



STAFFORD COUNTY CHESAPEAKE BAY BOARD

Meeting Minutes

Monday, June 17, 2024 at 6:00 pm

Board Chambers of the George L. Gordon, Jr. Government Center

A. Call to Order

The meeting was called to order at 6:02 p.m. by Ms. Henderson

B. Roll Call

Members Present: Sue Henderson (Chair), Mary Rust (Vice-Chair), Anthony Pineau, Dan Adams, Robert Hayden

Members Absent: Ben Rudasill, Zachary Martinez

Staff Present: Joe Fiorello, Emily Torrey

C. Determination of a Quorum

A quorum was established with 5 of the 7 members present.

D. Approval of Meeting Minutes

Robert Hayden made a motion to approve the January 22, 2024 Chesapeake Bay Board Minutes. Mary Rust seconded. The motion was unanimously approved.

E. New Business

Public Hearing: AP24155700 – A Chesapeake Bay Special Exception Application (Resolution CBB24-03) for Mr. David Lynch, applicant, requesting a special exception under Sec. 27B-14 of the Stafford County Chesapeake Bay Preservation Area Ordinance (Chapter 27B) from the requirements of Sec. 27B-7 "Development Conditions" in order to construct three retaining walls within a portion of the Chesapeake Bay Resource Protection Area (CRPA) buffer located along Aquia Creek on Tax Map Parcel 40-59.

Mr. Fiorello reviewed the criteria for deciding whether to grant, grant in modification form or deny a special exception application. CBB24-03 application 24155700 is for retaining walls. The request will impact 11,740 square feet of RPA for the construction of three-tiered retaining walls. That 11,740 square feet, besides containing the three retaining walls will also contain re-vegetation and as well as some of it will spill over into the remainder of the property. The tax map parcel is 40-29 and it's in the Griffiths-Widewater election district. The property is zoned A1 and was platted prior to the adoption of the Chesapeake Bay Act ordinances. It contains a single-family residence structure, a partial bulkhead



and a pier. Based on aerial photographs, the house was built sometime between 1937 and 1954 and is readily visible in the 1983 aerial photograph of the area. The pier shows up in the 1954 aerial photograph of the area and was replaced in 2015 under wetlands permit application VMRC20150496. The 2015 wetland permit application for the replacement of the pier showed the bulkhead was in existence at that time. The 2022 aerial shows the majority of the CRPA to be void of woody vegetation. The proposed grading, construction of three retaining walls and replanting within the RPA of the property will involve disturbing 11,740 square feet of seaward, 50 feet of the CRPA located on site. Replanting will also occur in some areas of the property that are located outside of the CRPA as mitigation for the void of vegetation within the landward 50 feet portion of the CRPA originally used for the residential structure and a small backyard. This is a normal practice to accommodate the residential structure on a pre-Chesapeake Bay lot while still providing vegetation mitigation over the entire property. The planting plan was designed with the use of the Riparian Buffers Modification and Mitigation Guidance Manual and proposes 30 canopy trees, 60 understory trees and 90 shrubs. Mr. Lynch is requesting the Board consider the mitigation described above as compensation for the loss of .27 acres of RPA due to the proposed grading, installation of the 3 retaining walls and replanting of the disturbed portion of the RPA. 2 of the retaining walls will be 3 feet in height and 1 will be approximately 2.5 feet.

The Board is only hearing the Chesapeake Bay portion of the project which entails restoring/fixing the bulkhead, which is completely within VMRC jurisdiction. The living shoreline is within VMRC's jurisdiction, Corps of Engineers' jurisdiction, the Board's jurisdiction and VIMS. We have not heard back from VIMS or VMRC as to their decision on the living shoreline. The Board Chairman for the Wetland can sign off on the Wetlands portion of the application if they deem the application is sufficiently complete to allow evaluation, the project satisfactorily meets the general permit criteria, the adjoining property owners to the proposed project have been notified and express no opposition to the project and the general permit process is appropriate to the use of the specific project. Staff has found the criteria has been met but it is ultimately up to the Wetlands' Board Chair to sign off or to wait until VMRC and VIMS come up with a ruling.

Ms. Henderson asked for clarification on the staff report. The report says "requires the Wetlands Board and the VMRC to review the application concurrently" but Mr. Fiorello stated that it "requires the Wetlands Board **Chair** and VMRC to review". Mr. Beck reviewed a copy of the code for living shorelines and it states it "requires the Wetlands Board Chair".

Mr. Beck, the project engineer, stated they are trying to build up the steep slope and there are some signs of general failure in the slope. Juniper plants had been planted along the slope but it is basically bare. The retaining walls are 12 inches wide and extend roughly 300 feet along the front of the property. A geotechnical engineer has been hired to assist on the project. Native vegetation will be planted in accordance with the RPA manual to mitigate the RPA disturbance. The new home being built on the property will be an expansion of the existing home and the new part will occur outside the



RPA so there will be no other additional impact.

Mr. Pineau wondered if the living shoreline were to fail would the Board be involved. Mr. Beck confirmed that the living shoreline is a VMRC project and the Board would not be involved.

Mary Rust made a motion to accept CBB24-03. Anthony Pineau seconded the motion. Motion passed 5/0.

Ms. Henderson would like a chance to look over the paperwork before making a ruling on the four items with the wetlands permit.

F. Old Business

1. Community outreach/website

Ms. Henderson asked for the status of the community outreach website. Emily Torrey reported there have been no changes since the last meeting. Ms. Henderson asked that each member reach out to their Supervisor to set the priorities for this department.

Mr. Hayden suggested an event in coordination with the State Park to advertise the Board. Ms. Henderson is not opposed to this but it would require community outreach and a user-friendly website available to the average homeowner who owns property on the water. Ms. Torrey clarified that there is a shoreline property owner webpage and a rack card has been created. Ms. Henderson requested the rack card be distributed to all the Board members.

2. Available funds/account balances of the wetlands and Chesapeake Bay in-lieu-fees

No forward motion has been made on determining how the funds can be used. It is unclear if the money can be utilized strictly for mitigation or if it can be used in other aspects. Ms. Torrey said the money can only be used for tidal wetlands projects. The only areas owned by the County with tidal wetlands is Duff Park, Aquia Landing and Crows Nest. Ms. Henderson would like to use the funds for education or community outreach. Mr. Fiorello said he has always been told it could only be used for mitigation of title wetlands on County property. Ms. Torrey stated that Ordinance 7-73, Section 27-35 says the in-lieu fees shall be used for Title wetland creation or restoration projects in the locality or for the purchase of credits in an approved compensatory title mitigation bank. Ms. Rust suggested they could approach the BOS and ask for an exemption. The State code will need to be checked to see if this is allowed. Mr. Hayden offered to reach out to the County Attorney and Commissioner of Revenue with questions.

Ms. Henderson suggested they ask the Director of Parks and Rec again if there are any projects at Duff Park, Aquia Landing or Crows Nest that they could use the money for.



G. Chairman's Report

None

H. Staff Report

Ms. Henderson asked for the number of applications that have been submitted for the year. Mr. Fiorello will email that information to the Board members. Ms. Henderson asked that he have those numbers every time the Board meets.

I. Adjournment

With no further business to discuss, Mr. Pineau made a motion to adjourn. The motion was seconded by Ms. Rust. The Chesapeake Bay Board meeting adjourned at 6:56