

Minutes
Essex County Wetlands Board
109 Cross St., Tappahannock, VA,
Meeting of June 22, 2023
6:00 PM

A meeting of the Essex County Wetlands Board was held on June 2, 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

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 4 hearings on the agenda. He stated that Charles Flournoy, VMRC 23-1135, has Senator Richard Stuart representing him. He sent a letter requesting a deferral to a later meeting. Since he was getting a late start coming on board he agreed. Also there are VMRC 23-1107 - Jennifer Baldwin, VMRC 23-1170 - Jeff Bane, and VMRC 23-1194 – Grant Ancarrow.

APPROVAL OF MINUTES

Chairman Howeth stated that there are two sets of minutes to approve. One is the Show-Cause hearing for Mr. Flournoy from April 27, 2023. The other is the regular Wetlands Board meeting from May 25, 2023.

Mr. Goff made a motion to approve the April 27, 2023 minutes. Mr. Parker seconded the motion. AYES: 5 NAYES: 0 ABSENT: 0

Mr. Parker made a motion to approve the May 25, 2023 minutes. Mr. Davis seconded the motion. AYES: 5 NAYES: 0 ABSENT: 0

PUBLIC COMMENTS

None

PUBLIC HEARINGS

VMRC #23-1135 – Charles S. Flourney

Chairman Howeth stated that they had asked for a continuation on this so it will be heard at the July meeting.

RICHARD H. STUART, P.C.

Attorney and Counselor at Law
114 Polk Street
P. O. Box 1146
Montross, Virginia 22520

Email: richard.rhspc@gmail.com

Telephone
804-493-8892

Facsimile
804-493-8897

June 15, 2023

Jeff Howeth
Chairman
Essex County Wetlands Board
PO Box 549
Tappahannock, VA 22560

RE: 996 Fort Lowry Lane, Tappahannock, VA
Request for Permit

Dear Mr. Howeth:

I am writing to inform you that I have been retained to represent Charles S. Flournoy regarding the above-captioned matter. I understand there is a hearing on Thursday, June 22, 2023. Because I have just entered this matter and need some time to try to understand the facts, I would very much appreciate it if you would extend or defer the hearing for thirty (30) days until your July meeting, which I understand is July 27, 2023.

I very much appreciate your anticipated cooperation in this matter.

With kindest regards, I am

Very truly yours,



Richard H. Stuart

Cc: Charles S. Flournoy

Received by VMRC June 22, 2023 /blh

202 South Church Lane
P.O. Box 549
Tappahannock, Virginia 22560
(804) 443-4329
www.essex-virginia.org

ESSEX COUNTY WETLANDS BOARD

June 21, 2023

Honorable Richard H. Stuart, Esquire
114 Polk Street
P. O. Box 1146
Montross, Virginia 22560
VIA EMAIL richard.rhspo@gmail.com

Dear Senator Stuart:

I am in receipt of your letter dated June 15, 2023 regarding the Charles Flournoy After-the-Fact permit hearing for the property located at 996 Fort Lowry Lane in Essex County, Virginia. Based upon your late arrival to the process as described in our telephone conversation and your letter, I am granting your request to defer the case presentation and public hearing to a July, 2023 Essex County Wetlands Board meeting. This letter shall serve as your confirmation of that decision and neither you nor Mr. or Mrs. Flournoy are required to be present at the June 22, 2023 meeting as scheduled.

It should also be noted that after my review of the submitted Joint Permit Application and two subsequent revision submissions, I am still unclear of the material composition of the fill materials that were sourced to fill the subaqueous and intertidal zones on the subject property. While the Application states that 80% sand and 20% clay were used as fill material, Mr. Flournoy stated to me that broken concrete and possibly other materials were used in this project. Question 7 of Part 3 – Appendices of the JPA asks that ALL materials be identified, including their source. If these were demolition materials rather than natural pit materials or native materials as indicated, further analysis and testing may be warranted to properly describe the materials that are being requested to remain in place. Please modify the application and latest drawing revision to accurately reflect the composition and characteristics of the materials used with their origin.

As always, it was a pleasure to talk with you last week. Please let me know if I can be of further assistance to you.

Sincerely,



Jeffrey L. Howeth, P.E., L.S., C.F.M., D.C.A.
Chairman, Essex County Wetlands Board

Received by VMRC June 22, 2023 /blh

From: [Woodward, Jay \(MRC\)](#)
To: [MRC - jpa Permits; Owen, Randy \(MRC\); Worrell, Justin \(MRC\)](#)
Subject: Fwd: Wetlands
Date: Thursday, June 22, 2023 3:12:15 PM
Attachments: [scan0006.pdf](#)

Flournoy application, Essex County, request for deferral and grant of same by LWB.
Thx

Get Outlook for iOS

From: Jeff Howeth <jlhowethlc@gmail.com>
Sent: Thursday, June 22, 2023 1:55:03 PM
To: Kelly McKnight <kmcknight@essex-virginia.org>; April Rounds <arounds@essex-virginia.org>; Ernie Sadler <esadler@essex-virginia.org>; Woodward, Jay (MRC) <Jay.Woodward@mrc.virginia.gov>; Steve Flournoy <csflournoy@gmail.com>; Richard Stuart <richard.rhspc@gmail.com>; Owen, Randy (MRC) <Randy.Owen@mrc.virginia.gov>; jswift@baydesigngroup.com <jswift@baydesigngroup.com>; wsavage@baydesigngroup.com <wsavage@baydesigngroup.com>
Subject: Fwd: Wetlands

----- Forwarded message -----

From: Dawn Howeth <dawnhoweth@gmail.com>
Date: Thu, Jun 22, 2023 at 1:42 PM
Subject: Wetlands
To: Jeff Howeth <jlhowethlc@gmail.com>

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Dawn Howeth
Executive Assistant
J.L. Howeth, P.C.
1019 Elm Street
Tappahannock, Virginia 22560
804-443-6367

Received by VMRC June 22, 2023 /blh

VMRC #23-1107 – Jennifer Baldwin

Mrs. Jennifer Baldwin stated that she is wanting to build a low profile groin that is down river. It is close to the public piece of the South Hill Banks property. This is mainly for beach erosion. They are the last house in the development that doesn't have a jetty. The public beach has two jettys, one on their ramp and one that is a rock jetty. Over the past three years they have seen a lot of beach erosion.

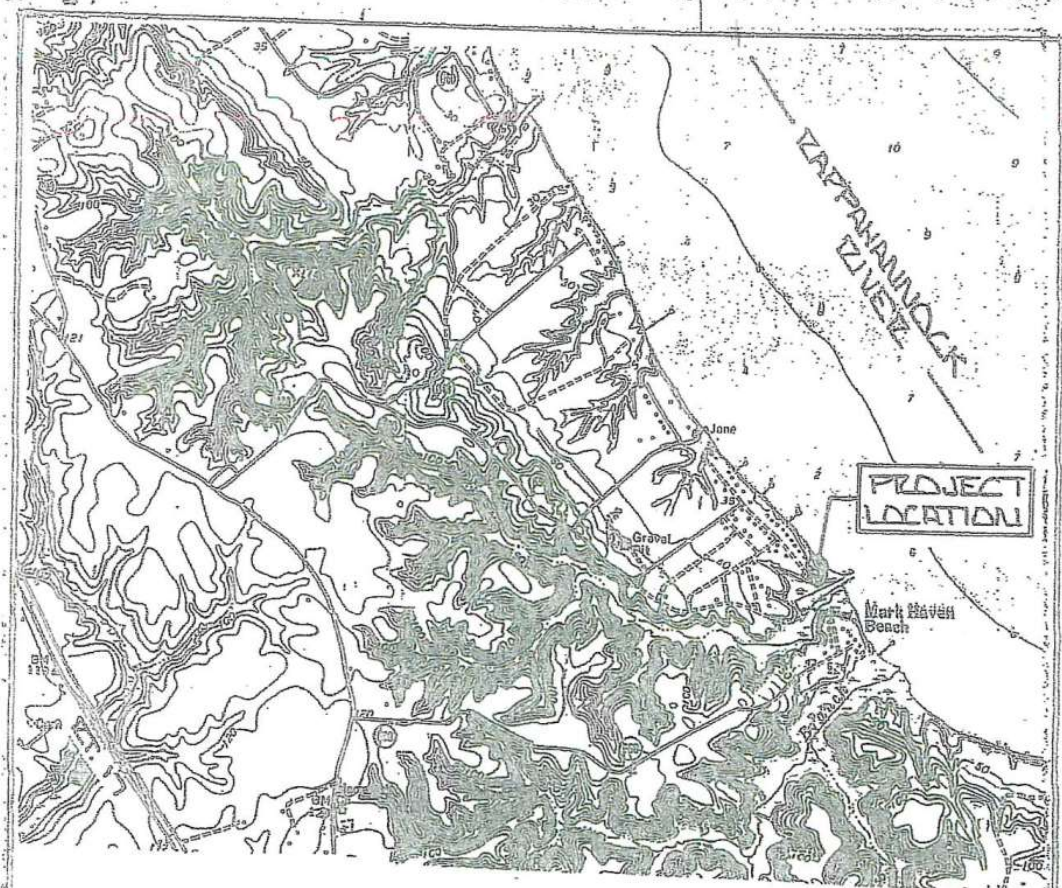
Chairman Howeth asked since they are up against the Associations property had they talked to them?

Mrs. Baldwin stated that they had approved it in May at their meeting.

Chairman Howeth asked if there were any comments from Jay Woodward.

Mr. Woodward stated that this project would qualify for VGP2 general permit. A low profile design no more than 48' from mean high water not objected to by the neighbors and approved by the board.

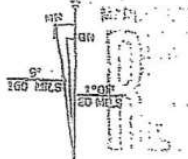
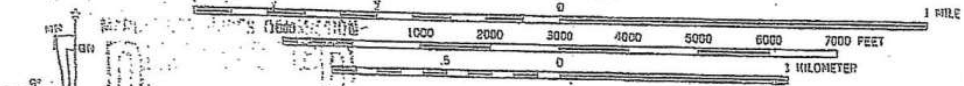
Mr. Goff made a motion to approve the application as presented. Mr. Bates seconded the motion. AYES: 5 NAYES: 0 ABSENT: 0



VICINITY MAP

DUNNSVILLE & MORATTICO QUADRANGLE
 VIRGINIA
 7.5 MINUTE SERIES (TOPOGRAPHIC)

SCALE 1:24 000



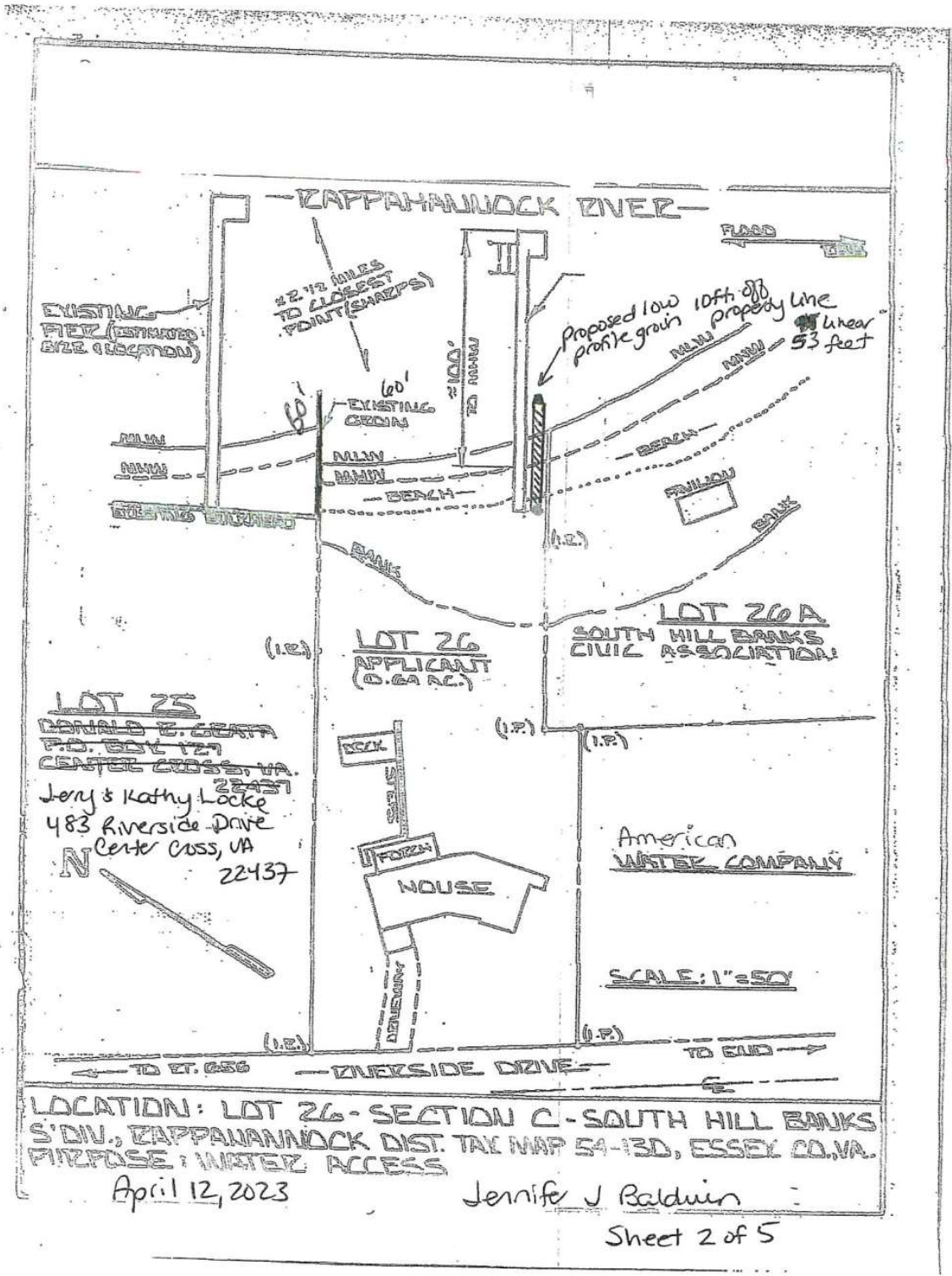
UTM GRID AND 1925 MAGNETIC NORTH
 DECLINATION AT CENTER OF SHEET



CONTOUR INTERVAL 10 FEET
 DOTTED LINES REPRESENT 5-FOOT CONTOURS
 NATIONAL GEODETIC VERTICAL DATUM OF 1929
 DEPTH CURVES AND SOUNDINGS IN FEET—DATUM IS MEAN LOW WATER
 THE RELATIONSHIP BETWEEN THE TWO DATUMS IS VARIABLE
 SHORELINE SHOWN REPRESENTS THE APPROXIMATE LINE OF MEAN HIGH WATER
 THE MEAN RANGE OF TIDE IS APPROXIMATELY 2.2 FEET

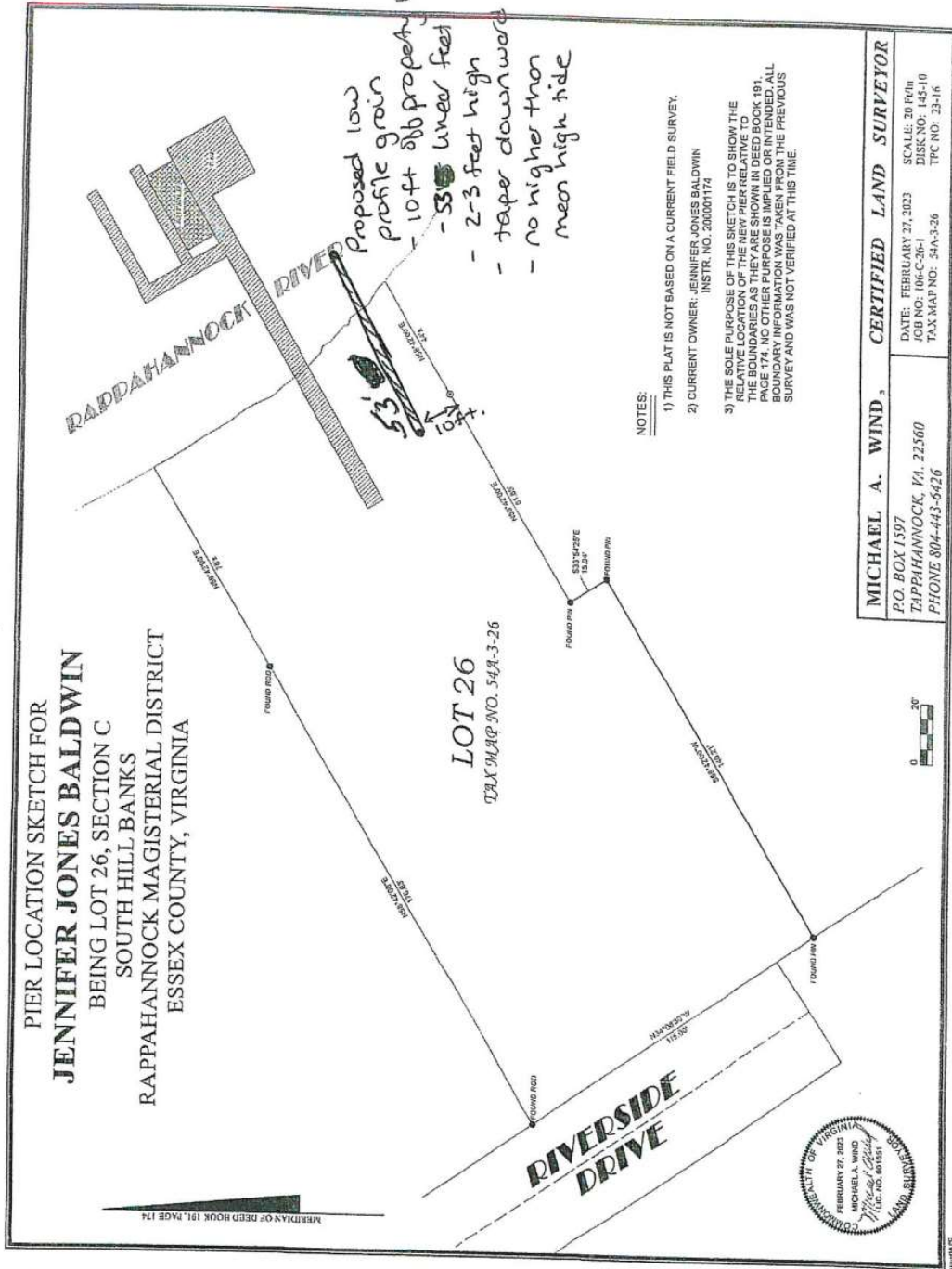
Proposed Pier Maintenance/Repair
 and Low Profile Groin Project
 Jennife J Baldwin April 12, 2023
 sheet 1 of 5

Received by VMRC May 9, 2023 /blh



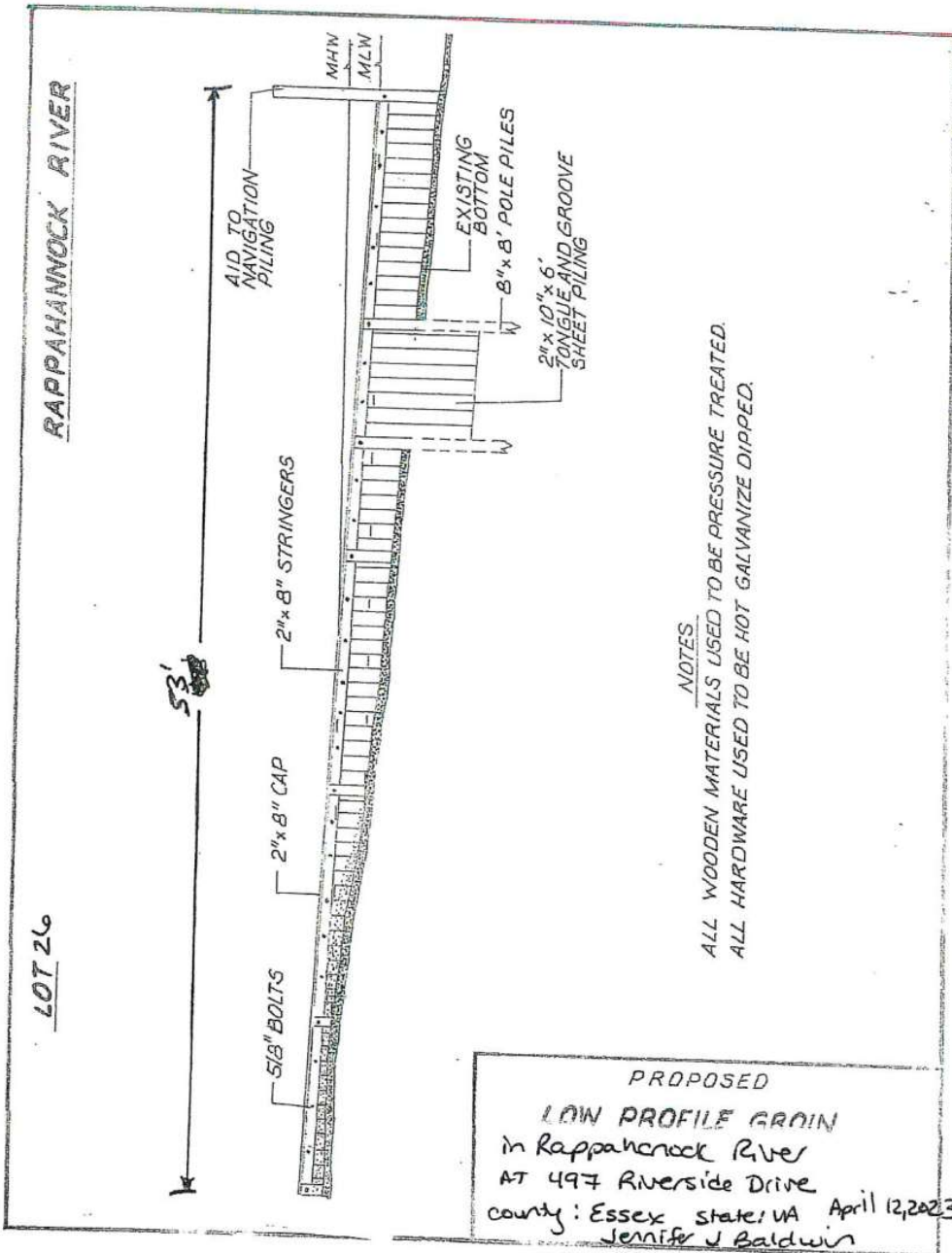
Received by VMRC May 9, 2023 /blh

Expanded View April 12, 2023



Sheet 3 of 5

Received by VMRC May 9, 2023 /blh



LOT 26

RAPPAHANNOCK RIVER

53'

AID TO NAVIGATION PILING

2" x 8" CAP

5/8" BOLTS

2" x 8" STRINGERS

MHW
M7W

EXISTING BOTTOM

8" x 8' POLE PILES

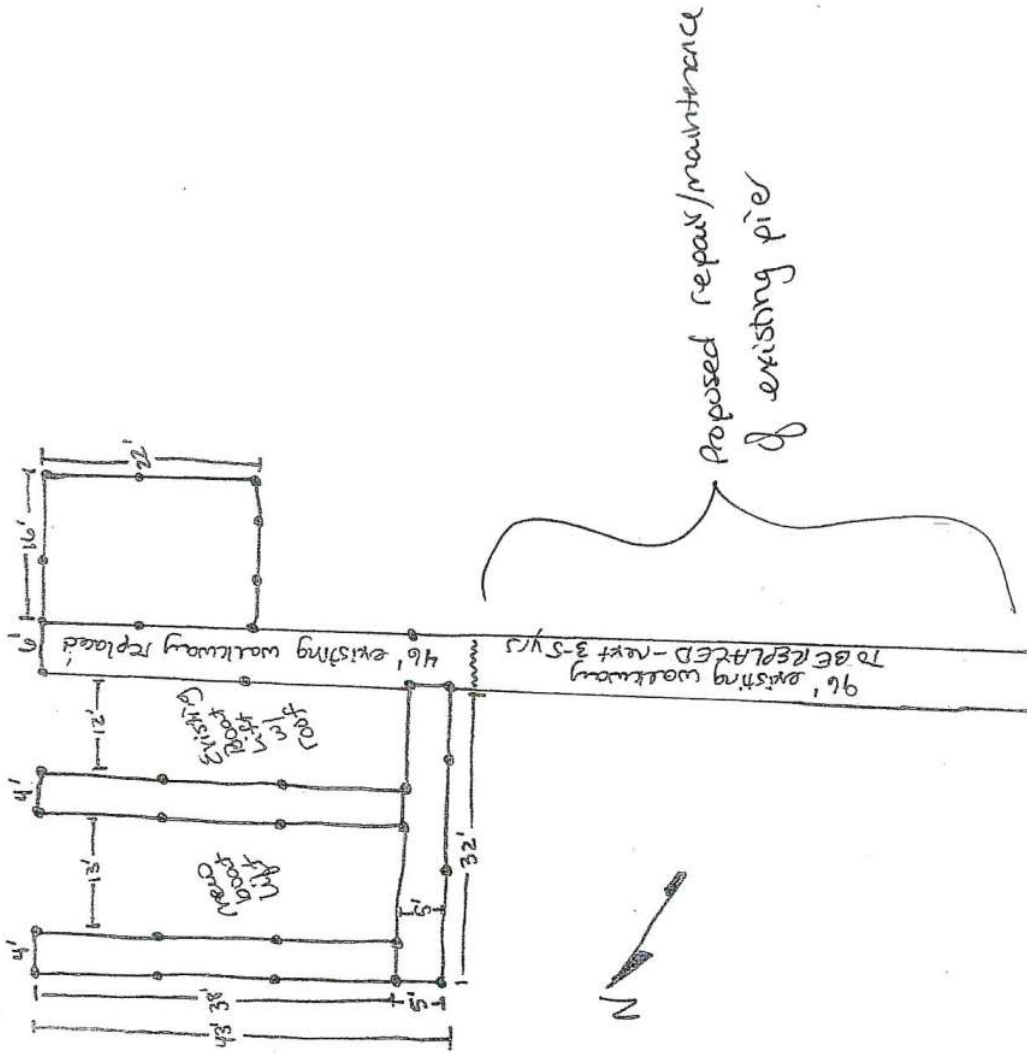
2" x 10" x 6" ANGLE AND GROOVE SHEET PILING

NOTES
ALL WOODEN MATERIALS USED TO BE PRESSURE TREATED.
ALL HARDWARE USED TO BE HOT GALVANIZE DIPPED.

PROPOSED
LOW PROFILE GROIN
in Rappahannock River
AT 497 Riverside Drive
county: Essex state: VA April 12, 2023
Jennifer J Baldwin

Sheet 4 of 5

RAPPAHANNOCK
RIVER



Jennifer J Baldwin
April 12, 2023

Plan - view scale 1/4" = 4'

Sheet 5 of 5

Received by VMRC May 9, 2023 /blh

Application: 20231107

Close Map

Add Ruler



VMRC #23-1170 – Jeff Bane

Mr. Bryan McDearmon, 388 Scoggins Creek Trail, stated that Mr. Bane is proposing rip-rap revetment that is 200' long in front of a seawall. He also has erosion behind that seawall that he would like to fill in. He believes that the neighbors on both sides have concerns and he was unable to talk with Mr. Bane to see if he would be willing to just replace the bulkhead that is

there instead of doing the rip-rap revetment. He has asked if they could table this until next month to be able to resolve with the neighbors?

Chairman Howeth stated that they have read the objections. His opinion would be since they have seen the objections and know what they are and that Mr. McDearmon has acknowledged them that it would be prudent to go ahead and grant him his tabling for 30 days and bring him back to the next meeting to see if they can get those issues worked out.

Mr. Goff stated that when it comes to seawalls it is one thing to propose a seawall on a pristine shoreline it is another to propose to replace a seawall. Generally, and including the minutes from the last meeting, they have been amenable to seawall proposals when it is replacing on the footprint or directly right in front of the existing bulkhead. We don't know the reason for going for rip-rap. He asked to make the client aware that either of them have a chance for approval but he needs to be aware he does not have to do the rip-rap.

Mr. Bates asked if rip-rap was preferred nowadays?

Mr. Goff stated that it is preferred but that is in cases where you are armoring a shoreline for the first time. That is what is different here. He is not sure if it is a cost issue where the rip-rap will cost less or he is under the impression that a seawall wouldn't be approved. When he went to the site today he stated that it is done the habitat is there. It's one parcel in a long line with seawalls as far as you can see. While rip-rap is preferred in a new situation, he is going on precedent and speaking for himself. This board has approved the bulkheads on the footprint of an existing but aging bulkhead. He needs to be told that if his proposal is to stick with the rip-rap we will vote on that to the merits of the case. He needs to know a seawall is not out of the question. And this is a situation where the neighbors are objecting to it.

Mr. Bates asked if the client had agreed to go with bigger rock if they go the rip-rap way?

Mr. McDearmon stated that they were.

Chairman Howeth stated that to summarize that we have been told, whether it is true or not, that the client was informed by someone in Essex County that he possibly couldn't get a bulkhead.

Mr. McDearmon stated that no he met with somebody in the county and they told him to put the rip-rap in front of the seawall.

Chairman Howeth stated they want to tread very reluctantly on the economics of private citizens in the gamut of trying to protect their property. You have the right to protect it but some peoples pockets are not as deep as others. If he was under an assumption that he could not get one for the other that is not potentially accurate information. The board is the one who makes that decision. The right thing to do in this one would be to grant the deferral. The public hearing has not been opened on this one. What he has read the objections may end up going away.

Mr. Parker stated that giving him the opportunity to make a decision on what's going to be the best for him is going to be the best for us as well.

Chairman Howeth stated that it is on record that Mr. McDearmon asked for this on behalf of his client.

Mr. Goff stated that none of what he had said should be construed as favoring one or the other. After visiting the site and becoming aware of the objections from the neighbors there just hasn't been enough time. Mr. Bane may not even know about the objections. If he wants to leave the proposal as is then bring it back next month and we will look at it again.

Mr. Bates asked about a point of procedure if the 90 day clock keep running when we table something?

Chairman Howeth stated he is not a lawyer but that question is being formally asked based on conversations he has had within the past 24 hours. They were asking if someone defers, asks to continue, table, any of the standard words used does that suspend the boards clock for action. When we get close to the end of this we will have a little bit of a conversation but he thinks they are going to ask Mr. Woodward if they had a suggestion from VMRC and there is a County Attorney that they can ask.

Mr. Woodward stated he is also not a lawyer but when it is the request of the applicant you can defer it as long as you want. The hearing within 60 days of a complete application and a decision within 30 days thereof is to give the applicant a reasonable time period to review it. In cases such as the Flournoy case where it is an after-the-fact is a little different because if he submitted the application and the requested a tabling forever than we have a violation that is not getting resolved. But in this other case if he decides nevermind, he doesn't want to do anything then when it is at the request of the applicant it stops the clock.

Mr. Bates stated that makes common sense but he was just checking.

Chairman Howeth stated they would run it by the County Attorney to see if he has an opinion one way or another. In certain cases if we don't think it is a complete application then we have to decide on what the date of the complete application before we can start counting days on a calendar.

Mr. Bates stated he just wanted to see about that and the date of application in case it drag out to August.

Chairman Howeth stated he does not think VMRC is going to let it drag out that long. He asked Mr. McDearmon if they were ok not opening the public hearing tonight and save it until they get there.

Mr. McDearmon stated they are ok with that.

Chairman Howeth asked if anyone was here that would want to speak on that? He stated he would hold the public hearing because he thinks that depending on what the client decides the public hearing could be short.

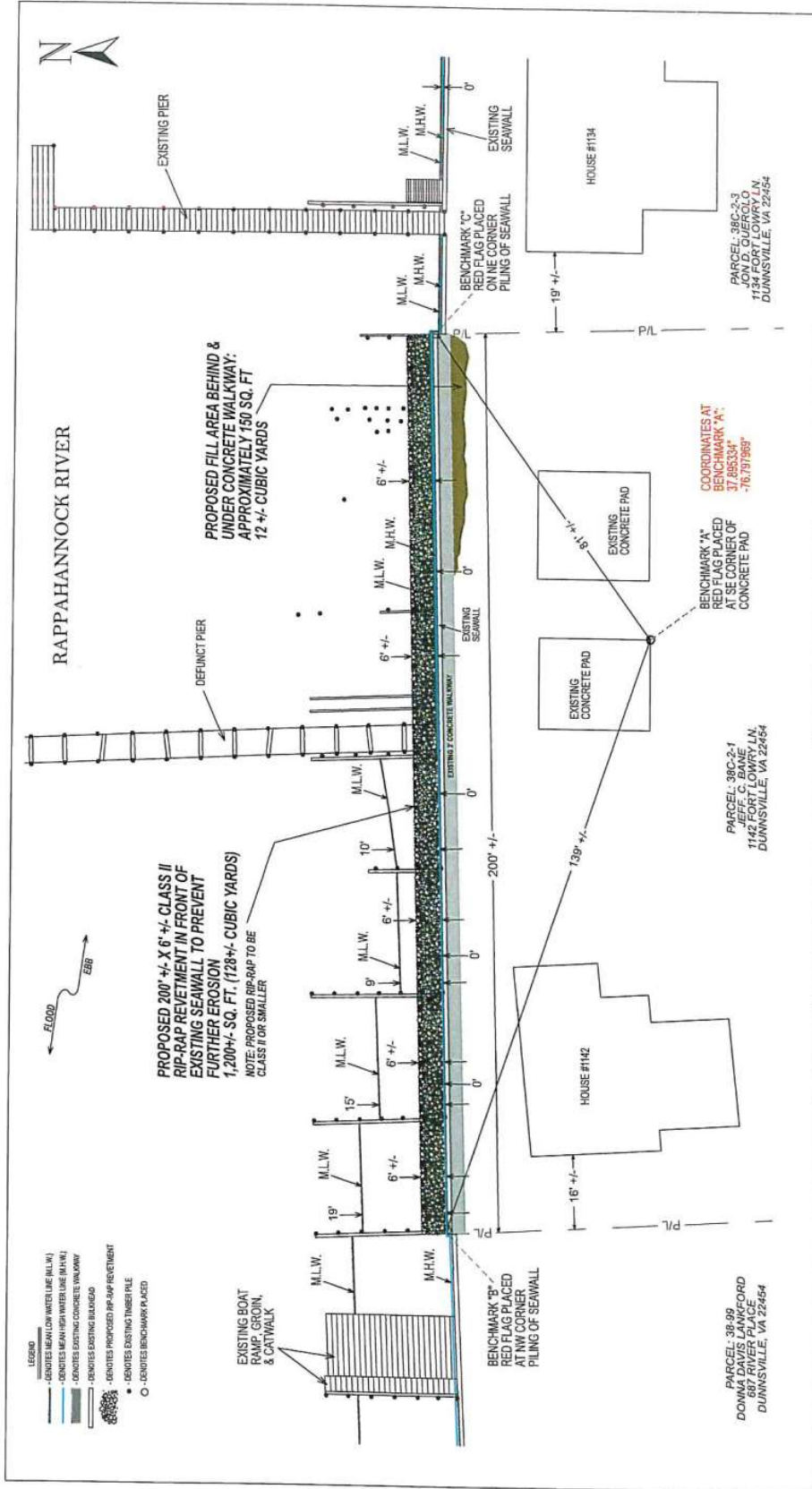
Mr. Bates made a motion to table case #23-1170 until the July meeting. Mr. Goff seconded the motion. AYES: 5 NAYES: 0 ABSENT: 0

Chairman Howeth stated that if Mr. McDearmon needed anything he knew how to get in touch with Jay Woodward. He can also call the County Office and ask for Kelly McKnight she can get any of the boards contact information.



PROPOSED CLASS II RIP-RAP REVEGETATION PROPOSED FILL: CLEAN CLAY SAND MIX / #61, #61 STONE PROPERTY LINES & BOUNDARIES HAVE BEEN PLOTTED FROM AVAILABLE GIS INFORMATION. FIELD SURVEYS AND BOUNDARIES IN SOME CASES FROM 1:25000 SCALE MAY VARY.	JPA		JOB TITLE: PROPOSED RIP-RAP REVEGETATION IN FRONT OF EXISTING SEAWALL	
	PERMIT DRAWINGS		PARCEL: 36C-24 PROJECT: BANE SCALE: N.T.S. DATE: 5-8-2023	
SITE LOCATION: 1142 FORT LOWRY LN, DUNNSVILLE, VA 22454 RAPPAHANNOCK RIVER		NOTE: DRAWINGS ARE FOR PERMITTING PURPOSES ONLY		
PROJECT BY: HAYWOOD MARINE CONSTRUCTION PERMIT BY: MAC BROS, LLC DRAWN BY: BRYAN MCDEARMON PROPERTY OWNER: JEFF C. BANE		ESSEX COUNTY		

Received by VMRC May 18, 2023 /blh



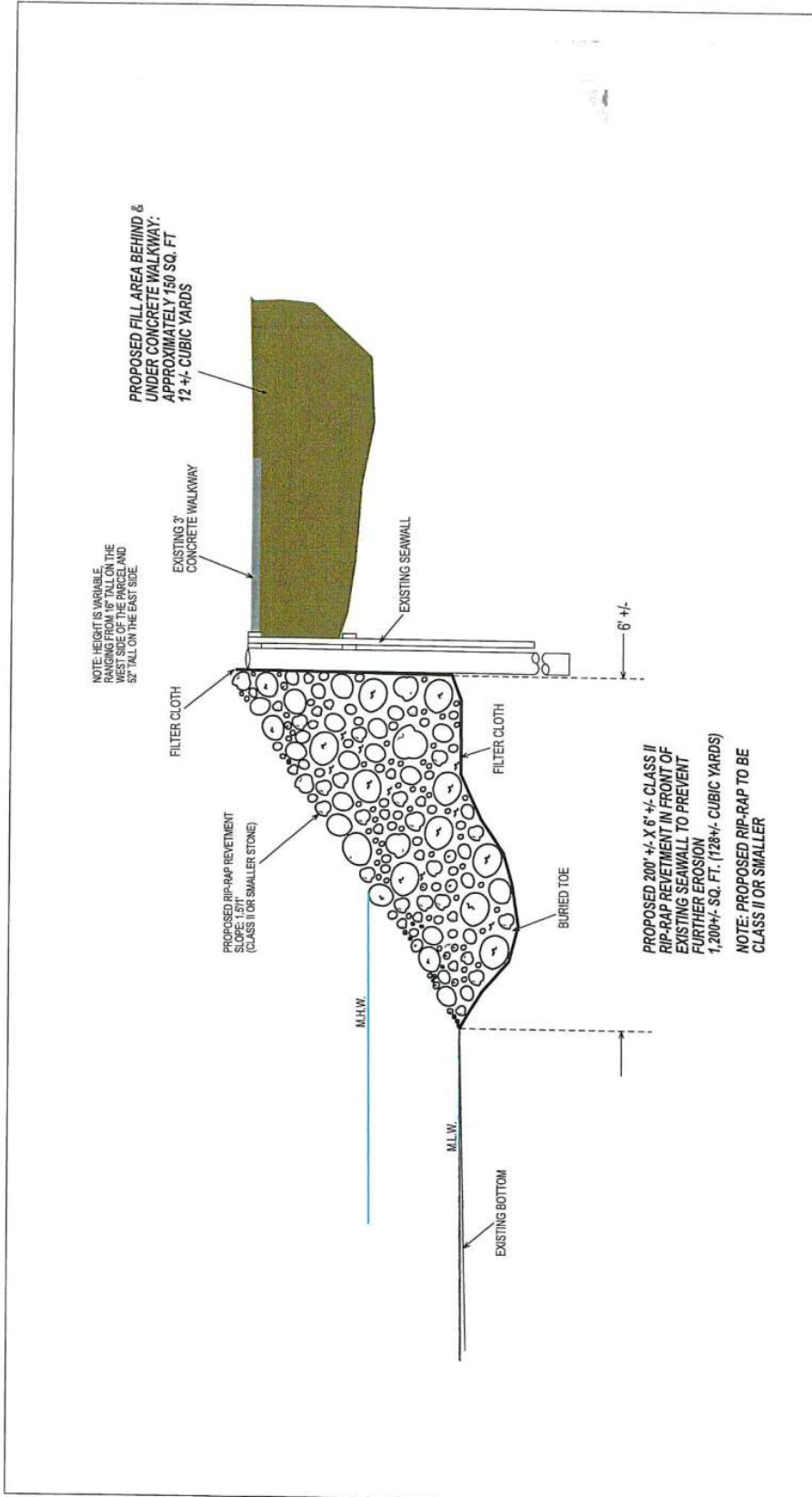
PROPOSED CLASS II RIP-RAP REVEGETATION PROPOSED FILL: CLEAN CLAY SAND MIX / #1 / #1 STONE <small>PROPERTY LINES & BENCHMARKS HAVE BEEN PLOTTED FROM AVAILABLE GIS INFORMATION. FIELD OBSERVATIONS & FIELD REVISIONS IN SOME CASES FORMER OWNERS ARE NOT BEARING FOR THIS SURVEY.</small>	JPA	JOB TITLE: PROPOSED RIP-RAP REVEGETATION IN FRONT OF EXISTING SEAWALL	PROJECT BANE 	SH. 4 OF 8 PLAN VIEW
		SITE LOCATION: 1142 FORT LOWRY LN. DUNNSVILLE, VA 22454 RAPPAHANNOCK RIVER	PERMIT DRAWINGS	SCALE: 1" = 20' DATE: 5-9-2023
PROJECT BY: HAYWOOD MARINE CONSTRUCTION PERMIT BY: MAC BROS. LLC DRAWN BY: BRIAN MCDERMION PROPERTY OWNER: JEFF C. BANE	ESSEX COUNTY	NOTE: DRAWINGS ARE FOR PERMITTING PURPOSES ONLY		

Received by VMRC May 18, 2023 /blh



PROPOSED CLASS II RIP-RAP REVELMENT PROPOSED FILL: CLEAN CLAY SAND MIX / #61 / #57 STONE <small>PROPERTY LINES & DIMENSIONS HAVE BEEN OBTAINED FROM AVAILABLE GIS INFORMATION. FIELD OBSERVATIONS & FIELD RESEARCH IN SOME CASES PERMIT DRAWINGS ARE NOT MEANT AS LAND SURVEY.</small>	PROJECT BY: HAYWOOD MARINE CONSTRUCTION PERMIT BY: MAC BROS, LLC DRAWN BY: BRIAN MCNEBBON PROPERTY OWNER: JEFF C. BANE	SITE LOCATION: 1142 FORT LOWRY LN, DUNNSVILLE, VA 22454 RAPPAHANNOCK RIVER	JOB TITLE: PROPOSED RIP-RAP REVELMENT IN FRONT OF EXISTING SEAWALL	PANEL: 3002-1	SH. 5 OF 8
				PROJECT BANE	EARTH VIEW
PERMIT DRAWINGS		WFE: 180066 ARE (18) PERMIT# 1800255 ONLY		SCALE: 1" = 20' DATE: 5-8-2023	MAC BROS, LLC

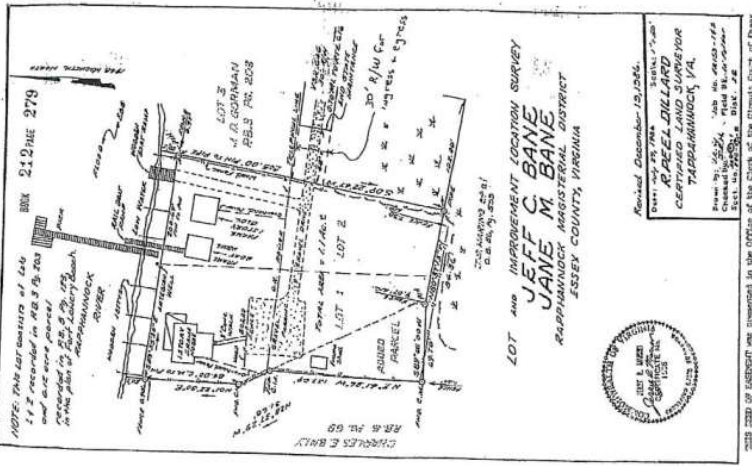
Received by VMRC May 18, 2023 10:11h



PROPOSED CLASS II RIP-RAP REVELTMENT PROPOSED FILL: CLEAN CLAY SAND MIX / #57, #57 STONE PROPERTY LINES & BOUNDARIES HAVE BEEN PLOTTED FROM AVAILABLE GIS INFORMATION. FIELD OBSERVATIONS & DEED RESEARCH IN SOME CASES. PERMIT DRAWINGS ARE NOT MEANT AS LAND SURVEY.	PROJECT BY: HAYWOOD MARINE CONSTRUCTION PERMIT BY: MAC BRGS, LLC DRAWN BY: BRIAN MCDONAGHAN PROPERTY OWNER: JEFF C. BANE	SITE LOCATION: 1142 FORT LOWRY LN, DUNNSVILLE, VA 22454 RAPPAHANNOCK RIVER	JOB TITLE: JPA PERMIT DRAWINGS NOTE: DRAWINGS ARE FOR PERMITTING PURPOSES ONLY	MODEL: 300-2-11 PROJECT NAME:	SH. 6 OF 8 PROFILE VIEW
				SCALE: N.T.S. DATE: 5-8-2023	

Received by VMRC May 18, 2023 /blh

Apr 17 2023 4:19 Jeff Blane
 Lot 6 to Betty Foell 11/9/16



LOT AND IMPROVEMENT LOCATION SURVEY
 JEFF C. BANE
 JANE M. BANE
 RAPPAHANNOCK MARSHES DISTRICT
 ESSEX COUNTY, VIRGINIA



Revised December 12, 2024.
 Drawn by: Jeff Blane
 R. PEEL DILLARD
 CERTIFIED LAND SURVEYOR
 TAPPANHANNOCK COUNTY, VA.
 Permit No: 25274 Job No: 2023-014
 Scale: 1" = 40' Date: 12/12/24
 Plot No: 2023-014, Block # 2

THIS JOB OF SURVEY AND IMPROVEMENT IS THE WORK OF THE OFFICE OF THE CHIEF OF THE DISTRICT OF BANK

PROPOSED CLASS II RIP-RAP REVEMENT PROPOSED FILL: CLEAN CLAY SAND MIX / #57 / #57 STONE PROPERTY LINES & BOUNDARIES HAVE BEEN PLOTTED FROM AVAILABLE OR INFORMATION, FIELD OBSERVATIONS & DEED RESEARCH IN SOME CASES. PERMIT DRAWINGS ARE NOT MEANT AS LAND SURVEY.	PROJECT BY: HAYWOOD MARINE CONSTRUCTION PERMIT BY: MACBROS, LLC DRAWN BY: BRIAN MCDONNAN PROPERTY OWNER: JEFF C. BANE	SITE LOCATION: 1142 FORT LOWRY LN, DUNNSVILLE, VA 22454 RAPPAHANNOCK RIVER	JOB TITLE: PROPOSED RIP-RAP REVEMENT IN FRONT OF EXISTING SEAWALL	PARCEL: 2023-014 PROJECT: BANE	SH. 7 OF 8 SURVEY PLAN
					SCALE: N.T.S. DATE: 5-4-2023
JPA PERMIT DRAWINGS NOTE: DRAWINGS ARE FOR PERMITTING PURPOSES ONLY					
ESSEX COUNTY					

Received by VMRC May 18, 2023 abh

VMRC #23-1194

Mr. Bud Allen stated that this has been an interesting project for him. Being a past building official, subdivision agent, planning director, and zoning administrator he saw a lot of issues that raise a lot of questions. He has spoken with Grant and has been to the site with him. When he was there he was asked to pursue getting a boat ramp out of gravel upstream of his existing pier. He walked him through the site otherwise he would not have been able to identify the location. That is why he submitted the photographs. If you look at one photograph and turn inboard you see a building 30 degrees in the line of site. There he has an elaborate shop where he is building boats and antiques. That is his justification for running the boat ramp there to get the boats out to the water. If you stand uphill and look towards the water you will see his pier. From that pier going upstream 65' is the property pin. If you stand at the building and look at a 30 degree angle it will site you down to where he wants to put the boat ramp. Other than that you wouldn't be able to locate it. He did have some concern about the grade of the ramp and the vegetation. There is more vegetation there than what he had anticipated. The other concern was going to the County's GIS to see about the property lines. He told Grant that he has to be at least 5' from the property line. When he looks at the buildings and other things he sees that the property lines have not been abandoned they are still intact. He still submitted the application with the assumption that the property line was still there so he could comply with the 5' offset. The ramp is 10' wide and to protect the stone that he wanted he took 12" wide tongue and groove timber with vinyl underneath so that it will hold the gravel in place. Adjacent to that the owner wants a 5' wide "catwalk" or pier to help him launch his boats. The worst case scenario is we have roughly 12' for the ramp and 5' for the pier that comes out to 17'. It looks like there is more than 5' of wetlands vegetation which calculates to 85 sq ft. He spoke with Grant after speaking with Jay since he was unable to locate it as well. He let Grant know that VMRC is going to see you need some compensation would you be amenable to that? Grant stated yes but I would really like to get this ramp in and am willing to create some more wetlands. He has not drawn out any configuration for developing a new wetlands. He spoke with Jay about doing a living shoreline going 5' beyond the existing vegetation and putting in a revetment or a sill and then taking the existing vegetation to replant it to get me more than 150 sq ft to offset or more than compensate for the wetlands that is going to be damaged.

Chairman Howeth asked if Mr. Ancarrow owns both lots 1 and 2? Both sides of the line that you are concerned with?

Mr. Allen stated yes he does. He had done his permit for the pier back in 2011 and that is why he knows it is 65'. He just had the one property at the time so he only had to reference the one property pin. He has now bought several lots and pretty much owns that riverside. He has not designed the footprint and digging back into the wetlands but he is amenable to that. How many sq ft should he accommodate? Based on his calculations it looks like at most 75 sq ft.

Mr. Goff pointed out that when it is vegetative wetlands the jurisdiction does not end at mean high water it extends inland from that 50% of the tidal range. He is not sure where the mean

high water is. Whatever math is done that has to be included in it. He stated that if they are being asked to consider an onsite mitigation they really need to know the dimensions and where it is actually going. This application says 0 for the tidal vegetation. We need to know how much it is before they can render a decision. Typically we are going to ask for more square footage than what is being removed.

Mr. Allen stated that the reason he mentioned the mean high water is that he was on the Chesapeake Bay Act board. He was treating anything from mean high water and back as part of the Chesapeake Bay Act. That is where we are struggling as to where to calculate from.

Mr. Goff stated he just wanted it in the calculations it needs to include not just the square footage from Mean High water.

Mr. Allen stated he wanted to come because Mr. Ancarrow is very amenable and wants to get this ramp in. He needs to go back out and detail some of the specifics that you are asking about. Then come up with an appropriate design and location for this compensation. He would like to know if it is feasible for us to move forward with the understanding if we do a compensation can he move along with the idea that there is hope he can put in a ramp.

Chairman Howeth stated the very first thing that we need to do is but the sidelines of where he wants the ramp. With the ramp if we saw 4 stakes we could have an idea of what is there. After that he would follow Mr. Allen's lead where he said that 17 X 5 is 85 sq ft and he offered 5X30 which is about 150 sq ft. To him that sounded like a reasonable ratio.

Mr. Allen stated that in talking with Jay the living shoreline would not be applicable and he would need to go and dig into the bank.

Chairman Howeth suspects that that side drops off and does not think that a sill is going to be easy to construct you might very well be trying to do something on the inside.

Mr. Allen stated that he can't comfortably say if he is willing to spend a substantial amount of money to continue to put in this ramp. But he wants to go back to him and tell him that it is considered or considerable but he needs to put some plans together. In addition to that he does have concerns going to the county website and seeing the property lines and buildings on top of the property lines. How did he get a building permit when it is still an existing property line.

Mr. Goff asked if the property line issue really on them though?

Mr. Allen stated that it is not but he needs to find the right location if he is going to do an auxiliary structure he wants to make sure it is not near the property line.

Chairman Howeth stated that the line is not on them because the property owner does have the option to vacate the property line. He stated that the owner could fix his own property. He asked if he is trying to reasonably assure your client that he is on a reasonable trajectory to get

what he wants? He stated that he cannot tell him exactly until that vote is taken and it is based upon the best option that he presents to them and they will react upon that.

Mr. Goff stated that it definitely something they can pursue. There is something upside down about the mitigation. The saying at VMRC is 'avoid, minimize, mitigate' in that order. We only fall back on mitigation when there is a project that has adequate social and economic benefit that merits destruction of wetlands and you use mitigation as way to ameliorate the damage that is being done. The way he hears it is they are wanting to propose, although there is nothing in the proposal to mitigate before work is done.

Mr. Allen stated he is reacting to the email from VMRC in regards to possibly needing compensation. He read the email from Mr. Woodward.

Mr. Goff it may be a tough sell but if we deem the project worthy then yes we are going to require mitigation.

Mr. Allen is asking if he can go to the client and tell them, no you are wasting your time or yes VMRC recommended mitigation.

Mr. Goff stated that the key word in that email is what was in parathesis which is 'need' does he need the boat ramp.

Mr. Allen stated that his client says he needs it.

Mr. Goff stated that his first priority is protect the wetland, unless, there are sufficient social and economic benefits. That is what needs to be shown. If the benefits of destroying the natural wetlands merit that destruction. If we are convinced of that then we are going to say you are going to have to mitigate.

Mr. Allen understands.

Mr. Bates asked as an economic benefit is he doing these boats for clients or is it just his boats?

Mr. Allen stated they are just his boats. He is asking for advice as to what to tell his client.

Mr. Bates stated he is not sure how we get around the social and economic part of it.

Mr. Goff stated it is a tough sell but it isn't impossible. He will leave it up to the client if they want to bring it back.

Mr. Allen stated with their blessing that is what he will tell him.

Chairman Howeth asked about the beach in the picture of the water entry point to see if that was the best spot?

Mr. Allen stated that there is a big oak and the 4x4 post it is right beside the post.

Mr. Goff stated when he was there he didn't see anything like that.

Mr. Allen stated that the picture was taken the first part of May.

Mr. Bates asked if this is one that we need to ask for it to be tabled, do we die the application and start over?

Chairman Howeth stated if Mr. Allen is good with his part of the presentation he is going to have Jay come up and give us their side. He asked if Mr. Allen was good to table on his clients behalf so that can work through this?

Mr. Allen stated that it would be the responsible thing to do.

Chairman Howeth stated that as Jay mentioned earlier Mr. Allen was not here other than his clients desire to be here. He will hear what Jay has to say but if it is ok with Mr. Allen we will put it on record that you are requesting to table this.

Mr. Allen stated he would go back to the client and let him know what their posture is.

Mr. Woodward stated to follow up on the email when he looked at the property he knew it would be around somewhere. There was nothing staked out. Getting to the comment Mr. Allen said about compensating with a sill, the only way you can compensate for wetland loss is wetland creation. You cannot convert non-vegetated into vegetated, subaqueous into vegetated. You have to covert upland into vegetated. The first thing is to stake it wider than 5 feet we can go down there and see where it is going to be. Then we go to the Low tide line and go up to where the vegetation stops it will be something more than 5'. With the question of need he had brought this up with other counties where they are not too keen on everyone having their own backyard ramp. You go to a marina and pay to launch it in the spring and you pay to bring it back in the fall. This was the first he heard about Mr. Ancarrow building boats there. He could see the need for that if they are little skiffs. When he went down there today the area right next to the pier is the least vegetated area so we are avoiding if we wanted to go there and it is basically directly up to the back of the shed but if you launch there you have to walk around the 'L' of the pier. Avoid, minimize, mitigate. Mitigate here is compensate. They need to know exactly where it is going and he was a little surprised that it had not been staked out yet. If money is no option you can look at doing paver block ramps that you can put it in that will allow vegetation to come through. It is still a fill but you are lessening the impact. Generally speaking, he looked in the appendix and it had 0 sq ft it needs to be fixed. If we don't know what that number is then we can come up with a number to compensate. We can meet back down there but get it staked out. If he is building boats then great he is a boat builder. That is a reasonable use or need. It is a reasonable impact to wetlands. Since it is a loss of wetlands it needs to be compensated with creation not conversion.

Mr. Bates stated that he is intrigued by the paver block idea. He understands it would still need approval but would creation still be needed in that situation.

Mr. Woodward stated it is still an impact. It is not a full loss but still an impact and would need to be compensated for.

Chairman Howeth asked if he was thinking like 50%?

Mr. Woodward stated he would still go 1:1. If he wants to do it in a sensitive way that will allow him a better use of that structure.

Mr. Bates said with the Chesapeake Bay Act you are probably talking about 100' buffer. We have the order where the wetlands board goes first then VMRC. If the zoning has not been done on the 100' buffer it's irrelevant. Getting to the ramp ought to come first.

Chairman Howeth stated that is for the zoning administrator and the BZA to decide.

Mr. Woodward stated a lot of his experience with boat ramps a lot of the buffer depends on water dependency. A boat ramp needs to be built on the shoreline. The Bay Act will probably approve it but if it's paver, concrete, dirt, gravel or a special exception you probably wouldn't run into problems.

Mr. Allen stated that he and Jay looked at it the same way. Mr. Ancarrow stated he didn't have the elbow room to maneuver near the pier. When he has done ramps before they have all been concrete. Mr. Ancarrow wanted the gravel and may have a reason for wanting the gravel and it may be that he is wanting a roadway to get to the ramp. Which then raises another question is gravel considered an impervious cover in the Chesapeake Bay Act?

Mr. Goff stated he would visit if Mr. Allen is going down there.

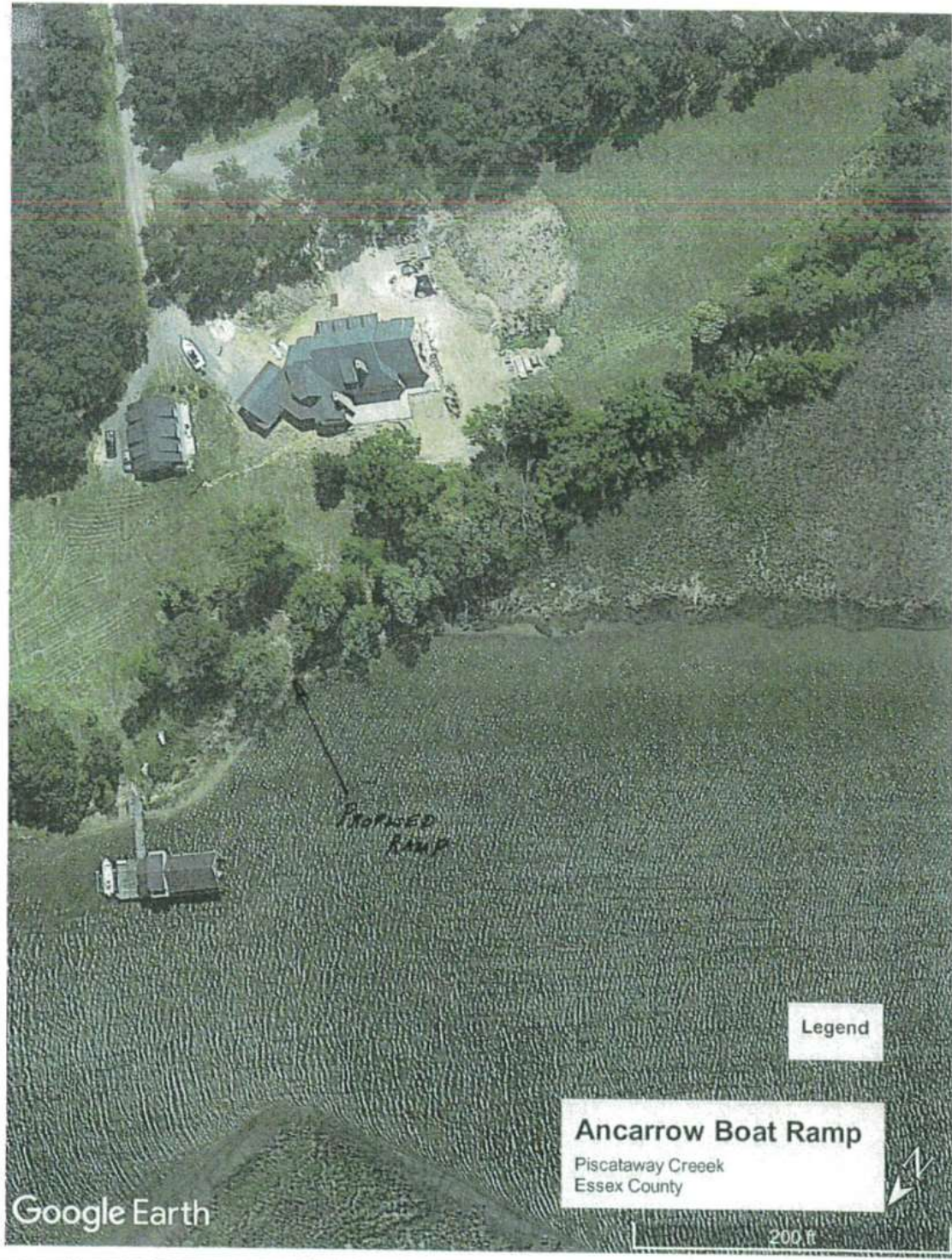
Chairman Howeth asked if his official request was to table at this point?

Mr. Allen stated that is correct.

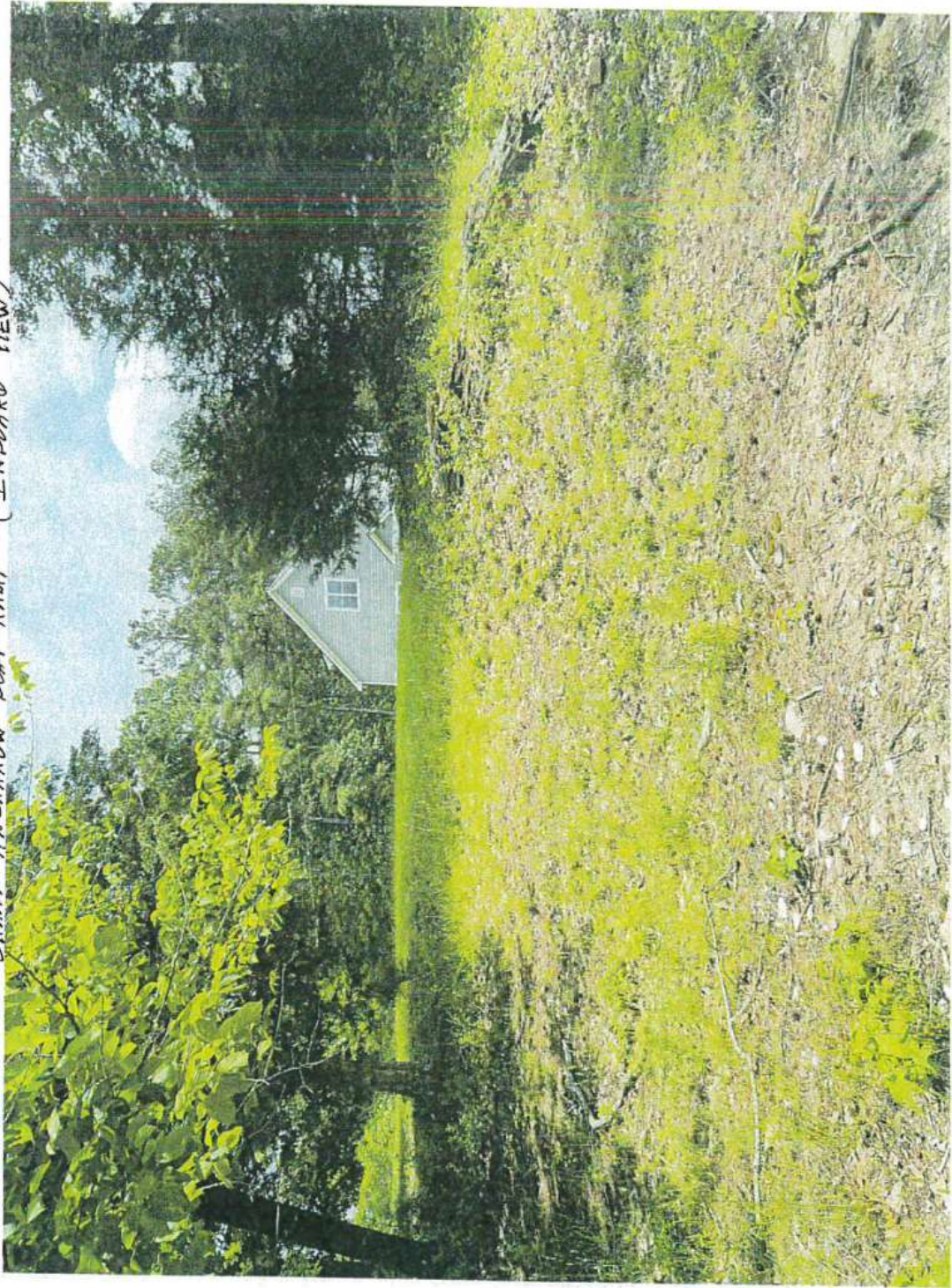
Chairman Howeth suggested going on to the next few steps with his client. If there is a possible solution.

Mr. Bates made a motion to approve Mr. Allen's request for tabling case #23-1194. Mr. Davis seconded the motion. AYES: 5 NAYES: 0 ABSENT: 0





GRANT ANCARROW BOAT RAMP (INBOARD VIEW)



GRANT ANCARROW BOAT RAMP (OUTBOARD VIEW)



GRANT ANCARROW BOAT RAMP (SHORE LINE PROFILE VIEW)

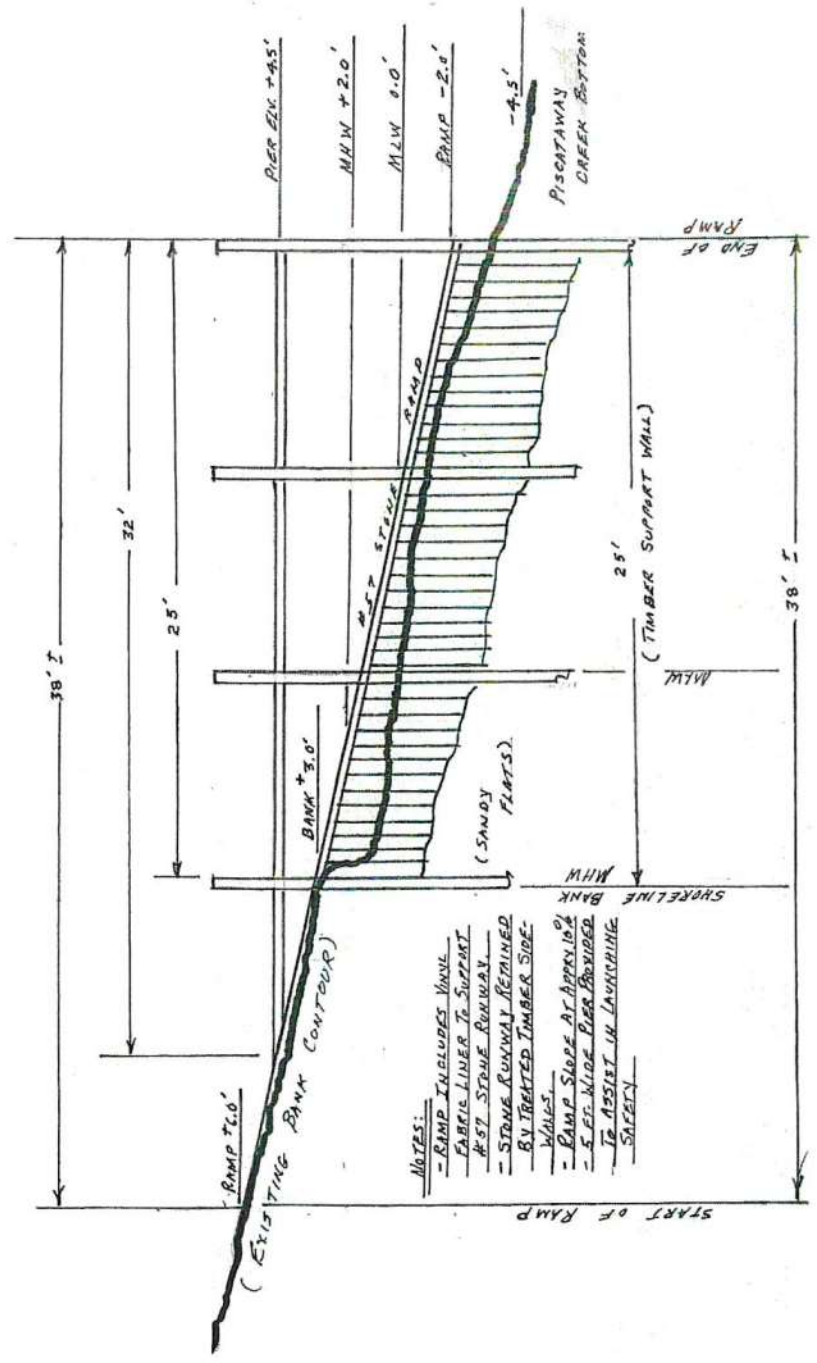


GRANT ANCARROW BOAT RAMP (WATER ENTRY POINT)



DRAWING SCALE:
 1" = 5'
 DATE: 4/18/62
 BY: BOB ALLEN

PROFILE VIEW DRAWING OF PROPOSED BOAT RAMP
 FOR: GRANT ANCHORAGE
 AT: 6 MILES RD. (END)
 ESSEX COUNTY, PISCATAWAY CREEK



- NOTES:
- RAMP INCLUDES VINYL FABRIC LINER TO SUPPORT #57 STONE RUNWAY
 - STONE RUNWAY RETAINED BY TREATED TIMBER SIDE WALLS
 - RAMP SLOPE AT APPROX 1:0
 - 5' ELEV SLIDE PIER PROVIDED TO ASSIST IN LAUNCHING SAFETY

Kelly McKnight

From: Woodward, Jay (MRC) <Jay.Woodward@mrc.virginia.gov>
Sent: Wednesday, May 31, 2023 12:07 PM
To: Bud Allen (allenwm@prodigy.net)
Cc: Kelly McKnight; Jeff Howeth (jhoweth@msn.com)
Subject: #23-1194 Ancarrow boat ramp
Attachments: Ancarrow1.jpg; Ancarrow2.jpg

Hey Bud,

I got out to the site last week to take a look...it's a tough one to find!

I didn't see any stakes, but from what I could piece together, the shoreline looked entirely vegetated to me (see photos) unless I wasn't in the right spot. If so, the only way the Board could approve would be to require compensation for the loss/fill of vegetated tidal wetlands, IF the ramp were even justified (need?).

Please give a call to discuss so there won't be any questions or surprises when the Board hears this one next month.

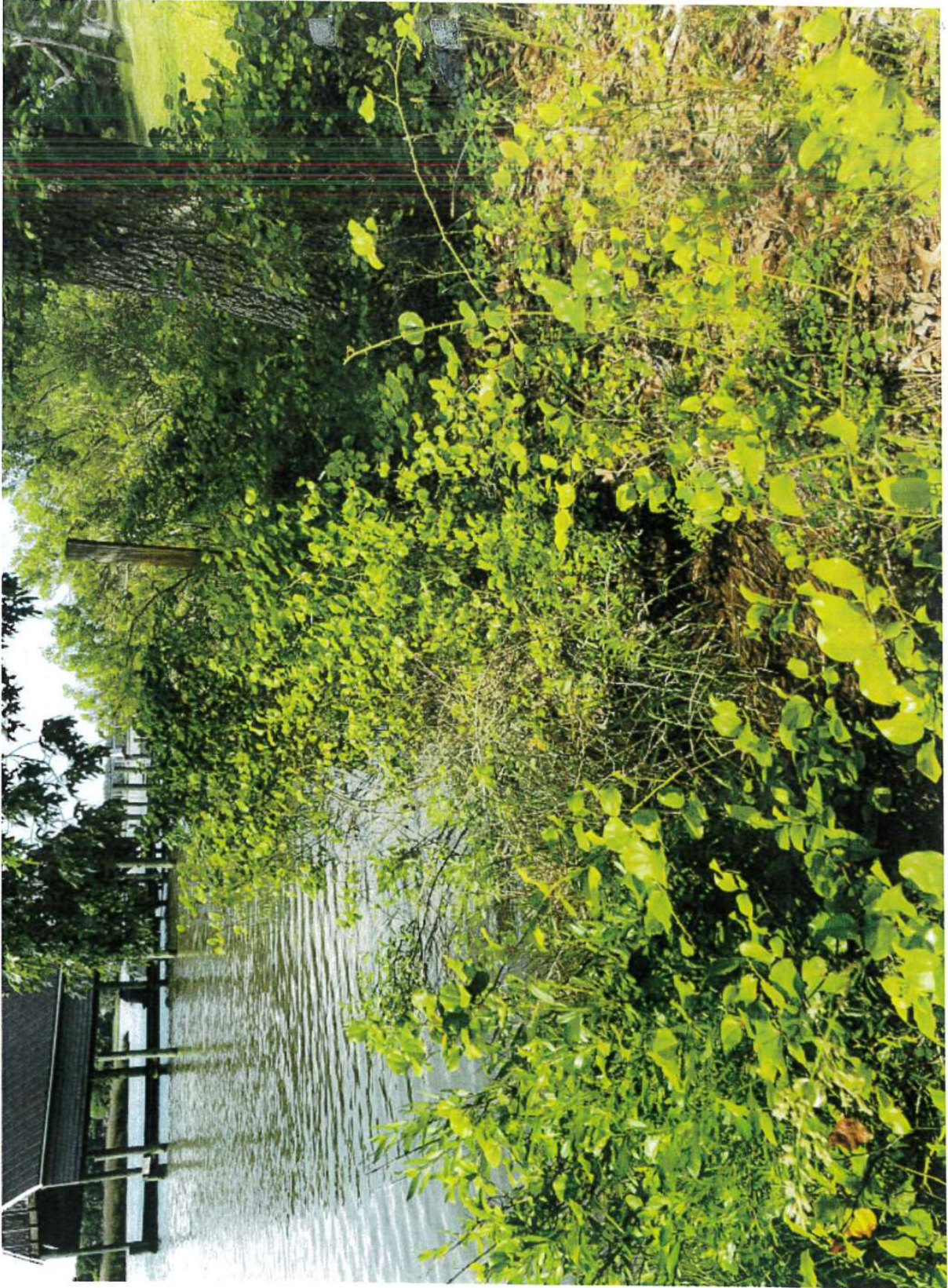
Thanks

Jay

Jay Woodward
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WATER IS LIFE





NEW BUSINESS

Chairman Howeth asked if there were any new cases in July.

Kelly McKnight said there were not.

Mr. Goff asked when the July meeting was?

Kelly McKnight stated it is July 27th.

Mr. Goff stated that could be a big meeting and there is a good chance he will be out of town.

OLD BUSINESS

Chairman Howeth thanked Jay for his take on the clock counting. He is going to ask our County Administrator to get an opinion from the County Attorney because we do not want to miss that clock. We have revisions that are dated May 13th, 60 days is July 13th. So we would need to act a little before our regular meeting if we believe there is a complete application. It is his opinion that there is not a complete application because Jay asked a question but he picked up on the composition and the characteristic of the materials. Jay asked that question a long time ago and he asked it as well. He heard something in the show-cause hearing that either hasn't been validated or not validated. He wants to see that question answered on that drawing. We do have the right where he can move or call for a special meeting ahead of time by what the County Attorney provides. His opinion is he is not 100% sure they have a complete application. The clock will not start until they have a complete application.

Mr. Bates asked if we were 100% sure we don't have a complete application?

Chairman Howeth stated there are still outstanding questions.

Mr. Bates asked so as long as there are outstanding questions the clock doesn't start?

Chairman Howeth stated he didn't know how you could view it any other way but that is up to the attorneys.

ADJOURN

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