

**NORTHAMPTON COUNTY
WETLANDS BOARD**
Minutes
April 21, 2010

This was the regular meeting of the Northampton County Wetlands Board conducted on Wednesday, April 21, 2010 and held in the former circuit courtroom located at 16404 Courthouse Road in Eastville, Va., for the purpose of conducting regular business.

Those members present were Marshall Cox, Chair; John Chubb, Mark Gates, Nancy Wells Drury, Dot Field, and Robert Meyers. The member absent was Vice-Chair Bowdoin Lusk.

Also present were Melissa Kellam, Zoning Administrator; and Kay Downing, Secretary to the Board. Mr. Hank Badger from the Virginia Marine Resources Commission was also in attendance.

The Chair called the meeting to order and established a quorum.

All those wishing to speak at today's meeting were sworn in by the Chair.

It is noted for the record that Ms. Hickman, Zoning Inspector, conducted field visits at 8:30 a.m. this day with those members present; however, she was not present at the public hearings.

Public Hearings:

The Chair called for continuance of VMRC 2010-0048 as filed by Ronald Crumb.

Continuance of VMRC 2010-0048: Ronald P. Crumb has applied to construct approximately 117 feet of bank hardening consisting of toe filter cloth and a base of bricks with riprap Class I and II armor stone along with 48 cubic yards of backfill. The property, described as being Tax Map 47A, double circle 1, parcel 16, is located at 14274 Harbour Lane with frontage at the mouth of Barlow Creek and the Chesapeake Bay.

Mr. Chris Wilson, agent for the applicant, stated that a revised drawing had been submitted for the Board's consideration as discussed at the February 2010 meeting. He noted that the adjoining property owners, Robert & Sarah Phillips, had declined to join the project. Mr. Wilson stated that the project will be tapered at its end.

Action

Having the revised drawing, motion was made by Mr. Chubb to approve the application as submitted which was seconded by Ms. Drury. The motion carried unanimously.

At this time a motion as made by Mr. Meyers to revise the agenda by eliminating the break for lunch. Motion to revise the agenda was seconded by Ms. Drury and carried unanimously.

The next public hearing was called to order.

B. VMRC 2010-0343: John D. Bull, Sr., has applied to construct a single 150-foot (crest length) breakwater and a 190-foot section of revetment that will replace a failed bulkhead. The property is located at 3258 Butlers Bluff Drive on the Chesapeake Bay and is further described as being Tax Map 112F, double circle 1, parcel 4.

Ms. Kellam reviewed the staff report and recommendations along with the VIMS report which are both included in their entirety as part of the official record.

VMRC 10-0343:

VIMS Report: *see below*

Adjacent Property Owners

As of the writing of this staff report, no adjacent property owners have commented on the proposed project.

Staff Recommendation

Although it is not the preferred approach to combine two structures, this project must be seen as a viable solution accounting for the specific site conditions for this property. It is staff's recommendation that this project as proposed is approvable as long as VIMS' concerns regarding upland erosion and time of year restrictions are addressed. A water quality impact assessment and mitigation plan, which will address upland impacts and are separate zoning approvals from the wetlands permitting application process, are required to be completed before any work commences on this project. A separate review by state and federal agencies will address protected species and time of year restrictions.

VIMS Report:

EXISTING SITE CONDITIONS AND PROPOSED ACTION:

The applicant proposes to construct 190 LF of onshore revetment to replace an existing bulkhead damaged during the November 2009 storm; and construct a 170 LF nearshore, low-crested breakwater along his high-energy, sandy shoreline of the Chesapeake Bay. The project shoreline currently contains a high, sandy, unstable bluff and a narrow beach with a failed bulkhead structure. The upland is forested with the residential structures located in close proximity to the top of the bluff.

THE PREFERRED APPROACH FROM AN INTEGRATED MARINE ENVIRONMENTAL VIEWPOINT:

From an environmental perspective, the preferred approach to shoreline protection on high-energy, sandy, tall bluff shorelines such as this site would be to grade the bluff to a maintainable slope and stabilize with vegetation; provide artificial beach nourishment

(depositing sand) channelward of the bank and construct offshore breakwater (rock) structures. Breakwater systems are preferred for stabilization since they do not sever the connection between upland and the tidal zone. The proposed sand would move the shoreline further from erosive tidal action and provide area for wave run-up. The breakwater would provide an energy break to the shoreline and hold the sand in place. We typically do not recommend the use of multiple structures (i.e. breakwater system and a revetment) along a single shoreline because they result in increased environmental impacts. The proposed revetment would continue to sever the connection between the riparian, beach and inter-tidal areas resulting in a loss of marine resources and a change in the beach community able to live along the shoreline. However, given the proximity of the houses to the top of the bluff and the limitation for bank grading at this site, the toe stabilization (revetment) structure may be warranted for bank stability in this case. The toe protection structure should be covered with as much sand as possible and beach grass planted as proposed for additional stabilization. Upland runoff should also be directed away from the top of the bank to further prevent erosion on this bank. Time of year restrictions for protected species on this beach may be required by state or federal agencies, particularly for the northeastern beach tiger beetle.

Mr. Jim Gunn, agent for the applicant, was present to answer questions for the Board noting that the application is self-explanatory.

Mr. Arthur Boeckeler, the adjacent property owner, stated that he owns the bulkhead that the proposed project will tie into utilizing approximately 16 feet of toe for proper anchoring. He noted that the project will go over his groin up to his landing area.

Mr. Chubb asked how the cliff face would be stabilized. Mr. Gunn stated that the all-sand cliff is now over-steeped and they do not intend to touch the dune, but to leave it to natural and environmental elements.

Ms. Field asked if plantings would be part of the project. Mr. Gunn replied yes, after the project is constructed.

The Chair called for any other comments. There being none, the public hearing portion of the meeting was closed.

Ms. Drury questioned if the application should be considered a joint application due to the overlap onto the Boeckeler property. Mr. Badger and Ms. Kellam agreed that there should be written confirmation of Mr. Boeckeler's permission, intentions and involvement.

Ms. Kellam noted that the land disturbance permit would handle any legal requirements of access across the Sheppard's property during construction.

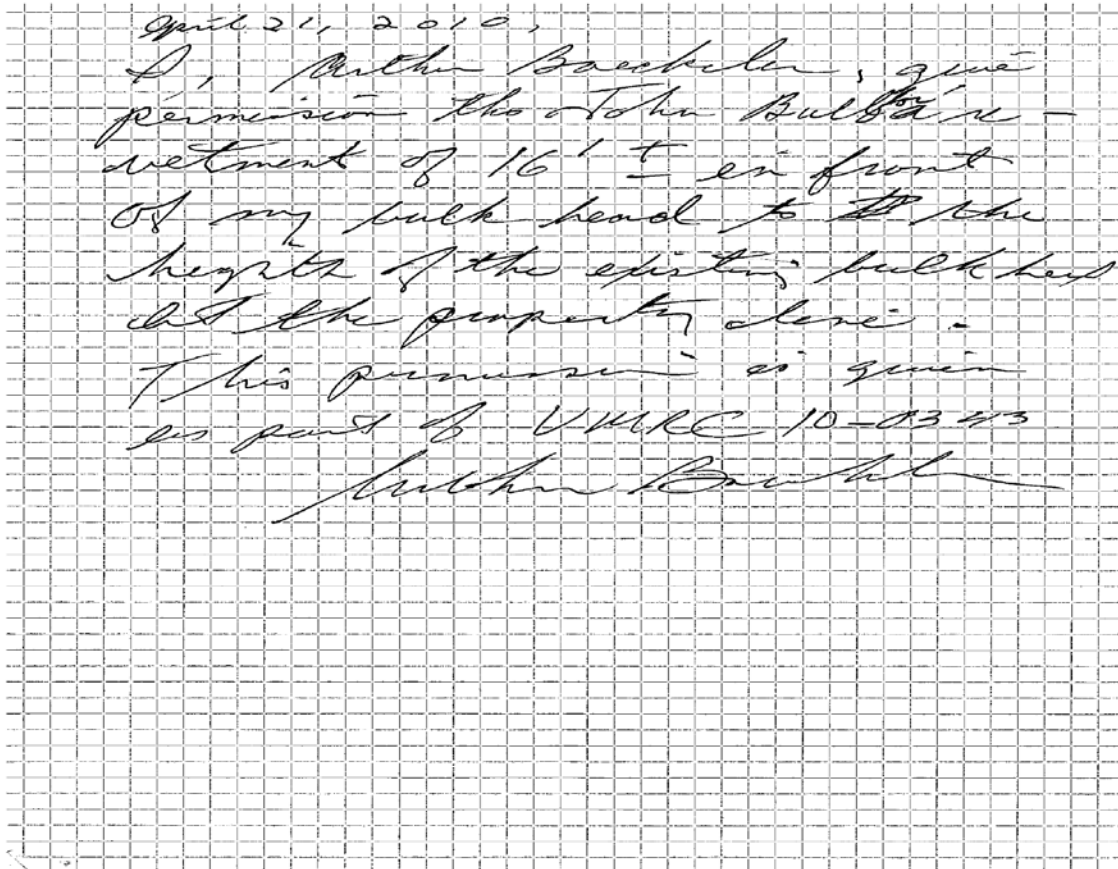
Mr. Boeckeler was allowed to address the Board once again. He noted that he has lost 10 feet of property due to the continued collapse of the upland cliff bank. He stated that he would like

to have the upland area replanted at his expense. Ms. Kellam stated that such planting would not be considered part of this application.

Action

Motion was made by Mr. Gates that the application be approved conditioned that an appropriate land owners' agreement be consummated and to include the VIMS comments to grade at the top of the bank. Second was made by Mr. Meyers and carried unanimously.

After action was taken Mr. Gunn read for the record the written agreement signed by Mr. Boeckeler at this meeting as follows.



A handwritten note on a grid background. The text is written in cursive and reads: "April 21, 2010, I, Arthur Boeckeler, give permission to John Bulbina - wetment of 16' ± in front of my bulk head to the height of the existing bulk head at the property line. This permission is given as part of VMRC 10-0343 Arthur Boeckeler".

The next hearing was called to order.

C. VMRC 10-0347: Susan Emerson has applied to install 107 feet +/- of riprap revetment to the top of the bank (6'-8' high), using Class I core stone and Class III armor stone. The project is to tie into the existing revetment to the north, extend to a 12'-15' return wall at the south property line. The property is located in Malen Subdivision on Chesapeake Drive near Silver Beach and is described as being Tax Map 18C-1-B.

Staff recommendations and VIMS comments were reviewed by Ms. Kellam. The staff report and VIMS report are included as part of the official record as follows.

VMRC # 10-0347

VIMS Recommendations

The VIMS recommendations have been received and are attached to this report as additional information for the Board.

Adjacent Property Owners

As of the writing of this staff report, no adjacent property owners have commented on the proposed project.

Staff Recommendation

It is staff's recommendation that this project as submitted should not be approved. The project as submitted unnecessarily impacts the dune / beach area. These impacts are not shown and are not quantified on the application. As the property is undeveloped and only minor erosion has occurred, other options should be consider first such as: (1) regarding and re-vegetating the upland bank and enhancement planting of the dune / beach areas; or (2) if structural measure are deemed necessary, toe protection placed out of the dune/ beach area into the upland. A water quality impact assessment and mitigation plan, which will address upland impacts and are separate zoning approvals from the wetlands permitting application process, are required to be completed before any work commences on this project.

EXISTING SITE CONDITIONS AND PROPOSED ACTION:

The applicant proposes 107 LF of on-shore revetment against an approximately six foot tall dune bank along her sandy, high-energy Chesapeake Bay shoreline. The shoreline currently contains groin structures and a sandy beach. The upland has a vegetated fringe with the remainder in lawn being routinely mowed. The parcel appears vacant at this time. The proposed revetment would sever the connection between the riparian, beach and inter-tidal areas resulting in a loss of marine resources, interruption of sand transport and a change in the beach community able to live along the shoreline. The proposed revetment appears to potentially impact jurisdictional beach/dune not reflected on the application.

THE PREFERRED APPROACH FROM AN INTEGRATED MARINE ENVIRONMENTAL VIEWPOINT:

Stabilization methods and structures that enhance the natural dynamics of the beach-dune ecosystem are preferred (e.g. planting beach grasses, beach nourishment, sand fences, offshore breakwater system, sometimes groins) on shorelines such as this site. Conventional stabilization structures such as a bulkhead or revetment are not advised on the dune face, dune crest or beach backshore.

In our opinion, a reach based breakwater system involving the participation of updrift and downdrift property owners would be most effective and appropriate for this shoreline. If participation of up drift and down drift property owners is not feasible at this time and armoring

is considered absolutely necessary, the onshore rock structure should be located where it will not be subject to regular wave action (i.e. well above mean high water elevation) and buried with beach nourishment sand and planted with dune vegetation. Dune vegetation disturbed by construction activity should be restored.

RECOMMENDATION(S) SUMMARY:

**Construct revetment landward of MHW, bury structure with beach nourishment and plant with dune vegetation.*

Mr. Grant Cooley, agent for the applicant, stated that there is a remnant of a sand dune on the property even though it is not depicted on the project drawing. He noted that two neighboring lots have lost twenty feet of shoreline since the installation of bulkheads. The applicant installed groins and plantings initially, but more is needed for stabilization purposes. After these efforts failed they now wish to install the riprap revetment with replanting after the structure is in place.

The Chair called for any other public comments. There being none the public comment portion of the hearing was closed.

Mr. Meyers referred to the VIMS recommendation that a preferable shoreline stabilization project would be an off-shore breakwater system. He noted that the Lytles (nearby property owners) have lost a considerable amount of shoreline and that VDOT has used armor stone to protect against further wash-out from storms. Mr. Meyers stated that he agreed with the recommendations from VIMS.

Ms. Kellam noted her concern about the sand dune not depicted on the project drawing.

Ms. Field noted that existing structures to the north and south of this property are causing some of the problems. She asked if the bank would be graded. Mr. Cooley replied no due to dune remnants, but that replanting is planned.

Mr. Meyers stated his opinion that this application is identical to the one planned for the northern property. Mr. Cooley agreed and noted that the bank was not graded on that northern property.

Mr. Chubb asked if the structure would be covered as suggested by VIMS. Mr. Cooley stated that they would do whatever is necessary and that their intent is to make sure sand is placed between the rocks.

Discussion followed on the placement of the toe. Mr. Cooley noted that any sand removed to install the toe below mean high water would be transferred to the top of the rock.

After Mr. Chubb read from the VIMS report, Mr. Cooley confirmed that their intent is what VIMS has recommended.

Ms. Drury asked if the adjoining property owner had been contacted about participating in the project. Mr. Cooley stated that Mr. Zeyen had no interest whatsoever.

Action

Motion was made by Mr. Meyers to approve the application as requested to construct the revetment landward of mean high water, to bury structure with beach nourishment and plant with dune vegetation in accordance with the VIMS recommendation. Second was made by Mr. Gates and carried unanimously.

At this time Mr. Meyers asked Mr. Gunn if property owners on either side of the Hugo property in the Butlers Bluff Subdivision proposed to file a joint application for an integrated offshore breakwater system that is proposed to connect to the Shep Davis property. Mr. Gunn replied yes.

The last public hearing was called to order.

D. VMRC 2010-0376: Charles Campbell has applied to construct and backfill a 150-foot bulkhead to deter erosion on property located on the Chesapeake Bay at 14296 Hungars Beach Road at the end of Old Town Neck. The property is described as being Tax Map 47, double circle A, parcel 41.

Mr. Chris Wilson, agent for the applicant, stated that additional information concerning adjoining property owners was received after the Board's agenda packets went out. He then distributed new photos of the property that were taken during the November 2009 northeaster storm.

Both the staff report and VIMS report by Ms. Kellam as follow.

VMRC # 10-0376

VIMS Recommendations

As of the writing of this staff report, no VIMS recommendation was available. The VIMS recommendation will be forwarded to Board members immediately when received.

Adjacent Property Owners

As of the writing of this staff report, no adjacent property owners have commented on the proposed project.

Staff Recommendation

Although it is not the preferred approach, this project must be seen as a viable solution to stabilize an eroding bank. It is staff's recommendation that this project as proposed is approvable as long the structure is moved landward as far as possible to reduce impacts to the beach. The applicant should consider other preferred approaches such as a revetment and / or

an offshore breakwater. A water quality impact assessment and mitigation plan, which will address upland impacts and are separate zoning approvals from the wetlands permitting application process, are required to be completed before any work commences on this project.

VIMS Report

EXISTING SITE CONDITIONS AND PROPOSED ACTION:

The applicant proposes 150 LF of on-shore revetment against a moderately tall dune bank along his sandy, high-energy Chesapeake Bay shoreline. The shoreline currently contains adjacent groin structures and a sandy beach. The upland contains an approximately 50 foot wide vegetated fringe with the remainder in lawn being routinely mowed. The residential structure is approximately 90 feet from the shoreline. From a marine environmental viewpoint, bulkheads are not appropriate shoreline stabilization measures. Bulkheads sever the connection between the riparian, beach and sub-aqueous areas resulting in a loss of marine resources, habitat, and the ability of the upland to filter runoff. Cumulatively, bulkheads have an adverse impact on the diversity and numbers of marine fauna in adjacent nearshore waters. Bulkheads also change how waves move along the shoreline and contribute to erosion of beach channelward of the bulkhead and typically contribute to their own destruction by reflecting waves and eroding the shoreline on the water side of the structure.

THE PREFERRED APPROACH FROM AN INTEGRATED MARINE ENVIRONMENTAL VIEWPOINT:

Stabilization methods and structures that enhance the natural dynamics of the beach-dune ecosystem are preferred (e.g. planting beach grasses, beach nourishment, sand fences, offshore breakwater system, sometimes groins) on shorelines such as this site.

Conventional stabilization structures such as a bulkhead or revetment are not advised on the dune face, dune crest or beach backshore.

In our opinion, a reach based breakwater system involving the participation of updrift and downdrift property owners would be most effective and appropriate for this shoreline. However, this is most likely not feasible.

Absent adjacent property owner participation, we recommend the onshore structure should be a rock revetment instead of a bulkhead located where it will not be subject to regular wave action (i.e. well above mean high water elevation) and buried with beach nourishment sand and planted with dune vegetation.

Riprap revetments dissipate, rather than reflect wave energy as bulkheads do, and provide more habitat value than bulkheads. In addition, when properly designed and constructed, revetments generally last much longer than bulkheads.

RECOMMENDATION(S) SUMMARY:

**Construct revetment landward of MHW, bury structure with beach nourishment and plant with dune vegetation.*

Mr. Wilson stated that the owner has lost 18 feet of shoreline on the south end of the property. He noted that the sand bar in the front of the property is meandering south and has come to the shoreline. During mean low tide there is no water there and that the applicant has lost trees and steps that accessed the beach. The goal is to restore the “belly” area that has washed away by filling and replanting and he noted that the project is above the high water mark. When asked he stated that the house is now approximately 85 to 95 feet from the “belly”.

The following issues were addressed by the agent. Groins would be of such a height that wash-over may occur but should not cause loss of shoreline and that 4 feet of the groins would be above the sand and 6 feet buried.

The Board voiced concerns over the design of project’s corner facing the Dilworth property and Mr. Badger agreed that the corner should be smoothed out somehow. Mr. Wilson had suggested riprap, but the owner does not have the funds as it is more expensive to install.

There being no other public comments the Chair closed the hearing and discussion continued.

Mr. Meyers suggested that the agent contact the applicant about the concerns of the Board and that this matter be tabled until next month. Mr. Chubb agreed.

Action

Motion was made by Mr. Meyers to table this application until the next regular meeting of the Board so that the Board’s concern can be relayed to the applicant for his consideration. Second was made by Ms. Drury and carried unanimously.

Old Business

The Board then continued discussion on the extension request for VMRC 08-1633 as filed by Mr. Hugo. Ellen Grimes, the agent, was sworn in and noted that a revised drawing of the project had been submitted to the Board. She gave a brief background history of the project noting that the project has been moved landward with all other details remaining the same. Ms. Grimes noted that she had just been informed that adjacent property owners were trying to implement a joint permit for an offshore breakwater. She asked that the Board grant a one-year extension as requested but would contact Mr. Hugo about this new development in case he would like to join the others in a future breakwater application. She noted that if Mr. Hugo does join the offshore breakwater project then this project could be abandoned.

Discussion followed. Mr. Meyers noted that the breakwater may restore beach area as has occurred along the Shep Davis shoreline. Due to the new developments concerning the adjoining property owners Mr. Meyers suggested that the Board wait until the next meeting so that Mr. Hugo can reconsider his options. Ms. Grimes asked again that the Board make a decision on the extension request and suggested that the Board could condition the extension that it be nullified if Mr. Hugo joins in the offshore breakwater project. However, Ms. Kellam

noted that the Board should not tie projects to the potential of other projects that may or may not occur. She added that any request coming before the Board must be considered as submitted on its own merits. Ms. Drury agreed.

Action

Motion was made by Ms. Drury to approve the extension request for one year. Second was made by Mr. Chubb and the motion carried 5 to 1 with Mr. Meyers opposed.

Statements from the Public: None.

New Business

Ms. Kellam reported that one new application has been submitted to date.

Statements from the Public: None.

Consideration of Minutes

The minutes of the February 17, 2010 meeting were approved as submitted upon motion by Mr. Gates and second by Mr. Meyers.

Adjournment

Prior to adjourning Ms. Field noted that she would not be attending the May meeting. There being no other business the meeting was adjourned at 12:30 p.m.

Chair

Secretary