

Chesapeake Bay Exception Review Committee

Brief Overview

Betsy Martin, ERC Chair

Our charge

1. Exception Review Committee administers provisions of Article 6 of [Chapter 118 \(Chesapeake Bay Preservation Ordinance\)](#).
2. Article 6 covers applications for land-disturbing activity within the seaward 50 feet of the Resource Protection Area.
3. We also approve accessory structures in the RPA, and encroachments that do not otherwise qualify for review under the loss of buildable area exception or accessory structure provisions.

Outline of Process

1. Applicants submit a request for an exception, which must include a Water Quality Impact Assessment.
2. Staff prepares recommendations.
3. The ERC conducts a public hearing and approves or disapproves the exception request.
 - We can impose conditions on our approval in order to maintain the intent of the CBPO.
 - We can defer a decision in order to consider a modification of an exception request.
4. If an applicant disagrees with the Committee's decision, he or she can appeal the decision to the Board of Supervisors, who can overturn or affirm it.

We approve an exception request only if the following six findings are met:

- (1) The requested exception to the criteria is the **minimum necessary to afford relief**;
- (2) Granting the exception **will not confer upon the applicant any special privileges** that are denied by this part to other property owners who are subject to its provisions and who are similarly situated;
- (3) The exception is **in harmony with the purpose and intent of this Chapter** and is **not of substantial detriment to water quality**;
- (4) The exception request is **not based upon conditions or circumstances that are self-created or self-imposed**;
- (5) **Reasonable and appropriate conditions are imposed**, as warranted, that will prevent the allowed activity from causing a degradation of water quality; and
- (6) Other findings, as appropriate and required herein, are met.

From Chapter 118-6-6; emphasis added.

ERC's purpose as defined by law is to protect and improve water quality by protecting the riparian buffer

- The Water Quality Impact Assessment is the basis for determining whether water quality will be adequately protected if an exception is approved.
- Staff provides recommendations for approval, disapproval, and conditions—but ERC decides, based on the application, staff report, and information presented at the public hearing.
- Interpreting and applying the six criteria may be difficult and subjective, but we have guidance.
 - [DEQ guidance document](#).
 - County attorney provides guidance to help us interpret the law.