

WETLANDS BOARD

Minutes

August 8, 1990

A. ROLL CALL

Present

Henry Lindsey
David Gussman
John Hughes
Carolyn Lowe

Absent

Ralph Cobb

OTHERS PRESENT:

Bernard M. Farmer, Jr., Secretary to the Board
John Patton, Code Compliance Officer
Tony Watkins, Virginia Marine Resources Commission

B. MINUTES

The minutes of the July 18, 1990, meeting were approved as presented.

C. OLD BUSINESS

Case No. W-8-90. Lavelle Branscome - 133 Branscome Blvd.
Tax Map Number (47-3); Parcel (10-18)

Mr. Farmer reminded the Board that this case was deferred from the July 18, 1990 meeting to provide the contractor an opportunity to confer with Mr. Branscome as to alternatives to his proposal for 360 feet of tongue and groove bulkhead at 133 Branscome Boulevard in the Powhatan Shores Subdivision. Staff previously recommended denial based on the Group One Type Wetlands to be lost and the limited existing erosion on the site. Since that meeting staff and Maryann Wohlgemuth of VIMS met with Mr. Branscome on site at high tide and discussed his intentions and desires for the property. Mr. Branscome said he would like to raise the elevation of the property at the edge of the canal by backfilling to his proposed bulkhead to provide a more nearly level grassed yard similar to others in the subdivision. Since this was his desire it was suggested that he have the site surveyed for elevations and place the bulkhead at an elevation of two feet above Mean Sea Level (+2 ft MSL) to avoid jurisdictional tidal "Wetlands" altogether.

Mr. Branscome submitted revised drawings and a letter stating that the proposed bulkhead would be constructed at an elevation

of 2 feet above mean tide along the plus two foot contour on the property. The bulkhead will remain approximately 360 feet in length and tie into the existing bulkhead.

It was the staff recommendation based on the new proposal that a permit for approximately 360 linear feet of tongue and groove bulkhead be approved at 131 Branscome Boulevard with the following conditions:

1. The bulkhead be constructed at no less than the +2 foot MSL contour line of the existing shore line. The only exception being limited to a short section necessary to tie in to the existing bulkhead.
2. The bulkhead alignment be staked showing the ground elevation approximately every 50 feet and be approved prior to any construction by the Office of Code Compliance.
3. No construction is to begin prior to the issuance of approval and permits if required from VMRC and the Army Corps of Engineers.
4. No construction to begin prior to the issuance of a building permit from the Office of Code Compliance.
5. This permit shall expire on August 8, 1991.

Following a brief discussion by the Board on just where this would place the bulkhead on the property and other similar bulkheads in the subdivision, Mr. Hughes made a motion to approve the permit subject to the staff's conditions. There was no discussion of the motion and it was accepted unanimously.

D. NEW BUSINESS

Case NO. W-14-90/ VMRC #90-0990-4 Wanda Heath
297 Neck O Land Road; Tax Map (47-3) Parcel (01-0-0047)

Mr. Farmer gave the staff presentation. He stated Mr. Wilbur Jordan, the contractor, applied on behalf of Ms. Wanda S. Heath, the owner, for a wetlands permit to construct approximately 75 linear feet of tongue and groove bulkhead to replace a failing bulkhead at a commercial marina located at 297 Neck O Land Road. The applicant also proposes to build open pile docks adjacent to the bulkhead and place 5 mooring pilings channelward of the bulkhead to create four new boat slips. This

property is a commercial marina located on Powhatan Creek. The bulkhead and dock will be "U" shaped and surround an existing marine gas pump. The northern edge of the bulkhead will be alongside the existing boat ramp. Staff from VIMS, VMRC, and Code Compliance have visited the site and discussed the project with Ms. Heath. The existing bulkhead is in very poor condition and failing. A large concrete slab between the bulkhead and gasoline pump is being undercut and falling away toward the failing bulkhead. It is felt that this concrete slab will have to be removed prior to bulkhead replacement to prevent further collapse and to allow for the new bulkhead to be properly tied back and deadman installed. A replacement bulkhead will have minimal impact on the wetlands involved and therefore staff recommends that a Wetlands permit be granted for approximately 75 linear feet of tongue bulkhead and 5 mooring pilings subject to the following conditions:

1. The old bulkhead and concrete slab be removed and the new bulkhead placed where the old one was.
2. The open pile dock shall be constructed immediately adjacent to the bulkhead. The mooring pilings shall be placed so as to provide navigable water channelward of them but must be no more than 15 feet channelward of the dock.
3. A building permit for the bulkhead and dock must be obtained prior to any construction or demolition of existing structures.
4. An inspection of the bulkhead, tiebacks and filter cloth be made by personnel from the Code Compliance Office prior to back filling.
5. This permit shall expire on August 8, 1991.

The Board inquired as to the location of the gasoline storage tank and were told that it was located approximately 50 yards landward. They were also interested in what safety precautions would be taken to prevent a fuel spill during the demolition and construction process. Mr. Farmer stated that this would be addressed in the issuance of the necessary building permits and that all necessary precautions would be required to be taken by the contractor.

Mr. Lindsey opened the public hearing.

No one requested to speak on this case.

Mr. Lindsey closed the public hearing.

Mr. Gussman asked for a review of the VIM's report. Mr. Farmer stated that VIMS saw only minimal impact as long as the bulkhead was replaced as close to the old one as possible. Approximately 30 square feet of type XVI mud flat community would be impacted. There being no further discussion, Mr. Hughes made a motion that the permit be granted subject to the staffs recommendations. There was no discussion on the motion and it was passed unanimously.

Case NO. W-15-90/VMRC #90-0968-4 Augustus J. Gang
201 Sherwood Forest; Tax Map (17-3) Parcel (02-0-0004)

Mr. Farmer gave the staff presentation. Mr. Augustus J. Gang, the property owner, has applied for an after-the-fact Wetlands Permit for approximately 140 linear feet of riprap revetment along the toe of his existing bulkhead. Mr. Farmer stated that while Code Compliance personnel were visiting an adjacent site they noted that riprap had been put in place along the toe of the bulkhead without a Wetlands Permit. They contacted Mr. Gang and requested he apply for a Wetlands Permit. He stated that he thought he had applied for riprap with his original bulkhead permit. Research indicated that this was not the case.

Staff from VIMS, VMRC, and Code Compliance have visited the site and determined that approximately 210 square feet of Type XIV sand flat community wetlands have been impacted. VIMS reports that the cumulative adverse impacts are minimal.

It is the staff recommendation that a Wetlands Permit be granted for the existing 140 linear feet of riprap at 201 Sherwood Forest.

Mr. Hughes inquired as to who installed the riprap and was told that the applicant had done it himself and had not had a contractor involved but that the riprap and filter cloth had been properly installed.

Ms. Lowe inquired as to why riprap would be desirable in front of an existing bulkhead. Mr. Farmer explained the reasons including protection from scouring under the bulkhead, reinforcing old bulkheads, and dissipating wave energy.

The Board discussed its displeasure with after-the-fact permit applications.

Mr. Lindsey opened the public hearing.

No one came forward to speak on this case.

Mr. Lindsey closed the public hearing.

Mr. Gussman inquired if there hadn't been recent legislation granting the Wetlands Board some sort of legal penalties for after-the-fact Wetlands Permits. Mr. Watkins of VMRC answered the question and gave a brief presentation on the new ordinance that became effective July 1, 1990. He stated that law allows the Board to deal differently with after-the-fact applications if they should wish to. It provides the means for the Board to give a Restoration Order that could require removal and restoration of the disturbed wetlands and assess a civil penalty up to a maximum of \$10,000 per day if the violation continues.

There being no further discussion, Mr. Gussman made a motion to grant the after the fact permit. It was accepted unanimously without further discussion.

Case NO. W-16-90/VMRC 90-1006, Doug Lord
182 The Maine; Tax map (45-4) Parcel (02-0-0064)

Mr. Farmer stated that Mr. Chris Clifford of Riverworks, Inc. has applied on behalf of the owner, Mr. Doug Lord for a wetlands permit to emplace approximately 240 yards of riprap revetment, construct a 100 foot open pile pier and construct a 40 foot "T" head groin in the James River. The property in question slopes toward the river and has recently been cleared for a home site. There is an old bulkhead located along the shore which is deteriorated and has failed at one point. The applicant proposes to place riprap forward of the existing bulkhead in order to prevent its further deterioration and to stop some of the undermining caused by wave action. Representatives from VIMS, VMRC, and Code Compliance have visited the site and it is estimated that approximately 606 square feet of tidal area and 54 square feet of subaqueous bottom (Type XV Sand/Mud Mixed Flat Community) will be filled by this revetment. As this proposal is preferred to replacement of the existing bulkhead Vims has

indicated that the cumulative impacts for the revetment will be minimal. Riprap revetments exist on either side of this property.

Mr. Farmer stated that in regard to the groin there is not sufficient scientific evidence to determine the precise impact of its emplacement. This reach of shore is known to have relatively little sand transport. Existing groins along this shore do appear to collect some sand but for the most part do not fill and completely stabilize the near shore area. The property immediately downstream from this has a groin structure which most likely will be starved for sand should this one be emplaced as proposed. The proposed low profile and "T" head would work to somewhat minimize any downstream impacts but shortening the groin's length would also help in this regard. The site visits by staff, VMRC, and VIMs site visit indicate that this project will impact approximately 606 square feet of tidal wetlands and 60 square feet of subaqueous bottom. Staff recommends that a permit be granted for emplacement of the riprap and construction of the groin and dock at 182 The Main subject to the following conditions:

1. That the length of the groin not exceed 20 feet forward of the riprap revetment with the elevation as shown on the application.
2. That a building permit be obtained prior to undertaking the groin or pier construction.
3. That no fill other than the 100-500lb granite riprap be placed over the tidal or subaqueous areas.
4. That the permit shall expire on August 8, 1991.

Ms. Lowe expressed her displeasure with the clear-cutting evident at the site all the way to the river. She also asked for clarification on the reason for leaving the dilapidated bulkhead and why a groin was necessary if there was no shoreline erosion. Mr. Farmer explained that the riprap would shore up the old bulkhead and the bulkhead would continue to provide support. The groin was to attempt to capture some sand and create a beach area. Further answers were deferred to the contractor.

Mr. Lindsey opened the public hearing.

Mr. Bob Winstead of Riverworks, the contractor, volunteered to answer any of the Boards questions. He stated that Mr. Lord the owner wanted as close to a permanent solution as possible and therefore they intended to use only large stone of the 100 to 500 pound size. He expressed his concern with decreasing the size of the groin and explained its purpose and why he felt a longer groin was necessary and how the "T" head would minimize the negative impact on the down stream properties.

No one else requested to speak and Mr. Lindsey closed the public hearing.

Mr. Gussman and Ms. Lowe expressed there concern for the lack of justification for the groin. They felt that the use of a groin for purely aesthetic reasons and to attempt to make a private beach were not adequate justification.

Ms. Lowe made a motion to approve a wet lands permit for the riprap revetment with the staffs recommendations but eliminating the groin from the recommendations. Mr. Gussman asked to clarify the motion to ensure that only the pier and riprap revetment were being approved and that condition #1 of the staff's recommendation and references to the groin in condition #2 would be eliminated. Ms. Lowe agreed that was the motion. The motion was approved unanimously

Case No. W-17-90/VMRC 90-1033-4 Thomas Noll - 102 Godspeed
Tax Map (47-3) Parcel (5-53) and
W-18-90/VMRC 1034-4 Ethel Unsworth - 120 Constance
Tax Map (47-3) Parcel (5-54)

Mr. Farmer stated that since the next two cases were adjacent properties and were being applied for by a single contractor it might be easier to for the Board to consider them simultaneously. Mr. Lindsey agreed. Mr. Farmer gave the staff presentation. Mr. Daniel Winall of Water's Edge Construction has applied on behalf of the owners, Mr. Thomas Noll and Ms Ethel Unsworth for a wetlands permit to construct approximately 80 linear feet of tongue and groove timber bulkhead. The properties are located at the end of a man made canal and are flanked on either side by bulkheads. The proposed bulkheads will complete the bulkheading of the shore along this portion of the canal and tie into those on either side. Staff from VIMS, VMRC, and Code Compliance have visited the site and there is evidence of minor erosion along the shore. If the bulkheading is held at or about

mean high water then the effects to the marine environment are expected to be minimal. VIMS has estimated that approximately 80 square feet of Type XVI Mud Flat Community will be impacted by this request.

Staff recommends that Wetlands permits be granted for tongue and groove bulkheading at 102 Godspeed and 120 Constance subject to the following conditions:

1. That the alignment generally follow the curvature of the shore at approximately mean high water in no less than 3 segments. The alignment is to be staked by personnel from the Code Compliance Office in accordance with the Board's decision prior to any work.
2. That a building permit be obtained prior to undertaking any work and an inspection of the tiebacks and filter cloth be made prior to any backfilling.
3. That the permit shall expire on August 8, 1991.

Mr. Lindsey opened the public hearing.

Mr. Danny Winall, the contractor, stated that he proposed to tie in to the two existing bulkheads at either end and save as many of the trees as possible, boxing them in and back filling around them, with all bulkheading to be at mean high water.

Mr. Tom Noll one of the owners, stated that he also intended to have Mr. Winall place to 3 pilings channelward of the bulkhead. He intends to build a small pier himself using those pilings.

Mr. Hughes reminded him that he would have to get an additional building permit for the pier but the Board did not have jurisdiction concerning open pile piers.

Mr. Lindsey closed the public hearing.

There being n further discussion, Mr. Gussman made a motion to approve both permits with the staffs recommended conditions. Ms. Lowe commented that she was pleased that the trees would be saved. The motion was accepted unanimously.


E. Items of Special Privilege


Mr. Farmer made a short presentation concerning the Chesapeake Bay Preservation Ordinance that was adopted by the JCC Board of Supervisors Monday night. He reminded the Board that they have gained the added responsibility of being the body that will hear appeals of administrative decisions. As soon as copies of the ordinance as adopted are available the members of the Board will be sent them. At the next meeting of the Wetlands Board Mr. Farmer stated he will give a more detailed explanation of the ordinance and the Wetlands Board's responsibilities. The Board discussed the impact and the fact that they now would have responsibilities in a new area, that of nontidal wetlands.

F. Adjournment

There being no further business a motion was made to adjourn and accepted unanimously.

The meeting was adjourned at 7:50 P.M.


Mr. Henry Lindsey
Chairman


Bernard M. Farmer, Jr.
Secretary