

WETLANDS BOARD

MINUTES

January 21, 1988

1. ROLL CALL

MEMBERS PRESENT:

Ralph Cobb
John Hughes
Carolyn Lowe

MEMBERS ABSENT:

Henry Lindsey
William Apperson

OTHERS PRESENT:

Bernard M. Farmer, Jr., Director of Code Compliance

2. MINUTES

The minutes of the October 15, 1987 meeting were approved as presented

3. OLD BUSINESS

None

4. NEW BUSINESS

A. Case No. W-16-87 Henry Schwartz

Mr. Farmer stated that Mr. Schwartz had applied for a wetlands permit for the construction of approximately 325 linear feet of rip rap revetment, a 150' pier with a 24' x 24' t-head, and 4 free standing piles at 114 Four Mile Tree. He further stated staff recommended approval subject to the following conditions:

1. The permit shall expire on January 21, 1989.
2. A building permit shall be obtained prior to construction.

Ms. Lowe opened the public hearing.

Mr. Louis Vosteen, adjacent property owner, was concerned about the construction and distance the pier would be into the river. Ms. Traywick, representative of Alor Grantham Traywick & Associates, Inc., stated approximately 75' of Mr. Schwartz pier will be over vegetation and only 25' of the pier will be into the river.

Mr. Hughes motioned to approve applicants request.

Mr. Cobb seconded the motion.

All members were in favor.

E. Case No. W-17-87 Gary McSherry

Mr. Farmer stated that Gary McSherry had applied for an after-the-fact wetlands permit for 175 linear feet of timber bulkheading and a 22' x 25' private pier at 5030 River Drive. He further stated that on May 26, 1987 Mr. McSherry was notified that no wetlands permit had been obtained and was ordered to stop construction on the bulkhead. At the time, the bulkhead had been excavated with pilings and facings installed. However, tiebacks, filter cloth and backfill had not commenced. On November 18, 1987, Mr. McSherry was mailed a certified letter informing him a wetlands permit had not been obtained and the work was completed. He was informed that if a wetlands permit was not submitted by December 15, 1987, further legal action would be taken to enforce the Wetlands Ordinance. On December 15, 1987 a wetlands application was recieved.

Mr. Farmer stated since Mr. McSherry made the decision to willingly violate the wetlands ordinances of James City County by not receiving approval for the construction of the bulkhead after notification in May of 1987, and since staff would not have recommended approval of the present alignment it is the staff recommendation that the bulkhead and fill be removed and relocated to its predisturbed alignment by March 31, 1988. All disturbed areas must be stabilized by using approved erosion and sedimentation control measures. It is further recommended that Mr. McSherry be required to obtain a building permit before commencing work and have an inspection conducted of filter cloth and tiebacks prior to backfilling.

Mr. McSherry stated that the bulkhead was not complete and did not think he needed a permit since he was replacing an old bulkhead. He further stated he stopped work when he was notified that he needed a permit.

Mr. Hughes asked why he had waited so long to obtain a permit and that from what he had seen the bulkhead was presently complete.

Mr. McSherry stated he stopped work on the bulkhead when notified and started working on a house, said he did not think he needed to apply for permit until he was ready to commence working on bulkhead this coming summer.

Mr. Farmer asked who had done the construction of bulkhead?

Mr. McSherry stated he was not sure but the company was either Waterside or Waters Edge but that he drove the sheeting himself with a jackhammer.

Mr. Patterson, an adjacent property owner stated that Mr. McSherry did not bring in any fill and disagreed on the amount of wetlands covered as stated by VIMS and the Code Compliance staff.

Mr. McSherry stated that he felt since he was replacing and old bulkhead a permit was not needed.

Ms. Lowe motioned agreement with staff recommendation for removal of bulkhead.

Mr. Hughes seconded the motion.

There was a discussion of what the removal of the present bulkhead would do to the river and if they decided to let the

bulkhead remain where it is and approve the after-the-fact permit. Mr. Hughes questioned what type of justification/compensation that Mr. McSherry could donate to another project or community service for not complying with the Wetlands Ordinance. The decision was to continue the project until the February meeting so that Mr. McSherry could provide information on some unspecified type of mitigation.

C. Case No. W-18-87 Danny Patterson

Mr. Farmer stated that Mr. Patterson had applied for an after-the-fact permit for 120 linear feet of tongue and groove bulkheading, a 12' x 26' pier and 2 finger piers at 5032 River Drive. He further stated that the bulkhead had been erected approximately 2 feet channelward of the deteriorating bulkhead which is generally considered acceptable. He stated it is the staff recommendation that a permit be granted after-the-fact subject to the following conditions:

1. The applicant must obtain a building permit within two weeks of approval.

2. The applicant must request an inspection and receive approval by the Code Compliance office by May 1, 1988 of the filter cloth and tiebacks (removal of enough fill behind the bulkhead to expose tiebacks & filter cloth).

3. The permit term shall expire on May 1, 1988.

Mr. Patterson stated he did not realize replacement or repairs to an old bulkhead needed a permit. Mr. Patterson presented the board members photos proving the old bulkhead needed to be replaced.

Mr. Hughes motion to grant after-the-fact permit.

Ms. Lowe seconded the motion.

All members were in favor.

ELECTION OF OFFICERS

Mr. Cobb motioned Mr. Henry Lindsey should remain Chairman and Mr. Hughes for Vice Chairman.

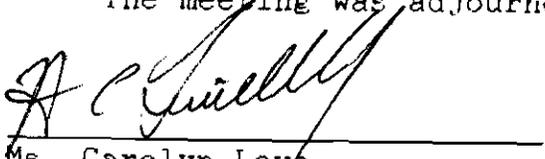
Ms. Lowe seconded the motion.

MATTERS OF SPECIAL PRIVILEGE

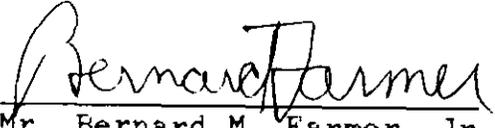
Discussion occurred as to how after-the-fact permits might be studied more carefully. Mr. Farmer was asked to survey neighboring jurisdictions to determine how they were handling them.

ADJOURNMENT

The meeting was adjourned at 9:00 P.M.



for Ms. Carolyn Lowe
Vice Chairman
Henry Lindsey
Chairman



Mr. Bernard M. Farmer, Jr.
Secretary