

STAFFORD COUNTY
Wetlands Board Minutes
October 18, 2010

The regular monthly meeting of the Stafford County Wetlands Board of October 18, 2010, was called to order at 7:00 p.m. by Chairman Ben Rudasill in the Board Chambers Conference Room.

MEMBERS PRESENT: Ben Rudasill, Andy Pineau and Mary Rust

MEMBERS ABSENT:

STAFF PRESENT: Michael Lott, Amber Forestier and Aisha Hamock

Mr. Rudasill: With three members present we have a quorum.

PUBLIC PRESENTATIONS:

Mr. Rudasill: Are there any public presentations? Hearing none.

APPROVAL OF MEETING MINUTES

1. August 16, 2010

Mr. Rudasill: I understand that minutes are not onsite at this time from the last meeting so we will put off approval of those until the next meeting.

PUBLIC HEARINGS

1. Wetlands Permit WB10-07 – A wetlands permit for Vaughn Lewis to construct a 150 foot long riprap revetment with an associated 150-foot long boardwalk on Assessor's Parcel 21B-1012, Aquia Channel.

Mr. Rudasill: First item on the agenda is a public hearing. Wetlands permit WB10-07, a wetlands permit for Vaughn Lewis to construct a 150 foot long riprap revetment with an associated 150-foot long boardwalk on Assessor's Parcel 21B-1012, Aquia Channel. Will staff please present their report.

Mr. Lott: Sure. We are here to consider the application of Mr. Vaughn Lewis to construct a riprap revetment on Assessor's Parcel 21B-1012 in Aquia Channel. The purpose of this project is to protect the shoreline from erosion. Wetlands Board staff visited the site many time but the most recent was on October 5, 2010. The house is located within the Aquia Harbour subdivision. The property slopes gently down to the shoreline where there is a relatively large flat floodplain just along the channel. The bank immediately adjacent to the Channel is two to three feet high. A drainage feature on one side of the property that is surrounded with riprap runs along the southern edge of the property, adjacent to Assessor's Parcel 21B-1013. There is an existing floating pier is present at the shoreline. It has an existing 25 foot long timber bulkhead with a floating dock. Wetlands vegetation was detected along the shoreline, including arrow arum. In addition, submerged aquatic vegetation was also observed close to the shoreline. The application proposes to construct a riprap revetment approximately 150 feet in length along the shoreline. The existing slope would be re-graded as necessary to construct the revetment. This would reduce the amount of stone placed water ward of the slope to a maximum of 2.5 feet. Filter cloth would be place along the slope. A mix of class 1 and 2 stone would be placed on a base of #56 stone. The existing bulkhead will be removed to allow for the riprap revetment. In addition

***Wetlands Board
October 18, 2010***

to the revetment, the application proposes a 6 foot wide and approximately 150 foot long boardwalk be constructed along the shoreline immediately landward of the riprap revetment. This is within the Wetlands Board jurisdiction because of the wetland vegetation along the shoreline. The Army Corps of Engineers issued a Nationwide Permit 13 for the project on October 13, 2010. In a letter dated September 3, 2010, VMRC stated that authorization would not be required from them since this is a human made water channel, it is not on Aquia Creek itself. The VIMS report dated October 12, 2010 recommended a vegetative stabilization approach rather than a rock structure. VIMS also recommended the elimination of the boardwalk. The following alternatives are available to the Board: (1) adopt proposed Resolution WB10-07 which approves the request with conditions, (2) adopt proposed Resolution WB10-08 which denies the request, (3) take no action at this time. Staff recommends approval of the riprap revetment as proposed with conditions. The proposed riprap revetment will serve a dual purpose by stabilizing the shoreline and decreasing erosion. The applicant initially applied for a bulkhead (VMRC #06-0444) along the shoreline. This application was denied by the Wetlands Board in October 2006. A comparison of photographs taken in 2006 and 2010 indicate that erosion continues to occur on the property. Erosion occurs during high water events and from wave action associated with boat traffic in Aquia Channel. Construction of the riprap revetment would result impacts to 100 square feet of both vegetated and non-vegetated wetlands, resulting in an in-lieu fee of \$875. To minimize impacts to wetlands along the shoreline, staff recommends alterations to the proposed boardwalk. It is recommended that the width of the boardwalk be reduced to four feet and that the length of the boardwalk is reduced to 30 feet either side of the existing pier. I spoke with Mr. Conner today, who is in the room with us; he is the contractor for Mr. Lewis and he has indicated a desire that it be 30 feet either side of the existing floating pier, to construct it largely on one side to tie into the neighbor's property. There is a relationship with the neighbors and they would like to tie into their property and it would probably be 70 feet rather than 60 feet. He also expressed a desire to have the boardwalk more five feet rather than four feet. I chose the numbers more as a compromise between what VIMS recommended removing it and not having the entire thing as a means to protect the wetlands in the area around, actually, should be on the northern end adjacent to where the stream comes in along the neighbor's property line. Construction of the boardwalk will require a building permit from the Department of Public Works. As this project, the boardwalk portion of the project is within the RPA and according to Chesapeake Bay rules, it would require some form of mitigation. In the form of re-plantings and we would address that with a building permit portion of it. We would work with the applicant to come up with a planting schedule. It would be a mixture of appropriate wetland trees, shrubs and other plantings. That is pretty much what I had.

Mr. Rudasill: The public hearing is now open. Will the applicant or Mr. Conner like to address the Board in any way?

Mr. Conner: No but what we discussed, we would be very happy to do.

Mr. Rudasill: Okay, does anyone else comment on the application? Okay, the public hearing is closed and the floor is now open for discussion of the application by the Board.

Mrs. Rust: do we know how deep the water is right there, just out of curiosity?

Mr. Lott: I would say that the bank is roughly two to three feet deep there and I would say that the water is in that two foot range on average. I think that channel is obviously dredged. I am not sure, I did

***Wetlands Board
October 18, 2010***

not walk off shore very far to see how far it plunges down. I know Dan went out there and it has a very soft bottom there a lot of silt.

Mrs. Rust: The other question is why was the application for the bulkhead denied in 2006?

Mr. Lott: It was primarily denied, I think they just determined that they amount of erosion in relation to houses, proximity to the shoreline, they just did not believe that the bulkhead was justified at that time. Then we actually looked at moving the bulkhead behind the wetlands board jurisdiction but that unfortunately... The Chesapeake Bay rules changed and they were not able to do it that way.

Mr. Rudasill: I was just going to ask about the Boardwalk and see if that was something they would be interested in doing, instead of having it on either side, have it on one side. So seventy feet would get to the other property line Mr. Conner?

Mr. Conner: Yes, that would tie into the neighbor and not go around, which he is okay with that. It would give him access to visit the neighbors along the boardwalk.

Mrs. Rust: I have a question as to how close the boardwalk is going to be to the actual edge of the shoreline? There is a chance that there is rip rap put in front and then vegetation placed before the boardwalk so that there is a vegetative barrier prior to the Boardwalk, if that is possible. Is that something that is being considered?

Mr. Conner: It creates a more dissatisfactory unsafe building that void in there. I would like to get the boardwalk right up against the rocks if possible and we had put in a permit application and will work with the County. Whatever planning needs to be done, we have no problem with that.

Mr. Lott: I believe the boardwalk is intended for Mr. Vaugh Lewis' grandchildren.

Mrs. Rust: A nice compliment is if you could still have the boardwalk, just put it back enough for vegetative plants. It's not only mitigating any wave action but it would also serve as a softener and a filter. (Inaudible)

Mr. Bacon: Just to make you guys aware, there is only three people here. Two people that are not here are going to be considered no votes, okay, so you have to be online all three of you. So if you decide to take the boardwalk out or move it back or whatever, you have to make sure that you guys are all on the same decision because you already have two no votes. It has to be unanimous. There are only three people here so you have to make sure the vote is the same.

Mr. Conner: I have already talked to the owner about that. How far are you thinking about moving the boardwalk back?

Mrs. Rust: Actually, it wouldn't have to be that far. I'm talking actually no more than five feet and that would give you enough vegetative buffer. It doesn't have to be... you could use really nice grasses . it makes a very soft buffer between the stone.

Mr. Conner: We could plant grass.

***Wetlands Board
October 18, 2010***

Mrs. Rust: That would be... see if you planted wetland grasses and wetland iris, a lot of really nice soft brushes, etc. between the stone.

Mrs. Forestier: That would put it outside the Wetlands Board jurisdiction at five feet but then it puts it inot the Chesapeake Bay and then it makes it a little difficult as it would have to be used for access to the water in a sense. If it is that far back from the water, how do you... It doesn't... a few feet might work. Five feet might be a bit much. Maybe a foot or two where they could put grasses in between the two and then just kind of have a...

Mrs. Rust: (Inaudible)

Mrs. Forestier: Yes ma'am.

Mr. Pineau: My question just deals on, I think, a little bit with timing because the VIMS report which had counter arguments to make to this comes out six days prior to our meeting and should there be room for consideration for this in the scheme of things or is this a matter of form that they usually submit these reports the week prior to a made.

Mr. Lott: Unfortunately, this time also, they did do a site visit, which they have not been doing for over a year. They did not notify us that they were doing that so we didn't have the opportunity to meet with her at the site and discuss the project. VIMS is... there approach is entirely protecting the resources and not so much... they will work with the homeowner when there is a severe issue but their primary approach is to protect resources.

Mr. Conner: I would be happy to.

Mr. Lott: It would be nice to get it sooner and to have met with her in the field and discuss the history. She doesn't know the whole history of the project and them coming to the Wetlands Board before and things like that.

Mr. Pineau: If there should be any deliberation taking place or any back and forth in the process, you could consider all possibilities. I am not saying one is right and the other is wrong, I am just looking at it from a procedural standpoint.

Mr. Bacon: Would you consider putting the walkway above the rocks off of the shoreline so it would be on top of the rocks. Then you wouldn't affect any of the upland part of it, it would be over rocks, which would be shaded, it doesn't matter anyhow because nothing is going to grow over that. That is something you might want to consider. I don't know if you can at the Wetlands Board section, it is a manmade section so I have no determination on that but that is something I thing you guys could look at too.

Mrs. Forestier: But it would have to tie in with the land somewhere behind the rock so it would be in our jurisdiction then as long as it starts behind the rock. If we approve that if would be allowed there then it could go out from there under whatever your guidelines are for piers and the Corps.

Mr. Bacon: It is a totally manmade structure so I don't think that I have any jurisdiction on it.

***Wetlands Board
October 18, 2010***

Mrs. Forestier: Right. Then I guess the Corps of Engineer requirements would have to be followed for a pier, the size and the height and all of that.

Mr. Rudasill: So the purpose of this walkway and I don't know whether you're in the position to even answer this but is it a walkway to get to and from... it's a floating dock?

Mr. Lott: There is a floating dock. It more really... it is not so much as allowing you to reach the floating dock. It is really more of an amenity connected to the floating dock for the grandchildren.

Mr. Rudasill: Is this something people are going to be lining up and fishing on? I am just trying to figure out how this thing is going to work out. You couldn't have the walkway completely (inaudible) ... I would think, could you? I mean, it might be more convenient to have it behind it but I am just trying to get a feel for what they are trying to do.

Mr. Lott: I don't know whether they could construct it right over the...

Mrs. Forestier: I think if it is five to six feet wide, you could start above the rip rap and then go out into the river on the other side with the pilings as long as it was wide enough. In fact, you could probably go a bit wider if it was smaller, right Dan, for the square footage?

Mr. Conner: I would be put in pilings anyway.

Mrs. Rust: But at that point it wouldn't be, we are talking about the width that would be no more than four feet, I'm just guessing.

Mr. Lott: I don't know if you are going to go over the rocks it might be wider.

Mr. Bacon: You would have to ask for a redesign to look at that.

Mrs. Forestier: But then maybe we could limit how much of it is actually in our jurisdiction because then we don't have jurisdiction once it hits the deeper water.

Mr. Bacon: Then you would still have to go to Hal Wiggins.

Mrs. Forestier: You would have to go to Hal or Regina to get their regional permit. We could just make sure that there was no more than four feet in our jurisdiction then anything outside of that falls under the Army Corps of Engineers if it is out in the water.

Mr. Conner: Whatever you want to do. This guy has been trying to do this job for four or five years.

Mr. Lott: Yes.

Mr. Conner: Whatever it takes to make everybody happy, we would like to go forward.

Mr. Pineau: But is what makes everyone happy something that Mr. Lewis is agreeable to.

Mr. Conner: Mr. Lewis is very agreeable to, he wants to get this over with. He doesn't want any problems, he wants everything done by the book up front. When we start building, we want to know

***Wetlands Board
October 18, 2010***

exactly what we are doing and we are willing to do whatever it takes to get this through. The erosion is there, the boardwalk is something that he wants for his grandchildren and to tie into the neighbors. The neighbors do have a six foot board walk that comes right up to the fence and he wanted to tie into that. He wants to be able to get on and off his boat, maybe put a chair and picnic table down there. Once he is retired, he wants to enjoy life.

Mrs. Rust: Well, I understand why they would want the Boardwalk, it is for his grandchildren. Walking along the edge of the water but I like the idea of not mowing as much down there. That would be a great recommendation and obviously if you had the boardwalk you're not going to have to mow as much because (Inaudible 20:20). I still feel there should be a little bit softer edge and I think that would really be, not just aesthetically pleasing but it would be a nice gift to nature (inaudible)... as opposed to having the boardwalk sitting right next to the stuff. That is just my little nudge and the kids would it because the butterflies are going to be coming in.

Mr. Lott: I think in terms of the number of hoops to go through, I think the easiest way to do it would be to move it several feet behind the rip rap revetment and build a four foot wide boardwalk there as opposed... if you do go out over the rip rap then you are going to have to go back to the corps, do revised drawings for Hal, as well as come to Public Works...

Mr. Conner: We can move it back, that's fine. Whatever you want to do.

Mr. Pineau: It just seems to me that where it has been positioned, I agree with what you are saying about the soft in between area but it seems to me that the whole idea was to have this boardwalk as close to the water, the channel for grandkids purposes and that if you move it back four feet, are you losing some of the purpose behind the boardwalk to begin with?

Mr. Lott: Even saying compromise and go two feet, you know, whatever you wanted to do there.

Mrs. Forestier: Would it be worth asking for some additional planting on the other half of the property along the waterline where they won't have...

Mrs. Rust: They are probably going to have to do that anyway.

Mrs. Forestier: Not with grasses. We usually ask for trees and shrubs from the RPA, the Resource Protection Area plantings. They might agree to maybe let it grow more naturally.

Mrs. Rust: I think they are compromising by just doing it on one side and then if they say they will allow planting on the other side (inaudible). I am just saying that aesthetically it would be nice and it would be a benefit for that property.

Mrs. Forestier: Right, we can ask for grasses and more perennial flowers that are native for the resource protection area plantings. We can do that instead of some of the shrubs if that would...

Mrs. Rust: And the shrubs could still go in?

Mrs. Forestier: Yes.

Mrs. Rust: Okay.

***Wetlands Board
October 18, 2010***

Mr. Rudasill: Is there any further discussion?

Mr. Lott: I guess we need to agree on... we are going to have a change a condition, right, from what it was worded there so I am trying to write one to read to you. You guys can then make a motion to approve that condition.

Mr. Pineau: Which condition?

Mr. Lott: It would be condition number two. Just give me one second to finish writing something down. So how about the condition be stated somewhere to the effect that "the placement of the boardwalk will be determined with the Wetlands Board staff and shall be no wider than four feet, would be limited to seventy feet in length and placed on the northern side of the existing floating pier and would be placed two feet landward of the rip rap revetment".

Mrs. Rust: Two feet from the rip rap?

Mr. Lott: Yes.

Mrs. Rust: So eventually vegetation will come in?

Mr. Lott: It is already growing there.

Mr. Conner: But now the seventy foot will include the existing dock, which is okay with us.

Mr. Lott: Yes. We will work with you on the site to determine the exact limits.

Mr. Conner: No more than seventy foot from the property line to the north.

Ms. Rust: (Inaudible)

Mr. Conner: (Inaudible)

Mrs. Rust: (Inaudible)

Mr. Lott: They would reduce the erosion if they let the vegetation grow.

Mrs. Rust: (Inaudible)

Mrs. Forestier: So is there agreement on that modification or do we want to change it again?

Mr. Rudasill: Can you live with that Mr. Connors?

Mr. Conner: Yes, a two foot buffer between the stone, that's fine. I would still like to have it a tad bit wider.

Mrs. Forestier: Right, because at four feet, you can't really fit a table and a chair in a sense.

***Wetlands Board
October 18, 2010***

Mrs. Rust: This is a boardwalk, it is a walking easement and we are not having a party on it, it is a boardwalk.

Mrs. Forestier: Would it better to maybe limit it to a square footage? That way we can figure out the best placement and if they want it a little bit wider like in the RPA.

Mr. Conner: We already cut it in half.

Mrs. Forestier: I know that.

Mr. Pineau: I tend to agree with Mary, if it is a passage way that is what it ought to be used for.

Mrs. Rust: That is what it is, it is a passage way. Now, if we were talking Ocean City, it would be six feet but, you know, it's a boardwalk for the kids. (Inaudible).

Mr. Pineau: I think so.

Mr. Lott: That was my original recommendation so...

Mr. Rudasill: We went from four to five and back to four, right?

Mrs. Forestier: You should read, you should read the modification again so somebody can make a motion

Mr. Rudasill: Four feet is not that wide. So if two people were walking... I am almost two feet wide.

Mr. Conner: I tell you, when you are using ten and twelve inch pilings to put a board walk in (Inaudible), I mean you have to use those pilings to get good enough foundation. If it is four foot than it is what it is but I would prefer five feet but if we can't, we can't.

Mr. Pineau: I don't have a problem with that, that is fine with me.

Mr. Rudasill: I am fine with that.

Mrs. Rust: Okay.

Mrs. Forestier: That is five feet... that is the decking right? Five foot decking.

Mr. Conner: That would make it much easier to build.

Mrs. Forestier: Five feet with a two foot buffer. Okay, read it again.

Mr. Bacon: All of the walkway is going to be going to the north of the pier or to the south?

Mr. Conner: Seventy foot from the left hand boundary line.

Mr. Bacon: If that walkway ends up on the other side of the floating dock, is that where it is supposed to be to or is it suppose to end where the floating dock is?

***Wetlands Board
October 18, 2010***

Mr. Conner: At seventy foot, there is probably going to be ten or fifteen foot past the dock.

Mr. Lott: I think we will work with Mr. Lewis, that may look silly to him.

Mr. Conner: The biggest concern was that he wanted it tied in with the neighbors because they visit there all the time.

Mr. Lott: We can write it that it would be no greater than, you can always say make it smaller.

Mr. Conner: We will agree to no more than seventy foot and no more than five foot wide and a two foot buffer.

Mr. Lott: Basically, we would word it “the location of the boardwalk will be determined with wetlands board staff and shall be no wider than five feet, would be limited to a maximum length of seventy feet and would be placed two feet landward of the rip rap revetment”.

Mrs. Rust: And there will be a recommendation for plantings?

Mr. Lott: Those plantings will be required with their building permit.

Mr. Rudasill: Now, is there any further discussion?

Mr. Lott: You just need to make a motion to approve including the modified condition.

Mr. Rudasill: Alright, is there a motion for approval with item number two changes reported.

Mr. Pineau: I move.

Mrs. Rust: And I second.

Mr. Rudasill: Okay, all in favor?

Mr. Pineau: Aye.

Mrs. Rust: Aye.

Mr. Rudasill: Aye. All opposed? Motion carries.

Mrs. Forestier: The permit will be ready in ten (10) working days.

Mr. Conner: Thank you.

OLD BUSINESS

Mr. Rudasill: Is there any old business to discuss?

NEW BUSINESS

2. Review of recently submitted applications

***Wetlands Board
October 18, 2010***

VMRC# 10-1308	Shirley Scercy (riprap revetment – non-tidal)
VMRC# 10-1453	Barry Johnson (pier replacement)
VMRC# 10-1454	Don Milleson (after-the-fact bulkhead)
VMRC# 10-1480	Eastern Virginia Land Co., Inc. (non-tidal)
VMRC# 10-1514	Aquia Harbour Property Owners Association (bulkhead)
VMRC# 10-0717	RETH Properties (non-tidal)

Mr. Rudasill: Recently submitted applications?

Mrs. Forestier: VMRC# 10-1308, Shirley Scercy (riprap revetment – non-tidal); VMRC# 10-1453, Barry Johnson (pier replacement); VMRC# 10-1454, Don Milleson (after-the-fact bulkhead); VMRC# 10-1480, Eastern Virginia Land Co., Inc. (non-tidal); VMRC# 10-1514, Aquia Harbour Property Owners Association (bulkhead); VMRC# 10-0717, R.E.T.H Properties (non-tidal). That was the limited listed of VMRC applications for the last few months.

CHAIRMAN’S REPORT

Mr. Rudasill: There is no chairman’s report. Does staff have anything else that we need to discuss?

Mrs. Forestier: The only thing was that we went to the demonstration by VIMS with the Fairfax County Wetlands Board and they thanked us profusely for attending.

Mr. Lott: We did also receive one other application that will have to go to the Wetlands Board. It is along the Rappahannock River for a homeowner association (HOA) pier. We will have to get in contact with them to see if they want to go as early as November. I know Dan will be on vacation in November and we would prefer to have the meeting in December. I will talk with them and they probably don’t understand that they need to go to the Wetlands Board. Generally piers are exempt but traditionally we have required HOA communities or commercial piers to go to the Wetlands Board. I think it is more to look at potential secondary impacts to wetlands.

Ms. Forestier: Many times, if the HOA, we would limit the number of slips to the number of homeowners and then for each homeowner that put in their own pier, you take away a slip so they could not use it for commercial purposes.

STAFF REPORT

3. Information on violations and enforcement

None

ADJOURNMENT

With no further business the meeting adjourned at 7:39 P.M.