

Wetlands Board

September 9, 2015

A. Roll Call

B. Minutes

From August 12, 2015 Board Meeting

C. Public Hearings

1. W-21-15/VMRC15-0873: Reece-258 Sandy Bay Road, Bulkhead and Boat ramp

D. Board Considerations - None

E. Matters of Special Privilege

F. Adjournment

Wetland Board Case W-21-15/VMRC 15-0873: 258 Sandy Bay Road

Staff report for the September 9, 2015 Wetland Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Wetland Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: John Reece

Owner: John Reece

Location: 258 Sandy Bay Road

Parcel: Portion of Neck-O-Land

PIN: 4730100012

Watershed: Powhatan Creek, tidal mainstem (HUC JL 31)

Proposed Activity:

1. Install an 80 foot seawall (bulkhead).
2. Build a low, 40 foot long shoreline delineation wall between at the wetland/upland interface.
3. Boat ramp.
4. Open pile pier with boathouse

Wetland Impacts: 80 sq. ft. vegetated impacts, Type VII, Arrow Arum-Pickerel Weed Community (20 sq ft – item 1; 40 sq ft – item 2; 20 sq ft – item 3)
250 sq. ft. subaqueous bottom

Project Discussion

Mr. John Reece has applied for a Wetlands Permit to construct an 80 foot seawall, a 40 foot shoreline delineation wall and a boat ramp at his residence, 258 Sandy Bay Road. Mr. Reece bought the property in 2012, remodeled the house in 2013, submitted a conceptual plan to subdivide the property into 3 lots in 2013, and was granted approval on a Soil and Water Quality Conservation Plan to have horses on the property in 2014.

For Proposed Activity Item #1, Mr. Reece proposes to build an 80-foot bulkhead along the Powhatan Creek mainstem where the thalweg is nearest the existing bank. Even though the bank is vertical and somewhat undercut, according to the aerial photography, it has been in a stable condition since the home was built in 1969. Using the VIMS-CCRM Coastal Management Decision Tree for Undefined Shorelines, the appropriate shoreline protection structure is either a marsh with fiber log or a riprap revetment, depending upon the nearshore depth of water.

For Proposed Activity Item #2, Mr. Reece proposes to build a low wall to delineate (separate) between the marsh and the uplands. This area of the property is experiencing no tidal erosion. Any upland erosion recently experienced would be from the disturbance created from recent house renovations and from the removal of several trees (with permission) adjacent to the marsh.

For Proposed Activity Item #3, there are several commercial boat ramps in the vicinity. One is the James City County owned and operated James City County Marina (Jamestown Yacht Basin) and the other is a commercial ramp located at 297 Neck-O-Land Road, across from Gatehouse Farms. In addition, there is a canoe ramp on the north side of the Jamestown Road bridge, also owned and operated by James City County Parks and Recreation (Powhatan Creek Park).

For Proposed Activity item #4, these structures are exempt from the Local Wetlands Board jurisdiction because of the construction type and will be addressed through future action taken by the Virginia Marine Resource Commission.

Mitigation Discussion

As published in the Virginia Register on July 11, 2005, the revised Wetland Mitigation Compensation Policy and Supplemental Guidelines, Regulation 4VAC 20-390-10 et seq., Virginia, as a Chesapeake Bay Program partner, is committed to “achieve a no-net loss of existing wetlands acreage and function in the signatories’ regulatory programs.” In order for a proposed project to be authorized to impact wetlands and compensate for the wetland loss in some prescribed manner, the following three criteria must be met:

1. All reasonable mitigative efforts, including alternative siting, which would eliminate or minimize wetland loss or disturbance must be incorporated in the proposal; and
2. The proposal must clearly be water dependent in nature; and
3. The proposal must demonstrate clearly its need to be in the wetlands and its overwhelming public and private benefits.

If the proposed project cannot meet one or more of the above criteria, the project must be denied or must occur in areas outside of wetlands. Should it satisfy all three criteria, however, compensation for the wetland loss is required. The sequence of acceptable mitigation options should be as follows: on-site, off-site within the same watershed, mitigation bank(s) in the same watershed, or a payment of an in-lieu fee. If compensation is required, it should be a condition of the permit.

Staff has fully reviewed this application and has determined that Items #2 and #3 of this proposal do not meet criteria condition #1 above. For Item #2, the 40 foot low shoreline delineation wall serves no erosion control or shoreline protection purpose to justify the wetland impact. For Item #3, there are commercially available boat ramps with public access available on Powhatan Creek within this vicinity. One of these is upstream and is for small craft, one is near the mouth of Powhatan Creek, and the third in halfway between this property and the mouth of the creek.

For Item #1, the 80-foot bulkhead does meet the first two criteria above. However, as the shoreline has experienced no erosion over the past 40+ years, it is staff’s assertion that there is no tangible, overwhelming public benefit for permitting a bulkhead in this location. If a structure were to be permitted and built, the VIMS-CCRM Decision Tree would suggest that it should be a revetment with upland grading. Wetland impacts would be the same for a revetment.

Staff Recommendations

Staff recommends **denial** of the three items in this application that are under the Local Wetlands Board jurisdiction. Should the Board wish to approve the application, staff suggests the following conditions be incorporated into the approval:

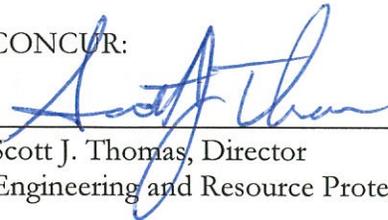
1. The applicant must obtain all other necessary local, state, and/or federal permits required for the project; and
2. Prior to construction, the limits of the 80-foot bulkhead, 40-ft shoreline delineation wall, and boat ramp be re-staked in the field if necessary; and
3. Purchase of 80 sq. ft. of tidal wetland credits from an approved tidal wetlands mitigation bank and proof submitted to the Engineering and Resource Protection Division; and
4. Prior to construction, a pre-construction meeting will be held on-site; and
5. The Engineering and Resource Protection Division Director reserves the right to require additional erosion and sediment control measures, including a turbidity curtain, for this project if field conditions warrant their use; and
6. The wetlands permit for this project shall expire on September 9, 2016 if construction has not begun. If an extension of the permit is needed, a written request shall be submitted to the Engineering and Resource Protection Division no later than six weeks prior to the expiration date.

Staff Report prepared by:



Michael D. Woolson, LA
Senior Watershed Planner

CONCUR:



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Joint Permit Application