

Wetlands Board

Oct. 10, 2012

A. Roll Call

B. Minutes

September 12, 2012 - Board Meeting

C. Public Hearings

1. W-04-13 / VMRC 12-1213. Minichiello/Mid-Atlantic/Jordan – 133 Branscome - 45-foot pier
2. W-05-13 / VMRC 12-1274. Kelley / Winall – 7519 Oak Cove – Riprap Revetment
3. W-06-13 / VMRC 12-1321. Tucker/Mid-Atlantic/Jordan – 2030 Bush Neck Rd. - Concrete boat ramp

D. Board Considerations - None

E. Matters of Special Privilege

F. Adjournment

Wetland Board Case W-04-13/VMRC 12-1213: 133 Branscome Blvd.

Staff report for the October 10, 2012 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: Vittorio Minichiello

Agent: Mid-Atlantic Resource Consulting, Ms. Karla Havens

Location: 133 Branscome Boulevard

Parcel Identification: 4731000018

Watershed: Powhatan Creek (HUC Code JL34)

Proposed Activity: Construct a 5 ft by 245 ft non-commercial, open-pile pier with a 20 ft by 20 ft platform, 18 ft by 27 ft roof with boat lift, and two 27 ft catwalks. No clearing or grading required. The site is to be accessed from the upland.

Project Discussion

Ms. Karla Havens, on behalf of Mr. Vittorio Minichiello, has applied for a Wetlands Permit to construct a 5 ft wide by 245 ft long non-commercial, open pile pier at 133 Branscome Boulevard within the Powhatan Shores subdivision. The project is located on Powhatan Creek and the property is further identified as JCC Parcel Number 4731000018.

On April 7, 2009 a special committee session of the wetlands board was assembled to address staff concerns of wetland impacts on **certain** open pile structures. Staff concerns were based on observations from several projects. A similar project located within the Conservancy (W-02-13) was heard before this Board at the September 12, 2012 meeting.

The special committee met and unanimously adopted the following recommendation to the Wetlands Board. *The Special Committee of the James City County Wetlands Board unanimously recommends to the full Wetlands Board that a Wetlands Permit be required for the construction of open pile structures proposed in vegetated tidal wetlands of the County, in those cases where staff has valid reasons to anticipate that the construction of such a structure may result in the alteration of the natural wetland contours or the unreasonable obstruction of tidal flow.*

The Wetland Board considered this matter at their regular meeting on May 13, 2009 and adopted the recommendation from the special committee by a 4-1 vote (AYE: Apperson, Hughes, Elkins, Waltrip; NAY: Roadley).

The issue before the board is not the pier, as it is a non-commercial open pile structure exempt from needing a wetlands permit, but the manner of constructing the pier and any wetland impacts that may occur from the construction. The pier will extend approximately 210 feet through the vegetated tidal wetlands. Potential impacts that may occur are approximately 2,100 sq ft and may be permanent or temporary.

Due to the unknown quantity of wetland impacts that may or may not occur, staff suggests a surety in the amount of \$2,000.00 shall be required to guarantee the 'no net-loss' wetland policy as outlined in 4VAC20-390-10 et seq. (see below) and shall be in a form acceptable to the James City County Attorney's office. Similar to case W-02-13 (6405 Conservancy, Sweaney), considered by this Board last month, the surety shall be set aside for one year after construction and that the wetland impact issue be revisited by staff and other interested parties to determine the extent of permanent vegetated wetland impacts. At that point in time, mitigation could be required or the escrow returned to the property owner if there are no permanent impacts.

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 dependant 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.


This project meets the three criteria outlined above and the structure itself is exempt from needing a wetlands permit. However, due to the unknown impacts that may occur during construction, staff believes that conditional compensation should be made a condition of the permit.

Staff Recommendations

Staff recommends **approval** of the application. Should the Board wish to approve the application, staff suggests the following conditions be incorporated into the approval:

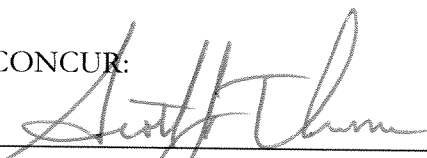
1. The applicant must obtain all other necessary local, state, and/or federal permits required for the project.
2. Prior to construction, a pre-construction meeting will be held on-site.
3. The Engineering and Resource Protection Division Director reserves the right to require additional erosion and sediment control measures, including a turbidity curtain, for this project if field conditions warrant their use.
4. A surety in the amount of \$2,000.00 shall guarantee the 'no net-loss' wetland policy as outlined in 4VAC20-390-10 et seq. The surety shall be in a form acceptable to the James City County Attorney's office.
5. A meeting shall take place no later than one year after pier construction is completed to determine the extent of wetland impacts. Staff shall invite representatives of the regulatory agencies dealing with tidal wetlands, VIMS, applicant, agent, contractor, and Wetlands Board members to this meeting. It will be determined at this meeting what the extent of wetlands impacts are, if any. Staff will make a presentation at the next scheduled Wetland Board meeting regarding the extent of any impacts and make a recommendation to the Board regarding mitigation.
6. The wetlands permit for this project shall expire on October 10, 2013. If an extension of the permit is needed, a written request shall be submitted to the Engineering and Resource Protection Division no later than two weeks prior to the expiration date.

Staff Report prepared by:



Michael P. Majdeski
Senior Environmental Inspector

CONCUR:



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Joint Permit Application

Wetlands Permit Application W-05-13/VMRC 12-1274: 7519 Oak Cove Road - Kelley
Staff report for the October 10, 2012 Wetlands Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the local Wetlands 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: Mr. and Mrs. Patrick Kelley
Applicant Agent: Daniel Winall
Location: 7519 Oak Cove Road
Parcel: Lot 11; Cypress Point; James City County
Parcel Identification: 1910100011
Lot Size: 0.51 acres
Watershed: Chickahominy River (HUC Code JL28)
Proposed Activity: Installation of 115 ft by 5 ft stone revetment in place of failing bulkhead; installation of a 5 ft by 120 ft long private open pile pier, a 16 ft by 24 ft L-shaped outboard deck, and a 16 ft by 32 ft boathouse with an associated walkway.

Proposed Impacts

Vegetated Wetlands: Not Impacted
Non-Vegetated Wetlands: 20 square feet
Subaqueous Bottom: 1,150 square feet

Brief Summary and Description of Activities

Mr. Daniel Winall on behalf of Mr. and Mrs. Patrick Kelley has applied for a Wetlands Permit to undertake construction of a 115 ft by 5 ft stone revetment in place of a failing bulkhead; installation of a 5 ft by 120 ft long private open pile pier, a 16 ft by 24 ft L-shaped outboard deck, and a 16 ft by 32 ft boathouse with an associated walkway.

The property is located at 7519 Oak Cove Road directly adjacent to the Chickahominy River. The property is further identified as JCC Parcel Number 1910100011.

The property, and specifically the proposed work area, is situated in a westerly facing direction and, as stated previously, lies along the Chickahominy River in northwestern James City County. An existing failing bulkhead is located along the shoreline. The bulkhead experienced failure during a rainfall/storm event earlier in 2012.

Mean low water and mean high water fall entirely along the face of the failing bulkhead. A portion of the bulkhead has failed and is falling into the Chickahominy River. The area behind this portion is within the local Wetlands Board jurisdiction and is approximately 20 square feet in area. The upland area consists of a well vegetated residential lawn. Additionally, a pier is currently in place that is slated to be replaced as part of this project. As the proposed pier is private, it does not fall under local Wetlands Board jurisdiction and is subsequently exempt from this case and is presented for informational purposes only.

The project design proposes to install approximately 115 linear feet of Class II quarry stone over Class I core stone and filter cloth directly adjacent to the existing bulkhead to create the revetment. In areas where the existing bulkhead has failed, remaining debris will be removed prior to the installation of the revetment.

Access to the work area will be provided through both the adjacent upland area and through waterborne methods. Due to the current conditions on-site and with portions of the existing bulkhead remaining in place, there will be minimal grading required during installation.

The proposed revetment will average approximately 3.5' in height along the entire length of the shoreline. Approximately 20 square feet of non-vegetated wetland and 1,150 square feet of subaqueous bottom will be impacted as a result of the revetment installation. Staff recommends that no wetland mitigation be required for the 20 square feet of impact, as this impact area was created with the recent failure of the bulkhead and is not vegetated.

Staff Recommendations

The issue before the Board is the installation of the revetment to stabilize the failing bulkhead. The majority of the bulkhead will remain in place. Staff has fully reviewed the application and permit request and has determined that the conditions outlined in Section 22-4 (b) of the wetlands ordinance have been met.

1. Prior to any land disturbing activities, a preconstruction meeting will be held on-site.
2. All other Federal, State, and Local permits required for this project shall be obtained prior to commencing work. Evidence of the securing of these permits must be provided prior to the pre-construction meeting.
3. No woody vegetation shall be removed as part of this project unless approved by the Engineering and Resource Protection Division.
4. 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.
5. The limits of work shall be flagged in the field prior to the pre-construction meeting.
6. The wetlands permit for this project shall expire on October 10, 2013. If an extension of the permit is needed, a written request shall be submitted to the Engineering and Resource Protection Division no later than two weeks prior to the expiration date

Consideration by the Wetlands Board

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 22-8 of the County's Wetlands ordinance. The Wetlands Board is to fully consider Wetlands Permit Application W-05-13 as outlined and presented above and review the request for permitting.

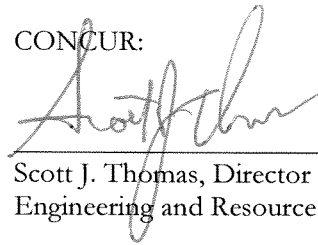
The Board may grant the permit with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 22 Wetlands Ordinance. Resolutions for granting approval or granting denial of Wetlands Permit Application W-05-13 are included for the Board's use and decision.

Staff Report prepared by:



Michael P. Majdeski
Senior Environmental Inspector

CONCUR:



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Wetlands Permit Application Package

Wetland Board Case W-06-13/VMRC 12-1321: 2030 Bush Neck Road

Staff report for the October 10, 2012 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: Thomas Tucker

Agent: Mid-Atlantic Resource Consulting, Ms. Karla Havens

Location: 2030 Bush Neck Road

Parcel Identification: 34201000025A

Watershed: Gordon Creek (HUC Code JL29)

Proposed Activity: Construct a private, non-commercial 16 ft x 40 ft concrete boat ramp over an existing, unauthorized stone (gravel) boat ramp to safely gain access to the water.

Project Discussion

Ms. Karla Havens, on behalf of Mr. Thomas Tucker, has applied for a Wetlands Permit to construct a 16 ft x 40 ft concrete boat ramp at 2030 Bush Neck Road. The boat ramp is a private, non-commercial structure. The project is located on Gordon Creek and the property is further identified as JCC Parcel Number 34201000025A.

On or about April 10, 2012 while on a site visit for rebuilding a pier on the property (Board exempt case: W-17-12), staff observed an unapproved gravel boat ramp adjacent to the pier. Staff checked County and VMRC records and could not find any permits issued for the boat ramp. A letter was sent to Mr. Tucker outlining the issue and possible solutions. Mr. Tucker decided to pursue an after-the-fact permit for this structure and at the same time, change the material from gravel to concrete. It should be noted that Mr. Tucker bought the property on October 2011 in good faith with the boat ramp already in place.

The change in material is requested because Mr. Tucker has had issues in removing his boat from the water and spinning the tires of his vehicle because of the gravel. Staff advised him that there is no difference in stormwater runoff, and therefore pollution potential, in the two materials. He is requesting a change to concrete for safety reasons.

The boat ramp was never approved; therefore wetland impacts were never taken into account. The same is true for the gravel access road to the boat ramp. Mr. Tucker has agreed to some upland (RPA) plantings to help mitigate for the previous impacts.

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 dependant 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.

It is staff's assertion that this project meets the three criteria outlined above. Furthermore, even though the original structure was not granted a wetlands permit, the impacts for this structure do not include any vegetated or non-vegetated wetlands. Therefore, it is staff recommendation that no wetland mitigation be required for this project.

Staff Recommendations

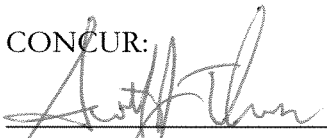
Staff recommends **approval** of the application. Should the Board wish to approve the application, staff suggests the following conditions be incorporated into the approval:

1. The applicant must obtain all other necessary local, state, and/or federal permits required for the project.
2. Prior to construction, a pre-construction meeting will be held on-site.
3. 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.
4. The wetlands permit for this project shall expire on October 10, 2013. If an extension of the permit is needed, a written request shall be submitted to the Engineering and Resource Protection Division no later than two weeks prior to the expiration date.

Staff Report prepared by:



Michael D. Woolson
Senior Watershed Planner

CONCUR:


Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Joint Permit Application
Planting plan at ramp