

**WETLANDS BOARD
MINUTES
APRIL 9, 2003 - 7:00PM**

A. ROLL CALL

ABSENT

Henry Lindsey
David Gussman
Larry Waltrip
Philip Duffy
William Apperson

None

OTHERS PRESENT

Ben Stagg, VMRC
Environmental Staff

B. MINUTES

February 12, 2003: These minutes were deferred from the March 12, 2003 meeting. The Board held a short discussion relating to language the Board wanted staff to use in notifying applicant's and owners to attend those meetings in which their case was to be heard.

It was agreed that the minutes would be amended as follows: The Board directed staff that in all future Board cases staff request the applicant and/or the applicant's designated representative to extend the courtesy to the Board to be present at the meeting to address the Board's questions.

Approval of the February 12, 2003 minutes were approved as amended.

March 12, 2003: Approval of the March 12, 2003 minutes were approved as presented.

C. OLD BUSINESS - None

D. PUBLIC HEARINGS

1. Case NO. W-3-03: William A. Wood - 212 Roger Webster

Beth Davis presented the case stating that Mr. Daniel R. Winall of Water's Edge Construction, on behalf of the owner, Mr. William A. Wood, had applied for a wetlands permit to install 100'-0" of timber tongue and groove bulkhead. The property is further identified as parcel (7-56) found on the James City County Real Estate Tax Map (50-3). The project site in question is located on Halfway Creek which is a tributary to College Creek.

Environmental Division staff visited the site on March 21, 2003, along with representatives from VMRC and VIMS to discuss the project scope and potential impacts. Proposed impacts for this project are determined to be 200 sq. ft. to the Type XV Sand/Mud Mixed Flat Community.

It is the staff's recommendation that the Board approve this application, with the following conditions:

1. Prior to any land disturbing activities, a preconstruction meeting will be held on-site.
2. The limits of construction shall be flagged in the field prior to the preconstruction meeting.
3. All vegetation to be removed shall be clearly flagged or marked with spray paint prior to the preconstruction meeting.
4. Any landward areas of the Resource Protection Area (RPA) buffer that are proposed to be cleared and disturbed during the construction process will require restoration with native vegetation consisting of trees, shrubs and ground cover. If vegetation is removed for construction access, an RPA restoration plan with surety shall be submitted and approved by the Environmental Division prior to the preconstruction meeting.
5. All vegetation to be removed for this project shall be approved by the Environmental Division prior to any land disturbance.

6. The Environmental Division reserves the right to require a turbidity curtain for this project if field conditions warrant its use.
7. Filter fabric shall be used behind the proposed bulkhead. Inspection of the filter fabric must occur prior to commencement of backfilling operations.
8. The permit shall expire April 9, 2004.
9. If an extension of this permit is needed, a written request shall be submitted to the Environmental Division no later than two weeks prior to expiration date.

Mr. Lindsey referred to #3 in the staff's recommendation and inquired if spray painting could be eliminated.

Ms. Davis responded that it was a standard comment used on the staff recommendation memorandum and could be revised.

The Board held a short discussion relating to the use of flags instead of spray paint to mark the location of the project. It was determined that flags could be moved which could mark a false location, whereas spray paint could not. It was decided that staff would determine when to use spray paint instead of flagging.

Mr. Duffy stated his displeasure at receiving drawings that he felt were difficult to read and questioned why staff would accept unreadable drawings. He also stated his displeasure that the site was not flagged indicating the scope of the project. Mr. Duffy stated that because the drawings were not legible, he could not determine the relationship between the walkway, stairs, retaining wall and deck. He stated that he thought the presentation of the project was a joke.

Ms. Davis stated that when staff had their site visit, the site was staked and roped off in the field up in the construction area. Mr. Stagg confirmed that. She further stated that her understanding is that the drawings are not required to be drawn by a land surveyor or a certified engineer.

Mr. Menichino explained that there were two plans in the package. One was a cross section plan of the project and the other was a plan view of the project. He asked Mr. Duffy to specify what questions he had.

Mr. Duffy responded by asking how did the walkway, which apparently stops at the bottom of the new retaining wall, A) get through the retaining wall, and B) get to the deck.

The remaining Board members responded and used the drawings to point out the layout to Mr. Duffy.

Mr. Duffy reiterated that his point was that the drawings were completely gross. They were not presented in a way that people could read and understand them without expending a lot of effort. He questioned why all the pertinent information was on only 10% of the paper.

The Board requested staff to enlarge the project detail on a separate sheet and attach it to the original plan for all future cases. By enlarging the detail, the Board hopes to eliminate confusion relating to projects.

Mr. Duffy stated at the February 12th Board meeting it was agreed that there would be an introductory paragraph explaining the scope of the project; which was not done. He stated there had been discussion that drawings needed to be presentable; which these were not. He stated it was agreed that projects would be staked out in the field; which he said he has yet to see and this one certainly was not staked. He stated he keeps bringing these issues up because staff is not listening to the Board. He also stated that the guidance given to staff by the Board apparently did not mean very much because staff never followed it.

Mr. Duffy inquired how the proposed impacts to wetlands of 200' was calculated and how it was determined that the calculation was properly made.

Ms. Davis responded that it came from the VIMS report and the contractor had listed the same impact on the joint permit application.

Mr. Duffy inquired if VIMS validated the numbers. He stated that it was important that staff know how the calculations were arrived at.

Mr. Stagg stated that VIMS performs their calculation based on their own site visit.

Mr. Apperson stated for the record that he has worked with county staff in the field on many occasions and he felt staff's expertise in working out issues in the best interest of county citizens was at the highest degree and he personally thought that perhaps some Board members were being too harsh on staff.

Mr. Duffy stated that the Board had reason to be harsh on staff.

Mr. Lindsey opened the public hearing.

A. Danny Winall, Water's Edge Construction and contractor, stated he was available to answer any questions from the Board.

In response to questions from the Board, Mr. Winall responded that he would access the site by water. He addressed Mr. Apperson's question stating that he was aware of the Environmental Protection Agency's ruling that by December 31, 2003, certain arsenic chromate treated lumber could not be used on residential projects. However, this ruling did not apply to marine structures, at least not at this time.

Mr. Duffy inquired about the dimensions of the bulkhead and wanted to know how the walkway was to be laid out.

Mr. Winall explained the path of the walkway and how it related to the bulkhead and decks

In response to a question from Mr. Waltrip, Mr. Winall stated that he placed the flags to mark the bulkhead and retaining wall in February when there was 8 inches of ice and snow on the ground. He further stated that he would build the wall as close to mean high water as possible as all fill material would need to be brought in by a barge, so it was to his advantage to bring as little backfill in as possible. By using this method there would be minimal impacts to wetlands.

Mr. Waltrip stated that the pictures presented were clear to him.

Mr. Winall presented the Board with a picture of the project which he had taken and scaled out indicating the location of the lower deck and bulkhead.

Mr. Duffy asked Mr. Winall why he did not submit drawings that the Board could read.

Mr. Winall stated that the drawings presented had all the dimensions marked and were to scale. He explained that the joint permit application requires the applicant to show the footprint of the property and scope of the project.

Mr. Duffy stated that the dimensions may be there, however the drawings were not legible and that could lead to horrible confusion. He advised Mr. Winall to bring in drawings that the Board could read and understand clearly. Mr. Duffy indicated that his impression was that Mr. Winall was not willing to share construction details and was attempting to hide details in little tiny drawings.

Mr. Winall responded that in his opinion everything was included on the drawings.

Mr. Lindsey stated that at times drawings are received that are less than desirable, however he did not see anything wrong with the drawings on this case and felt they were legible.

Mr. Waltrip stated he did not have a problem with the drawings. He stated that it should be left to county staff to work out details in the field with the applicant, because depending on site circumstances, what is shown on paper won't necessarily work in the field. He further stated that he has not seen any bad jobs that Mr. Winall has done, nor has he had complaints about his workmanship in all the years that Mr. Winall has been doing work in the county.

In response to a question from Mr. Apperson, Mr. Winall responded that he had been in business in James City County for fifteen years.

Mr. Apperson stated that Mr. Winall's reputation was highly regarded in the community and by the people he has worked with.

As no one else wished to speak, Mr. Lindsey closed the public hearing.

Mr. Apperson stated he did not have a problem with the drawings as submitted.

Mr. Waltrip stated he did not have a problem understanding the drawings or the project.

Again, the Board requested staff to enlarge the project detail on a separate sheet and attach it to the original plan for all future cases.

Mr. Duffy stated that he felt the project needed to be done, however, he emphatically disagreed with staff's reluctance to provide the Board with the information they needed to make the right decision.

M. Lindsey stated that was a great disservice to the staff to even suggest that. He further stated that he had worked with a number of these Boards and felt that this was one of the best staffs he has ever worked with.

Mr. Gussman made a motion to approve case W-3-03 with staff's recommendations.

The motion was approved by a 5-0 vote.

E. NEW BUSINESS - None

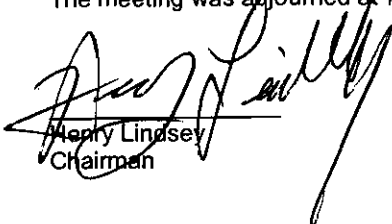
F. MATTERS OF SPECIAL PRIVILEGE

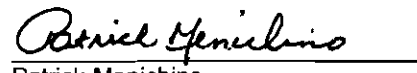
It was agreed by the Board that Ms. Etchberger would research the minutes from the February 12, 2003, Board meeting to verify if a directive was given to staff to provide the Board with a narrative paragraph explaining the scope of the project.

(As a follow up: I reviewed the February 12, 2003 Wetlands Board meeting tape. In discussion with Mr. Cavalet, the engineer for case W-39-02: Busch Properties Inc-Halfway Creek/Mounts Bay Road, Mr. Duffy stated that a three to four sentence narrative of the project should have been done so that the scope of the project could have been understood more clearly without going into lengthy discussions. Mr. Cavalet responded that perhaps that would have been a good idea. Mr. Lindsey then responded that perhaps it would have been helpful. This is the only reference made at the meeting. It was a general comment made to the applicant, and not to staff, regarding the joint permit application.)

G. ADJOURNMENT

The meeting was adjourned at 7:50 PM.


M. Lindsey
Chairman


Patrick Menichino
Environmental Inspections Supervisor