

ACCOMACK COUNTY WETLANDS MINUTES OF DECEMBER 15, 2022

At a meeting of the Accomack County Wetlands Board held on the 15TH day of DECEMBER 2022 in the Accomack County Administration Building Board Chambers, Room #104, in Accomac, Virginia.

1. CALL TO ORDER

MEMBERS PRESENT AND ABSENT

Wetland Board Members Present

Mr. T. Lee Byrd, Chairman

Mr. George Ward, Vice Chairman

Mr. Gene Wayne Taylor

Mr. Timothy Getek

Mr. George H. Badger

Others Present:

Ms. Chontese Ridley, Environmental Programs Permit Specialist

Mrs. Beth Nunnally, Environmental Planner II

DETERMINATION OF A QUORUM

There being a quorum, Chairman Byrd called the meeting to order at 10:00 a.m.

2. ADOPTION OF AGENDA

On a motion made by Mr. Taylor and seconded by Mr. Getek, the Wetlands Board voted to approve the agenda.

3. MINUTES

A. November 17, 2022

On a motion made by Mr. Getek and seconded by Mr. Badger, the Wetlands Board voted to approve the November 17, 2022 minutes.

4. OLD BUSINESS

A. Harold & Carroll Cherrix, Sr. - VMRC# 2022- 1734

Demolishing and replacement of an existing gear storage building and support pilings.

Ms. Beth Nunnally, (Environmental Programs), stood before the Wetlands Board and was sworn in by Chairman Byrd.

Ms. Nunnally gave an overview of the project stating it was located on the western side of the Chincoteague Channel, and that the new proposed structure would be elevated greater than or equal to 4 feet above its existing grade. The structure would be constructed over 20 square feet of non-vegetated wetlands and 10 square feet of vegetated wetlands.

This application was first heard at the September 2022 meeting and was continued to the December 2022 meeting. The agent was asked to request permission from VDOT for encroachment into the VDOT right-of-way, and to submit a general building plan.

Mr. Charles Ward, (Starboard Environmental LLC), stood before the Wetlands Board on behalf of the applicant and was sworn in by Chairman Byrd.

Mr. C. Ward said in the September discussion before the Board, it was brought up that the VDOT right-of-way was near or in general proximity to the proposed replacement. Since then VDOT had responded with an email stating that the VDOT right-of-way was not affected by the proposal. It also did not encroach, and they did not have any particular concerns with the project.

Mr. C. Ward said it was also requested that they provide construction plans and he had now submitted general construction designs. He said it would be a reproduction of what was already there, but the ceiling might would be 1 foot higher than what was there.

CHAIRMAN BYRD OPENED THE FLOOR TO PUBLIC COMMENT

Mr. Byrd asked if there was anyone who wanted to comment on application 2022-1734.

No one made a request to speak.

CHAIRMAN BYRD CLOSED THE FLOOR TO PUBLIC COMMENT

Mr. Getek asked, (to confirm), if the width at the bottom of the shed was staying the same.

Mr. C. Ward said the footprint was going to be exactly the same. To make it wider they could have to cut the pier back and they were not touching the pier.

Mr. Getek thought he remembered it was going to be 8 feet by 8 feet and about 4 feet above the water line. Mr. C. Ward said currently it was almost 4 feet above, but when the new building goes up they were going to make sure it was at least 4 feet above the marsh substrate.

Mr. Taylor chimed in to say that it was actually 12 feet by 10 feet and asked if it was going to stay single story. He added that the Town would probably have them do a 3/12 pitch, but that the walls would not be higher than 9 feet.

Mr. C. Ward confirmed that the walls would not be any higher than 9 feet, but that the rest would be determined by the owner and the building inspector.

Mr. Byrd said the front elevation appeared to be approximately 11 feet.

Mr. C. Ward said the 11 feet shows from the top of the wailer.

Mr. Badger asked Mr. C. Ward to confirm that he had VDOT's approval. Mr. C. Ward confirmed.

Mr. Badger asked about the emails that went back and forth between Mr. C. Ward, Mr. Nettleton and VDOT.

Mr. C. Ward read an email from November 18, 2022 into the record from Mr. Redgate (VDOT) to Mr. Nettleton:

“Ben - I've received updated information from our VDOT Right-of-Way Division that the boathouse and the appurtenances attached to it do not encroach on VDOT-owned property. Based on this confirmation, I can now say that we find the proposed project acceptable.”

Mr. Badger asked if they received approval from Mr. Tull.

Ms. Nunnally said something was sent out to him, but that a response had not been received and Mr. C. Ward said Mr. Tull had been notified.

Aaron Matthews, Contractor -Mark Ross Construction, stood before the Wetlands Board on behalf of the applicant and was sworn in by Chairman Byrd.

Mr. Badger said looking at the tax maps, it showed that Mr. Tull owned all the marsh.

Mr. Matthews said that he had spoken with Mr. Tull. He added that VDOT had turned the property over to the Town of Chincoteague, and that was why VDOT had to give them the right-of-way. VDOT no longer owns the property. The property belongs to the Town.

Mr. Matthews said Mr. Eddie Tull was not in good shape, but that he had no problem with keeping things the way they were.

Mr. Matthews said all he was doing was maintenance, and Mr. Badger said it was not maintenance when something was being torn down and rebuilt. Mr. Matthews said the structure had fallen down on its own from lack of maintenance.

Mr. Badger explained that maintenance would be if they decided to put a new roof on. Tearing down the whole building and putting in new pilings was starting from scratch.

However, Mr. Badger said the issue was not the structure it was ownership.

Mr. Byrd said it would be appropriate to get approval from the owner's representative to put in the record.

Mr. Ward said they could approve the permit pending notification. Mr. Matthews said he would have no problem getting Mr. Tolbert to send whatever was needed.

Mr. Getek asked to confirm that the only issue Mr. Nettleton had was ownership and Mr. Byrd confirmed that was correct.

On a motion made by Mr. Taylor and seconded by Mr. Badger, the Wetlands Board voted to issue a permit (valid for (1) year, for Harold & Carroll Cherrix, Sr.- VMRC# 2022-1734, to demolishing and replacement of an existing gear storage building and support pilings with the following conditions:

- 1. Submit letter of approval from the Town of Chincoteague stating they have no issues with the project.***

The property is located on Chincoteague Island, VA 23336, tax map#(s) 30-A-3D.

5. NEW BUSINESS

A. Gull Point Farm, LLC - VMRC# 2022- 2601

Replacement of approximately 255 linear feet of timber bulkheading with new vinyl sheathing and timber pilings 2 feet channelward of the existing structure, a 20 feet by 10 feet floating dock, and the replacement of 100 linear feet of a freestanding wooden groin-like wall with a new vinyl structure, located in Wachapreague, VA 23480, tax map#(s) 113A-A-208 & 113A-A-209.

Ms. Nunnally gave a synopsis of the project pointing out it included two different property owners. She add that the converted upland would be filled with approximately 629 cubic yards of clean upland soil.

Ms. Nunnally said there was 75 square feet of vegetated and 594 square feet of non-vegetated impacts, (totaling 699 square feet), with a fee of \$12,042.00.

Ms. Ellen Grimes, CRM, LLC, stood before the Wetlands Board on behalf of the applicant and was sworn in by Chairman Byrd.

Ms. Grimes said this was a co-applicant application. WDLB LC who owns the Island House restaurant and the property to the north was Gull Point Farm.

Ms. Grimes said the Gull Point Farm's application was for replacement of the bulkhead on the property line, and the installation of a 20 square feet by 10 square feet floating structure with an access ramp.

Ms. Grimes said the WDLB LC application was for the filling of the boat ramp and the installation of an 8 square feet by 20 square feet floating dock with an access ramp.

Ms. Grimes mentioned there was also a 100 square feet groin property line separator, dilapidated structure that both property owners were concerned about. It was a liability so they had the property line moved and now the structure was solely on the Island House property.

Ms. Grimes said the structure kind of connected to the bulkhead on the Gull Point property in the corner. It will be over to the right more and turn into a bulkhead, because it would be containing the fill material put into the bulkhead.

Mr. Byrd asked if the property line was moved so that the liability would be on one person.

Ms. Grimes said both applicants were present and could speak to that.

Ms. Grimes said she would now be explaining the project from North to South and speaking on Gull Point first.

Ms. Grimes said Gull Point would be replacing four pieces of bulkhead. The northern piece of bulkhead was 75 feet. She believed that bulkhead should be replaced in its existing footprint due to it being the property line. Going feet channelward would put the bulkhead on Mr. Vodvarka's riparian area and there would be quite a few impacts vegetated and non-vegetated wetlands.

Ms. Grimes said the other three pieces would be 2 feet channelward.

Ms. Nunnally asked if the structure at the northern most end was going to be replaced in place.

Ms. Grimes said yes and that it required a revised drawing. She wanted to get feedback before making changes.

Mr. Badger asked, to confirm, that should be cutting the impacts by 150 square feet.

Ms. Grimes said yes for non-vegetated.

Ms. Grimes said for the Island House property, (WDLB LC), the existing boat ramp was in disrepair, not safe, and would cost a lot of money to renovate. The Island House would like to construct a wall/bulkhead at the base of the existing ramp and fill to an elevation similar to the parking lot.

Ms. Grimes said they would also like to install an 8 feet by 20 feet floating structure to be utilized by restaurant customers.

Mr. Taylor asked if the area was manmade and Mr. Badger said the whole area was manmade.

CHAIRMAN BYRD OPENED THE FLOOR TO PUBLIC COMMENT

Mr. Byrd asked if there was anyone who wanted to comment on application 2022-2601.

Mr. Thomas Gallivan, applicant- Gull Point Farm, stood before the Wetlands Board on his behalf and was sworn in by Chairman Byrd.

Mr. Gallivan said he was proposing to repair a structure they purchased a few years ago. He said they were trying to stabilize the property and felt it was unsafe from a liability stand point.

Mr. Gallivan said at some point they would like to do some aquaculture there.

Mr. Gallivan added, that for boat use, it would only be their boats to go service their clams.

Mr. Blake Johnson, applicant – Island House/WDLB LC), stood before the Wetlands Board on his behalf and was sworn in by Chairman Byrd.

Mr. Johnson said Mr. Gallivan came to him about his desire to replace [the structure] on his property and they started talking about the boat ramp. They talked about the property line and the groin that was there and pointing out how shallow the boat ramp was. When people from out of town try to utilize the ramp to launch their boats they are going off the end of the concrete ripping off their axles.

Mr. Johnson said the agreement between he and Mr. Gallivan was to make it look better and more functional for everyone involved.

Mr. Johnson added that currently all the run off from the parking lot goes down ramp and into the creek.

Mr. Byrd told the applicants he felt they were doing the right thing.

Mr. Byrd asked if there were any questions for Mr. Johnson.

Mr. Badger said if he remembered correctly, he had a JPA in 2012 to fill the ramp.

Mr. Johnson said he did not recall that, but that they did replace what was currently seen there in 2012.

Mr. Badger said it was okay, and added that it showed no permit required from VMRC or the Wetlands Board.

CHAIRMAN BYRD CLOSED THE FLOOR TO PUBLIC COMMENT

Ms. Grimes said with the ramp being there and all the water from the upland going down it, Mr. Gallivan's clams would not be happy. The proposed work would improve the water quality.

Mr. Getek asked if the boat ramp was concrete all the way down and Ms. Grimes said yes.

Ms. Grimes asked if Ms. Nunnally wanted to discuss impacts now.

A discussion ensued on the amount of vegetated and non-vegetated wetlands to be impacted.

The total impacts for the project was totaled at 519 square feet. There was 444 square feet of impacts to non-vegetated wetlands and 75 square feet of impacts to vegetated wetlands.

Mr. Badger asked to confirm that there was nowhere else to mitigate and Ms. Grimes said that was correct. That is what led to the in-lieu fees.

Mr. Badger stated this was a commercial waterfront that had been impacted for well over 100 years and the vegetated wetlands impacts on top of it were minimum. Since it's a commercial frontage replacing the bulkhead on the north side of the original footprint, and backfilling the vegetated area seems appropriate.

Mr. Getek chimed in to say that because of what Mr. Badger described a Living Shoreline would not work in that area

On a motion made by Mr. Taylor and seconded by Mr. Badger, the Wetlands Board voted to issue a permit (valid for (2) years, for Gull Point Farm, LLC - VMRC# 2022- 2601, for the proposed replacement of approximately 255 linear feet of timber bulkheading with new vinyl sheathing and timber pilings 2 feet channelward of the existing structure, a 20 feet by 10 feet floating dock, and the replacement of 100 linear feet of a freestanding wooden groin-like wall with a new vinyl structure with the following conditions:

- 1. Revise drawings to show Northern bulkhead to be put in the existing footprint*
- 2. Pay a total of \$9,342.00 into the mitigation fund for 444 square feet of impacts to non-vegetated wetlands and 75 square feet of impact to vegetated wetlands.*

The property is located in Wachapreague, VA 23480, tax map#(s) 113A-A-208 & 113A-A-209.

6. OTHER BUSINESS

A. Blue Marina VA., LLC Discussion – VMRC# 2022-2293

Proposed repair and resurfacing of an existing rip rap, replacement of the existing bulkhead 15 inches channelward to construct a new bulkhead, replacement of (2) timber/vinyl jetties with stone jetties, dredge, fill, and installation of (2) new stormwater outfall pipes, located on Chincoteague Island, VA 23336, tax map#(s) 45-A-20, 30A1-1-20, 42, 44, 46, 48, and 52.

Mr. Byrd said he received two letters from VMRC. One letter stating that the application was being reviewed, and a second letter after it had been reviewed.

Mr. Byrd said that he was given strict instructions to have it read into the minutes, and that no one would have comments.

Mr. Byrd asked Ms. Nunnally to read the second letter into the record.

Ms. Nunnally said the letter was dated December 9, 2022, and it was from Mr. Randal D. Owen, VMRC.

“This is to inform you that the Marine Resources Commission, at its meeting on December 6, 2022, reviewed the Accomack County Wetland Board’s November 17, 2022, decision to approve the above-referenced application to fill tidal wetlands as part of a new bulkhead and revetment proposal at property in the Town of Chincoteague.

The Commission reviewed all documents in the official record transmitted by the Board and was given a summary of the hearing by Commission staff. After consideration of the record, the Commission voted unanimously to remand the Wetland Board’s decision for further consideration of alternatives and minimization of tidal wetlands losses. The Commission also directed the Board to not re-hear the application until the Accomack County staff agree with the quantification and location of the proposed wetlands impacts, as part of a complete application. The Commission further directed the Board to seek and obtain written guidance from the Virginia Institute of Marine Sciences’ Office of Advisory Services before rescheduling the public hearing.”

Mr. Byrd said that was it as far as they were concerned until they were approached again.

B. 2023 Meeting Dates

Mr. Getek asked if they should decide on the meeting dates for July and December.

The board agreed to schedule the July 2023 meeting for the 20th and to schedule the December 2023 meeting for the 21st.

7. NEXT MEETING

The next Wetlands Board meeting is scheduled for Thursday, January 19, 2023 at 10:00 a.m. in the Accomack County Board Chambers, Room 104, in Accomac, VA.

8. ADJOURNMENT

On a motion made by Mr. Taylor and seconded by Mr. Getek, the Wetlands Board voted to adjourn the meeting.

The meeting was adjourned at 11:15 a.m.

T. Lee Byrd, Chairman

Chontese Ridley, Environmental Permit Specialist