

JAMES CITY COUNTY WETLANDS BOARD
December 12, 2007

A. ROLL CALL

ABSENT

John Hughes
Henry Lindsey
Larry Waltrip
William Apperson
David Gussman

OTHERS PRESENT

Elizabeth Gallup, VMRC
County Staff

B. MINUTES – November 14, 2007

The November 14, 2007 Board Meeting minutes were approved as presented.

C. PUBLIC HEARINGS

1. W-31-07/VMRC 07-1888: John and Judith Anton - 7511 & 7513 Oak Cove Road

Pat Menichino presented the case stating that John & Judith Anton applied for a wetlands permit to install approximately 223 total feet of vinyl bulkhead with two 5 ft return walls. The applicant also proposes two piers, a 6 ft by 146 ft pier and a 6 ft by 176 ft pier, both with boatlifts. The proposed piers and boatlifts are open pile structures and therefore not within the Wetlands Board's jurisdiction. The proposed bulkhead and piers will be installed behind the respective properties, on the Chickahominy River. The properties are further identified by James City County Real Estate as Pin #s 1910100015 and 191000014. Mr. Wilbur Jordan of Jordan Marine is the authorized agent and contractor for the project. Both parties were advised to attend the Wetlands Board meeting.

This project will involve the construction of approximately 146 ft of 6-foot high vinyl bulkhead, and 77 ft of 4-foot high vinyl bulkhead with two, 5 foot return walls. Approximately 100 feet of the bulkhead is proposed to replace an existing bulkhead located at 7513 Oak Cove Road. The remaining 123 feet of proposed bulkhead will be installed to extend a new bulkhead to the southern property line of 7511 Oak Cove Road. The bulkhead will be constructed using vinyl sheeting, a 6x6 CCA continuous wale, galvanized tie rods, connected to a 2' x 3' concrete deadman. The bulkhead will be installed and aligned to tie into the existing bulkhead on the north side of the property and is proposed to follow the existing toe of slope to the southern property line. Filter fabric will be installed behind the bulkhead to eliminate the potential of sediment transport.

Environmental Division staff visited the site on November 6, 2007, along with representatives of VMRC and VIMS, to review the project scope and potential impacts. Proposed impacts for this project have been determined to be 200 sqft to the type XV Sand/Mud Mixed Flat Community. The total fill impacts to the non-vegetated wetlands located on this project have been determined to be 200 sqft.

Staff Comments:

Staff's field review of the project site located at 7511 Oak Cove Road revealed only minor shoreline erosion confined to a small area located adjacent to the southern property line. The minor erosion problem observed on this property does not warrant the installation of a continuous bulkhead along the shoreline. The principal dwelling on this lot is located significantly upland, therefore there is no potential threat of property damage from shoreline erosion.

An alternate proposal in this application is to relocate a portion of this bulkhead (80'), landward and upslope and to construct it as a retaining wall in lieu of bulkhead. Although this option would reduce the impacts to the wetlands, the need for such an upland retaining wall would be based on aesthetics, and not on current erosion problems.

Staff's field review of the existing bulkhead located at 7513 Oak Cove Road revealed moderate erosion resulting from the partial failure of the bulkhead. If this bulkhead is not replaced the potential for significant shoreline erosion and bulkhead failure is high.

Staff Recommendations:

If the Board approves this application as requested or with the optional retaining wall, staff recommends that the following conditions be included:

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. Any vegetation to be removed shall be clearly flagged or marked with spray paint prior to the preconstruction meeting and shall be approved by the Environmental Division prior to any land disturbance.
4. Any landward areas of the Resource Protection Area (RPA) buffer that are proposed to be graded and disturbed during the construction process will require stabilization with a grass cover. If RPA vegetation is to be removed for construction access, or grading activity, then an RPA restoration plan with surety shall be submitted and approved by the Environmental Division prior to the preconstruction meeting.
5. A turbidity curtain shall be required prior to commencement of any construction activity unless waived by the Environmental Division Director.
6. The bulkhead tie-backs and the filter fabric shall be inspected by the Environmental Division prior to the placement of backfill.
7. The permit shall expire December 12, 2008.
8. 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.

At Mr. Hughes request, Mr. Menichino displayed the photographs and then indicated on the diagram of the project, where the photographs were taken in relation to the proposed project. He also pointed out the area of erosion and the location of the property lines.

Mr. Lindsey stated it appears that some riprap was already installed on the site and appeared to be controlling the erosion. He asked if staff and VIMS preferred the use of riprap instead of bulkhead for the shoreline stabilization.

Mr. Menichino stated that was correct and stone did a better job of reflecting the wave action however, staff does support the replacement of existing bulkhead because that would cause less disturbance that removing the old bulkhead to replace it with riprap.

Mr. Waltrip stated the shoreline did appear to need protection of some type.

Mr. Hughes opened the public hearing.

A. John A. Anton, property owner, displayed photographs of the existing bulkhead, riprap, shoreline erosion, and property slope and described the condition depicted in these photographs (copies attached). He stated the stone was installed improperly and the water comes over the stone and erodes the shoreline.

Mr. Gussman asked the applicant why he objected to the use of properly installed riprap to protect the shoreline.

A. Mr. Anton stated he would lose 20 to 25 feet of his property and preferred the use of bulkhead for aesthetic reasons. He stated other properties in the area had bulkhead and he would agree to the use of riprap with the bulkhead.

B. Judith Anton, property owner, stated she did not like the aesthetics of riprap because it collected litter.

C. Wilbur Jordan, Jordan Marine, contractor for the project, stated in his opinion it made more sense to protect the entire shoreline with bulkhead.

Mr. Hughes closed the public hearing as no one else wished to speak.

Mr. Lindsey stated he could not support the proposal because he had observed only two areas of erosion on the property.

Mr. Gussman stated properly installed riprap would prevent erosion and would be better for the environment than vinyl bulkhead.

A. Mr. Anton asked for a deferral in order to propose an alternative plan.

Mr. Hughes reopened the public hearing and made a motion defer the Board decision and continue the public hearing allowing the applicant to work with staff on an alternative plan.

All Board members agreed to the continuation of the public hearing for case W-31-07.

2. W-36-07/VMRC 07-2146: Jordan Marine/Wright's Island Game Assoc - 6650 Menzels Rd

Pat Menichino presented the case stating that Wilbur Jordan of Jordan Marine applied for a Wetlands Permit on behalf of the Wright's Island Game Association, to install approximately 381 linear feet of riprap revetment to prevent erosion along the shoreline, at 6650 Menzels Road. The property is further identified by James City County Real Estate as PIN # 2030100001. The project is located on the Chickahominy River, a tributary to the James River. Mr. Jordan and the landowner were advised to attend the Wetlands Board meeting.

This proposed project will involve the construction of 381 linear feet of armor stone revetment constructed using class 2 armor stone, placed on class A-2 core stone, and filter fabric. The project will involve impacts to jurisdictional wetlands and will include impacts to upland areas not within the Wetlands Board's jurisdiction. The project as proposed will require the excavation and grading of the upland RPA buffer area to create an acceptable 2:1 slope.

Environmental Division staff visited the site on November 6, 2007, along with representatives from VMRC and VIMS, to review the project scope and potential impacts. Proposed impacts for this project are determined to be 1524 sqft to the Type XV Sand/Mud Mixed Flat Community. Total fill impacts for this project have been determined to be 762 sqft to non-vegetated wetlands.

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. The location for the proposed toe of the revetment will be staked every 50 linear feet along the shoreline.
3. All vegetation to be removed shall be clearly flagged or marked with spray paint prior to the preconstruction meeting and approved by the Environmental Division (Division), prior to any land disturbance.

4. The proposed project will impact approximately 8000 sqft of Resource Protection Area (RPA) buffer to allow for the installation of the revetment. An RPA buffer restoration plan detailing the installation of native understory trees, shrubs and ground cover will be required prior to the preconstruction meeting and the onset of any work. The amount of trees, shrubs, and ground cover required shall be determined by the Division. The implementation of the RPA Restoration Plan shall be guaranteed by surety in a form acceptable to the Division prior to the preconstruction meeting.
5. The armor stone proposed for this revetment is Class 2. All core stone used shall be A-1 stone.
6. The Environmental Director reserves the right to require a turbidity curtain for this project if field conditions warrant its use.
7. Filter fabric shall be inspected by the Division prior to the placement of riprap.
8. The permit shall expire December 12, 2008. 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 the expiration date.

Mr. Hughes opened the public hearing.

Wilbur Jordan, Jordan Marine, contractor for the project, stated he was representing the applicant and would answer any questions from the Board.

Mr. Lindsey stated it was a well-planned project.

Mr. Hughes closed the public hearing as no one else wished to speak.

Mr. Apperson stated he believed the owner had tried to establish a tree line for stabilization but it had not been successful.

Mr. Waltrip stated the shoreline needed protected and the use of riprap was a good solution.

Mr. Lindsey made a motion to adopt the resolution granting the Wetlands Permit for case W-36-07/VMRC 07-2146.

The motion was approved by a 5-0 vote

**3. W-19-06/VMRC 06-1722 REVISION: Williamsburg Environmental Group/Palmer & Palmer Co
3 West Circle**

Pat Menichino presented the case stating that Williamsburg Environmental Group, on behalf of Palmer and Palmer LLC, property owner, applied for a revision to the existing Wetlands Permit, W-19-06, for the proposed installation of approximately 2554 sqft of sand beach nourishment within the intertidal zone. This application also included 7139 sqft of sand beach nourishment to the subaqueous bottom along the James River, an 80 ft long angled spur, installed using Class 3 riprap and extending into the James River at the S/E corner of the property and angled westerly, and a 75 ft long breakwater using Class 3 riprap installed approximately 80 feet offshore. The 7139 sqft of subaqueous beach nourishment, the proposed angled spur, and the offshore breakwater were outside the Board's jurisdiction. The property is further identified as parcel 4540200080A in the James City County Real Estate system. The project is located on the James River main stem.

Environmental Division staff has visited the project site routinely over the past 90 days, as part of an inspection program for the previously approved shoreline stabilization project. Total proposed impacts to wetlands with this revision have been determined to be 2554 sqft. Fill impacts to the intertidal

wetlands would also be 2554 sqft. The proposed new intertidal wetlands that would be created seaward would be approximately 3000 sqft, resulting in a net increase of 446 sqft of intertidal non-vegetated wetlands.

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

1. The applicant shall install 600 sqft of *Spartina patens* or other appropriate wetlands plants behind the proposed breakwater and spur. The required mitigation plantings shall be accomplished at the same time as the other wetlands mitigation plantings required within the original Wetlands Permit, W-19-06, and shall be guaranteed by the applicant as defined within original permit condition #10.
2. The limits of construction shall be flagged in the field prior to the preconstruction meeting.
3. No additional landward areas of the Resource Protection Area (RPA) buffer shall be cleared or disturbed by the construction activities associated with this permit revision.
4. A preconstruction meeting will be held on-site prior to construction.
5. A turbidity curtain will be required for this project as proposed and shall be installed prior to the preconstruction meeting.
6. All armor stone used shall be Class 3.
7. The permit shall expire December 12, 2008.
8. 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 the expiration date.

Mr. Hughes asked what the purpose was for the revisions.

Mr. Menichino stated VMRC had an issue with the original configuration of the spur and recommended the proposed revision.

Mr. Hughes opened the public hearing.

A. Chuck Roadley, Williamsburg Environmental Group, representing the applicant, stated the staff report adequately described the proposed revision and added the proposed 2554 sqft of sand beach nourishment was also recommended by VIMS.

Mr. Waltrip asked what type of protection would be installed to protect the wall into the marina and asked if the existing wall was on the property of the applicant. He also asked what impact the turned spur would have on the adjacent properties.

A. Mr. Roadley stated the wall was currently on the state owned subaqueous bottom. Sand would be installed behind the breakwater and repair would be done on the existing wall to protect the marina. He stated the original location of the spur was a navigational concern and the turned spur should not have an impact on adjacent properties it was designed to protect the properties.

B. Ivor Noel Hume, 2 West Circle, provided a written objection and pictures of the site (copies attached). He spoke in opposition to the permit revision because of the impact to the shoreline and the RPA as well as the aesthetics and the Board setting precedence allowing other property owners to install breakwaters to create private beaches along the shoreline.

C. Darrell Rickmond, 4 West Circle, spoke in opposition to the permit revision because of the impact the proposed spur would have on the channel to the First Colony marina and the placement of riprap against a 40-year-old retaining wall.

A. Mr. Roadley stated the location of the spur was not before this Board.

Mr. Lindsey commended the applicant for creating wetlands.

The Board asked for more information regarding VIMS recommendations to change the location of the spur.

Elizabeth Gallop, VMRC, stated the proposed breakwater system with the beach nourishment was recommended by Dr. Scott Harding with VIMS as a better solution to protect the shoreline.

Mr. Hughes closed the public hearing as no one else wished to speak.

Mr. Hughes stated he might be concerned with the riprap against the retaining wall but this was not within the Wetlands Board's jurisdiction. The only item under consideration was the 2554 sqft of sand beach nourishment.

Mr. Lindsey made a motion to adopt the resolution granting the Wetlands Permit Revision for case W-19-06/VMRC 07-1722.

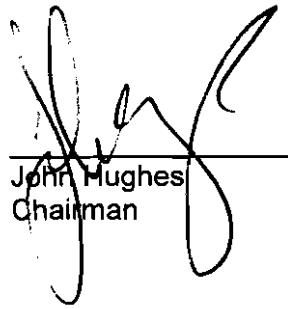
The motion was approved by a 5-0 vote

D. BOARD CONSIDERATIONS

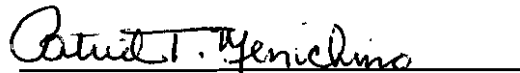
E. MATTERS OF SPECIAL PRIVILEGE

F. ADJOURNMENT

The meeting adjourned at 8:30 PM



John Hughes
Chairman



Patrick T. Menichino
Secretary