would get it down to the floodplain and reduce the velocity.

Mrs. Forestier stated that would have to be figured out anyway with the replanting because you don't want erosion. She stated she did not know if the soils would allow a rain garden.

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Mr. Sakry stated all the downspouts on the house are that way now.

Mrs. Forestier stated the Board can request additional information and they have 30 days to make a decision. She stated it could be deferred to the next Board meeting.

Mr. Riutta asked if the application could be approved with conditions.

Mrs. Forestier stated the Board yes, these conditions are ones that staff suggested but you as the Board can add conditions.

Mr. Pineau asked if a condition could be added stating it was contingent on county staff approving drainage that is appropriate for run-off or does the Board have to approve something here and now.

Mrs. Forestier stated a condition could be placed that states the stormwater management would have to be reviewed and approved by county staff.

Mr. Sakry asked if the current controls which was the downspouts, could be reviewed to see if they adequate, because the garage would be the same way.

Mrs. Forestier stated in the Water Quality Impact Assessment there was a section which addresses pre and post development pollutant loads. She stated the State has a database to figure out how much you had before and how much you have after based on the land use. She stated there was also a database where different types of stormwater management structures could be used to decrease pollutants. She stated if the Board put in the conditions that approval from County staff to ensure that the post development pollutant loads were the same as the current loads. She stated the Stormwater Engineers could say perhaps a rain garden with the same native plantings, and that would cover the replanting and the stormwater management.

Mr. Riutta asked if there was anything in place that would mitigate like another Board has in lieu fees.

Mrs. Forestier stated the planting are supposed to mitigate the encroachments. She stated the State Code requires stormwater management for anything over 2,500 square feet of impacts, but because this is smaller it would not have that review.

Mr. Riutta stated he thought it was minimal compared to previous discussions.

Mrs. Forestier stated the Mitigation Manual requires 1 canopy tree, 2 under story trees, 3 large shrubs and some smaller plants for every 400 square feet disturbed. Sometimes staff works with that depending on the site. She stated because this would be 4 times that requirement that was a lot of trees and shrubs.

Mr. Riutta asked about the proposed landscaping and vegetation on the last page.

Mrs. Forestier stated that was what the applicant proposed. She stated the staff report stated in consultation with Jeff Harvey, the Planning Director, staff recommend the proposed conditions; Replanting of a 1,600 square foot area CRPA buffer that currently exists as lawn per the guidelines in Appendix A.

Mr. Riutta stated he did not know what those were.

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Mrs. Forestier stated because there is nothing back there but grass.

Mr. Sakry asked how rain water was handled on the detached projects that were approved in the past.

Mrs. Forestier stated it depends on the location. She stated this was a special case because it is in an area that is supposed to remove pollutants and that is why stormwater management would be important. She stated if you were building a new house you would have to reduce pre and post pollutants.

Mr. Sakry stated he wanted to make sure the water was clean as rain water and not picking up erosion and nutrients.

Mrs. Forestier asked the Board if they would like staff to craft wording for additional conditions concerning the stormwater management portion and bring it back next month.

Mr. Riutta stated yes, as well as spell out Section 27B-8(b)(2).

Mrs. Forestier stated that was per Appendix A of the Riparian Modification in the Mitigation Manual. It has different levels of replanting requirements for areas under 10,000 square feet on a 400 square foot basis. She stated the trees have height and size requirements also. She stated she may be able to come up with a mitigation plan so there would be a drawing.

Mr. Sakry stated it was important to know that before he begins the project.

Mr. Rudasill made a motion to defer this application until the next meeting to allow staff time to look into stormwater runoff.

Mr. Pineau seconded.

The motion passed 4 – 0 (Mr. Hess was absent).

Mr. Riutta stated since there was no old business they would move to new business.

OLD BUSINESS

None

NEW BUSINESS

2. Update to the Board by-laws

Mrs. Forestier stated the by-laws that apply to the Wetlands Board would apply to the Chesapeake Bay Board as well, so keep that in mind when you are reviewing them and they will be discussed next time.

Mr. Riutta moved on to new applications.

3. Review of recently submitted applications

- ◆ Stafford Village Center

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Mrs. Forestier stated next month there would be an application that the State will be involved. She stated the applicant has a rezoning application in front of the Board of Supervisors which is for rezoning a parcel of land on Garrisonville Road from Agricultural to a Town Center Development with proposed parking, shopping and housing which shows clearing and grading over 5 acres of RPA. She stated the report for next month will have a lot of background information.

Mr. Riutta asked if it was possible to get the report earlier.

Mrs. Forestier stated she would try, she just got the application this morning and had not reviewed it.

Mr. Riutta stated he had nothing to report under Chairman's Report and staff indicates they have nothing additional to report he would move to adjournment.

CHAIRMAN'S REPORT

None

STAFF REPORT

None

ADJOURNMENT

Mr. Pineau made a motion to adjourn.

Mr. Rudasill seconded.

The motion passed 4 – 0 (Mr. Hess was absent).

With no further business to discuss, the meeting was adjourned at 8:22 p.m.