

County Wetlands Board Minutes

July 8, 2008

Call to Order

The July 8, 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: J. Miller Smither – Chairman
Tom Hawksworth – Vice Chairman
Woodson Armstead
Archie Brooks

Staff present: Betty Muncy, Administrative Secretary

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

Mr. Dale Taylor was absent from the meeting.

Minutes

The Board considered the minutes of the June 10, 2008 meeting. On a motion by Mr. Armstead and a second by Mr. Brooks, the minutes were approved unanimously.

Public Hearings

The following applications were considered by the Board:

A. Robert Sampson – Application #2008-0894

The application requesting to install a total of 180 linear feet of coir logs along eroding banks for erosion protection was presented. The property for which the application is being made is located on Jackson Creek at Tax Map # 40-235. Mrs. Muncy read the VIMS report for the project which noted that if anything was done, the installation of the logs, transplanting of grasses, removal of shoreline debris and routine inspection was a good low-impact approach.

Carissa Agnese was present to represent the applicant. Mrs. Agnese commented that the lawn connects with the beach on the left side of the property and there has been some undercutting of the lawn grass. It is proposed that the coir logs will be stuffed under the lawn, staked and grasses transplanted. On the steeper, right side of the property, the logs will be placed higher on the beach area and underbrush limbed up to promote natural growth. Mrs. Agnese noted that while the project was not marked when the Board made its site visit, pictures taken in April showed the property marked and the property owner said the project was marked two days prior to the site visit. Another project in the same area had had stakes removed also.

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

Mr. Hawksworth stated that the policy of the Board is to view marked projects prior to the meeting. If the projects are not marked properly, then a site visit and action are postponed until the next month. Mrs. Agnese stated that she could understand the policy if the application was for a permanent structure, however, coir logs are a degradable product that should not last more than several years. Board members agreed that they needed

to stick to the policy. The motion to table action to the August meeting was made by Mr. Hawksworth, seconded by Mr. Brooks and carried unanimously.

B. Robert Fitch – Application 2008-0895

The application to install 220 linear feet of coir logs for erosion protection was presented. The proposed project is located on Perkins Creek, at Tax Map 20C-1-7. Mrs. Muncy read the VIMS report, which recommended leaving the undercut bank in its natural state, however, supported the installation of fiber logs if some action is desired. VIMS also recommended transplanting of any vegetation and routine inspection.

Carissa Agnese was present as agent. Mrs. Agnese noted that the logs would be pushed into the root masses of undercut trees, which would help to stabilize the logs and promote vegetation growth. Limbs would be trimmed to also promote growth. 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. The motion to approve the application with the following recommendations was made by Mr. Hawksworth, seconded by Mr. Armstead and carried unanimously. The permit will be good for 18 months, expiring January 8, 2010.

C. David Keitz – Application #2008-0904

The application to install 100 linear feet of timber bulkhead in front of existing rip rap and filling with red clay and sand at Tax Map 30A-1-31A was presented. Mrs. Muncy read the comments from VIMS. The VIMS agent noted that the preferred alternative for bank stabilization was to grade the bank to a sustainable slope and create distance between the bank and tidal waters by building a wetland. The bank modification should be limited to those portions of the bank needing stabilization and should be densely re-vegetated with native small trees, shrubs and deep rooted grasses. The agent for this project was Mr. James Jessie, Jr., who was not present, but was represented by Patricia Wheeler.

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.

Board members commented that they had never seen an application similar to this, where a bulkhead was placed in front of riprap. It was noted that the fill associated with this application would create up to three hundred square feet of additional property. Members commented that the rocks were doing the job of breaking the waves and the proposed backfill would cover up the grasses, which is not in keeping with the job of the Wetlands Board. Mr. Smither stated that he would like to discuss the project with the agent for a more clear understanding of the proposal. Mrs. Wheeler indicated that she could contact Mr. Jessie by phone, however, Mr. Smither stated that because the Wetlands Board has been criticized in the past for not following the same procedure with everyone, he did not want to set a precedent of making phone calls during meetings.

Mr. Smither recognized Mr. Keitz, property owner. Mr. Keitz commented that neighboring properties had installed bulkheads from three to five years ago and had success in the growth of grasses. There are very few grasses in front of the existing riprap and he hoped that this would help to promote their growth. Mr. Keitz also stated that his property has a steep bank that is sliding toward the water. He has removed a gazebo from platform near the edge of the property because the platform has shifted. Mr. Smither commented that he did not believe the bulkhead as proposed would help with this problem.

Mr. Keitz requested that the Board delay action on the proposal until he could speak with Mr. Jessie. The motion to table action on the request to August was made by Mr. Hawksworth, seconded by Mr. Brooks and carried unanimously.

D. Mike Prindes – Application #2008-0905

The application to install 100' of vinyl bulkhead in front of an existing timber bulkhead was presented. Mrs. Muncy presented the VIMS report and recommendation that the preferred alternative to bulkhead replacement was to install revetment landward of the existing bulkhead. This would be less environmentally intrusive, provide some habitat opportunities and have less impact on nearshore wave dynamics. It was noted that the

project drawing indicated that the existing timber bulkhead extended the full width of the property, however, there currently was no bulkhead to the right of the existing pier. This area currently has vegetated wetlands in place.

Patricia Wheeler was present to represent the agent, James Jessie. Mr. Smither opened the hearing for comments from the public. There being no comments, the public portion of the hearing was closed. Members agreed that the new bulkhead must be put in place behind the existing wetlands, this may require removal of underbrush other than wetlands grasses and changing the profile of the bulkhead in this area. Revised drawings should be submitted to show the correct conditions (no existing bulkhead to the right of the pier) and the proposed new construction in this area. The motion to approve the application, pending submittal of revised drawings to show the current condition and installation of the new bulkhead behind the grasses in this area, was made by Mr. Armstead, seconded by Mr. Hawksworth and carried unanimously. This permit will be valid for a period of 18 months, to expire January 8, 2010.

E. Don Lacy – Application #2008-1001

The portion of this application falling within Wetlands Board jurisdiction is the installation of a 100' x 5' marsh sill and eight (8) 20' x 12" coir logs for erosion protection. This project is located on Parrot's creek at Tax Map 9-7-3. Other projects proposed with this application that are not in the Board's jurisdiction include: demolition of an existing boathouse, pier access, grading and replanting, and a 195' x 5' open pile pier. Mrs. Muncy presented the VIMS report for the project which questioned the need for any of the proposed action along the shoreline, as there are no permanent structures at risk and very minor shoreline erosion. It was suggested that installing the marsh sill and removing several large trees appears excessive. However, if some type of erosion control structure is considered necessary, then the marsh sill would be the preferred alternative. Routine inspection of the fiber logs is recommended.

Michele Meredith was present to represent the applicant. She noted that this project had been marked in May and understood that action would be tabled because the Board found that it was not marked when they conducted their site visit, but would like to clarify any questions the Board may have. Mr. Smither opened the public hearing for comments on the project. There being no comment, the public hearing was closed. Mrs. Meredith indicated that it is proposed to remove the trees that have been undercut and install coir logs in the hope to promote vegetation growth from the other side of the project. The motion to continue action until the August meeting was made by Mr. Brooks, seconded by Mr. Armstead and carried unanimously.

F. John Ward – Application #2008-1044

The portion of this application falling within Wetlands Board jurisdiction is the installation of one (1) 10' x 12" coir log for erosion protection at Tax Map 40-39-3. This project is located on Jackson Creek. Projects outside the jurisdiction include installing a block retaining wall behind existing riprap, walkways and replacement of an existing open-pile pier. Mrs. Muncy read the VIMS recommendation which suggested re-working the existing stone and raising the height for greater storm protection as an alternative over installing a second type of hard structure. Routine inspection of the log is also recommended.

Michele Meredith was present to represent the applicant. Mr. Smither opened the public hearing for comments. There being none, the public portion of the hearing was closed. The motion to approve the application as submitted was made by Mr. Brooks, seconded by Mr. Hawksworth and carried unanimously. The permit will be good for 18 months, expiring January 8, 2010.

Old Business

A. 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. This application was tabled from last month until the owner could be contacted regarding the VIMS proposal. The VIMS report recommended re-removing the stone, installing filter cloth and re-working and replacing scattered stones, maintaining the base

width of 6-8 feet and height of 1' or less above the mean high water elevation. The Board agreed that they believed it may do more damage than good to remove the existing rock to add filter cloth.

Michele Meredith was present to represent the applicant. Mrs. Meredith noted that the owner was concerned most with the area that is underwater, the channelward 27' of the project, and suggested that this area could be removed, filter cloth added and stones re-worked. Board members agreed that this would be an appropriate action, as long as other VIMS recommendations as to size of the base and height were followed. The motion to approve the application, with the submission of revised drawings showing the end 27' of the project with filter cloth added, 8' base and maximum height of 1' above mean high water was made by Mr. Brooks, seconded by Mr. Armstead and carried unanimously. This permit would be good for 18 months, to expire January 8, 2010.

Show Cause

A. Tansill Ritchie Johnson

Mrs. Muncy reported that a stop work notice was posted on this property, Tax Map 20-13, after Wetlands Board members confirmed that riprap was being installed without permits. This property forms a peninsula at Perkins Creek, Robinson Creek and the Rappahannock River and riprap has been added to the land and in the form of rock jetties over the years.

Mrs. Tansill Ritchie Johnson was present as owner of the property. Mrs. Johnson noted that a majority of the riprap had been placed in the 1960's when her mother purchased the property and has been added over the years along with marsh grass plantings. Mrs. Johnson stated that her intent was never to harm the environment and expressed her remorse for proceeding without proper permits. Mrs. Johnson presented pictures of the area showing previous riprap applications and current conditions.

Mr. Smither commented that he had visited the site in the 60's and that the area was lush then. A cottage previously located on the point had been destroyed with Hurricane Isabel in 2003. Mr. Smither explained the process involved in show cause investigations: determination of violation; matrix of damage; VIMS review; determination of civil penalty from \$250.00 - \$10,000.00. Mr. Smither believed that there was no malice in Mrs. Johnson's actions.

Mrs. Johnson was asked to mark where the stone was placed. The motion to table action until after another site was made was made by Mr. Brooks, seconded by Mr. Armstead and carried unanimously.

Show Cause

A return visit to the property of Mr. Cloyde Wiley at Tax Map 20A-5-3 confirmed that no violation of the Wetlands Ordinance existed. All construction debris had been removed from the wetlands area.

Re-Inspection Fees

Mr. Smither noted that this had been the third month that actions were tabled on applications because the projects were not marked properly. It was suggested that a re-inspection fee should be imposed on applicants who do not follow procedures as a way to compensate for the additional time and fuel that is used in re-visiting the sites. Mr. Neikirk commented that he would look at other Wetlands Boards for suggestions as to how they handle re-inspections. Mrs. Muncy stated that the Building Department currently charges a fee of \$25.00 for reinspections that must be paid before the inspector revisits a project. The motion to request the Board of Supervisors consideration of a \$25.00 re-inspection fee for the Wetlands Board was made by Mr. Hawksworth, seconded by Mr. Armstead and carried unanimously.

Water View Landing

Board members were reminded that the Water View Landing Application would be back on the agenda for the August meeting. Members should be considering the applications overall impact on wetlands. Mr. Neikirk

noted that the application may be revised because a recent visit to the site indicate that there is one (1) foot less water depth than suggested in the application.

Adjournment

With no further business to discuss, the motion to adjourn the meeting was made by Mr. Armstead, seconded by Mr. Brooks and carried unanimously.

Respectfully submitted,

Wetlands Board Chair

Date