

Report from Tom Bormann, Council Liaison for Dredging, on the 2/12/20 CRC meeting in Beaufort NC on Sunset Beach Variance request to enable dredging to -5ft MLW.

Attending for Sunset Beach:

Hiram J. Marziano, II

Grady Richardson

Robert Neal

Tom Bormann

The meeting began with a slide presentation from Tara MacPherson, Wilmington Region District Manager, NC Division of Coastal Management that showed pictures of the area requested to be dredged and addressed the four criteria that the CRC requires be considered by an applicant requesting a variance.

(a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.

(b) Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property?

(c) Do the hardships result from actions taken by the petitioner?

(d) Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice?

Ms. MacPherson went through a history of dredging done in Sunset Beach and the reason for the Town's request, being the rule that dredging should not be deeper than the connection to deeper water. Points I noted from her presentation:

- Previous permit for dredging the feeder canal was to -6 ft and -5 for the finger canals
- Other agencies had made their analysis on water quality, wildlife and fisheries that they did not object to the variance.
- They noted that the US Army Corps of Engineers (USACE) had requested answers from the Town on questions they submitted on the dredging project.
- Effected shellfish would need a relocation plan.
- The CRC received many letters, both for and against the variance.

In closing her presentation Ms. MacPherson said that the DCM staff felt that they agreed with the Town's request, that we had answered the four criteria sufficiently and that they were supportive of the requested variance.

Next Christine Goebel Esq., Assistant General Counsel, NC Department of Environmental Quality, gave her report to the committee. I noted the following points from her presentation:

- She noted that the USACE was still engaged with the Town requiring answers to questions on the dredging project but that DCM had already issued a permit to dredge and that the variance was not related to the USACE investigation.

- That the request to dredge to -5ft as opposed to -2ft would require less frequent maintenance.
- Navigational safety would be improved at -5ft vs -2ft.
- That the dredge footprint was not different than what was there historically and therefore they would not expect changes to flooding or erosion risks.
- There was resident resistance to the placement of the beach compatible sand on Sunset Beach but again this was not a consideration for the variance request. (During a question period from the CRC Robert Neal reported the Town's efforts to find other locations including OIB.)

Ms. Goebel Esq. concluded saying again that the staff was supportive of the Town's variance request.

Grady Richardson Esq., Town Attorney, then presented a summary of the Town's position and reasons for the variance request and asked for any questions from the committee.

Questions from the committee were.

- One woman on the committee (did not get her name) asked about the slope related to the dredging which Robert Neal answered.
- Will monitoring be conducted post dredging which Mr. Neal answered would be up to the Town.
- Same member asked to show where the controlling depth in North Jinks Creek was located and would that restriction cause the drying out of North Jinks Creek which Mr. Neal answered that it should not.
- She suggested that the approval of the variance be delayed until the Town completed their response to the ACE questions. Grady Richardson Esq. answered that the Town would not be able to proceed with dredging until the USACE was satisfied so there was really no reason to ask the Town to come back to the committee after concluding the USACE work so requested approval of the variance with the understanding that the Town would satisfy the USACE before dredging.

Committee then voted on each of the four criteria. The votes were not unanimous but there was a majority in favor of approval in each of the four criteria. The result of the four motions was the approval of the Town's request for the variance.

One additional note of interest to me was that variance requested before our presentation for a variance to dredge a PNA near Wilmington which was requested by an HOA to gain access to the ICW from their waters surrounding their properties. They had complete support from the public and the committee unanimously approved the request.

End

Tom Bormann