



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Meeting Minutes

Meeting of the Chesapeake Bay Exception Review Committee

November 5, 2025, 2pm
Conference Rooms 120-C
12000 Government Center Parkway
Fairfax, Virginia 22035

Present:

Committee:

Betsy Martin, Amy Gould, Som Govender, Mary Smith, Barbara Ryan, Kate Flynn, Sue Kovach Shuman, Alexis Dickerson

County Staff:

Steve Strackbein, Nicola Mutesi, Yosif Ibrahim, Daniel Rizzo, Mohan Bastakoti, Kirsten Munz, Bin Zhang

Applicants:

Topic 2

Abdul Ahmady
David McElhaney (Applicant's Representative)
Chase Allen

Public: Kevin O'Brien, Victoria O'Brien, Dr. Christine Stickland

Topic 3

Daniel Van Brunt
Allison Austin (Applicant's Representative)
Public: None

Committee Members Absent:

Edward Monroe

Call to Order

Meeting called to order by Chair Betsy Martin at 2:02 p.m.

Topic 1:



ERC Business

1. 2025 Election of Officers (Secretary)
2. Review of meeting minutes for September 3, 2025
3. Discussion on changing the time of the meeting
4. Discussion regarding 4104 Woodlark Lane

Topic 2:

RPA Encroachment Exception Request-6624 Tunlaw Ct.
Encroachment Exception Request# WAIV-2025-00299 and Water Quality Impact Assessment #WQIA-2025-00034, Abdul Ahmady, an application for an exception for a single-family building in the Resource Protection Area (RPA) under the Chesapeake Bay Preservation Ordinance (CBPO) Section 118-6-7 at 6624 Tunlaw Court, Alexandria, VA 22312, Lee Jackson; Tax Map #0714 01 0069 & 0714 14 A, Mason District.

Topic 3:

RPA Encroachment Exception Request-5613 Heming Avenue
Encroachment Exception Request # WAIV-2025-00212 and Water Quality Impact Assessment #WQIA-2024-00071, Daniel Van Brunt, an application for an exception to allow a portion of a patio and Hot tub to remain in the Resource Protection Area (RPA) under the Chesapeake Bay Preservation Ordinance (CBPO) Section 118-6-8 at 5613 Heming Avenue, Springfield, Virginia 22151; North Springfield, Section 22, Lot 4; Tax Map #080-1-((02))-((68))-0004, Braddock District.

Topic 1- Discussion

- 1. 2025 Election of Officers (Secretary)**
 - a. Sue Kovach Shuman is nominated by Chair Martin, seconded by Amy Gould. Approved by Committee.
- 2. Review of previous meeting minutes for September 3, 2025.**
 - a. Barbara Ryan moves for approval and Mary Smith seconds. Approved by Committee.
- 3. Discussion on changing the time of the meeting.**
 - a. Chair Martin changes proposal for meetings beginning at 1pm, rather than 2pm. Unanimously approved to move meetings to 1pm.
- 4. Discussion regarding 4104 Woodlark Lane**
 - a. Amy Gould questions the approval of an RPA Exception request after the ERC denied it and the denial was upheld by the BOS. She questioned why it was classified as a redevelopment.

- b. Rizzo - The property was not evaluated against redevelopment criteria, but rather against loss of buildable area criteria. The application met the criteria for administrative approval because it is outside the 50 seaward feet. The fill is only within the proposed retaining wall and is not an expansive footprint.
- c. Ryan and Govender objected to discussing this when not all committee members have information on the case because the ERC committee makeup was different when the decision was made.
- d. Martin – Proposes that questions related to Woodlark be sent to Rizzo.
- e. Gould – We are not trying to review the previous ERC decision, but rather why ERC (and BOS) are not notified when staff reaches a new decision after the ERC denies an application and the BOS supports the denial. She also wants to see the fill calculation, which was a big issue on the previous application.
- f. Rizzo – Staff will provide information about fill as well as the letter of approval and the conditions associated. Reiterated that this was approved under Loss of Buildable Area, not Redevelopment. He will look at the policy and see if he can provide updates to ERC when staff approves an exception that was previously denied by the committee.
- g. Shuman – Asked: When applications are reviewed, are previous applications reviewed? Rizzo: Yes

Topic 2: Hearing called to order 2:17pm

- 1. Chair Martin asks if anyone in attendance would like to provide support or opposition to the exception request. Two responses; Victoria Bryan and Christine Stickland.
- 2. No conflicts of interest exist between the committee and the party seeking application approval.
- 3. County staff member Bastakoti introduces the case and presents a summary of issues ([Staff Presentation](#)).
- 4. Representative stated the following:
 - a. Ahmad Ahmady, owner since 2010, has sought approvals for many years to develop the property. A variance in 2015 was approved. The property is mostly a wooded area. [See applicant presentation](#).
 - b. Proposed house is 15 ft. forward from floodplain and as forward on the lot as possible. A parallel application for a variance would allow a front yard setback of 6 ft. Impervious of 2960 sq. ft., consistent with a variance approved in 2015.
 - c. Reduction of canopy of approximately 5000sq ft.

- d. Landscape plan provides for planting a currently forested area. Plantings were added between the house and stream based on committee comments.
- e. Applicability of the request is consistent with 118-6-7.

Interested parties Present:

1. Victoria O'Brien – Opposes approval of the application due to concerns about erosion and fallen trees caused by development. She has lived on Randolph Drive for over 30 years, across the creek and downstream from the subject lot. The stream has changed dramatically over the last several years, including a concrete embankment washing downstream and many downed trees over the years. A waiver for development will complicate the situation and compromise the safety of the O'Brien property and others. The stream bank continues to widen, and trees are growing in the middle of the stream.
2. Christine Stickland – Said: This proposed house will cause an interesting challenge based on the 100-year floodplain. See the attached statement of her opposition.

Staff presents required findings –

1. [See staff report.](#)
2. Rebuttal by applicant – The dwelling is not planned within the 100-yr floodplain. Went through comprehensive modelling which does consider upstream development.

ERC debate

1. Martin confirmed with staff that an up-to-date floodplain study has been submitted
2. Shuman asked whether the county has information on how Indian Run has changed since 1995. Bastakoti responded that aerial pictures can show shifts in the watershed.
3. Ryan- Asked: Who made the determination that the lot was buildable? Bastakoti responded the lot validation request was made for this lot in 2003 and approved. Ryan asked whether a similar case has come before ERC asking to build an entire house within the RPA on a poor-buildable lot? Bastakoti responded that there are cases that have been approved by ERC but he will double-check. Ryan noted that the only reason the Woodlark house was ultimately approved was because it was moved out of the 50 seaward feet.
4. Govender – Noted that the BMP facilities extend way beyond the house and will create more disturbance. The deck extends the house, and half of the proposed home is within the seaward 50 ft. He asked if the house could be reduced in size to provide for minimum relief? The footprint was approved by BZA in 2015. The recent change shows a smaller footprint for the home. Martin followed up that she was concerned about the deck size

(600 sq. ft.) and was happy that the applicant was willing to plant more vegetation for a buffer between the house and the stream. Planting trees elsewhere on the lot does not create a buffer between the house and the creek.

5. McElhaney states that many of the comments were addressed in the variance process. The house footprint was approved with the BZA. A new application with a larger house was presented after a floodplain analysis. After staff expressed concern about the change in size, the Ahmadys reduced the size of the house footprint. He noted that conditions have changed everywhere, and floodplains are dynamic and it is important to recognize that the validation in 2003 the area was a floodplain, and it was just designated. The applicant is willing to reduce the deck size so that more plantings can occur to address the concerns of the committee.
6. Govender: There is a change in footprint of the house now. Martin states the first application was two thousand and something sq. ft., now 1,687 sq. ft. to meet the size as approved in the 2015 BZA approval. Bastakoti stated there was a mid-cycle amendment in review and staff received the new plans approximately 10 days previously. Martin states that even with the reduced size, much of the house is within the 50 seaward feet.
7. Dickerson: Asks – Do you know about the zoning complaint in 2020? McElhaney responded that the complaint was about removal of trees. To address the complaint, the Ahmadys submitted a minor Water Quality Impact Assessment and trees were planted.
8. Martin closes public hearing at 2:59pm.
9. Smith presents a proposed motion. Provisions in 6-7 are met, and she doesn't disagree with staff's conclusion that required findings are met, except for one: granting this exception will confer special privileges that have been denied to other similarly situated applicants. This committee has always been sensitive to the 50' seaward part, and we've disapproved two swimming pools that would have been in the 50' seaward. This is precedent that has been set by this committee. Literally half of this house is within 50' seaward, probably a lot more square footage than these swimming pools were. We would give the applicant something we didn't give these other cases, which is approval to build within 50' seaward. The other criteria are probably met, and I appreciate that you're willing to put in vegetated buffer, but this is for me the stumbling block, is the precedent we would set. We would basically say we're now changing our minds about this. It would certainly open up for the last people we denied to come back and say, you need to approve me now. So I propose that we deny the application. Ryan agrees. Martin agrees, noting that ERC has always been very concerned about not lowering the bar, and not setting a precedent that would open or compromise the CBPO protections for water quality. She is afraid this would do that and invite others to apply to build houses in the 50 seaward feet, on a very difficult lot.

10. Ryan questions the determination that this lot is buildable and whether this exception would be in harmony with CBPO. Not comfortable with basing finding 3, that it is in harmony with CBPO, simply on the planting plan
11. Martin further notes that the applicant did not provide quantitative results for proposed BMPs nor evidence there was going to be an improvement in water quality Applicant promises to provide that information after they get approved, but we've never approved applications unless people could show us the effect of what they were doing on water quality. Govender says it is difficult to decide without such information.
12. Ryan again questions whether this lot is buildable.
13. McElhaney says applicant is willing to defer a decision to provide more information. Notes they would not be here if were not within 50 seaward feet. If committee will never approve encroachments within the 50 seaward feet, not sure why they are here.
14. Smith responds that she does not see a path to compliance with the CBPO.
15. Gould states that committees have different leadership and new members. DEQ is concerned about the approval and examples in other jurisdictions prove to be difficult.
16. Martin notes that ERC has approved encroachments within the 50 seaward feet, but not on the scale that is proposed here. The committee works to apply the criteria objectively in reaching its decisions.
17. Martin requests a vote from the committee on the applicant's request for a deferral. Only Alexis Dickerson votes for deferral.
18. Smith proposes a modification to the draft motion, based on committee discussion. Section 3 was modified to say, we cannot conclude that the application is in harmony with the purpose of the CBPO.
19. All ERC members present except Dickerson vote in favor of the motion as amended, and the application is denied by a vote of 7-1.
20. Martin states: "You have the right to appeal" to the BOS within 60 days.
21. Smith offers an additional change to the motion to say "moreover, we cannot conclude that the application is in harmony with the purpose and intent of the CBPO and is not of substantial detriment to water quality" to make it consistent with the motion as passed.

22. The committee votes to approve the twice-amended motion by the same vote of 7-1 for denial.

Topic 3: Hearing called to Order 3:40pm

1. Martin asks if anyone in attendance would like to support or oppose the exception request. No one responded.
2. No conflicts of interest exist between the committee and the party seeking application approval.
3. County staff member Ibrahim introduces the case and presents a summary of issues ([Staff Presentation](#)).
4. No statements from the applicant.
5. County staff member Ibrahim states that the director recommends approval.
6. Motion read by Gould. Seconded by Shuman.
7. Vote, 8-0 unanimous approval.

Post-hearing discussion

1. Committee members requested staff provide more information on the privilege criterion. Committee members state the desire for consistency. In the Tunlaw case, staff concluded that approval would not give special privileges to the applicant.
2. Staff explained that the lot validation is completely different from the determination of buildability. The county does not provide a “Buildability” acknowledgment. Surveyors look at the deeds, and they are recorded correctly and there is a valid deed based on transfers, etc. Then DPD looks at the date the lot was created and compares that to the applicable zoning regulations at the time of creation. The validity of a lot does not necessarily reflect its buildability. Third-party engineers and consultants provide the county with information on the buildability of structures and utility connections. When LDS accepts a grading plan, that means a lot is buildable.

Formally adjourn – 4:02pm

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