

**NORTHAMPTON COUNTY
WETLANDS BOARD**
Minutes
July 17, 2013

This was the regular meeting of the Northampton County Wetlands Board held on Wednesday, July 17, 2013, in the Board Chambers located at 16404 Courthouse Road in Eastville, Virginia for the purpose of conducting regular business.

Those members present were Chair Marshall Cox, , Vice-Chair Bowdoin Lusk, Mark Gates, Nancy Wells Drury, Will Brown and Dot Field. Absent from the meeting was John Chubb, Jr.

Also attending were Hank Badger with the Va. Marine Resources Commission (VMRC) and Kay Downing, Board Secretary. Nyoka Hall, County Zoning Permit Technician; and Kelley Lewis, County Development Inspector, were also present. Absent from the meeting was Melissa Kellam, Zoning Administrator and Agent to the Board Chair.

The meeting was called to order at 11:33 a.m., and a quorum established. All those wishing to speak at today's meeting were sworn in by the Chair.

It is noted for the record that those Board members present and Ms. Hall had conducted field visits to each property scheduled for public hearing this day except for the Brudno parcel described in public hearing A.

Public Hearings

The first hearing was called to order as a continuance from the June 19, 2013 meeting.

- A. VMRC 2012-1730 Continuance:** John & Kathy Durmick have applied for an after-the-fact permit to replace a compacted stormwater overflow pipe and associated rip rap and to restore the berm. The property, located in the Shooting Point Subdivision, is described as Tax Map 19, double circle 7, parcel 4.

By consensus, the Board had agreed to table this matter until such time that the applicant submitted revised, drawn-to-scale project drawings that are to include benchmarks. Mr. McCoy, agent for the applicants, explained that the block as shown in the previous project drawings is no longer available. The previously damaged 24 inch corrugated pipe was replaced. The pipe and riprap were removed originally due to decay and storm damage. Everything is now replaced in the same manner as originally existed and he stated that the project itself did not go beyond the original footprint.

When asked by the Chair, Mr. Cree verified that this was his first violation. He stated that he had installed the replacement project since it was less than 500 square feet in area and mostly

caused by storm damage. He was under the impression that the project did not require a permit.

The Chair called for public comments. There being none the hearing was closed.

Action:

Motion was made by Mr. Lusk to approve the after-the-fact project work as accomplished without any penalty being assessed. Second was made by Mr. Brown and carried unanimously.

The second hearing was called to order.

- B. VMRC 2013-0974: Joseph & Evelyn Witek** have applied to address an eroding shoreline by employing efforts to rebuild and augment the existing marsh fringe using beach nourishment and marsh grass plantings with a coir log retention system approximately 110 feet by 30 feet partnered with a backshore rip rap bank toe stabilization structure (approximately 160 ft.) as an erosion preventative behind the created system, along with a second minimal toe protection structure in a second location along the same shoreline (approximately 100 ft.) to deter further erosion. The property, located at 6214 Pennington Lane, is described as Tax Map 14, double circle 8, parcels 1 & 2 with frontage on Holly Grove Cove.

The staff summary previously submitted by Ms. Kellam remained unchanged and was read into the record by Ms. Hall as follows.

On May 26, 2013, I conducted a site visit to verify that the project area had been staked and conducted a site assessment for staff to complete the appropriate decision trees. The project had been staked. The "Decision Tree for Undeveloped Shorelines" will be used to provide recommendations for this project. Some erosion has taken place on the bank of varying height, but the bank still seemed somewhat stabilized by existing vegetation. The decision tree is attached and the analysis shows three pathways highlighted in green. The decision tree recommends the following for the low bank pathway: (1) vegetation management through forest stewardship. The decision tree recommends the following for the high bank pathway with marsh: (1) manage forest to prevent tree falls and (2) marsh with fiber log. The decision tree recommends the following for the high bank pathway with no marsh: (1) manage forest to prevent tree falls, (2) construct sill or breakwater where necessary and (3) beach nourishment.

Although the proposed project is not consistent with the decision tree recommendation, a revetment may be appropriate in areas where the bank is steep and undercut and the bank cannot be graded because it would result in the significant removal of forested buffer. The applicant and Board may want to discuss and consider alternative options presented by the decision trees.

It is noted for the record that the applicants had filed a previous application that was denied by the Board and this new application is not for the same exact project.

Ms. Ellen Grimes, agent for the applicants, explained the project noting that they did not change the toe protection for the western side of the marsh and exposed area. However, the larger revetment footprint has been reduced, relocated and decreased in height. The bank will also be graded. Additional nourishment will be placed on the beach. She had spoken with VIMS about the groin scenario. The applicants do not wish to utilize low profile rock sills. Therefore, they suggest that coir logs be installed to hold the beach in place until it has healed and stabilized.

The Chair called for public comments. None were received and the hearing was closed.

Ms. Field and Ms. Drury noted that this project is more compatible with the property in their opinions especially including the beach plantings, coir logs and reduce height of the revetment.

Mr. Badger noted that VMRC has no comments.

Action:

Motion was made by Ms. Field to approve the project as submitted which was seconded by Ms. Drury. The motion carried unanimously.

The third hearing was called to order.

- C. VMRC 2013-0772: Candace Nottingham** has applied to construct 137 feet of timber bulkhead attaching on the north and south ends to existing return walls with an 8 foot by 8 foot bottom deck at the top of the proposed bulkhead cantilevered over to support steps to access the beach. Associated backfill will be installed on a 2:1 slope planted with beach grass on the escarpment. The property is located at Smith Beach and is described as Tax Map 56, double circle A, parcel 15770.

Comments provided by Ms Kellam were read by Ms. Hall as part of the official record.

The "Decision Tree for undefended Shorelines" will be used to provide recommendations for this project. The decision tree is attached and the analysis shows one pathway highlighted in pink. The pathway recommends the applicant consider beach nourishment with sills or breakwaters where necessary. The project is not consistent with this recommendation, but sills or breakwaters may not be practical when you consider the short length of shoreline for the leased area of approximately 200 linear feet. If the breakwaters are considered impractical, the bulkhead should be considered a reasonable structure. The Board should review two concerns before permitting a bulkhead. First, if constructed as presented the location and connection with the adjacent bulkheads create 90 degree angles which will be weak points and cause scouring at the internal corners. Second, if the bulkhead is relocated towards the Chesapeake Bay in alignment with the adjacent bulkheads to reduce the weak points and scouring, it will create approximately 2,000 square feet of additional impacts to the beach and revised drawings

and re-advertising will be required. The Board must decide which of these two conditions takes precedence over the bulkhead design or if there is an alternate design.

The applicant for this project is the owner of Smith's Beach. Most of the projects heard by the Board in Smith's Beach are submitted by the lease holders as the applicants. They own the houses, but only lease the land. The owner has applied for this application and the Board may want to consider the whole entire shoreline of the property which is approximately 5,500 linear feet. The shorelines in front of the leased areas are approximately 200 linear feet each. When the shoreline for the entire property is considered and not just each of the leased shorelines, the breakwaters as recommended by the decision tree are the most appropriate structures for this property as a whole.

Mr. Chris Wilson, agent for the applicant, stated that the purpose of the project is to add the bulkhead and other features to fill a void along the beach shoreline. The project would be in alignment with existing structures. He added that the applicant does not wish to install an offshore breakwater since it would have an estimated cost of two million dollars. He voiced his skepticism about sills being effective and that boating would be adversely impacted. He stated that there is a 22 foot slope for beach access and steps would be designed to work efficiently from the bulkhead. If there is tiger beetle habitat there, the project would be delayed according to restrictions.

The Chair called for public comments. None were received and the hearing was closed.

When asked by Ms. Field if an offshore breakwater is not feasible simply because of cost, Mr. Wilson replied that a breakwater would impede the enjoyment and recreational use of the beach and access by boat. Ms. Field noted that since the applicant owns the entire shoreline of Smith Beach, consideration should be given to installing a beach-wide project to stabilize the entire community in the future.

Mr. Lusk noted that the shoreline of Smith Beach has been perpetuated with numerous bulkheads and it was his opinion that this project was a practical solution at this time. However, he suggested a modification at the corners to ease impacts.

Action:

Motion was made by Mr. Lusk to approve the project as presented with the exception of fill with concrete on the corners and with new revised drawings to depict the modification. After more discussion Mr. Lusk withdrew his motion.

By consensus the Board agreed to continue this matter at its August meeting in order to allow revised drawings to be submitted.

The fourth hearing was called to order.

D. VMRC 2013-0934: Laura M. & William K. Neal, III, have applied to install a 30 foot return wall at the north end of the existing bulkhead where erosion is occurring on the adjacent property behind the bulkhead. The new return wall will extend into the upland. Also, the project will involve installation of 275+/- feet of rip rap sill at mean low water that will extend northward from the property line. The sill is to curve around to the upland at the southern property line and tie into a proposed 50 to 70 feet of rip rap revetment placed at a 2:1 slope using Class I armor stone. The remainder of the eroding bank is to be graded at a 2:1 slope and planted to create a vegetative cover. The applicants may plant grasses in the area between mean low and mean high water. The property has frontage on Nassawadox Creek and is described as being Tax Map 14A, double circle 2, parcel 1 located at 7103 Riverside Lane.

Staff comments from Ms. Kellam were read into the record by Ms. Hall as follows.

The "Decision Tree for undefended shorelines" will be used to provide recommendations for this project. Erosion has taken place and the bank is undercut from 0-feet to 8-feet in height along an approximate 200-foot stretch of shoreline. The decision tree is attached and the analysis shows two pathways highlighted in pink. One pathway, where existing marsh is present, recommends a marsh with a sill. The second pathway, where no marsh remains, recommends beach nourishment with a sill or breakwater where necessary.

The proposed project is consistent with the decision tree recommendations. Two additional items included in this application are the construction of a return wall for a separate existing bulkhead structure at the northern end of the property which is not a part of the sill project and a revetment against the bank ensuring additional protection at the southern end of the property which is a part of the sill project. Both additional measures are reasonable in conjunction with the sill project and existing bulkhead. Although the decision tree recommends beach nourishment in the areas where no marsh exists, this may not be practical because these areas are small and dispersed over the length of the entire shoreline. If beach nourishment is added to the project, items that should be considered are the characteristics of the source sand and proposed elevations of the sand fill. Any beach nourishment would create new impact and be considered a revision to the project's scope.

Mr. Grant Cooley, agent for the applicants, explained that there is an existing bulkhead, but scour has now caused trees to fall. They want to take the return wall straight into the upland. If allowed, the project would be done in phases if all aspects of it are required with a completion date of 2016. He noted that the SEAS representative had recommended a sill be installed at mean low water first and the beach cleaned and to install new vegetated cover as the first phase. Or, if needed, and Phase I is not effective then they propose to grade the bank back and install toe stabilization. Their objective is to have a clean beach, plant sprigs and install the sill and then wait a year to see how this initial phase performs. If the results are satisfactory then the other phase would not be installed.

The Board questioned the time frame being requested by the applicants. Mr. Cooley stated that they would like a 3 year permit instead of the usual 1 year permit. Mr. Badger noted that the time frame of any permit is up to the Wetlands Board. He also noted that permit extensions can be granted.

Ms. Drury noted that the Board should have a concrete project to consider and not “phases” that may or may not be installed over a 3 year timeframe. Ms. Field concurred noting that it would be difficult to approve a project that “may” be needed versus one that “will” be installed.

Mr. Lusk noted that the Board would prefer to consider a project presented as a first phase under a one-year permit. The applicant can reapply if and when additional components are needed at the property.

Ms. Field added that the Board is being asked to consider several different projects proposed in one application.

Mr. Badger stated his opinion that the revetment would not impact other parts of the project.

Mr. Cooley acknowledged the Board’s concern and stated that the entire project can be installed, but the applicant would prefer not to if the initial phase stops the damage to the shoreline.

At this time Ms. Field noted that she wanted input from the applicants on what he actually would like to do.

Since the applicant was not present the Chair suggested that a continuance be considered. However, Mr. Neal arrived at 12:24 and a 5 minute break was taken so that he and his agent could confer.

Mr. Neal was sworn in and then allowed to explain his approach. He stated that the entire project is fairly large with the sill and marsh plantings being designated as the first phase. Their objective is to keep the beach and shoreline as natural as possible with vegetation. The idea is to first stabilize the bank since there is great concern about the sheering that is happening there. Mr. Cooley added that the sill is a necessity but the rock on the bank can be eliminated as a modification.

Ms. Field and Ms. Drury suggested that revised drawings be submitted that would detail sill and plantings and eliminate the other phase. Mr. Lusk agreed and noted that the sill, beach nourishment, plantings and removal of trees be included in the revised drawing. Mr. Cooley added that the bank would need to be graded a few feet as well.

Action:

Ms. Drury suggested that the Board postpone any action on this matter until revised drawings are received. By consensus, the Board agreed to continue this matter at the August meeting in order to allow revised drawings to be submitted to better clarify the scope of the project.

The fifth hearing was called to order.

- E. VMRC 2013-0954: Matthew Kubick** has applied to construct a rip rap revetment to replace an aging but serviceable timber bulkhead. The proposed revetment is 285 feet in length and has maximum dimensions of 6.4' height by 11.2' width. The top half or more of the existing sheet pile bulkhead will be cut off and removed to allow the proposed revetment to be positioned toward the landward side. No clearing or grading is proposed. The property is located at 2228 Broadview Lane in the Concord Wharf area on Occohannock Creek and is described as Tax Map 1B, double circle 1, parcel A.

Mr. David Kledzik, agent for the applicant, explained the project noting that the western side of the property has no vegetation and is sandy. When asked he noted that trees would only be removed on the west side if roots are damaged when the riprap is installed. He added that loose rubble would be removed as well. He also noted that the toe will be installed at the end of the return wall which will require excavation.

Ms. Field asked if excavation will be into the bank. Mr. Kledzik replied yes, in order to provide continuity on the waterward side. They are trying to save the marsh and replant trees if needed.

Ms. Field stated her opinion that there is a drainage problem occurring from the upland which needs to be addressed as well.

Mr. Kledzik noted that county Bay Act regulations would address those issues as part of the permitting process.

No public comments were received and the hearing was closed.

Action:

Motion was made by Ms. Field to approve the project as presented which was seconded by Mr. Lusk and carried unanimously.

Mr. Field noted that the applicant is trying to save as many trees as possible and that the upland drainage issue should be addressed as well.

The last hearing was called to order.

- F. VMRC 2013-0955: John Dewees, Richard Smith, John Nesbitt and Ronald Killmon** have applied to construct a rip rap revetment to replace an aging but serviceable vinyl bulkhead. The proposed revetment is 249 feet in length and has maximum dimensions of 10' height and 15.3' width and will be installed seaward and across the top of the existing vinyl sheet-pile wall. Backfill will be installed landward of the rip rap to connect to the top of the bank. The site will be accessed from Kellam Drive to the water's edge by temporary earth ramp down the bank. No clearing or grading is proposed. The project area is described as Tax Map 18A, double circle 8, parcels 19, 29, 30 and 31 located at 7214, 7202, 7208 and 7200 Kellam Drive in Silver Beach.

Mr. Kledzik, agent for the applicants, presented recent photos of the properties taken during severe storm surge. The Board compared the recent photos with historical ones noting the eroding shoreline up to and under some of the existing structures. He explained that the existing shoreline projects can no longer defend the existing homes against storms noting that even some whalers have been ripped out. With a taller stone revetment any future wave breach would be able to filter back out through the rocks instead of water remaining trapped on the upland.

The Chair called for public comments.

Mr. Rick Smith, an applicant, explained that he had replaced his bank and planted junipers in the past only to have Hurricane Sandy take out everything except for a few trees.

Mr. George Dilley, contractor, stated that the existing bulkhead is too low. A splash apron would be installed to abate breaching impacts from splash-over.

Mr. Lusk asked about access to the project area. Mr. Dilley stated that a neighboring property owner, P. C. Kellam, has granted permission to access the area through his property. An excavator would be used since there is no water access deep enough to accommodate a stone barge.

Ms. Field asked if an access permit was needed from the Army Corp of Engineers. Mr. Dilley stated that he did not know.

Mr. P. C. Kellam, the adjoining property owner, stated his support of the project in order for the applicants' homes to be saved.

There being no other comments the hearing was closed.

Action:

The Board unanimously approved the project as submitted upon motion by Mr. Brown and second by Ms. Field.

Mrs. Downing stated that all permits would be released after the ten-day appeal period has expired. She also noted for the record that County Wetlands Permits have conditional language instructing applicants to obtain a county zoning clearance and Water Quality Impact Assessment/Erosion & Sediment Control Permit prior to installing a project.

Old Business: none.

New business: none.

Statements from the public: none.

There was no report from the Agent to the Board Chair. Staff noted that there are no enforcement issues to come before the Board at this time.

Consideration of Minutes

The minutes of the June 19, 2013 meeting were unanimously approved as submitted upon motion by Mr. Lusk and second by Mr. Brown.

Adjournment

There being no other business the meeting was adjourned at 1:00 p.m. upon proper motion by Mr. Lusk.

Chair

Secretary