

# CRMC DECISION WORKSHEET

**2017-12-046**  
James Barber

Hearing Date:	
Approved as Recommended	
Approved w/additional Stipulations	
Approved but Modified	
Denied	Vote

APPLICATION INFORMATION						
File Number	Town	Project Location		Category	Special Exception	Variance
2017-12-046	Warren	7 Touisset Road		A*	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Plat	16			
		<b>Owner Name and Address</b>				
Date Accepted	12/14/17	James Barber		Work at or Below MHW	<input checked="" type="checkbox"/>	
Date Completed	3/29/21	7 Touisset Road Warren, RI 02885		Lease Required	<input type="checkbox"/>	

## PROJECT DESCRIPTION

c/m a residential dock with var. request for water depth and proximity to mooring field

## KEY PROGRAMMATIC ISSUES

**Coastal Feature:** Coastal Beach Backed by Coastal Bluff

**Water Type:** Type 2, Low Intensity Use

**CRMP:** 1.1.7, 1.2.2(C)&(D), 1.3.1(D)

**SAMP:** N/A

Variances and/or Special Exception Details:

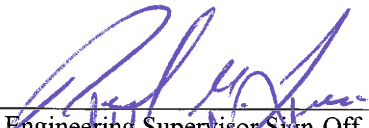
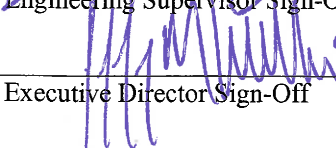
Section 1.3.1(D).11(m)- 50 foot setback to mooring field (requesting 14' Variance)

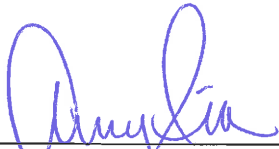
Additional Comments and/or Council Requirements: Objections received

Specific Staff Stipulations (beyond Standard stipulations):

## STAFF RECOMMENDATION(S)

Engineer RS Recommendation: No Objection  
 Biologist ALS Recommendation: No Objection  
 Other Staff \_\_\_\_\_ Recommendation: \_\_\_\_\_

  
 Engineering Supervisor Sign-Off \_\_\_\_\_ date 5/6/21  
  
 Executive Director Sign-Off \_\_\_\_\_ date 5/10/2021

  
 Supervising Biologist Sign-off \_\_\_\_\_ date \_\_\_\_\_  
 Staff Sign off on Hearing Packet (Eng/Bio) \_\_\_\_\_ date \_\_\_\_\_



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
COASTAL RESOURCES MANAGEMENT COUNCIL

APPLICATION SUMMARY

- Site Location is 7 Touisset Road, Warren
- Type 2 Waters
- Coastal Beach backed by low coastal bluff
- Application requests Assent to construct a residential dock that does not meet the 50 foot setback from an identified mooring field. As proposed, the terminus of the facility will be 36 feet (14 foot variance) from the mooring field – and at the minimal accepted depth of 18 inches.
- The applicant’s engineer has stated that the facility will be used for touch-and-go purposes.
- Both the Town of Warren Conservation Commission and Harbor Commission submitted objections to the application
- The closest mooring ball, labeled “MRG” on supplemental plans, and identified by the harbormaster as mooring #217 is 178 feet away. The owner of this mooring has submitted a letter of support, stating that the construction of the proposed facility will not impede his use of the mooring
- Due to the location of the edge of the mooring field, there is no location on the shoreline of the subject property that would allow for construction of a facility without either intruding into the 50 foot setback or blocking navigation to Conklin’s Cove.
- It is the opinion of the reviewing biologist that the applicant has met the variance criteria to the best of their ability, however the objection from the Town of Warren Harbor Commission remains a concern



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
COASTAL RESOURCES MANAGEMENT COUNCIL

STAFF SIGN-OFF

TO: Grover J. Fugate  
DEPT: Executive Director, CRMC  
FROM: Amy Silva  
DEPT: CRMC PERMITTING SECTION  
SUBJECT: Category A\* Application

PAGE: 1  
DATE: April 30, 2019

**CRMC File Number:** 2017-12-046

**Name:** James Barber

**Location:** 7 Touisset Road, Warren

**AP: 16 Lot(s):** 160

**Water Type/Name:** Type 2,

**Coastal Feature:** Coastal Beach backed by low coastal bluff

**Project Description:** construct and maintain: a Residential Boating Facility consisting of a 4'x63' fixed pier with ramp to a 10'x15' float, extending to 44' beyond Mean Low Water (MLW). Requires a Variance from Section 1.3.1(D).11(m) to be located less than 50' from an approved mooring field (proposed location 36' from mooring field).

**Plans Reviewed:** "Proposed Residential Pier", 4 sheets, dated Nov 21, 2017 and last revised 8-22-18 by Warren Hall, PE

**CRMC HISTORY:**

There are no previous CRMC Assents on record for this property.

**APPLICATION HISTORY:**

December of 2017 – application submittal.

Jan-Feb. 2018 - Several objections received during the public notice period.

February 2018- staff requested that the applicant address the issues that were raised.

June 2018 – response received

June 2018 – additional detail regarding the response requested.

August 2018 – revised plans received.

January 2019 – Town of Warren Harbor Commission hearing to review the project.

January 2019- Letters of support from mooring users received.

February 2019- Plans depicting the mooring field edge and nearest moorings received.

February 2019- Objection from the Town of Warren Harbor Commission reiterated.

April 2019- Staff requested review of the letters of support in comparison to the moorings identified as closest.

May 2019- ID of the Moorings shown on the plan received.

**REVIEW COMMENTS:**

The application requests Assent to construct a residential dock that does not meet the 50 foot setback from an identified mooring field. As proposed, the terminus of the facility will be 36 feet from the mooring field – and at the minimal accepted water depth of 18 inches. The applicant's engineer has stated that the facility will be used for touch-and-go purposes.

**CRMC File Number:** 2017-12-046

**Name:** James Barber

Page 2

During the public notice period two objections were received. It was also discovered that the Town of Warren Harbor Commission, an objector, had reviewed preliminary plans and not the plans that were submitted to CRMC. The applicant was asked to have the Town Harbor Commission review the submitted plans and reconsider. The matter was not heard by the Commission until early January 2019.

Both Objections were updated after their initial submission; both still voice concerns.

#### **COMMENTS ON OBJECTIONS:**

Both the Town of Warren Conservation Commission and Harbor Commission submitted objections to the application. After reviewing the revised plans, the Conservation Commission revised their objection to rescind objections to the impacts to fringe marsh and buffer zone, but maintained their concern over the proximity to the mooring field.

The Harbor Commission's initial objection (January 2018) came from William Hunt Jr, and it was not clear if Mr. Hunt was acting as a private citizen or as a spokesperson for the Commission. However, this objection revealed that the Commission did not review the most recent plan set that CRMC was reviewing, and the applicant was asked to have the Harbor Commission review the CRMC Plan set.

The current plan set was reviewed by the Commission in January 2019, and a new letter, officially from the Harbor Commission was submitted. This letter reiterates that the Harbor Commission did not revise their original motion to disapprove the application, and went on to state that the primary concern is "*the encroachment of the proposed dock into the established mooring field*". Staff contacted Mr. Hunt at the Commission for clarification, as the proposal does not encroach into the mooring field, only into the 50' setback required by the RICRMP. As of the time of this writing, no response has been received. Further, staff is unclear what a disapproval by the Town Harbor Commission means in terms of CRMC permitting authority.

During the course of review, the applicant was asked to submit additional information depicting the closest moorings to the proposed terminus of the facility, in addition to the edge of the mooring field. A plan was submitted by the applicant's engineer in February 2019. According to that plan, the nearest obstacle is noted as "SPAR" on the plans, and is 121 feet away from the terminus of the proposed facility. "SPAR" is described by Mr. Hall as "...winter spar used to delineate something on the bottom, not sure what it is in this case...". The closest mooring ball, labeled "MRG" and identified by Warren's harbormaster as mooring #217 is 178 feet away. The owner of this mooring has submitted a letter of support, stating that the construction of the proposed facility will not impede his use of the mooring. US Army Corps of Engineers guidelines state that the rule of thumb needed by a vessel on a single point mooring is a circle with a radius equal to the vessel length plus five times the water depth at high tide. Assuming the average water depth of 10 feet and a 35 foot vessel, there would be at least 93 feet separation between the nearest moored vessel and the proposed boating facility. It should also be noted that the mooring field is at capacity, and water is only approximately 3 feet deep at mean low water at the edge of the mooring field nearest to the proposed facility.

#### **CONCLUSION AND RECOMMENDATION:**

The application requests Assent to construct a residential boating facility that requires a Variance to the mooring field setback. The facility terminates at the minimum water depth of 18 inches, and the applicant has provided float stops as requested. The applicant has also depicted a path through the existing buffer vegetation, to minimize impact to buffer, and the applicant's agent has stated the facility will be utilized as "touch-and-go".

**CRMC File Number:** 2017-12-046

**Name:** James Barber

Page 3

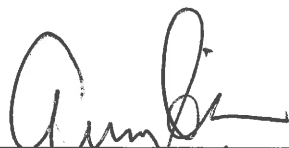
Both the Town of Warren Conservation Commission and Harbor Commission have objected to the Variance to the mooring field setback, though the Harbor Commission letter mistakenly states that the facility falls within the mooring field, not the setback.

Letters of no objection have come from two mooring field owners, one of whom is the nearest mooring to the proposed facility.

Due to the location of the edge of the mooring field, there is no location on the shoreline of the subject property that would allow for construction of a facility without either intruding into the 50 foot setback or blocking navigation to Conklin's Cove.

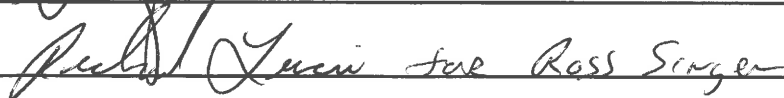
It is the opinion of the reviewing staff that the applicant has met the variance criteria to the best of their ability. There are no technical or biologic objections to the Council's approval of this application, however the objection from the Town of Warren Harbor Commission remains a concern. Should the Council approve this application over the objection of the Town Harbor Commission, a standard dock assent will be prepared.

Signed



Staff Biologist

Signed



Staff Engineer



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
COASTAL RESOURCES MANAGEMENT COUNCIL

ADDENDUM – March 29, 2021

**CRMC File Number:** 2017-12-046  
**Location:** 7 Touisset Road, Warren

**Name:** James Barber  
**AP: 16 Lot(s):** 160

**Plans Reviewed:** “Proposed residential pier... James Barber...” 4 sheets, last revised 2-27-21 by Warren Hall PE

**Comments:**

Following completion of the staff reports, it was discovered that the lot lines were not depicted properly and that it appeared as though the proposed facility fell on a lot that maintained no residential dwelling. Supervising Staff Engineer Rich Lucia reached out to the applicant’s engineer in late May of 2019.

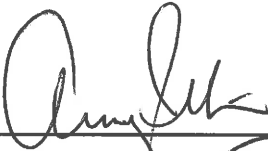

In early April 2020, Mr. Lucia received correspondence from the applicant’s attorney Turner Scott, that he was working to clarify the lot line issues. On September 10, 2020, Mr. Scott emailed Mr. Lucia stating that the matter had been cleared up. On September 18, 2020 an email with attachments clarifying the matter was sent to Mr. Lucia. A follow-up email on September 30 further explained the matter. (emails and attachments included).

Staff was notified upon receipt of the revised plans that the application was ready to be finalized for review, however due to increased workload and email correspondence due to the Covid pandemic, the finalization fell behind. Staff reviewed the submitted plans and determined that the required path through the buffer zone was not included in the revised plans showing corrected lot lines, and the applicant’s engineer was asked to remedy that and provide a set depicting all requirements. Plans showing all required elements were received in March 2021.

There have been no changes in the status of the objections.

The delay in revisions were to clarify the lot lines/merge lots to ensure that the dock fell on a lot that also maintained a residence, as required by the Regulations. No substantive changes have been made to the design of the facility.

It is the opinion of the reviewing staff that the applicant has met the variance criteria to the best of their ability. There are no technical or biologic objections to the Council’s approval of this application, however the objection from the Town of Warren Harbor Commission remains a concern. Should the Council approve this application over the objection of the Town Harbor Commission, a standard dock assent will be prepared.

Signed  Staff Biologist  
Signed  Staff Engineer