



# STAFFORD COUNTY CHESAPEAKE BAY BOARD

## Meeting Minutes

Monday, September 21, 2020 at 6:01 pm  
Board of Chambers Room George L. Gordon, Jr. Government Center

A. Call to Order

B. Roll Call

Members Present: Anthony Pineau, Ben Rudasill, Dan Adams, Sue Henderson, Frank Rubio

Members Absent: Mary Rust, Jim Riutta

Staff Present: John Saunders, Ben Foster, Joe Fiorello, 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 Meeting Minutes

Ms. Henderson made a motion to approve the June 15, 2020 meeting minutes, which was seconded by Mr. Rubio, the motion passed 5-0 approving the June 15<sup>th</sup>, 2020 meeting minutes.

F. Public Hearing

1. CBB20-03 – Hidden Springs LLC, applicant, is requesting a special exception under §27B-14 of the Stafford County Chesapeake Bay Preservation Area Ordinance from the requirements of §27B-7. "Development Conditions" of the Chesapeake Bay Preservation Area Ordinance in order to construct a driveway in the Critical Resource Protection Area (CRPA) on Tax Map Parcel No. 31-20F.

Mr. Foster stated there are five review criteria that the special exceptions to be reviewed.

- a. Granting special exception will not confer upon the applicant any special privileges denied by this chapter to other property owners who are subject to its provisions who are similar situated.
- b. The special exceptions are not based on any conditions or circumstances that are self-created or self-imposed nor does the request arise from conditions for or circumstances either permitted or non-conforming that are related to adjacent parcels.
- c. The special exception request is the minimum necessary to afford relief.

- d. The special exception request will be consistent with the purpose and intent of this chapter not injuries to the neighborhood or otherwise detrimental to the public welfare and is not of substantial detriment to water quality.
- e. Reasonable and appropriate conditions are imposed which will prevent the special exception request causing a degradation of water quality.

Mr. Foster stated that this is a special exception request to allow for an approximate 4,550 square foot encroachment associated with the construction of a driveway within the lanyard 50 feet of the 100-foot-wide critical resource protection area on assessor's parcel 31-20F. The applicant is proposing a CRPA encroachment to access 1.42 acres of an 8-acre parcel that is created through the boundary line adjustment. The purpose is to access the buildable portion of the lot in order to construct a single-family dwelling that is a currently undeveloped with mature forest. Other areas of the parent parcel have been timbered in the past. There are 4 concurrent zoning applications under review for the parent parcel. One boundary line adjustment and three minor subdivisions. The boundary line adjustment creates a revised tax map 31-20v parcel which requires a CRPA encroachment to access the buildable portion of the lot with a driveway crossing. Driveway crossings are administratively permissible on a lot plated prior to the adoption of the Chesapeake Bay Preservation Ordinance but not on a newly plotted lot. The applicant approached the adjacent property owner at 86 Hidden Springs Lane regarding an easement or a land swap in attempt to avoid disturbing the CRPA and no progress was made in the attempt.

Staff recognizes an opportunity to perform a boundary line adjustment that would conform with all Stafford County Ordinances. The current layout would not confirm with the Chesapeake Bay Preservation area Ordinance. The location is off of Hope Road east of Route 1 Jefferson Davis highway. The impact area for the proposed driveway crossing would be necessary to access the 1.42 acres that the single-family dwelling would be built on. There is a portion of the parent parcel that had been timbered in the past; however, the proposed driveway crossing is within mature forest. The boundary line adjustments would create revised tax maps for the driveway crossings. There are two branches of a stream that are perennial and the single-family dwelling is proposed in the 1.42-acre resource protection area. There is currently an access to get the that back portion of the lot and steep sloops down to the water feature. The fence is along the property line where the driveway crossing is proposed. That is all that I have for the staff report.

Mr. Pineau stated if there is anyone present that would like to make a presentation in regard to this application. Mr. Alex McAllister owner of Hidden Springs, LLC, and would like for his Civil Engineer and Engineer Mr. Tylor Underwood to speak on his behalf of the proposed project application. Mr. Underwood stated the lot was just over 1.4 acres and not accessible through the RPA and reason for request of the additional boundary line adjustment. Based on the current Code in order to access the property we would require a waiver from this body. We first sought out the neighbor to gain an easement and that did not end in our favor. We then focused on other options to mitigate the impact to the RPA. In exchange for minor encroachment we were offering an additional 19 thousand square feet of protected area that would go around the sensitive drainage features. We wanted to make sure we more than off-set above and beyond to insure water quality in this case. If the wavier is granted we would put a small wall on one side which would allow us to lower the grad some creating a nice wide flat area without disturbing any of the sloped area and leaving all of the trees outside of that driveway foot-print on that slope insuring it to maintain stability and avoid any erosion. The driveway would be paved to prevent any sloughing off of material down that slope or any other additional degradation base off of the current access. By granting this waiver we would have access to maintain the pond and potential water failures that could impact the water quality of the Chesapeake Bay. Our final design would not have any crossing or impact to the wetland. We took steps to insure there are no historical sites nor threat to endangered species on the property or the

adjoining property. That summarizes our presentation for this evening. We would be happy to answer any questions that the Board may have.

Mr. Pineau asked what kind of wall they will be putting in place. Tylor Underwood describes it as being a small retaining wall on the fence side allowing a lower grade by several feet and creating more stable and wide access path. This would allow us to create a more adequate and safe access without needing to grade down the slope. Mr. Pineau stated there is a precipitous drop-off on the right-hand side. What kind of protection are you providing there on that side, if the wall is on the fence side? Tylor Underwood replied we want to do is provide a lower base elevation for the driveway and the retaining wall on the upland side in order to no disturb the slope. We determined the retaining wall on the upland side would allow the driveway to be below the retaining wall holding the dirt at the fence allowing for vegetated stabilization to remain undisturbed. Mr. Pineau stated how wide is the driveway? A driveway would be a minimum of 12 feet with more than likely another foot of clear zone on each side. Tylor Underwood stated during the construction of the driveway we would put up the standard erosion control measures that would be a super silt fence that would be anchored into the bank and prevent any sediment from leaving the site during construction. After construction laying down an erosion control matting to stabilize the entire edge of the driveway leaving that slope undisturbed until vegetation grows. Mr. Pineau asked if the adjacent property owner was unwilling to grant any sort of easement for you to be outside of the RPA. Mr. Underwood stated will worked extensively with the property owner unfortunately the neighbor decided against the idea. Ms. Henderson stated I understand we are specifically talking about the revised 20V but I am now looking at 20X and wondering how are you going to be able to get access across the RPA there assuming that 20W and 20F are going to be accessed from Hope Springs instead of Hidden Springs.

Mr. Underwood stated we have actually received that approval from the Planning Commission that will allow us to avoid any impacts on the site either RPA or Wetlands. Access would come from Hidden Springs that is down under the slope and the driveway will be up-slope of that by about 30 feet, well away from the sensitive areas which protects the water quality of the site. We did come at this from a holistic view looking at all the different components, not just this one part but how we could develop the entire site in a responsible way that would protect the water quality.

Mr. Pineau stated his concern is the width of the driveway and the drop-off on the right-hand side. It is precipitous drop down to the perennial stream bed. Mr. Underwood stated our surveyor locate all of the trees on site and determined this driveway site was best for removing as few trees as possible which further stabilizes the slope. Our intent is to remove as few trees as possible and gave four times as much conservation area to make sure we off-set any trees we did negate. Mr. Pineau asked if there are any other questions from the Board.

Mr. Saunders stated when the applicant came in for minor subdivision to divide the plats staff noticed there is going to be some RPA crossings in the lots that are being created and suggested we meet to figure out what is being proposing for this site. The Developer brought in their concept plans showing driveway locations, the structure, drain fields and so on. They did make a conservative effort to minimize the amount of encroachment and we scrutinized the grading and concepts to make sure we do not approve a permit that would lead to finding more encroachment would be needed to tie off the grade. Staff did go through all the possibilities to insure whatever decision we make today will be the final decision as far as encroachment requirements.

Mr. Rubio stated to Mr. Underwood, you had indicated that the road was actually going to be lower than the shoulders and eventually it would be paved, what happens to the water? Mr. Underwood explained the driveway would be lower on the left side where the retaining wall will be allowing a natural grade on that side creating a naturally sheet flow of water further protect the slope and ultimately protect water quality. Mr. Pineau stated concern of an event of tremendous storms and rain

where would run-off from the driveway and down into the river bed below. Mr. Underwood explained the front portion of the driveway would flow down to the roadside ditch to be collected through the VDOT right of way. At the portion of the driveway this is most concerning there will be a natural sheet-flow which will infiltrate or filter through the natural vegetation. The back side of the driveway will flow back toward the house and be collected at the on-site stormwater area as required by code. Mr. Pineau stated are there any other presentations for this proposal? If not, I will close the public presentation and open it up to the Board for discussion.

Mr. Pineau stated to Mr. Saunders that staff appreciates what has been provided here and is willing to except these allowances that are being made by Mr. McAllister. Mr. Saunders stated there is a substantial amount of conservation area being offered for a minimal area of the encroachment which does seem to be the logical place to access the property. The Developer had worked hard to obtain an easement from the home owner, worked extensively on options and has thought through complex retaining walls all to minimize the impact and offer options that ultimately improves water quality on the site. Mr. Pineau asked staff regarding his concern of the petrography of the flat land within the RPA on either side of the stream and the precipitous drop-off of flow down to the stream bed, if this plan was the most that could be done to keep that from happening. Mr. Saunders stated we have not gone into the technical Engineering and Grading Plan that will be required. If the Board grant and encroachment today the Applicant would be allowed to Plat these lots and his Engineer would plans that will show detail on grading and drainage. I do agree we are going to disturb the grad but the retaining wall should have a positive benefit to retain and relax the slope.

Ms. Henderson asked if the Board would have an opportunity to see the grading plans. Mr. Saunders stated staff would review the plans and if the grading area could possibly create unstable conditions the Board would be prompted to weigh in again. If the Board is not comfortable with it until the grading can be seen that is something that could be discussed as well. Mr. Pineau stated if we are going to consider approving this that there should be conditions that come into play.

Mr. Fiorello asked Mr. Underwood what the length of the sheet flow on the slope would be. Mr. Underwood said approximately 50 foot of driveway. Mr. Fiorello stated if a French drain or a drop inlet for filtration would be helpful to concentrate flow. Mr. Underwood said they have seen those inlets with poor maintenance get filled with leaves and twigs and want the property owner to have a no maintenance safe driveway.

Mr. Rudasill asked if a gravel surface driveway would resolve the run-off as opposed to an asphalt driveway. Mr. Underwood stated that very quickly gravel will become a rut that will ultimately concentrate the flow and would result in more danger to the slope. Asphalt is completely impervious and does allow for a uniform flow across if done properly.

Mr. Saunders stated the driveway runs perpendicular to the direction of flow so that you really only have a 12-foot span that is crossing the driveway. Were the flow is going there is not a lot of opportunity for the flow to concentrate and cause an issue. It really does remain sheet flow across the driveway. From staff's perspective at an erosion and sediment control point of view this situation of impervious asphalt would be more desirable than an impacted gravel surface.

Mr. Pineau stated do you feel that once the grading has been done, the checks that would be followed up on by the County would be sufficient enough that it would not have to come back to any Board for a reconsideration?

Mr. Pineau made a motion to approve CBB20-03 – Hidden Springs LLC, which was seconded by Mr. Rudasill. Motion passed 5-0.

2. CBB20-05 - Emmagaile Ridge- Robert Gollahon, applicant, is requesting a special exception under §27B-14 of the Stafford County Chesapeake Bay Preservation Area Ordinance from the requirements of §27B-7. "Development Conditions" of the Chesapeake Bay Preservation Area Ordinance in order to construct a driveway in the Critical Resource Protection Area (CRPA) on Tax Map Parcel No. 17-46A.

Mr. Foster reported to the Board this is a special exception request to allow for an approximate 5,324 square foot encroachment associated with the construction of a driveway within the seaward 50 feet of the 100-foot critical resource protection area buffer on assessor parcel 17-46A. A little bit of background, the Applicant is proposing a CRPA encroachment for a driveway to access 3.6 acres of approximately 17.39-acre parcel. The purpose is to access the buildable portion of the lot to build to single family dwellings. The proposed site is currently undeveloped with mature forest. Two concurring planning and zoning applications are under review for the parent parcel which are two minor subdivisions. Emmagaile Glen subdivision which creates two 3+ acre lots on the northern portion of the parent parcel and Emmagaile Subdivision proposes to subdivide the remainder of the Emmagaile Glen subdivision ultimately created 5 proposed lots from the parent parcel. Emmagaile Ridge subdivision creates a CRPA encroachment of a shared driveway to access the buildable portion of the lots. Driveways are administratively permissible on a lot prior to the Chesapeake Bay Preservation ordinance but not on a newly platted lot. The Applicant approached the adjacent property owner at 270 Tackett's Mill Road regarding an easement in an attempt to avoid the CRPA but no progress was made in this attempt. Staff recognizes and opportunity to perform a minor subdivision that will conform to all Stafford County ordinances. The current lay-out would not conform to the Chesapeake Bay Protection Area Ordinance. This is a location map showing the approximate 18-acre parcel off of Tackett's Mill Road just across from Barrington Roads Boulevard. As you can see the RPA dissects the lot in half. This is an aerial image showing the mature forested area parcel off of Tackett's Mill. Emmagaile Glen created lots 1 and 2 to the northern portion of the property and Emmagaile Ridge will create lot 1, lot 2 and the remainder 17-46A the back portion of the lot. The proposed driveway crossing will come off of Tackett's Mill Road as you can see it's in the seaward 50-feet of the RPA and they are also proposing the conservation area along the drainage features that are on the site that are shown in green.

Mr. Pineau stated if there is anyone present that would like to make a presentation in regard to this application. Mr. Robert Gollahon introduces himself as the Applicant and explains they have constructed driveway crossing in the past. Upon discussing with staff for this project it was decided that they could not allow a driveway to across the RPA. My Engineer Mr. Ryan Foroughi is present to explain the technical details concerning this special exception request.

Mr. Foroughi stated this is an almost 4-acre property that would require a crossing through the RPA to access the property. We sent a letter to the adjacent property owner Mr. Kennedy by certified mail receipt. No progress has been made by attempting to work with the adjacent homeowner. His house is up on the left side of the property line to this project so allowing any access or easement through it would mess up his front yard so it is understandable why he was not willing to participate in the conversation. If we wanted to mow grass on this property we would still be before this Board to access the 3.6-acre piece of the parent track which still would require a special exception from the Board regardless of any proposed subdivisions. We had presented an alternative application in crossing the RPA in crossing the wetlands and staff support rejected it in favor of this one. This is a sizable piece of property, nearly a 3<sup>rd</sup> of the property that is unusable without crossing the RPA. The key element of the Chesapeake Bay Ordinance is for avoidance, minimization and mitigation. The development of this driveway would meet erosion compliance and there is no flood plan on the

property. There are no wetlands impacts and the stormwater management concept plan for both this project and both minor subdivisions have been approved. With that we would respectfully request approval of our application and I am here to answer any questions that you may have.

Mr. Pineau asked can you tell me what elevation the driveway would be relative to the stream? Mr. Foroughi stated there is approximately 6-feet from the bottom of the stream bed to what we would consider the edge of the driveway. Then there is approximately 4-foot of a similar application where we would bring the slope down, put in a 12-foot driveway and then tie-in the rest of the slope. We should not need retaining walls like the previous application.

Mr. Pineau stated tell me again what the green dashed line represents. Mr. Foroughi replied, that is the area of conservation that we would be proposing. Instead of providing a 25-foot offset swath around the exciting RPA we are widening the buffer to protect the more sensitive areas.

Ms. Henderson stated to Mr. Gollahon was the purchase before you know there was an RPA or did you purchase it knowing there is an RPA there? Mr. Gollahon stated he purchased it prior to the Counties interpretation of putting a driveway across the PRA was not allowed. The RPA was definitely there and I knew it.

Mr. Rudasill made a motion to approve CBB20-05 Special Exception request Emmagaile Ridge, which was seconded by Ms. Henderson. The motion passed 5-0

#### G. Old Business

Ms. Henderson inquired about moving forward on an educational effort for property owners who have water front property protected by the Chesapeake Bay Board. To create a pamphlet that explains to homeowners how to protect water front property. I suspect we could easy connect with public affairs staff here at the County. For the record we have had major problems in my community again this year. Two different problems property owners could have prevented if they knew that there were restrictions and challenges. I turn out to be the only one in the community talking to those people after the fact and try to help them figure out what to do and also drag staff down to help us out with it. It shouldn't be that they just happen to have the right person in the community to know the right staff person to call and that is an issue.

Mr. Foster stated we have a pamphlet and I can send those to you to. We may be able to edit and add SEAS (Shoreline Erosion Advisory Service) information in there. John, Joe and I can discuss how we can move forward with how we would go about distributing those.

Ms. Henderson stated we had discussed that would be one of the ways we could use the money in collected fees as an educational effort. It doesn't have to be expensive, it doesn't have to be incredibly consuming and I know that I had passed on that the friends of the Rappahannock said they would be happy to help us write such a thing we needed as well as distribute.

Mr. Saunders stated we do have a Public Information officer that is dedicated to these sorts of outreach activities. That is something we can certainly look at targeting some events throughout the year. Whether it's a face book posting or a press release to notify property owners in Stafford. There are all kinds of issues such as flood plain, VMRC. Ms. Henderson mentioned there are several different kinds of issues not related to these two issues. Mr. Saunders said there are all sorts of resources out there. Ms. Henderson stated there have been people trying to clear-cut-40' cliffs along the Rappahannock. Other people that had bought a property that had been clear-cut for view and then lost 25-feet of their back yard.

Mr. Rudasill stated picking-up on what Andy said about the site visits, I would really appreciate when staff is going to make a site visit to let us know. Mr. Foster stated there is a problem if we get more than four Board Members it becomes a quorum. I think we can have up to 2 or 3 at a time and we can coordinate in that effort.

H. New Business

None

I. Staff Report

None

J. Adjournment

Mr. Pineau stated with no further business to discuss the meeting adjourned at 7:14 pm.