



DEPARTMENT OF PLANNING AND ZONING
NORTHAMPTON COUNTY, VIRGINIA

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**NORTHAMPTON COUNTY
WETLANDS BOARD**

Minutes
October 21, 2009

This was the regular meeting of the Northampton County Wetlands Board conducted on Wednesday, October 21, 2009 and held at 11:00 a.m. in the former circuit courtroom located at 16404 Courthouse Road in Eastville, Va., for the purpose of conducting regular business.

Those members present were Marshall Cox, Chairman; Bowdoin Lusk, Vice-Chairman; Robert Meyers, John Chubb, Nancy Wells Drury, Mark Gates and Dot Field.

Also present were Melissa Kellam, Zoning Administrator; Katrina Hickman, Zoning Inspector; and Kay Downing, Secretary to the Board. Mr. Hank Badger from the Virginia Marine Resources Commission was also in attendance.

The Chairman called the meeting to order and established a quorum.

It is noted for the record that those members present met at 8:30 a.m. and conducted site visits to the applicants' properties with Ms. Hickman.

The first scheduled public hearing was called to order.

All those wishing to speak on any matter before the Board were sworn in by the Chairman.

A. MRC 09-1178: Nelson & Marianne Moe have applied to construct 130 linear feet of quarry stone rip rap revetment to prevent erosion with grading and construction to be done from the upland. The property is described as being

parcel 1A of Tax Map 28, double circle 5, located in the Sunset Shores Subdivision, Westerhouse Neck on the Chesapeake Bay.

Ms. Kellam presented the staff report as follows.

BACKGROUND INFORMATION AND FACT FINDING FOR MRC # 09-1178

VIMS Findings and Recommendations Summary: (1) Construct breakwater system, if adjacent property owners participate. (2) Construct a riprap revetment landward of beach impacts.

Adjacent Property Owners: No correspondence received.

Staff Recommendation: Although staff does agree the preferred approach should be construction of a breakwater system, the application proposed by the owner should be considered a sound alternative taking into consideration VIMS comment number 2. It would be possible to move the toe of the revetment landward to reduce wetland impact. Because the buffer area landward of the project is sparsely vegetated, this move would not greatly increase the impacts to the buffer. A connection to the riprap revetment on the property to the north should not dictate moving this project more landward because this existing damaged revetment is in need of a complete repair and possibly relocation. To the south no shoreline structures exists. Therefore, staff would recommend approval with the consideration of the project being moved more landward.

Mr. Ben Mears, agent for the applicant, stated that the riprap revetment would be 130 feet wide and noted that erosion had ensued since the application was submitted. He noted that it would not pose a problem if the project was pulled landward.

Mr. Chubb asked if any future engineering problems would occur if the riprap is not kept in alignment with that to the north. Mr. Mears stated his opinion that the beach would seek its balance in the alignment; however, trying to stay in alignment would result in fill being installed. He noted that they wished to stay within staff recommendations.

Ms. Field asked for clarification concerning neighboring properties and projects. Ms. Kellam stated that neighbors to the north had an approved project but it appears that inadequately sized stone was used. She stated that three other similar projects had been installed and two were repaired but the third project was not.

Mr. Meyers asked if grading would be necessary on the upland since it appears that runoff is running towards the bank. Mr. Mears replied that grading would be necessary. Ms. Field stated her option that grading may cause further problems. Mr. Mears suggested that a berm could possibly be installed. However, Mr. Lusk questioned if the project would be that far inland to the ditch area. Mr. Mears stated that it may if the project is shifted landward due to the current erosion situation. He noted that he could try to blend in what is there already with the project.

Discussion followed on the existing swale and stormwater runoff effects. Mr. Mears stated that grading on the Partington property and Moe property had eliminated the double-tiered dunes and grasses that use to exist. It was his understanding that a little rock had been installed behind the dune which has since eroded and the stone has fallen away. Mr. Mears also noted that the swale or ditch was dry with 2 to 2.5 feet of sand in the bottom.

Mr. Meyers stated his opinion that without repairs to the Partington project there is concern that the northern edge of the Moe project would be undermined from the rear.

The Chairman called for public comments. There being none the hearing was closed.

Ms. Field stated her concern that repairs should be necessary to neighboring projects and Mr. Chubb stated his opinion that the ditch should be filled.

Mr. Lusk stated that the project is sound and that erosion is steadily occurring. It was his opinion that the applicant should be allowed to proceed in order to protect his property.

Action:

Motion was made by Mr. Lusk to approve the application with the condition that the project be moved landward approximately eight to ten feet due to the additional erosion that has taken place since the application was filed. Ms. Field suggested that a berm be required as well. Mr. Lusk noted that the berm area as discussed was beyond the Board's jurisdiction and should not be included. Motion was seconded by Mrs. Drury and carried with Ms. Field voting "no". New revised drawings should be submitted for the file.

Ms. Kellam noted also that erosion and sediment control permits are required by the county in cases where grading occurs.

The second public hearing was called to order.

B. VMRC 09-1177: Samuel B. White has applied to construct approximately 77 feet of rip-rap revetment between eroding upland bank and marsh fringe. Minimal clearing and grading will be required. The property is described as being parcel A of Tax Map 75, double circle 2, located on Huntington Lane in the Cherrystone area.

Ms. Kellam presented the staff report as follows.

BACKGROUND INFORMATION AND FACT FINDING FOR VMRC # 09-1177

VIMS Findings and Recommendations Summary: *These comments had not been received at the time of writing this report.*

Adjacent Property Owners: *No correspondence received.*

Staff Recommendation: *The applicant proposes to construct a revetment against an eroded bank dropping off approximately two to three feet. The wetlands area adjacent to the project site contains a healthy marsh fringe. The bank in the project area should be considered minor erosion. Staff recommends approval of one of the two project revisions to reduce impacts to the wetlands: (1) instead of a revetment, re-grade and vegetate the bank and buffer, or (2) reduce the scale of the revetment and move the toe of the project landward. Both options would require more impacts to the buffer area and a separate zoning permit would be required.*

The VIMS Report and Recommendations are as follows:

From a marine environmental viewpoint, it would be preferable at this site, to place the proposed riprap channelward of the existing marsh fringe, in the form of a marsh toe or sill structure, rather than landward against the bank, as proposed. The existing marsh fringe plays a role in reducing wave energy and providing protection to the shoreline. This option would provide protection to the existing marsh fringe as well as the upland bank. On-shore revetments sever the connection between the upland, shoreline, and deeper water areas, changing natural shoreline to rock resulting in a loss of marine resources, a loss in the ability of upland to filter runoff, as well as a change in the type of animals that can live along this shoreline.

Any unstable upland bank areas can be selectively graded as minimally as necessary to achieve a maintainable slope and densely planted with native wetlands plants, shrubs and deep-rooted grasses for stabilization. Vegetation provides natural shoreline stabilization as well as habitat and water quality benefits. Bank modifications should be limited to only those portions of the bank that need stabilization; stable vegetated banks should not be graded.

**Construct a marsh toe structure channelward of the existing marsh fringe*

**Selectively grade unstable bank areas as necessary and densely plant with native shoreline vegetation.*

Mr. Ben Mears, agent for the applicant, reviewed the cross-section drawing noting that two feet would be cut off the top of the upland area that is sandy and very sparsely vegetated with patens. It was his opinion that patens would grow back into the graded area and the disturbed area would be healed. It was their intentions to keep the footprint as small as possible, but that it was important to get the stone installed at least two feet below ground level.

The Chairman called for public comments. There being none the hearing was closed and discussion continued.

Mr. Badger stated that approximately 77 square feet of vegetated wetlands are proposed to be impacted by the project. Therefore, the applicant must address mitigation and replacement of wetlands.

Mr. Mears stated that the project could be pulled at least one foot landward eliminating any disturbance of the wetlands since the alignment is irregular and not perfectly straight.

Action:

Motion was made by Ms. Field to approved with revised drawings showing that the project be moved one foot landward to minize impact to vegetated wetlands where patens are growing. Second was made by Mr. Chubb and carried unanimously.

The last hearing was called to order.

C. VMRC 09-1084: Richard & Elaine Benaburger have applied to install approximately 36 +/- Class 1 rip rap stones along a section of shoreline at the base of the bank to preserve the embankment and established trees. The retaining wall/revetment will be approximately 22 feet in length, 6 feet in height, have two (2) 7-foot return walls with fill placed and planted behind it. The property is described as being parcel 3 of Tax Map 2A, double circle 1, and located at 1700 Eden Head Way in the Concord Wharf area.

Ms. Kellam presented the staff report as follows.

BACKGROUND INFORMATION AND FACT FINDING FOR VMRC # 09-1084

VIMS Findings and Recommendations: *These comments had not been received at the time of writing this report.*

Adjacent Property Owners: *No correspondence received.*

Staff Recommendation: *It should be noted that the proposed subject property has current wetlands, buffer and erosion & sediment control violations. The owner is actively working to resolve these violations. The application in front of the Wetlands Board for consideration is a proposal to save an existing tree along the bank, which will have minimal impacts to the wetlands. Staff recommends approval of the project knowing that it may be a temporary solution and if the tree does not survive the bank should be graded back to a gentler slope. Grading of the bank would require a separate zoning permit.*

Ms. Kellam also informed the Board that the wetlands violations on this property are being tended by staff and should not impact this application.

The VIMS Report and Recommendation are as follows:

If the tree to be preserved is in healthy condition, the proposed project would appear to be justified and the impacts expected to be minimal provided the riprap and fill can be placed as landward of wetlands as practical. Standard erosion and sediment control measures should be employed during implementation of this project.

**Construction riprap and fill landward of wetlands as practical*

**Employ erosion and sediment control measures*

Ms. Ellen Grimes, agent for the applicant, stated that the plan would clear the existing ivy leaving 6 to 8 inch stems which is to be trimmed on a regular basis. American Beach Grass will be planted along with other landscaping plants in the fill material area.

Ms. Field asked about the violations mentioned by Ms. Kellam. Ms. Kellam stated that an Erosion and Sediment Control permit is required for the clearing that has taken place. Ms. Grimes noted that obnoxious weeds and debris have been pulled out of the buffer with no permit.

Ms. Hickman added that when she had first visited the property it was completely bare along the shoreline so she could not verify what originally existed. Ms. Grimes stated that poison ivy had been removed according to the owner.

The Chairman called for public comments. There being none, the hearing was concluded.

Mr. Chubb recommended that the project be approved but should the tree not survive then the bank should be re-graded to its natural state by removing the proposed stone wall.

Ms. Field stated her opinion that either the tree roots will be inhibited by the rocks or the roots will compromise the wall. Either way the project will not work in the long run.

Action:

Motion was made by Mr. Lusk to approve the application and project as submitted. Second was made by Mr. Chubb and carried with Ms. Field voting "no".

New Business

Under new business the Board granted one year extensions to Diana King on VMRC 08-1126 for her project at Battle Point and to The Nature Conservancy for VMRC 08-1581 concerning the living shoreline project along Oyster harbor.

Ms. King was present and presented pictures of her property depicting the erosion that has occurred over the last year or so. She noted that two groins had been installed but now it is evident that the third groin is needed which can be accomplished by the early part of 2010.

Motion to allow a one year extension until August of 2010 was made by Mr. Gates and seconded by Mr. Lusk. The motion carried.

Mr. Joe Scalf, agent for The Nature Conservancy, gave a power point presentation concerning the Oyster Harbor project. He noted that the only portion of the project that needs to be completed is some hand-planting of vegetation.

Motion to grant a one year extension was made by Mr. Meyers and seconded by Ms. Drury. The motion carried.

Ms. Kellam reported that no new applications have been received to date.

Ms. Hickman stated that she is proceeding with various wetlands violations with nothing new to report.

Old Business

There was no old business to report.

Statements from the Public

There were no comments received from the public.

Consideration of Minutes

The minutes of June 17, 2009 meeting were approved upon proper motion by Mr. Lusk and second by Mr. Meyers.

Adjourn

There being no further business the meeting was adjourned at 12:33 p.m.

Chairman

Secretary