

STAFFORD COUNTY WETLANDS BOARD MINUTES
November 17, 2014

The regular monthly meeting of the Stafford County Wetlands Board of November 17, 2014, was called to order at 7:01 p.m. by Wetlands Board Chairman, Jim Riutta in the Board of Supervisors Chambers in the George L. Gordon, Jr., Government Center.

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

MEMBERS ABSENT: Andy Pineau

STAFF PRESENT: Amber Forestier and Denise Knighting

GUEST PRESENT: Jeffrey Madden, Virginia Marine Resources Commission

CALL TO ORDER

Mr. Riutta called the meeting to order at 7:01 p.m. and it was determined a quorum was present. With no one present to make a public presentation he moved on to approval of minutes.

PUBLIC PRESENTATIONS

None

APPROVAL OF MEETING MINUTES

1. March 24, 2014.

Mr. Rudasill made a motion to approve the March 24, 2014 minutes.

Mr. Hess seconded.

The motion passed 4-0 (Mr. Pineau was absent).

PUBLIC HEARINGS

2. Wetlands Permit WB14-03 – A wetlands permit for James Olson, applicant, to construct a 21 foot long section of a bulkhead with impacts to tidal wetlands, part of a proposed 65 foot long bulkhead with a 15 foot long return wall on Assessor’s Parcel 41B-1-12, Aquia Creek.

Mrs. Forestier presented the staff report. She stated we are going to consider the application of James Olson for a wetlands permit. And the proposed bulkhead requires a wetlands permit as it is not a permitted use pursuant to Section 27-18 of the Stafford County Wetlands Ordinance entitled “Permitted Uses”. The stated purpose of this project is to protect the shoreline from erosion by replacing an existing unpermitted bulkhead along Aquia Creek. The property is located along Aquia Creek, on Woodrow Drive, and Wetlands Board staff visited the site to review the proposed project on October 20, 2014, at low tide. The house is located approximately 80 feet from the shoreline. An existing unpermitted deteriorating timber bulkhead currently extends approximately 65 feet along the shoreline. The topography of the property is a gentle slope down to the shore. A 21 foot long section of the proposed bulkhead to the east of the dock is between mean low water and mean high water. This section requires Wetlands Board approval, as there are impacts to 24.5 square feet of non-vegetated tidal wetlands. An in-lieu fee in the amount of \$364.56 will be required to

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mitigate the impacts. This information was omitted in the staff report that was sent out and the resolution that were sent out as well so I am going read that out as I read my staff report so it can be included. The other 43 foot section is considered to have subaqueous impacts (i.e. below mean high water) and is within the jurisdiction of VMRC. A permit from VMRC will be required. The 15 foot long tie-back section of the bulkhead will be built above mean high water. The location of the bulkhead and how it would tie into the land were reviewed. The application proposes that the wooden tongue-in-groove bulkhead would be 4 feet or less in height from the creek bottom and would be constructed 14 inches in front of the existing bulkhead. The proposed bulkhead would extend 4 feet or more feet below the surface and attach directly to a bulkhead to the north or the west on Assessor's Parcel 41B-1-11 and the 15 foot return wall would tie back into the property along the property line with Assessor's Parcel 41B-A. Assessor's Parcel 41B-A has no shoreline protection as it is a parcel designated for access to the creek. The following alternatives are available to the Board. Adopt proposed Resolution WB14-03 which approves the request with conditions. The conditions are: 1) the bulkhead shall be constructed in the location shown on the approved plans. 2) the in-lieu fee associated with impacts to 24.5 square feet of non-vegetated tidal wetlands with the proposed bulkhead totals \$364.56. The in-lieu fee must be paid prior to issuance of the permit. And 3) the applicant shall notify the Wetlands Board staff to conduct the following inspections, pre-construction, mid-construction and final. The next option is to adopt proposed Resolution 14-04 which denies the request or you could take no action at this time and defer it to a later date. Staff recommends approval of the bulkhead as proposed. The applicant is limiting the impacts by constructing the new bulkhead as close as possible to the existing bulkhead. From an environmental perspective, it is normally preferable for a bulkhead to be replaced by a riprap revetment. However, as there is an existing bulkhead, placing a new bulkhead in front of it will require less impact than removal of it and grading the site.

Mr. Riutta thanked staff and asked opened the public hearing. He asked the applicant or the contractor if they would like to address the Board.

Mr. Olson spoke from the audience. He stated he did not have anything to add.

Mr. Rudasill asked Mr. Olson asked if he was replacing the east side and the west side or just the east side.

Mr. Olson it runs from east to west. So it is the entire length of it.

Mrs. Forestier asked Mr. Olson if he would come to the podium to speak.

Mr. Rudasill asked Mr. Olson if he was just doing the 21 foot section with the tieback.

Mr. Olson stated the entire length.

Mrs. Forestier stated it was the entire length, we just have jurisdiction over 21 feet of it. The rest of it is in the jurisdiction of the Marine Resources Commission.

Mr. Rudasill asked if VMRC had already approved the rest of it.

Mr. Olson stated he did not have approval yet.

Mr. Madden stated typically when VMRC has concurrent jurisdiction with the Board, we wait until the Wetland Board acts and then we follow suit with our permit. He stated they would execute their permit upon consent of the Board.

Mrs. Rust asked the age of the original bulkhead.

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Mr. Olson stated he has been there 23 years and it was fairly new when he moved in, but already in place. He stated it was probably 25 years old.

Mrs. Rust asked how long it had been degrading.

Mr. Olson stated slowly the entire time. It was built with landscape timbers and was coming apart pretty bad. He stated he wanted to get it before it falls over and takes the land in.

Mr. Riutta stated he would close the public hearing and continue the discussion regarding the application. With no further discussion he asked if there was a motion.

Mr. Rudasill made a motion to approve WB14-03.

Mr. Hess seconded.

The motion passed 4-0 (Mr. Pineau was absent).

Mrs. Forestier informed Mr. Olson the permit would be available in 10 working days. Per State Code they had to hold it in case someone wanted to request VMRC to review it. She stated she would contact him when it was ready.

OLD BUSINESS

None

NEW BUSINESS

3. Wetlands Permit Extension WB14-05 – A request for a two year extension on wetlands permit WB13-1 for Michael and Camille Degen, applicants, to construct a 201 foot long timber bulkhead on Assessor's Parcel 49-38D, Potomac Creek.

Mr. Riutta stated since there was not old business, they would move to new business which was a request for an extension.

Mrs. Forestier stated this was an extension request for a permit originally permitted on December 18, 2013. She stated the original permit was for one year. They have had some issues constructing the house on the site and so they have not gotten to the grading down by the water line. They are requesting a two year extension. She stated this was the permit where they have to actually get a grading permit through the County first, and it can take up to six months to get that approved. And they have not applied for it yet.

Mrs. Rust asked if they have started any construction at all.

Mrs. Forestier stated not on this permit. They are still working on the house. She stated this one had the easement down to the water.

Mrs. Rust stated it was a paved easement, if she remembered correctly.

Mrs. Forester stated it was a pseudo easement, but it was on enough of the plats that it could be argued that it still existed, so it had to be kept open.

Mr. Riutta stated two years was a long time and what would happen if rules and regulation were to change.

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Mr. Madden stated the Code requires that you give an expiration date. So if the Board feels that they can extend it, which is fine.

Mrs. Forestier stated the Corp of Engineers has permits that are fifteen years long. It depends on what kind of project you are doing, how big it is and how long it will take.

Mr. Riutta asked by giving the extension for two or fifteen years, you are saying everything is fine, do what you want to do.

Mrs. Forestier stated do what we permitted them to do.

Mr. Riutta asked if that meant they were grandfathered if code were to change.

Mrs. Forestier stated yes, but she doubted anything would change so much that they could not put a little bulkhead wall along a shoreline in the next two years.

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

Mr. Hess made a motion to approve the extension for two years as requested.

Mr. Rudasill seconded.

The motion passed 4-0 (Mr. Pineau was absent).

4. Review of recently submitted applications:

VMRC 14-0173	Stafford County Rt 1 Telegraph Rd Intersection Imp
VMRC 14-0188	Kinder Morgan pipeline 1
VMRC 14-0282	Kinder Morgan pipeline 2
VMRC 14-0328	Kinder Morgan pipeline 3
VMRC 14-0498	Saratoga Woods
VMRC 14-0609	Walgreens 171 Garrisonville Rd
VMRC 14-0732	Grouse Pointe
VMRC 14-0780	Stafford Utilities Rt 1 N SS
VMRC 14-0858	Columbia Gas relocation @ Venture Drive
VMRC 14-0892	Kenevan bulkhead
VMRC 14-0893	Godenick pier
VMRC 14-1076	Abberly at Stafford Courthouse
VMRC 14-1234	Lese Dock
VMRC 14-1250	Stafford Co PRCF Woodstream trail
VMRC 14-1289	Russell bulkhead & dock
VMRC 14-1379	Stafford Co DPW Truslow Rd project
VMRC 14-1408	Stafford Co DPW Brooke Road project
VMRC 14-1409	Olson bulkhead
VMRC 14-1420	Augustine at the Glens
VMRC 14-1432	Stafford Co Ebenezer Church pump station

Mr. Riutta stated they would move on to the recently submitted applications.

Mrs. Forestier stated as you can see it has been since March, so there is a lot and we are starting to build out again. She stated she was going to skip through and tell the Board the majority of them are impacts to non-tidal wetlands. The only ones that have any bearing on the Wetlands Board are VMRC 14-0892 which is the

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Kenevan bulkhead. That will come before you next month, hopefully. VMRC 14-0893 is the Godenick pier, that's a by-right pier. The Lese dock is also a by-right pier. VMRC 14-1289 is the Russell bulkhead and dock. I believe that was being permitted by VMRC and the dock is by-right. And then we had the Olson bulkhead, which was 14-1409. She stated quite a few come through. There is one more bulkhead and also the CSX plan hopefully coming up next month on the 15th.

CHAIRMAN'S REPORT

Mr. Riutta stated he did not have a report and moved on to the staff report.

STAFF REPORT

5. Update on Chesapeake Bay Act ordinance and creation of a Chesapeake Bay Board.

Mrs. Forestier stated she wanted to update the Board. The Chesapeake Bay regulations were coming out of the Zoning Ordinance and creating their own stand alone, so that the Wetlands Board will become a Chesapeake Bay Board as well. That went to the Planning Commission, got approved and went to the Board of Supervisors in September. Then the agricultural community had a few concerns, everybody had to get together and re-explain everything that has not been enforced since 1998. That is now worked out and it is going to the December 16, 2014 Board of Supervisors meeting and hopefully will be approved, so early in the year we will have the Board.

Mr. Rudasill asked what that meant.

Mrs. Forestier stated you will be hearing variances and such for Chesapeake Bay encroachments. It will require some training, so I will have to get somebody from the State to come. I gave you a copy of the Ordinance, just so you can look through it and get familiar with it.

Mrs. Rust stated there was a lot in here.

Mrs. Forestier agreed it was a lot, but that was what she has been doing for 10 years.

Mrs. Rust stated it would really impact the water run-off.

Mrs. Forestier stated yes and very few variance application were submitted, maybe one every two years. There will be some training set up. She stated there was another meeting ready to take the room.

Mrs. Rust stated after reading through everything that is coming up, she went through her file and brought out her decision tree again. She stated at the last of the VIMS meeting, they talked about different things that different counties could adopt to really get ahead with what they will have to come up against as far as the Clean Water Act is concerned. She stated one of the things that came up was enactment of the decision tree, because it is science and it works. It is information the property owner could really use before they come into the Board.

Mrs. Forestier stated we are actually working on an Environmental Management Plan as part of the Comprehensive Plan that was approved in 2010 and that is one section that I was going to include that kind of stuff in the Shoreline Protection Plan. And it would be part of the Comp Plan. It would be something to guide us.

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Mr. Riutta asked if the decision tree was on the website.

Mrs. Forestier stated it was on the State website, but we could put a link to it on the website. She stated that would be easy.

ADJOURNMENT

Mr. Madden asked if he could be recognized for just a moment.

Mr. Riutta stated yes.

Mr. Madden stated he wanted to congratulate the staff and the County Wetland Board for their effort in putting together their in-lieu of fee structure. Because that was used as a model for Northumberland County who is going through that process as we speak. I wanted to thank everyone who is responsible for putting together a pretty good document. That was a basis for the adoption and the process that they are doing now in Northumberland County and it is skating right through. You made such a transparent document, and such a well-conceived document, they are taking it enforce and just putting their name on it.

Mr. Riutta thanked Amber. He asked if there was a motion to adjourn.

Mr. Hess made a motion to adjourn.

Mr. Rudasill seconded.

The motion passed 4-0 (Mr. Pineau was absent).

With no further business to discuss the meeting was adjourned at 7:23 p.m.