

County Wetlands Board Minutes

June 10, 2008

Call to Order

The June 10, 2008 meeting of the Middlesex County Wetlands Board was called to order by Chairman Miller Smither at 9:00 A.M. in the Boardroom of the Historic Courthouse, Saluda, Virginia.

Present: Mr. J. Miller Smither – Chairman
Tom Hawksworth – Vice Chairman
Mr. Woodson Armstead
Mr. Dale Taylor
Mr. Archie Brooks

Staff present: Matt Kraegel, Planner
Betty Muncy, Administrative Secretary

Also present was Mr. Robert Neikirk from the Virginia Marine Resources Commission (VMRC).

Minutes

The Board considered the minutes of the May 13, 2008 meeting. On a motion by Mr. Hawksworth and a second by Mr. Taylor, the minutes were approved unanimously.

Public Hearings

The following applications were considered by the Board:

A. Rodney Leffler – Application #2008-0848

Chairman Smither read the applicant's proposal requesting to install 380' of 12" coir logs along an eroding bank for erosion protection. The property for which the application is being made is located on Healey's Creek at Tax Map # 39D-1-16. Mr. Kraegel read the VIMS report for the project.

Carissa Agnese was present to represent the applicant. Mrs. Agnese commented that the coir logs are proposed to be installed at the toe of the bank. There is approximately 100 linear feet of vegetated wetlands that will be transplanted above the mid-tide elevation. Mrs. Agnese noted that the waterfront area would be limbed up to promote vegetation growth and inspection would be done monthly.

Chairman Smither opened the public hearing. With there being no comment from the public, the hearing was closed.

Mr. Taylor stated that he would like to revisit the site in three months to see how the coir logs were working on this project. The motion to approve the application as follows was made by Mr. Taylor, seconded by Mr. Brooks and carried unanimously: installation of coir logs as proposed; vegetation in the footprint of the logs must be transplanted to an area between low and high tide; 100 sprigs of grass are to be planted; site inspection by homeowner monthly. This approval is granted for a period of 18 months.

B. Rosegill Development – Application 2008-0804

Chairman Smither read the application to install a 12' wide by 20' long floating kayak launch attached to a 6' wide x 24' long hinged ramp, as well as to install 160 square feet of rip rap around a stormwater pipe outflow. The proposed project is located on Urbanna Creek, at Tax Map 27-10-1. Mr. Kragel read the VIMS report, which recommended minimal clearing and grading of the steep slope for the walkway approach; limiting the pier dimensions to the minimum size needed to accommodate the intended uses; providing garbage containers to reduce solid waste in the waterway; locating the stormwater outfall entirely in the upland area if possible.

Chairman Smither opened the hearing for comments from the public. There were no comments from the public, other than the agent, and the public portion of the hearing was closed.

Mr. Jason Miles of Bay Design Group was present to represent the applicant. Mr. Miles noted that the length and width of the launch and hinged ramp was designed to allow access by the disabled. Mr. Miles noted that if the outfall pipe was pulled back there would be more impact to erosion. The riprap around the outfall pipe is proposed for a beach area with no vegetation present.

Mr. Hawksworth commented that he would prefer the width of the pier be reduced. It was noted that even 6 feet in width would require a special permit from Army Corps. Mr. Neikirk commented that a pier of additional width would normally be permitted with additional height to compensate for the width. The maximum height of the hinged ramp is 3.5' above mean low water. Mr. Miles again stated that any additional height would create problems with ADA access.

Mr. Taylor and Mr. Armstead were both able to visit the site from the water. Mr. Taylor expressed his opposition to the length of the launch and ramp and stated that he would agree to the pier being reduced to 5' wide with a height of 5'. Mr. Armstead commented that the outflow should also be moved upland and that there was plenty of room on either side to replant. Mr. Miles commented that the outflow was proposed for a location that was outside existing wetlands.

Mr. Taylor made a motion to approve the application on the condition that the dock be 5' wide and raised to 5' in height and the outfall approved, with any disturbed vegetation replanted. This motion was seconded by Mr. Brooks. Much discussion was had regarding the need to preserve ADA access, while limiting the extension into the creek. Mr. Miles stated that it may be possible to angle the ramp so as to preserve an acceptable angle for ADA standards. The original motion and second was amended as follows: approval of the kayak launch, hinged ramp to be 5' wide x 4' high with the length 24' and angled if possible to limit the extent that it went into the creek, and approving the placement of the outfall and riprap with wetlands replanted if there is any disturbance. This motion was approved by unanimous vote. The permit will be good for 18- months.

C. Chesapeake Leisure, LLC – Application #2008-0805

The application to construct 310' of vinyl bulkhead to replace an existing, failing bulkhead under the boathouse at Tax Map 40-381 was presented. Mr. Kraegel read the comments from VIMS which included replacement of bulkhead within the current alignment wherever possible and removal of demolition debris from the water with proper disposition in an approved, upland location. This project was represented by Joey Scott, who noted that drawings of the proposed project had been submitted with benchmarks tied to existing structures. The new bulkhead is to be placed within 2" of the existing bulkhead. Access to the project will be from the water.

Chairman Miller opened the public hearing for comments from the public. There being no comments, the public portion of the hearing was closed and opened for questions and comments from the Board.

Mr. Brooks questioned how at least two sections that were bulging would be handled. Mr. Scott indicated that the filter cloth behind those sections had failed. The material pushing it out would be removed with a small excavator so that the bulkhead could be pushed back.

The motion to approve the project as proposed with disposal of demolition/construction debris properly was made by Mr. Hawksworth, seconded by Mr. Armstead and carried unanimously. This permit will be good for 18 months.

D. John Morgan – Application #2008-0419

This application is to repair an existing 92' of rip rap by installing additional stone to raise it to a height of 4' from mean low water, 2' above mean high water at Tax Map 40-17-1A. Mr. Kraegel presented the VIMS report which recommended re-working and replacing scattered stones. If possible, the existing stone should be removed to install filter cloth before replacing the stone, and maintaining the base width of 6-8 feet and height of 1' or less above the mean high water elevation.

Michele Meredith was present to represent the applicant. Mrs. Meredith commented that she had no problems with the VIMS recommendations. Chairman Smither opened the hearing for comments from the public. There being no comments, the public portion of the hearing was closed.

Board members questioned the owner's reasoning for requesting additional height. Mr. Hawksworth noted that he had no problem with what was proposed, however, it will entail a lot of work and expense. Mrs. Meredith noted that she believed the owner would be delaying actual work on the project anyway due to the expense.

The motion to table action on the request to give the applicant time to decide how he wishes to proceed was made by Mr. Hawksworth, seconded by Mr. Armstead and carried unanimously. Further discussion and action will be scheduled for the next regular meeting on July 8, 2008.

E. T. H. Crittenden & Son, Inc. c/o Fred S. Crittenden – Application 2006-1523

This application is for re-approval of a previous application that expired on February 8, 2008. Permission had been granted to construct a 35' x 16' concrete boat ramp for access at Tax Map 40-2E-12. Mr. Kraegel read the VIMS report which noted that nothing had changed from their original findings and recommendation. VIMS remained concerned about the feasibility of launching boats from this shallow beach location and noted that boat ramps should not be located where sand trapping is required to provide navigation or where major bank grading is necessary for upland access. The proposed ramp may interfere with natural sand movement and a uniformly wide sand beach is important to protect the toe of the adjacent high banks from wave action.

Fred Crittenden was present and commented that this was the same application that was approved previously. Mr. Crittenden stated that he thought the time limit on the local wetlands permit expired at the same time as the VMRC permit, which in this case, expires on February 27, 2010. Mr. Crittenden also stated that he did not realize the project had to be marked again. Mr. Neikirk from VMRC stated that in this case, the Wetlands Board could treat the application as a renewal, to expire in another 18 months.

The Chairman opened the public hearing for comments from the public. Mr. Jim Barber, speaking on behalf of adjoining property owner, Mrs. Tillotson expressed concern with erosion that could be caused by any access for the ramp. Mr. Barber has not seen any drawings showing access. Mrs. Tillotson questioned whether this would be a community ramp. There being no further comments, the public portion of the hearing was closed.

Mr. Smither commented that the Wetlands Board jurisdiction only covered the ramp. Permits from another County department would be necessary to grant access to the beach. Mr. Crittenden stated that there is an erosion problem west of this property; however, he would be whatever is necessary and would work in harmony with his neighbors.

As the on-site conditions have not changed, the motion to approve the application as previously approved was made by Mr. Armstead and seconded by Mr. Brooks. The permit approval is good for 18 months.

F. Jamison Cove Townhouses – Application #2008-0545

This proposal, requesting to remove the existing pier and install a 6' wide x 48' community pier with a 20' x 10' "L" head and a 5' x 10' step down, located on Jamison Cove at Tax Map 20A-36B had been tabled from last month's meeting. The proposed pier is in the same location, however additional channelward length is proposed to reach water naturally deep enough for navigation by small boats, kayaks, and canoes. Staff

recommended that the pier must be 4' above wetlands and only 5' wide over the tidal area, rather than the 6' proposed. Staff then read the VIMS report for the project.

Joey Scott was present to represent the applicant. Mr. Scott stated that he had no problem with reducing the width of the proposed pier.

The Chairman opened the hearing for comments from the public. There being no comments, the public portion of the hearing was closed. The motion to approve the application with the following conditions was made by Mr. Hawksworth, seconded by Mr. Taylor and carried unanimously: demolition debris must be removed from the water and disposed of in an approved upland location; pier must be 4' high and 5' wide above the tidal area. This permit approval is good for 18 months.

G. Jane Hall – Application #2008-0485

This project was tabled last month as a request to replace a 50' groin as well as construct a new 50' groin. This project is located on the Piankatank River at Tax Map 46-2-19. Staff recommended that the proposed groin be of a low-profile design, meaning that the height at the channelward end of the groin is no greater than mean low water elevation. This will allow for sand to wash and not become trapped which would be possible in the drawing originally proposed. Mr. Kragel read the VIMS report of the project.

Chip Hall was present to represent his wife. He stated that the new groin is proposed to be constructed similar to the existing groin. Currently, sand is exposed at the channelward end of the existing groin 50% of the time at mean low tide. If the recommendations were followed, then the groin could not be replaced in its current design.

The motion to approve the project as original proposed, building a new 50' groin and repair/rebuilding a 50' groin in the same design as currently exists, was made by Mr. Hawksworth, seconded by Mr. Brooks and carried unanimously. This permit approval is good for 18 months.

H. Benjamin Marshall – Application #2008-0568

This application is to construct a 198' x 4' timber bulkhead directly in front of the existing bulkhead. This project is located on Meachims Creek at Tax Map 30A-11-A. Action was tabled from the last month's meeting, pending submittal of new drawings to show the placement of 193' of timber bulkhead within 2' of the existing bulkhead and the remaining 5' to be removed with a new timber construction in the same footprint, behind the wetlands.

Pamela Marshall, the co-owner, was present and stated that the new drawing had been submitted. Chairman Smither opened the hearing for comments. There being no comments, the public portion of the hearing was closed. The motion to approve the application based on the revised drawings submitted was made by Mr. Hawksworth, seconded by Mr. Armstead and carried unanimously. This permit approval is good for 18 months.

I. Waterview Landing LLC. – Application #2008-0534

This application, a proposal requesting to install a new community pier 8' wide x 433' long with a 60 x 6' "T" head as well as 18 wetslips had been continued from the last meeting. Approval of the application was recommended with several conditions as follows: height over the 16' of wetlands be 4' and width reduced to 5'; signs posted for pier rules, such as no overnight mooring; trash cans easily accessible and maintained to help prevent solid waste from entering water. The Chairman reminded the public that the jurisdiction of the Wetlands Board was only with the pier. The dredging part of the application would be considered by VMRC.

Mr. Smither opened the hearing for comments, however, reminded the public that only new information should be presented.

Chuck Rodley with Williamsburg Environmental Group was present as agent for the applicant. Mr. Rodley stated that he had no problem with the recommendations of VIMS and staff. It was noted that this area of

placement was chosen because it had the least amount of impact. Mr. Rodley stated that there would be a host of rules by the association that would regulate the pier use and no private piers would be permitted. Randy Revercomb expressed concerns with the proximity of proposed dredging to his pier. Mr. Rodley confirmed that the location of dredging had not been marked exactly.

Bob Paxton commented that the staff report presented did not list any of the negative impacts listed by the VIMS report. Mr. Paxton noted the criteria of the Wetlands Ordinance regarding approval of applications.

Russell Fitchett commented about the current pristine condition of the creek that would be lost if this application is allowed to proceed.

Robert Gary questioned if there is anything that states that additional boats could not tie up along the pier. With a pier this length, there is a potential for a greater number of boats.

There being no further comments, the public portion of the hearing was closed. Board members addressed their questions/comments to the agent. Mr. Rodley commented that the VIMS report states that there are less impacts in using a community pier then there would be if private piers were allowed; there are no plans to allow mooring alongside the pier; pier access will be limited to only those property owners in the first 18-lot phase; homeowner restrictions would control other access.

Mr. Hawksworth asked if the applicant had considered the impacts of maintaining the dredged channel. Mr. Neikirk of VMRC confirmed that the Wetlands Board could consider the impacts of this dredging since it was close to wetlands areas.

Mr. Brooks commented that he could see the potential for much environmental damage and damage to the wetlands. Mr. Taylor commented that he has not seen anything that would show that the project will not destroy wetlands and added that his concern is with the entire creek.

Mr. Armstead noted that the area along the waterfront would be a common area; how would those areas be protected from people trampling through the grasses or pulling kayaks through them. Mr. Armstead asked about maintenance dredging of the channel and who would be responsible for paying for that. Mr. Rodley stated that the Homeowners Association would be responsible for maintaining the channel and the pier.

Mr. Smither read the section of the Wetlands Ordinance that states that the public/private benefit of a project must exceed the public/private detriment.

At the agent's request, Mr. Smither called for a recess while the agent conferred with his clients. Upon reconvening, Mr. Rodley requested that action be deferred to allow the applicant time to meet with the residents of the area to discuss possible solutions to their concerns. The motion to extend action on the application to the August 12th meeting, allowing time for the applicant to meet with concerned parties, was made by Mr. Hawksworth, seconded by Mr. Brooks and carried unanimously.

New Business

Chairman Smither noted that two (2) stop work orders would be addressed at the July meeting.

Adjournment

With no further business to discuss, Mr. Hawksworth moved to adjourn the meeting, seconded by Mr. Taylor the meeting was adjourned unanimously.

Respectfully submitted,

Wetlands Board Chair

Date