

Minutes
Essex County Wetlands Board
109 Cross St., Tappahannock, VA,
Meeting of May 25, 2023
6:00 PM

A meeting of the Essex County Wetlands Board was held on May 25, 2023, in the School Board Meeting Room at 109 Cross St., Tappahannock, Virginia, with the following present:

Present:

Jeff Howeth – Chairman

Barry Bates

Bunky Davis

Kevin Goff

Nate Parker IV

Absent:

Also present:

Jay Woodward, Virginia Marine Resources Commission

Kelly McKnight, Planning and Zoning Office Manager

Rob Hodges, Zoning Administrator

CALL TO ORDER

Chairman Howeth called the meeting of the Essex County Wetlands Board to order.

ROLL CALL

Ms. McKnight called the roll. A quorum was met.

AGENDA

Chairman Howeth stated that there are three cases on the agenda. Two are side by side but the same person. The third is the case that they tabled from last month.

APPROVAL OF MINUTES

Chairman Howeth asked for approval for the minutes from the April 27, 2023, meeting. Mr. Parker stated that there is a lot of information to look through. Chairman Howeth stated that he believes that we can set them aside until the next meeting. Mr. Davis made a motion to adopt the minutes at the next meeting. Mr. Goff seconded the motion. AYES: 5 NAYES: 0 ABSENT: 0

PUBLIC COMMENTS

None

PUBLIC HEARINGS

23-0998 – Kim Southerland

Mrs. Karla Havens, Mid-Atlantic Resource Consulting, stated that Bryan Fletcher with Delta Marine is here as well. For the record this application and the next application are side by side properties. This one is in the name of Claude B. Allen, Trustees, 171 Bayside Drive. Kim Southerland is his daughter and wanted to be listed as the applicant on both properties. There are copies of the ground shots in the packet. 171 is the proposed bulkhead that if you are standing in the yard looking at the river has the jog all the way over on the right where the bulkhead has two right angles that are total weakness. That section terminates at the property line of 153 Bayside Drive. Jay Woodward met both Bryan and I on the site today and restaked the project and have pulled the entire alignment landward of your jurisdiction. In addition, Jay suggested they should point out that they will be removing approximately 150 sq ft of concrete rubble and stone from the shoreline so that will be returned to sandy beach. Because the proposed bulkhead will either be along the same alignment that the bulkhead is out there now or landward of it because we will be cutting off the corners the wetland impacts will be none. We will be restoring the three areas where the stone and rubble are coming up. That also has proposed 60' groin that is to be replaced. They will revise the drawings and send them out to the proper channels.

Chairman Howeth stated with the conversations he has heard and with Mrs. Havens stating it would be the same alignment or behind it which if it is behind would not be the wetlands board. Chairman Howeth asked if when they pull it back are they going to put any sand or nourishment back? Mrs. Havens stated no. She said the landward part of the groin is still in the jurisdiction but no beach nourishment. The groin that is upstream is in good shape.

Chairman Howeth stated that the structure he sees in the picture there is not much structure there.

Mr. Woodward stated that putting it in the same footprint in the same alignment is about the best you can do. There are still temporary impacts that some people still review. The bulkheads here are not worth trying to save.

Mr. Goff made the motion to approve contingent on the revised permit being submitted with the condition that the construction be on or landward of the old seawall footprint. Mr. Parker seconded the motion. AYES: 5 NAYES: 0 ABSENT: 0

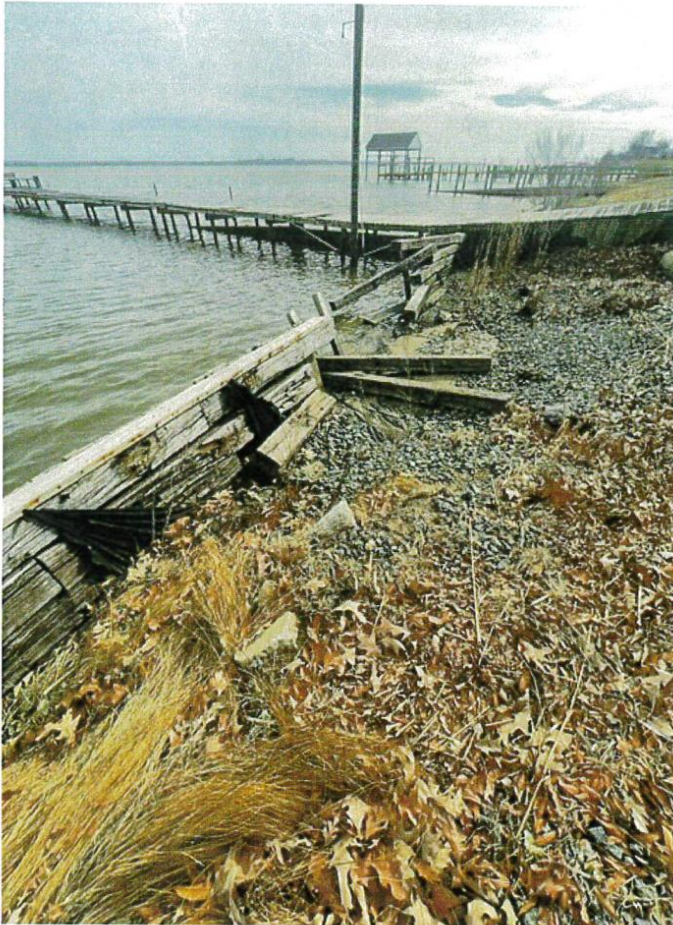
23-1001 – Kim Southerland

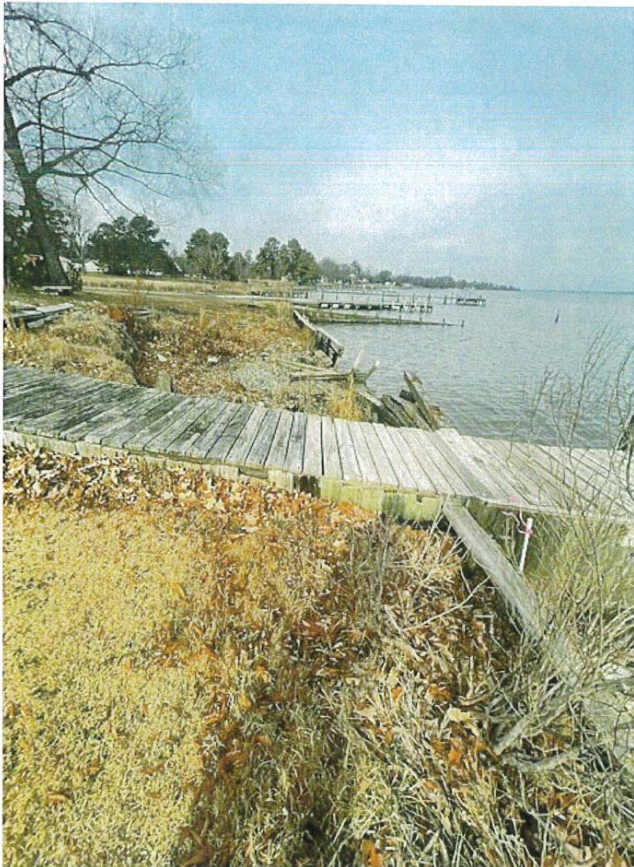
Mrs. Karla Havens stated that that this is for 153 Bayside Drive. This is for a 151' bulkhead that is on a straight section of the shoreline. There is a 40' long 6' wide crescent shaped eroded area where the bulkhead timbers are completely missing. Number 3 stone has been dumped as well as rubble as been dumped in there. It is not doing anything other than smothering the area. We restaked this as well and the updated permit will show that the bulkhead will either be in the

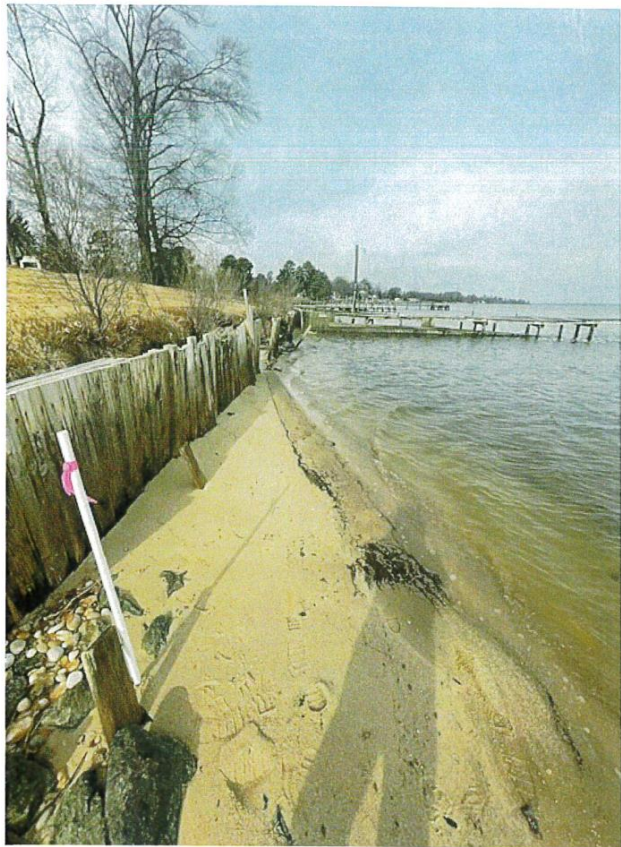
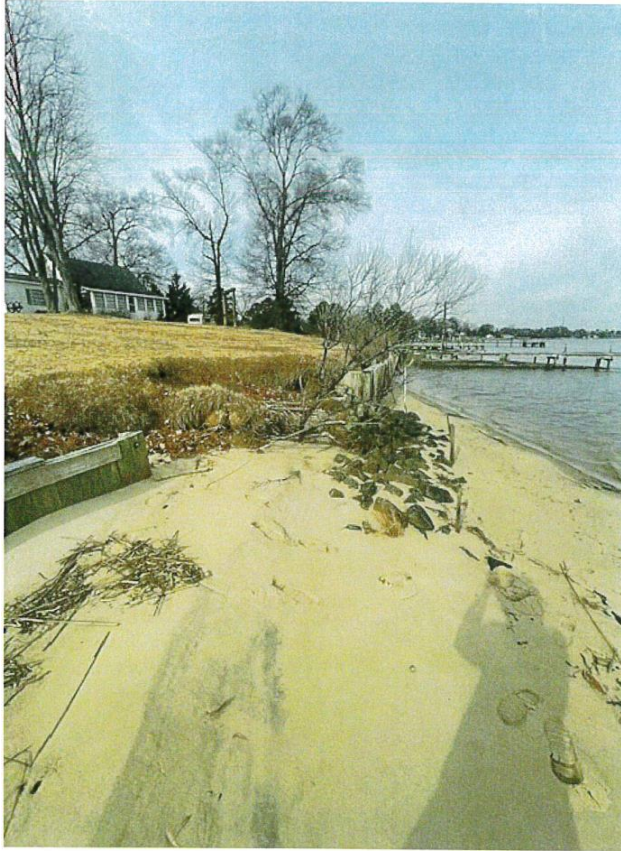
same alignment or landward of the existing bulkhead. To try to offset some of the impact, since the crescent shaped portion is in an intertidal wetland, they thought where the bulkhead ends and the boat ramp is. They are proposing to sprig it with peytons and altournaflorea.

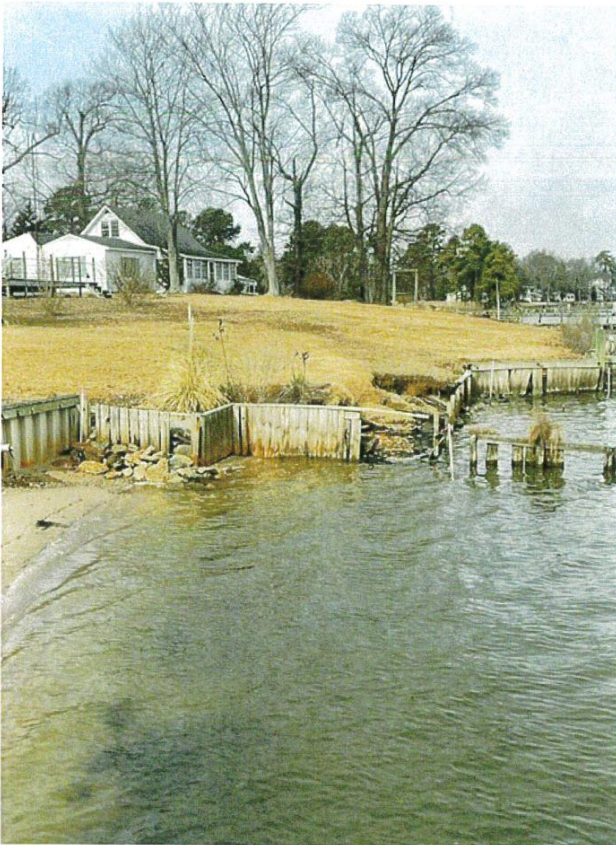
Mr. Woodward the bulkhead has broken the continuity so there is not a jurisdiction. Most is difficult to understand as he is not at the microphone.

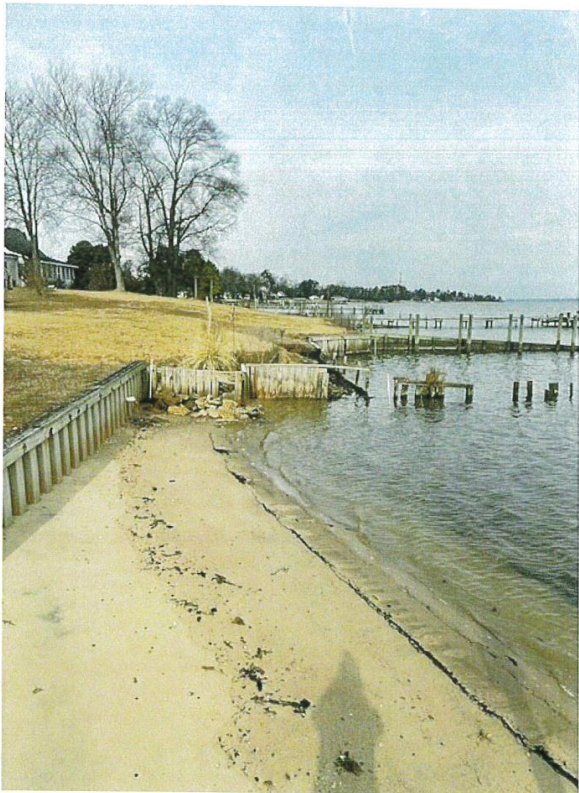
Mr. Davis made the motion to approve with the condition that the permit be revised with the alignment and creating the vegetative wetlands. Mr. Bates seconded the motion. AYES: 5
NAYES: 0 ABSENT: 0

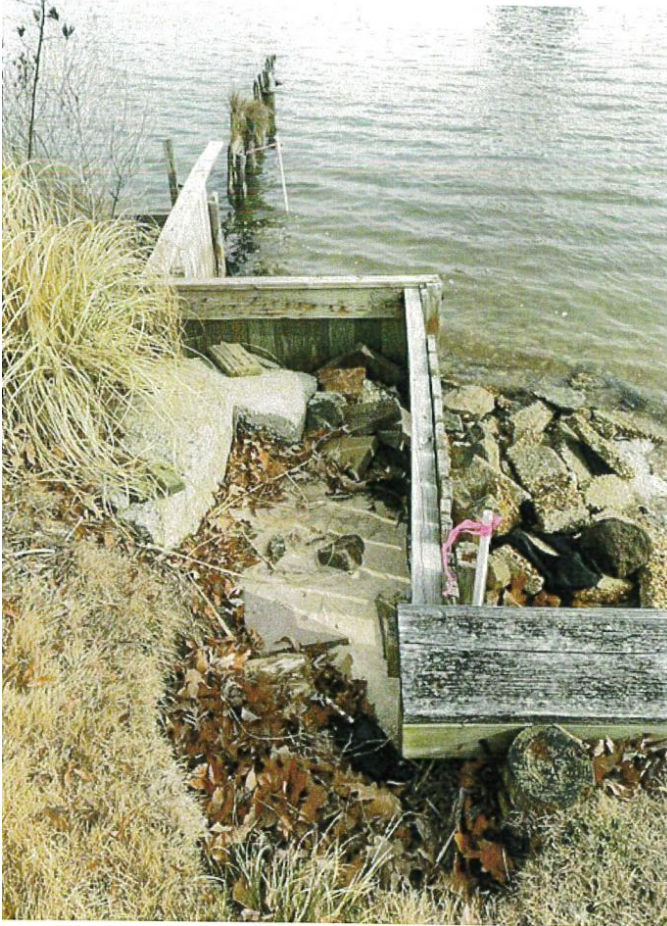












Mr. Woodward asked if anyone every went out to the sites to check them out or did Kelly go out there? Chairman Howeth stated that Kelly does not go out to the sites. Ernie Sadler will go out there. Mr. Parker stated he would be more than glad to go out to the sites but would need to have someone take him out there as he does not drive. Mr. Goff stated that he used to go quite a bit. He likes to go especially when he has questions but it's a matter of him taking the time to sit down ahead of time and review.

23-0667 – Micah Dianda

Mr. Roberto Cazares is representing the homeowner, Micah Dianda 882 Fort Lowery Lane. Mr. Cazares stated he will be moving, and his new address will be 8362 Hwy 41 West, Richlands, North Carolina, 28574. The project is a 10' extension coming out of an existing seawall/jetty. They will use the same material that is used now which is tongue and groove lumber boards. We will have one navigational piling go out 10' and another piling on the alternating side to help support the other side. Both pilings will be about 8". The seawall is already there we are just extending it to help build up beach.

Chairman Howeth stated when he was looking at the drawings the pier was an outboard or maybe south of the extension in the drawing and then the next picture showed the pier north

of the extension. Mr. Cazares pointed out which is the correct drawing. Chairman Howeth asked for the drawings to be updated.

Mr. Goff made the motion to approve contingent on the revised drawings. Mr. Bates seconded the motion. AYES: 5 NAYES: 0 ABSENT: 0

NEW BUSINESS

None

OLD BUSINESS

Chairman Howeth stated that Mr. Flournoy did submit an after the fact permit. Due to the advertising requirement, it did not get put on for this meeting.

Mr. Goff asked about the after the fact permit? Is it an application to get a permit for the thing that already been done to be done? Mr. Woodward stated that when work has been done without a permit there are two options. One is to remove it and restore it so the violation goes away. The other is to submit an after the fact application to retain it. The submittal of the after the fact application in no way guarantees this will be approved with or without fines. It still may go to removal and restoration.

Mr. Goff asked so those things are separated? Mitigation questions, fines, other penalties or required actions are independent of the after the fact permit. It's a choice of either you get retroactive permission for what you have done or you have to undo what you have done.

Mr. Woodward stated that Mr. Flournoy seems willing to pay fines or whatever to retain this. You have to divorce yourself from that and think that if this was something that was brought to us today and had not been done would we approve it? It will come to the wetlands board for review and if you can't approve it then it is a denial and denial means restore it. If the project gets denied then Mr. Flournoy has the right to appeal to the VMRC commission. Mr. Woodward stated that they would uphold that denial. They are going to recommend denial of that fill and make him restore it. Hopefully he would come back voluntarily and start to remove it. The code states that if someone does something and you tell them to restore it and he does Civil charges can still be levied. If it is denied and he does not restore it then it goes to the Attorney General's office where he begins to accrue fines of up to \$25,000 per day it is not restored.

Mr. Goff asked if the submission of the after the fact application now represents an admission that it was a thing that was actually done? Mr. Woodward stated that seems like an admission.

Mr. Goff asked if now the question is how to respond to the not small violation that is here.

Mr. Bates asked if he was correct that they have no jurisdiction past low tide mark? Mr. Woodward stated that is correct. He stated that a majority of the fill is over state bottom.

ADJOURN

Having no further business, Chairman Howeth entertained a motion to adjourn. AYES: 5 NAYES:
0 ABSENT: 0

Jeffrey Howeth, Chairman