

STAFFORD COUNTY
WETLANDS BOARD MINUTES
July 15, 2013

The regular monthly meeting of the Stafford County Wetlands Board of July 15, 2013, was called to order at 7:00 p.m. by Wetlands Board Chairman, Jim Riutta, in the Board Chambers of the George L. Gordon, Jr., Government Center.

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

MEMBERS ABSENT: None

STAFF PRESENT: John Harbin and Stacie Stinnette

A. Call to Order

Chairman Riutta called the meeting to order at 7:00 p.m.

B. Roll Call

C. Determination of a Quorum

Mr. Riutta stated there were five members in attendance which was a quorum.

D. Public Presentations

Mr. Riutta opened the public presentations. With no one coming forward to speak, the public presentations were closed.

E. APPROVAL OF MEETING MINUTES

1. May 21, 2012

Mr. Hess made a motion to approve the May 21, 2012 minutes; Mr. Rudasill seconded. The minutes passed 5-0.

2. November 19, 2012

Mr. Pineau made a motion to approve the November 19, 2012 minutes; Mr. Hess seconded. The minutes passed 5-0.

3. February 25, 2013

Mr. Rudasill made a motion to approve the February 25, 2013 minutes; Mr. Pineau seconded. The minutes passed 5-0.

4. June 17, 2013

Mr. Hess made a motion to approve the June 17, 2013 minutes; Mr. Rudasill seconded. The minutes passed 5-0.

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F. PUBLIC HEARINGS

5. Wetlands Permit WB13-07 - A wetlands permit for Fred Wells, applicant, to construct a 125 foot long bulkhead and 23 square feet of riprap scour protection on Assessor's Parcel 41A-1-14, Aquia Creek.

Mr. Harbin presented the staff report for item 5, Wetlands Permit WB13-07, a wetlands permit for Fred Well to construct a 125 foot long bulkhead and 23 square feet of riprap scour protection. He gave some background stating the proposed bulkhead required a wetlands permit as it was not a permitted use. He stated the purpose of this project was to protect the shoreline from erosion along Aquia Creek. Mr. Harbin stated staff visited the site on May 23, 2013, to review the proposed project. An existing timber bulkhead extended approximately 125 feet along the shoreline and appeared to have been built prior to the current permitting requirements. He stated there was a drainage pipe which extended out from the bulkhead, and that the existing bulkhead was failing in many places, as was shown in photographs provided. He stated there was severe erosion along the shoreline to the south which required the placement if riprap to prevent erosion along the final 16 foot long section of the bulkhead. Mr. Harbin stated the application proposed that an approximately 4 foot high (from the creek bottom) wooden bulkhead be constructed along the shoreline no more than 2 feet channel-ward of the existing bulkhead. He stated the proposed bulkhead would extend approximately 125 feet along the shoreline, attaching directly to a bulkhead to the north and ending at an eroded low cliff on the applicant's parcel. Mr. Harbin stated that under Section 4 of the Virginia Administrative Code, all impacts to tidal wetlands must be compensated. In this case, the chosen method of compensation required the payment of a fee per square foot of tidal wetlands impacts in-lieu of mitigation, and the total in-lieu fee for this project as proposed would be \$547.50. He stated there were 3 alternatives available to the Board: adopt proposed Resolution WB13-07 which would approve the request with conditions; adopt proposed Resolution WB13-08 which would deny the request; or take no action at this time. Mr. Harbin stated staff recommended approval of the bulkhead as proposed, as it would serve a dual purpose by stabilizing the shoreline and decreasing erosion. He stated there would be minimal impacts to tidal wetlands if the new bulkhead was placed in front of the existing bulkhead.

Mr. Riutta opened the public hearing.

Erik Barth stated he was not the applicant but he was the one who worked with Mr. Wells to submit the application. He stated he was the adjacent landowner and has a family-owned place directly to the west of this project. There was also an existing seawall in the same vicinity and he would like to see Mr. Wells' seawall come up to the existing one. Mr. Barth stated he was supportive of the application.

Mr. Rudasill asked about the drain.

Mr. Barth stated it was actually a small stream that came from a wooded area and was several hundred feet. It went back into the ravine and was a very low flow type of thing, and sometimes in a dry summer there would be no flow.

Ms. Rust asked if it was an open stream.

Mr. Barth stated yes. The stream would flow into the drainpipe on one end. He stated they never saw much come out of the pipe.

Ms. Rust asked if the pipe was put in when the bulkhead was put in.

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Mr. Barth stated he guessed it was back in the 60's when the wall was put in and he was pretty sure that was when the pipe was put in. He stated spot repairs had been done to the wall over the years and that he had been living there since 1975.

Mr. Riutta stated he lived 2 doors down from the applicant. He then asked staff had done anything to the drainage pipe or made a recommendation.

Mr. Harbin stated he believed the recommendation was to leave it in place and to construct the new bulkhead around the existing pipe. He stated staff did not know where the pipe began, and that Ms. Forestier had gone out to try to find the beginning but was unable to locate it. From staff's perspective, Mr. Harbin stated it would be best to leave it as is as it would require a lot of work to tear out and redirect the stream channel.

Mr. Hess stated if it was removed it could start another problem.

Mr. Harbin stated it was a unique situation and did not know if they had had that kind of stream channelization coming through a bulkhead like that in the past.

Ms. Rust asked what was upland from the bulkhead.

Mr. Barth stated it was forested hills and it was his understanding they would hold it in a development rights protection.

Ms. Rust asked how deep the water was in front of the property. She stated the picture made it look like the water was low.

Mr. Barth stated the day the picture was taken was an average day and he was a little surprised to see some exposure of the soil. He stated the average water depth was a foot or two, very shallow.

Ms. Rust asked how old the bulkhead was.

Mr. Barth stated the existing bulkhead had been there since the 1960s.

Mr. Hess asked if the applicant was okay with the fees.

Mr. Harbin stated yes, as far as he was aware.

Mr. Pineau stated he assumed the new bulkhead would be built right at the opening for the drainpipe.

Mr. Harbin stated yes, within the 2 feet they proposed to put the bulkhead.

Mr. Riutta asked if the new bulkhead was going east or west, toward Mr. Barth's property or downriver.

Mr. Barth stated it would go east.

Mr. Harbin showed a map of the subject property on the screen and stated it would be to the right of a pier and go approximately 125 feet to the east.

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Mr. Barth stated he was also working with the contractor and that they would try to accommodate meeting up with the existing culvert. The contractor acted as though he felt he could and would put a small extension to make sure it would stay within the 2 feet.

Ms. Rust asked if the plan was to leave the existing wall as is.

Mr. Barth stated yes, it would be left in place. The original wall was put in by hand and has stood the test of time.

Ms. Rust asked if any consideration was given to just doing a riprap.

Mr. Barth stated the preference was to match it up with the wall on his side of the property. He stated there was also a little bit of fear of snakes.

Mr. Riutta asked if there was anyone else who wanted to comment. Seeing no one, he closed the public hearing and opened the floor for discussion. Hearing no discussion, he asked if there was a motion for approval.

Mr. Rudasill made a motion to approve proposed Resolution WB13-07, seconded by Mr. Hess. The motion passed 5-0

G. OLD BUSINESS

None.

H. NEW BUSINESS

6. Review of recently submitted applications

VMRC# 13-0931	Tyler Estates (non-tidal)
VMRC# 13-1047	Woody Herring (private pier)

Mr. Harbin stated he did not have the applications with him. Tyler Estates was a non-tidal wetlands fill and Woody Herring was a private pier application off of, he believed, Wood Landing Road. He stated he would be happy to provide the applications if the Board would like to see them for their review.

I. CHAIRMAN'S REPORT

Mr. Riutta stated he had nothing to discuss for the Chairman's Report.

J. STAFF REPORT

Mr. Harbin stated the staff report would revolve around Mr. Jeffrey Scott's application for a bulkhead, VMRC12-0029. He believed it was approved last May. He stated the applicant had completed a portion of the work so staff went out for the initial construction site visit approximately 3 weeks ago and took a couple pictures which he provided to the Board. Mr. Harbin stated the permit was to essentially construct a bulkhead along the applicant's property line on Potomac Creek. Approximately 40 feet of that bulkhead was to be 4 feet high and an additional 80 or so feet was to be 2½ feet high. He stated upon inspection the bulkhead had been constructed at one level all the way across, approximately 3 to 3 ½ feet depending

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upon where the bottom of the stream bed was. He also stated it did run consistently across, and in some parts it was lower than was permitted to be and other parts was higher than permitted to be. Mr. Harbin stated since this was a violation of the permit, there were a couple options which needed to be discussed. A Notice to Comply would need to be issued since the bulkhead was not in conformance with the permit. The Notice to Comply would provide the property owner two options: either meet the requirements of the original permit, which would essentially mean the applicant would need to tear down what was there and rebuild to what he was permitted to build, or request a modification to the existing permit, which would involve re-advertising for what was actually constructed. He stated if the applicant proceeds with the latter option, the Board could process it as a violation of the existing permit because the applicant did not conform to the permit, or they could just consider it a modification to the applicant's existing permit. Mr. Harbin stated the difference between the two was the fee that was charged; a violation was \$2,025 and a modification to the permit would be just the public hearing fee of \$675. Staff's recommendation would be to move forward with the modification to the existing permit and simply charge the \$675. Mr. Harbin stated staff would have to re-advertise for what was actually constructed on site and staff would also have to send out adjacent property owner notices and conduct another public hearing. New drawings would also be required as well. He stated staff decided to go with the modification of the permit because while it was not in conformance, it was lower in some sections and seemed to be constructed in a good manner. He believed rebuilding would probably cause more harm than good at this point to the property.

A lengthy discussion ensued regarding the options of the Board.

Mr. Hess made a motion to send the applicant a notice of violation and a notice to comply through a modification of the existing permit, seconded by Mr. Pineau. The motion passed 4 to 1 (Mr. Rudasill opposed).

K. ADJOURNMENT

Mr. Pineau made a motion to adjourn, seconded by Ms. Rust. The motion passed 5-0.

With no further business to discuss, the meeting was adjourned at 7:50 p.m.