

STAFFORD COUNTY
Wetlands Board Minutes
May 21, 2012

The regular monthly meeting of the Stafford County Wetlands Board of May 21, 2012, was called to order at 7:02 p.m. by Wetlands Board Chairman, Andy Pineau, in the ABC Conference Room of the County Administrative Center.

MEMBERS PRESENT: Andy Pineau, Jim Riutta, Mary Rust, Sam Hess, and Ben Rudasill

MEMBERS ABSENT: None

STAFF PRESENT: Amber Forestier and Denise Knighting

- A. Call to Order
- B. Roll Call
- C. Determination of a Quorum

Mr. Pineau stated since all five members were present there was a quorum.

- D. Public Presentations

Mr. Pineau asked if there were any public presentations. With no one coming forward to speak he moved on to Public Hearings.

E. APPROVAL OF MEETING MINUTES

- 1. April 16, 2012 (if completed)

Mr. Pineau stated as there were no minutes to approve, the Board would move on to the public hearing which was for a Wetlands Permit, WB12-05 for Jeffrey Scott to construct a bulkhead with a riprap toe approximately 128 feet in length on Assessor's Parcel 49-37E, Potomac Creek. He stated this was the second hearing for this application, the item was originally heard on April 16, 2012 and due to a procedural issue the Board has decided to rehear the application. He asked staff to present their report.

F. PUBLIC HEARINGS

- 2. Wetlands Permit WB12-05 – A wetlands permit for Jeffrey Scott to construct a bulkhead with a riprap toe approximately 128 feet in length on Assessor's Parcel 49-37E, Potomac Creek.

Amber Forestier stated as there were members present that were not present at the last meeting and there were members in the audience, she would present the staff report from the original meeting and the updated information. She stated we are here to consider the application of Mr. Jeffrey Scott to construct a bulkhead with a riprap toe approximately 128 feet in length on Assessor's Parcel 49-37E, Potomac Creek. The bulkhead with a riprap toe requires a wetlands permit as it is not a permitted use pursuant to pursuant to Section 27-18 of the Stafford County Wetlands Ordinance entitled Permitted Uses. She stated the purpose of this project was to provide and improve shoreline erosion control and protection. She stated the Wetlands Board staff had visited the site several occasions to review the project, with the most recent

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visit of April 26th and before that March 30th with four members of the Wetlands Board to actually look at the site in person as it was very difficult to portray in photographs. She stated the property was located at the end of Wood Landing Road in a protective cove along Potomac Creek and the topography of the parcel is relatively flat and slopes gently towards the creek on the eastern side. The water depth in the cove is extremely shallow which creates a tidal range for approximately of 30 feet. She stated there was an existing unpermitted riprap revetment located along the western portion of the shore line and a small amount of rock gathered along the shore line to the east. As the revetment was not previously permitted the application is being treated as new structure. There is no evidence of erosion on site and there are extensive vegetative tidal wetlands along the shoreline. Due to this vegetation the Wetlands Board jurisdiction is 1.5 times the tidal range which includes the wetlands area behind the proposed bulkhead. There is an area behind the proposed bulkhead that is about 500 square feet of vegetative tidal wetlands that are proposed to be impacted by this project. The bulkhead and the riprap toe would extend approximately 128 feet along the shore line and there were drawings in the staff report that showed the two sections. One section would be 4 feet in height and it would be 47 feet long. Section B is proposed to have an 81 foot long section of bulkhead 2.5 feet tall with a riprap toe measuring 2.5 feet in width by 2 feet in height and that was the area where the 510 square feet of tidal wetlands would be behind bulkhead. Both of the bulkheads will require engineered drawings submitted to the county and approved as they are over 2 feet in height. The applicant proposes to mitigate proposed vegetative tidal wetlands impacts onsite through the removal of the existing boat ramp, access stone and concrete as well as a more compact rip rap toe at the base of the proposed bulkhead. She stated she would move to the updated information as she went out and calculated it more accurately. There are new drawings that show the dimensions of all the additional submerged concrete blocks and degree to add more accurate comparison of the proposed impacts. There is also a sheet that showed the proposed impacts verses what could be cleaned up and replanted with vegetation. The new resolution has a new added section that would state the new tidal wetlands impact of 642 square feet resulting from the construction of this bulkhead can be mitigated onsite with the removal existing debris and replanting of the areas with appropriate wetlands vegetation. The Wetlands Board staff shall work with the applicant to finalize the plan. She stated the area along the shoreline has been classified as a marsh fringe by the Virginia Institute of Marine Science and the Center for Coastal Resources Management. Their decisions read for shorelines with an existing rip rap revetment found in low to no erosion recommends either maintenance of the existing structure or replacing it in the same location with filter cloth and rock. An option for the lower elevation in the southern corner would be a rip rap sill structure. Correspondence from the Army Corp of Engineers stated the bulkhead and rip rap project satisfy the terms and conditions of the Nationwide Permit 13, which basically covers minor projects as long as you get approval through the state and the local courts. VMRC staff has stated that if the project has no impacts below mean low water, no permit will be necessary through the Commission. She stated staff believes that a bulkhead is not the appropriate shoreline structure for this site. There is no evidence of erosion on site and extensive vegetation tidal wetlands exist all along the shoreline. The area along the shoreline in this area is classified as a marsh fringe which indicates a more stable environment. In addition the guidance from Virginia Institute of Marine Science recommends maintenance or replacement of the existing rip rap structure. Staff recommends denial of the plans proposed. There is no visible erosion on the site and staff would recommend the rebuilding of the existing rip rap revetment on both sides of the pier. If deemed necessary by the Board, a small rip rap sill could be located between mean lo and mean high water to create a favorable habitat for additional marsh fish. She stated the Board's alternatives were to adopt proposed Resolution WB12-05 which approves the request with conditions; to adopt proposed Resolution WB12-06 which denies the request; or to take no action at this time and defer a decision to a later date.

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Mr. Pineau stated as a point of order, if we take no action at this time, what are the repercussions from no vote being taken, with respect from the permit?

Mrs. Forestier stated if it was a deferral for additional information or for something such as that, then you can defer it to the next meeting.

Mr. Pineau stated as he read county code, it states that if there is no decision on a permit within 30 days of its consideration it is deemed approved. He asked if that was the case.

Mrs. Forestier stated if it was a complete application, and if you deemed that you require additional information then it is not complete until you receive that information.

Mr. Riutta asked if recommendations could be made or was it straight denial or approval.

Mr. Hess stated you could make recommendations because there were some on here.

Mr. Harvey stated you could approve it with conditions.

Mrs. Forestier stated if you make recommendations that the applicant accepts as part of the permit, then we can modify the Resolution to encompass the recommendations that were agreed upon.

Mr. Pineau stated the public hearing for this permit is now open. He asked if the applicant or contractor would like to address the Board.

Mr. Jeffrey Scott introduced his wife, Jill Scott and Paul Scott, who was an adjoining property owner. He stated he wanted to thank the Board. He stated there was quite a discussion last time and asked if that information had been disseminated to the Board.

Mrs. Forestier stated the reason she went through the staff report was because there were two Board members who were not present and the minutes were not ready, so they have not read those.

Mr. Scott stated he wanted to address two the specific areas and then answer any questions you may have. He stated he and his wife urge the Board to grant their permit. He stated most of the Board members have visited the site and this is where they intend to build their home and live. He stated the two issues to be looked at tonight were number one, the public and private benefit exceeding the public and private detriment. In his opinion, that is really what drives the Boards decision. The second was erosion, the erosion on site. He stated Mr. [Paul] Scott, who has extensive years of living on property in the area, will address the issue in more detail. He stated the main issue that needs to be talked about was the scope of the project. He said we are talking about 81 feet, which was a small project based on the thousands of miles that encompass our shorelines. He stated the bulkhead was 2 ½ feet tall, which was a small structure. And the purpose of which was to stop erosion. He stated that was the main reason, they were there, they did not want to flatten their lawn, but because erosion has occurred through the years. He stated he wanted to explain to the Board how they ended up in that position and why they were here tonight. He stated application was made the end of last year, or the beginning this year. He stated Mr. Roger McKinley, his consultant, was not present tonight but was at the previous meeting. The reason he hired Mr. McKinley was because he was very sensitive about wetlands and had done work for him before at his house in Richmond County. He stated on January 3rd the application was received by Stafford

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County and January 12th, VMRC and the Army Corps of Engineers approved the application. He stated he and Mr. McKinley met with the staff March 7th on site and staff advised us a four foot bulkhead in the new 81 foot section would be difficult. He stated there was a currently a bulkhead and high riprap there now. He stated we talked about it while standing on the pier, the idea of a four foot bulkhead, which was our original intention and would fit our needs better, would be difficult. He stated they asked what could we do, what would work and they discussed in detail the reduction of the bulkhead from four feet to two and a half feet on the new 81 foot section. He stated they were advised on March 9th to have four revised plans submitted by March 12th for the March 19th meeting. He stated they could not meet that deadline because that was Friday and they had to be in by Monday. He stated Mr. McKinley then conducted an extensive onsite survey a detailed mitigation assessment based on a previous onsite discussion with staff. He stated Mr. McKinley and his staff spent the better part of the day working on this project, they staked out the boundaries of mean low water, the bulkhead location the area to be reclaimed, the removal of debris, measured everything, they put stakes and lines in. He stated flags were flying everywhere. At the request of staff Mr. McKinley was then asked to produce the detail revised set plans and drawings that incorporated the two and a half foot bulkhead. He did that and submitted it on March 21th, which is what you members have in your package. He stated we met onsite, the four foot would not work, the two and a half foot would, he engaged his engineer who did all the drawings in detail. The only thing missing from these drawings for a building permit was the engineer stamp. They showed all the cross sections and the way it would be built. March 21 through 30th the discussion with staff, Mr. McKinley answered additional questions and provided additional information. He stated on March 30th, members of the Board came down. He stated so we went through the process of meeting, reaching what he thought was an agreement and had all the drawings prepared professionally and then on March 11th staff recommended denial. On April 16th there was a meeting and it was 90 minutes in duration. Mr. McKinley presented and discussed what it would be. He stated the Board voted 2 to 1 in favor of the applicant, but we were notified that three members must vote in the affirmative for the motion to pass. They were not notified that night, we were not notified at the start of the meeting or anytime during the meeting that three votes were required. He stated it he had known that, he would not have continued with that meeting or could have done something different. He stated they were never told and staff was unaware of this prevision. April 17th, the next day, we were notified by phone call that the permit was denied and we needed three votes based on the review by the law. He stated on April 19th met with Mr. Harvey, in his office, and he was formally notified that a mistake had been made and the process must be repeated, however without additional cost me for advertisement. He stated there have been significant additional costs because of the delay. In time spent on project and dollars spent by Mr. McKinley. He stated on April 25th they met onsite again with staff, Jeff Harvey and Kathy Baker, and they discussed the situation again and came out with a fresh look in preparation for this meeting. On May 18th we received a Wetlands Board Package in which staff again recommended denial and added that staff (inaudible) more oversight restrictions in the case the motion was approved. He stated if you look at it last time and this time, the recommendation was not the same. On this vote the recommendation was that if you approve and grant our permit that the Wetlands Board and staff would have additional oversight. He stated another layer has been added in the last month. He stated that was how we got here and this had been a little bit of something to work with.

Jill Scott stated she promised she would not say anything, but the last recommendation that was added, she found totally insulting.

Mr. Scott stated he wanted to look at the code section.

Mrs. Forestier stated Section 27-25.

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Mr. Scott agreed and now he wanted to talk about the code and erosion. He stated Mr. McKinley had highlighted these areas and he then read “the Board shall grant the permit if all the criteria are met. The anticipated public and private benefit of the proposed activity exceeds anticipated public and private detriment”. He stated, in his opinion that was the driver, the proposed development form with the standards described in Section 28-2-1308 of the Code of Virginia and 28-2-1301 Code of Virginia. He stated he wanted to take a look at those in reverse order. He stated when we met, Mr. Harvey, Mrs. Baker and Ms. Forestier were there and we had a wonderful conversation. They were standing on the pier and he asked if they would consider changing your recommendation from a denial to an approval. He said he was told “It could not be done because of the code and guidelines”. He repeated, I cannot, it was not I want to or I would like to, but I cannot because of the code. He stated he has read the code and there are certain circumstances that do permit for a positive, but it involves deep water navigation. He stated it was subject to some subjectivity, and if you read the guidelines in part they say this is the guideline in principle for all currently defended shorelines and reading in part improve performance for poorly designed structures. He stated that was what they wanted to do. Replace failing structures surrounding the eco-system. Again he stated that was what they wanted to do. It does say they would prefer to have no hardening, but it was not ever. The Board was not reaching too far in granting the permit. He stated it also mentioned placing rip rap only or just having gradual slope and vegetation, but it was not appropriate for high energy shorelines and in his opinion Potomac Creek was a high energy shoreline. He felt he was maintaining revetment with a minimized foot print according to standards for shoreline setting by going from four feet to two and a half feet. He stated because the Board was an appellate Board you have to serve on a public based on the facts and not personal conviction. He stated the second one was simple, what that tells you is if you get a permit you can build a bulkhead, this is what you have to do to build a bulkhead, this is the criteria to get a permit and these are the fees. So this brings us to number one, public and private detriment and public and private benefits. He stated the public and private benefit exceeds the public and private detriment. This situation has been advertised by law. He stated he did not see a long line of people against this project and his neighbors wanted the project. In his opinion, removal of the dangerous broken concrete aggregate, rusting and exposed concrete, reinforcement wires, the broken concrete conduit pipes, metal poles and bolts, splintered pilings and revetment of the existing riprap, was to the public good. If someone were to pull on the shore and let a child walk over there, they will cut their feet on rusted reinforcement wire from the old boat ramp. Plants can’t grow there, it is under concrete. That demonstrates public and private benefit exceeds public and private detriment. The current vegetation cannot grow due to the debris and water actions on structures, but will be able to grow and develop with the bulkhead because you will have an orderly system. Public and private benefit will exceed public and private detriment. He stated he wanted to end with erosion. He interviewed many residents and asked what do you do, and everyone talks about the need for strong erosion control. He had personally witnessed multiple strong storms, which resulted with muddy water being washed from the ground into Potomac Creek. He stated that demonstrations of public and private benefits exceeds to public and private detriment if we have a bulkhead there. He stated he would urge the Board to grant their permit tonight and stated he was willing to go a step further. He asked the Board remove the oversight restrictions that were added. In his opinion they were unnecessary. In order to build a bulkhead and a rip rap toe, they would have to get a building permit. In order to get a building permit they have to have engineered drawings and they are subject to all the regular inspections. They will have Code Compliance examine the process from the beginning to the end. They would have to submit a full set of plans from beginning to end. In his opinion it was not necessary to have another layer of redundant oversight. He stated in their interest they showed where the erosion line was and they certainly did not want to move it towards the watermark. They did not want to move it back. He stated he and his wife were urging the Board to grant their permit and thanked them for their consideration.

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Mr. Pineau asked if anyone else would like to comment on the application.

Mr. Paul Scott came forward and stated he was the adjoining land owner to the Scotts and has owned the property since 1972. He stated if you look out from their lot to his lot, in a northeast direction, you can see over a mile of water. If you look in a northwest direction there is over a mile of water. He stated when they get a northeast wind with incoming tide the water gets high over the docks and bulkheads. When they have a northwest wind they get heavy white caps, even close to shore, they come in with a pounding effect. He stated within one or two years of buying the property he had already lost a foot to a foot and a half of land, so he put in a stone bulkhead. He stated he put in concrete footers with rebar about two and a half feet high with rip rap in front and that stopped the erosion. He stated if he looked at the lot Jeff and Jill Scott bought, the previous owner had a serious problems with erosion. He placed very heavy concrete conduits against a jetty. He also put a line out in the water about four feet across the lot, about 30 feet, which helped break up some of the low waves but it did not help high water. Those conduits have been knocked around like toy blocks, so you can imagine the force of water that comes in there. He stated the other problem with conduits is they attract snakes and at any given time in spring or summer you can count up to six fat water snakes and they can be aggressive. We have also had hurricanes and when they come every few years, the water comes well over everybody's bulkhead. But the bulkhead holds the soil in. He stated in his opinion, if you just had rip rap placed it acts like a sieve. The soil comes right over the bulkhead through the rip rap and out into the creek and lose ground. He stated photos show there is still erosion and unless they put in a bulkhead the erosion will continue and the soil will cover over the grasses that exist and you will have a dead zone. The concrete ramp built there about 20 years ago. When it was put in it was level and straight and was actually used as a boat ramp. It is now broken up because the waves pound it. The waves have taken the dirt from beneath it and washed it out and it has settled and cracked under its own weight. During hurricanes he has had water all the way up to his front porch, you could not see one piling for the dock, but he has not lost one inch of ground because of the bulkhead. He stated another concern was unless they are allowed to build a bulkhead, they will have erosion over on his side and it would take out his fence and his property. He stated over the last 10 years he has noticed excessively high water. It was consistently over his dock, but before that it was rarely over my dock and only during a hurricane. He stated because of this he raised his dock six inches. With higher water you will have water coming into yards and taking the soil with it

Mr. Pineau asked if anyone else wanted to speak. Hearing none, he stated the public hearing was closed and the floor was open to discussion of the application by the Board.

Mr. Hess asked Paul Scott how long ago he put his bulkhead in.

Mr. Paul Scott stated it was in the 70's, but he does put rip rap in about every year.

Mr. Hess stated there was vegetation coming up through the rip rap and it has done a very good job and it has been there for a long period of time.

Mr. Rudasill asked Mrs. Forestier what exactly were the conditions and asked her to be specific.

Mrs. Forestier stated basically the Marine Resources Commission has oversight over us, if the Board approves something and they do not agree with the approval they can review it at the Board meeting. The Marine Resources Commission asked for more information on the mitigation for this. Normally when there is a bulkhead someone will pay into the in lieu fee fund per square feet for impact. On this site they

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are lucky enough to actually mitigate it onsite. But they wanted more proof that it would basically be mitigated by being replanted.

Mr. Rudasill stated they need to make sure they plant vegetation.

Mrs. Forestier agrees and stated in the guidance they require much a more expansive plan to be created which staff was going to help create in the future.

Mr. Rudasill asked why they would have to get more permission to plant vegetation.

Mrs. Forestier stated not more permission but a plan for the mitigation for the replanting. What plants would be planted, how often they would be looked at and things like that. She stated staff put it in to try and forestall a review by the Marine Resources Commission.

Mr. Rudasill asked the applicant if that was what he was contesting.

Mr. Scott stated yes. And stated he has to be a building permit.

Mrs. Forestier stated this was mitigation compensation required by the State.

Mrs. Scott stated last month we did not need that.

Mrs. Forestier stated they were going to do it. She stated staff was looking at it as removing the blocks and letting it regrow but the State is requiring more information on how it's going to regrow, are you going to have to replant. She stated she was trying to help you not get...

Mr. Scott stated to have the State write him a letter.

Mr. Rudasill asked why a building permit was needed to plant vegetation.

Mrs. Forestier stated it was for the bulkhead and the building permit had nothing to do with the mitigation.

Mr. Scott stated they would put the bulkhead in and they will cover some existing wetlands. To compensate for that they will put plants on the other side. He stated why he needed a permit to do that was beyond him.

Mrs. Forestier stated it was not a permit it was a plan to make sure the mitigation happens. It is the way the State Code was written and the way the Virginia Marine Resources Commission...

Mr. Scott told Mrs. Forestier he understood but he was saying...

Mrs. Forestier stated she was trying to follow the guidelines.

Mr. Scott stated Mother Nature would take care of that in time.

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Mr. Harvey stated that was the staff recommendation the Board, in their determination could work with the applicant as to additional conditions or recommendations for a permit.

Mr. Rudasill stated you would probably want to plant...

Mr. Scott stated the way this reads, the first one says the bulkhead and rip rap toe shall be constructed on location determined by the Wetland Board.

Mrs. Forestier stated right, as shown on the permit drawings.

Mr. Scott stated number two (inaudible) to 642 feet. He stated that actually governs where the bulkhead goes. You would have to have the bulkhead located where it is on our application. Number three notify the Wetlands Board for final inspections.

Mrs. Rust stated anytime there was a mitigation that involves a permit it requires you to be revisited to make sure.

Mr. Scott stated he agreed. He stated he would have an inspection. He stated he knew personally people who have done additions and improvements to piers and the inspection process was rather arduous. He stated nothing would happen until the inspection was done. As a matter of fact the inspector has to be there to watch the piling being driven.

Mrs. Rust stated that also pertains to the wetlands plants that are put in.

Mr. Scott stated he understood. But what he was saying is it is all a part of the permit process. He was saying it was extra oversight in his opinion it was unnecessary, because he had to do it anyway. He stated to get a building permit to have a building permit those things happen.

Mrs. Forestier stated a building permit would just be for the walls. They come to her to make sure it is already permitted through us. They just want the structural drawings.

Mr. Scott stated she did not sign off on it. It if the zoning department and the public works department don't sign off on it, he would not get a building permit.

Mrs. Forestier stated yes and they come to her to make sure.

Mr. Scott stated that was his whole point.

Mrs. Forestier stated many times they will take her inspection as the approval for the building permit. We do try not to duplicate things, but they have no oversight over of the vegetation.

Mr. Riutta asked if staff would like to see plant drawings.

Mrs. Forestier stated staff was willing to work with the applicant to see what is out there what can be planted and when it can be planted. She stated lots of times there's timing as to the construction of everything because they have a house being built and things like that. She stated they could work on this at a later date.

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Mr. Paul Scott asked kind of plants was she talking about.

Mrs. Forestier stated regular like the wetlands vegetation already and adding some to it.

Mr. Paul Scott asked if it could be transplanted from the marsh.

Mrs. Forestier stated it was just making sure...

Mr. Rudasill it's a simple procedure.

Mr. Rudasill stated back to his original questions. That is the conditions, it's the replanting afterwards?

Mrs. Forestier stated yes and in place what we used to have as an in-lieu fee for other bulkhead applications where someone would pay into the wetlands fund.

Mr. Hess stated which we have to no place to put it at this point.

Mrs. Forestier stated correct.

Mr. Hess stated like he said earlier you would want to do that anyway

Mr. Rudasill stated and we went with a two and a half foot wall verses a four foot wall because...

Mrs. Scott stated they were told a four foot would not happen.

Mr. Scott stated you just don't want to start.

Mrs. Forestier stated everybody uses it to the floodplain as well so it requires an administrator approval from the floodplain administrator.

Discussion ensued between the Board, the applicant and Mr. Paul Scott concerning the height of Mr. Paul Scott's bulkhead, the existing bulkhead and existing old pilings.

Mrs. Rust stated she felt that there was continuous discussion about bulkhead, but actually the Board should be thinking about was the best practice for this site. As Wetlands Board we are to look at it for the best practice for the site and we are supposed to be encouraging practical living shorelines. And that was for the better good of water cleanliness and also filtering containments as they come off the land. She stated she thought that was something that was very important for the Board to think about and not to be put aside. She stated everybody can say that is not the way we used to do it, but we can say that about a lot of things. And unless we look progressively and look to the future it would all be bulkhead, because everybody will say this is what I want. She stated the Board needs to say what was best for the environment. She stated this was the best practice for this site, in her opinion.

Mr. Hess stated one of the ways we used to do it was they would go out and do it and come in and get an after the fact permit. He stated he applauded Mr. Scott for jumping through all the hoops. I think you have done your homework and you deserve a permit.

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Mr. Scott stated personal bias has no place on the Board.

Discussion ensued between the Board and the applicant concerning a living shoreline.

Mr. Riutta asked Mr. Scott if he ever considered the idea of rip rap and grading to the rip rap.

Mr. Scott stated he has seen the existing dirt wash into the creek. And he knows if he puts rip rap there it would continue because there was too much energy there.

Mr. Rudasill stated it would wash it away, just like your neighbor rip rap that has to be replaced every couple of years.

Mrs. Rust state it would not wash away if it was properly stabilized.

Mr. Riutta stated he was on Aquia Creek near the Potomac and he has a pretty vast area. He stated before he moved in concrete rip rap, he did not know if it was installed correctly or incorrectly, but from his visit it was certainly more aggressive in his area and he has not lost any soil at all. He stated he was wondering if alternatives were looked into in regards to rip rap.

Mr. Scott stated yes, he consulted the neighbors on both sides. All up and down the road people have done rip rap and have come back prior to the permitting process in particular. He stated Mr. Fines lives on the other end and he had rip rap and he had to go to bulkheads. He stated the guidelines do not say no. He stated he liked the idea having in more appropriates places, a natural shoreline.

Mrs. Scott stated there were bulkheads on both sides of the property.

Discussion ensued between the Board and the applicant concerning photographs from the previous meeting and the status of erosion.

Mr. Pineau stated he basically agreed with Mrs. Rust concerning the stance of doing what was a best practice, but he thought what also needed to be looked at were the cost associated with doing whatever was the best practice. He stated the fact was on Potomac Creek and he has experienced this morning, waves almost at the top of his pier because of the eastward winds from the low pressure system. He stated he could say that there are repeated times during the year where his not having a bulkhead has greatly impacted his property. He stated he knew the kind of action that was taking place on Potomac Creek because he was experiencing it throughout the year. He stated there was terrific action going on there. He agreed the intent of the Board should be to further the idea of living shorelines and promote that, he thought the cost that were associated with that and the end result, on this particular body of water were also mitigating factors.

Mrs. Rust stated she heard what Mr. Pineau was saying, but she also knew that she lives with it every day. She stated she was on the Potomac River and straight across they were three and a half miles to Maryland. She stated when they had a northeaster the reach was at least 20 miles up the river to her property. She stated she has a living shoreline and it works beautifully. She stated she actually had the same condition and she understand high waves, they come in and they roll over the sill, they are broken by the sill, let into the vegetation and that is it, it works. She stated if she did not see it and didn't live with it she could not attest to it.

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Mr. Pineau stated he thought another thing that needs to be weighed was more to the point of the permitting process and point number 1, the public and private benefit verses the public and private detriment. He stated he thought Mr. Scott has done a very good job in stating what actions he has taken that also benefit this piece of property and what he was doing to clean up portions of the property was striking a balance between the two. He asked if anyone else had thought.

Mr. Rudasill stated he was all for the living shoreline and this might be a nice situation there on the creek, but the applicant has 128 feet and he has sea walls on both sides and rip rap. He stated he thought it would be quite an exercise and it would not be an economical exercise. He stated he did not know if in the long run it would work there, just because the neighbors on either side and it was such a small piece on the water.

Mr. Pineau asked if there was any further discussion on the application. He asked if there was a motion for approval of permit WB12-05.

Mr. Hess stated so moved.

Mr. Pineau asked if there was a second.

Mr. Hess stated he was going to say with the conditions of watching the mitigation.

Mr. Rudasill stated he would second.

Mr. Pineau stated the motion carried 4 to 1. Mrs. Rust was opposed.

Mr. Scott thanked the Board.

Mr. Harvey asked the Chairman if they could get clarification about the conditions. He stated he head a comment concerning the vegetation and asked if that only applied to condition two.

He Hess stated the condition was for the replanting...

Mrs. Forestier stated there were three different conditions in the Resolution, so staff needed clarification as whether all conditions or just that one.

MR. Hess stated he was only talking about planting.

Mr. Pineau stated the Board should review the conditions for WB12-05. He stated the tidal wetlands impacts of 642 square feet resulting from the construction of the bulkhead and the fill shall be mitigated onsite through the removal of existing debris and replanting of the areas with appropriate wetlands vegetation.

Mr. Hess stated right.

Mr. Pineau stated that was agreed. He continued to say the Wetlands Board staff shall work with the applicant to finalize a plan prior to any work being performed in the intertidal zone.

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Mrs. Scott asked what that meant.

Mrs. Forestier stated that means that I would have to write something up that says you will replant certain sections once the bulkhead is filled in. She stated she could work on that after, it was not going to anything difficult. She stated it was just finalizing it in writing. She stated she has worked with others, Mr. Hummer actually did that once and he just replanted a small section. Staff just required something signed.

Mrs. Scott stated okay.

Mr. Riutta asked if the motion needed to be amended to make sure all of that was included.

Mr. Pineau stated these were the two points that. He asked about the third.

Mrs. Forestier stated in the proposed Resolution there were three conditions and the last one was the one that we usually do, which was where she would have to go out at initial construction to make sure the fabric, alignment and tie backs were in the right places. She stated that was the one that kind of duplicates the inspections for the building permit. She stated for final inspection, she would just go make sure it was filled in properly. She stated there have been issues where people did not put fabric or did not put the fill right on the back end of it.

Mr. Scott asked if he could agree that it would be built where it was supposed to be built.

Mrs. Forestier stated yes.

Mr. Scott stated that was number one.

Mrs. Forestier stated it was marked and she was sure that came for someone trying to move it forward or back at some point.

Mr. Scott stated it should say as submitted in the application.

Mrs. Forestier agreed.

Mr. Hess stated the way the application reads, it says...

Mrs. Forestier stated in a location shown on the drawings.

Mr. Hess stated right. He stated to him that was common sense.

Mr. Pineau asked if the Board was agreeing to the conditions as written.

Mr. Hess stated you could put it that way.

Mrs. Forestier stated with a minor modification. She read the bulkhead and rip rap shall be constructed in the location shown approved plans.

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Mr. Hess stated the condition was the bulkhead and rip rap shall be constructed in the location shown approved plans.

Mr. Scott stated thank you for that verification.

Mr. Pineau asked if the Board could proceed.

Mr. Harvey stated yes.

Mr. Pineau asked if there was any old business to discuss. He stated having none they would move on to new business with a request for an extension, Wetlands Permit WB12-07. A request for a two year extension to an approved wetlands permit by the River Bend Home Owners Association. Applicant to construct a 30 foot by 6 foot community pier with a 10 foot by 22 foot T-head platform on Assessor's Parcel 60-90B, Rappahannock River.

G. OLD BUSINESS

None

H. NEW BUSINESS

3. Wetlands Permit WB12-07 [11-07R] - A request for a two (2) year extension to an approved wetlands permit for River Bend Home Owners Association, applicant, to construct a 30 foot by 6 foot community pier with a 10 foot by 22 foot T-head platform on Assessor's Parcel 60-90B, Rappahannock River.

Mrs. Forester stated as the proposed community pier require a wetlands permit as it is not a permitted use pursuant to Section 27-18 of the Stafford County Wetlands Ordinance permit uses. She stated the purpose of this community pier was to allow the residents at the Riverbend subdivision safer recreational access to the Rappahannock River. The proposed pier would be 6 feet wide by 30 feet long which would include a 10 foot by 22 foot T-head. She stated in addition there would be a 10 foot by 8 foot lower canoe platform. She stated staff received an email from applicant dated April 19, 2012 requesting an extension. The Wetlands Board approved the original application on May 16, 2011 and adopted WB11-07. A copy of the original staff report was attached. She stated the following alternative were available to the Board, adopt proposed Resolution WB11-07 which was now known as WB12-07, the revised one, which approves the request with conditions. Adopted proposed Resolution WB11-08 revised by the Wetland Board known as WB12-08 which denies the request or take no action at this time and defer it to a future meeting. She stated staff recommends approval of the request for an extension. There are no impacts to tidal wetlands.

Mr. Pineau stated the floor was open for discussion of the application by the Board. He asked if any discussion was needed.

Mrs. Rust asked if anything was started at all.

Charles Hand, Riverbend Home Owners Association, stated no.

Mrs. Rust asked if they had a contractor.

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Mr. Hand stated yes and they were trying to pull it together. He stated he made the requested for the extension. He stated they have had delays and hopefully they can get building permit soon.

Mr. Pineau asked if there was any further discussion. Hearing none he asked if there was a motion for approval.

Mr. Rudasill made a motion to approve.

Mrs. Rust seconded the motion.

The motion passed 5 to 0

I. CHAIRMAN'S REPORT

Mr. Pineau stated as Chair he had nothing to discuss or report at this time.

J. STAFF REPORT

Mr. Pineau asked if staff had anything to report.

Mrs. Forestier stated they were slowly working towards hiring another environmental planner.

K. ADJOURNMENT

Mr. Pineau asked if there was a motion to adjourn.

Mr. Riutta stated he would make a motion to adjourn.

Mr. Pineau asked if there was a second.

Mrs. Rust seconded the motion.

The motion was approved 5 to 0.

With no further business to discuss the meeting was adjourned at 8:12 p.m.