

CRMC DECISION WORKSHEET

2022-06-136

Point Break Realty, LLC

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
2022-06-136	South Kingstown	20 Water Street		A*	<input type="checkbox"/>	X
		Plat	93-1			
		Owner Name and Address				
Date Accepted	6/30/2022	Point Break Realty, LLC		Work at or Below MHW		X
Date Completed	9/15/2023	895 Matunuck Beach Road		Lease Required	<input type="checkbox"/>	
		Wakefield, RI 02879				

PROJECT DESCRIPTION

Construct and maintain a new residential boating facility consisting of an upland ramp, a 4' x 62' fixed timber pier, a 3' x 18' access ramp, 4' x 4' access/landing float and an 8' x 18.75' (150sf) terminal float. The facility will extend ~39' seaward of the cited MLW mark and requires a 25' Property Line Extension variance (100%) to the east (Water St) and west (AP 93-1, Lot 63) per Redbook 650-RICR-20-0-01 Section 1.3.1(D)(11)(k).

KEY PROGRAMMATIC ISSUES

- Coastal Feature:** Coastal wetland
- Water Type:** Type 2, Low Intensity Use, Potter Pond, Seaweed Cove
- Red Book:** 1.1.6(G), 1.1.7, 1.1.10, 1.2.1(B), 1.2.2(C), 1.3.1(B), 1.3.1(D), 1.3.5
- SAMP:** Salt Pond SAMP, Lands Developed Beyond Carrying Capacity

Variations and/or Special Exception Details:

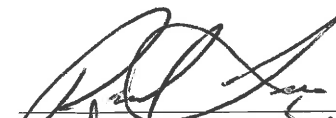
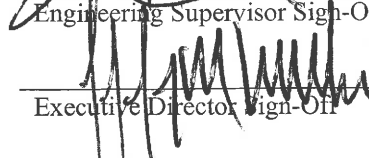
- 25' (100%) variance to Redbook 650-RICR-20-00-01 Section 1.3.1(D)(11)(k), east side (Water St)
- 25' (100%) variance to Redbook 650-RICR-20-00-01 Section 1.3.1(D)(11)(k), west side (AP 93-1, Lot 63)

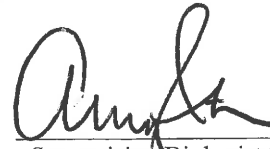

Additional Comments and/or Council Requirements: Consideration of objector's comments

Specific Staff Stipulations (beyond Standard stipulations): N/A

STAFF RECOMMENDATION(S)

Engineer _____ Recommendation: _____
 Biologist **TAS** Recommendation: **No Tech. Objection, Defer for Comments Received**
 Other Staff _____ Recommendation: _____

 _____ 9/20/23
 Engineering Supervisor Sign-Off date
 _____
 Executive Director Sign-Off date

 _____ 9/20/23
 Supervising Biologist Sign-off date
 _____ 9/20/23
 Staff Sign off on Hearing Packet (Eng/Bio) date

Name: Point Break Realty, LLC
CRMC File No.: 2022-06-136
Staff Report



STATE OF RHODE ISLAND
COASTAL RESOURCES MANAGEMENT COUNCIL
STAFF REPORT TO THE COUNCIL

DATE: 15 September 2023
TO: Jeffrey M. Willis, Executive Director
FROM: T. Silvia, Sr. Env. Scientist, Permitting Section

Applicant's Name:	Point Break Realty, LLC
CRMC File Number:	2022-06-136
Project:	Construct and maintain a new residential boating facility consisting of an upland ramp, a 4' x 62' fixed timber pier, a 3' x 18' access ramp, 4' x 4' access/landing float and an 8' x 18.75' (150sf) terminal float. The facility will extend ~39' seaward of the cited MLW mark and requires a 25' Property Line Extension variance (100%) to the east (Water St) and west (AP 93-1, Lot 63) per Redbook 650-RICR-20-0-01 Section 1.3.1(D)(11)(k).
Location:	20 Water Street; South Kingstown: Plat(s): 93-1; Lot(s): 67
Water Type/Name:	Type II, Potter Pond (S Kingstown)
Coastal Feature:	Coastal Wetland
Plans Reviewed:	<i>"Proposed Residential Dock, 20 Water Street, S. Kingstown, Point Break Realty.."</i> dated Sheet 1 dated May 2022, Sheet 2 last revised 6/1/22, Sheets 3-4 last revised 9/8/22, Sheet 5 last revised 4/11/23 and Sheets 6-8 dated April 2022 by Russell J. Morgan, RPE and <i>"Point Break LLC, AP 93-1, Lot 67, 20 Water Street, South Kingstown.."</i> dated 7/19/21 by Richard L. Couchon, PLS
Staff Recommendation:	No Technical Objection, Defer for Consideration of Comments Received

A) INTRODUCTION:

1-- The project site is located in the southern end of Potter Pond (*Figure 1*), in the southwest corner of Seaweed Cove. Directly fronting the site is an area of coastal wetland, including a small salt marsh on the northeastern side and Phragmites vegetation along the remainder of the site and adjacent parcels. A small mowed lawn area exists as access for the proposed facility. Surrounding use is a mix of seasonal and permanent residents within the Matunuck beach community. The majority of dwellings in this cove maintain a residential boating facility at their site. Water St ROW abuts to the east.

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2--The application was accepted June 2022, following pre-application conversations with the consulting PE. Staff conducted a site visit in July, 2022, noting existing uses and verifying the coastal wetland and submerged aquatic vegetation (SAV) data. Throughout the summer, letters of no objection (LONO) were received along with additional information from the applicant's attorney.

3--Staff requested revisions regarding the facility layout and revised plans were received 11/30/22. A 30day public notice was issued on 12/28/22, which was extended at the Town's request through 2/28/23. One comment was received (from the Town, *see E.1 below re ROW*). The US Army Corps of Engineers issued a Pre-Construction Notification (PCN) GP approval for the project (confirmed August 2023).

B) PROPOSED PROJECT:

The applicant is proposing to construct a residential boating facility consisting of an upland ramp, a 4' x 62' fixed timber pier, a 3' x 18' access ramp, 4' x 4' access/landing float and an 8' x 18.75' (150sf) terminal float. The facility will extend 39' seaward of the cited MLW mark, but does require two 25' property line setback variances (100%), from an east and west abutter.

C) APPLICABLE REGULATIONS/STAFF COMMENTS:

- 1—The Town objected (650-RICR-20-00-01 Section 1.1.6, *see E.1 below*) during the public notice period.
- 2—A 25' property line setback variance is required from Section 1.3.1(D)(11)(k) from two affected abutters, as the facility is proposed to extend entirely over two property line extensions. Due to the lot layout and the shoreline configuration, the facility cannot be sited to avoid the western extension variance. See discussion below for further staff comment.
- 3—The existing depths at the terminus of the proposed facility are approximately -2' MLW, which is consistent with CRMC minimum water depth (18"/-3') for residential docks. The proposed dock was angled and relocated per staff's request to avoid impacts to the salt marsh and reduce conflicts with the adjacent ROW, while allowing access for the western abutters. The original proposal, while shorter, still intruded over the ROW property line extension while fragmenting the area of remnant salt marsh fronting the site.
- 4—The proposed project is consistent with Type 2 waters (low intensity use) as this Cove and Pond contain numerous existing residential docks, primarily for seasonal use.
- 5—Consistent with CRMC requirement, 5' clearance at MHW is provided for lateral access below the dock.
- 6—The consulting PE states the project is designed in accordance with the dock standards contained within Section 1.3.1(D)(11), unless otherwise noted (*see variance request*). There is no submerged aquatic vegetation (SAV) present at the site. The facility has been sited per staff's recommendations to balance environmental resources and existing recreational uses. The proposed facility meets applicable mooring setbacks and a PLS-stamped plan has been provided as required for the property line extension variances.

7—Section 1.3.5 relates to scenic value protection and enhancement. It is staff's opinion that a proposed residential boating facility in this environment is consistent with the current aesthetics of the area, given the proliferation of docks along this shoreline and high boating activity in this waterbody.

D) COMMENTS ON VARIANCE REQUEST:

1—The submitted variance request and follow-up emails with staff indicate that attempts at obtaining a signoff from all abutters were unsuccessful. A layout of the plat map, with affected property owners depicted was provided by the PE. Due to the lot line configuration, the applicant is within 25' of Lot 62 (northwest, has a dock), Lot 63 (direct west abutter, has a dock), Water St ROW (east) and Lot 36 (further east, had a recent dock). LONOs were received from Lot 62 and 36. The PE states that Lot 63 attempts were unsuccessful. A PLS-stamped plan was submitted.

2—Regarding Water St ROW, the applicant's attorney provided the results of a title search and affected abutters/interest in the Water St ROW as part of the public notice process. Based on this information, it is stated that the existing gravel roadway is not a Town road nor was there found clear ownership. The list of owners that can be considered as having interest in the road are listed in correspondence from the attorney dated 8/26/22. Public notice was sent to all abutters and those with interest identified in the attorney letter. The letter also indicates that Water St ROW is listed as a private road within Town documents.

3—It is staff's opinion that the application conforms with the applicable goals and policies of the CRMP as discussed in "C" above. Construction of a residential boating facility is consistent with existing and expected uses of this waterbody and shoreline. Excepting the two variances, which are dependent on site conditions, the project has been designed consistent with Section 1.3.1(D) dock standards.

4—It is also staff's opinion that the project will not result in significant adverse environmental impacts or use conflicts, including cumulative. As indicated herein, the design meets the siting requirements except for the variances noted and is consistent with existing uses and similar CRMC permitted docks in this waterway. The design was modified to avoid the existing salt marsh and there are no mooring fields within 50' of the proposed facility. The marsh could also benefit from this layout by lessening direct impact from ROW users.

5—Due to the existing pre-platted lot lines and the lot's water frontage (<50'), the property line setbacks can not be met at this site. Staff recommended the current design to balance wetland and nearby use impacts.

6—It is staff's opinion that the applicant has minimized the variance requests consistent with staff comments, maximizing the distance from existing docks and adjacent ROW, and defers to the Council for consideration of the remaining variance criteria.

E) OBJECTION:

1—As stated above, one written objection was received. Following the extension of public notice, the Town Harbormaster forwarded a Letter of Objection from the Town Manager's office dated 2/22/2023. The Town Council, at its 2/13/23 meeting voted to support the Town Waterfront Advisory Commission's objection. The Commission met on 1/5/23 and voted to object due to impact on the Water St ROW and 'excessive

length'. Specifically, crossing over the property line extension was a concern. Staff replied to the Harbormaster's followup questions re procedural matters (variance process, ROW investigation) and the matter was forwarded to CRMC's policy staff and legal counsel for further review. Staff does not consider the proposed length excessive as it is less than Section 1.3.1(D)'s standard 50' seaward of MLW.

2—Since that time, correspondence has continued between the Town and CRMC staff regarding the status of Water St ROW. From information provided to-date, it appears the ROW, while privately held, has supported historic use by the public for boat launching and other shoreline access activities. CRMC policy staff have received complaints re alleged blockage of the ROW under new abutting ownership, however no other public comments were received during the public notice period.

3—CRMC has the ROW's potential investigation for public designation in its queue with several other sites also requiring significant staff attention at this time. As of the date of this report, there has been no official action taken by the CRMC's ROW committee and it appears the Town recognizes the current private status of the ROW.

4—It is staff's opinion that whether the adjacent ROW is private or publicly held should not be a deciding factor in review of the potential siting of a dock at this site. In either case, the chosen site design of the proposed dock is important. Recognizing the ROW impact could not be entirely avoided, staff worked with the applicant's PE to provide a design that limited the extent of intrusion into the ROW. Pushing the dock slightly further seaward from the original submittal to its current proposed 39' seaward of cited MLW leaves room for vessels to still launch from the eastern side of the ROW. Pushing the dock further west would further conflict with the existing dock to the west (whose owner provided a LONO).

5—The applicant's attorney provided a written response to the objection in April 2023, which gives evidence for the private use of the site, as well as concurs with the chosen design location as the minimal necessary to balance competing shoreline interests. While recognizing the Town's interest in the ROW, staff concurs with the applicant's response.

F) SUMMARY:

It is staff's opinion that the proposed residential boating facility is designed consistent with the Redbook and similar CRMC past dock permits. The exceptions are the two requested variances, which are necessary due to existing site configuration and chosen design orientation. The chosen orientation is consistent with staff's comments regarding minimization of environmental and use conflicts. Although the adjacent property line extensions are crossed, it is staff's opinion there is sufficient room for continued use of the existing western dock, existing moorings and existing ROW with the current proposal. This design will allow for maximal continued use of the popular waterbody. There are no technical objections to this proposal, although staff defers to the Council for consideration of the objector's comments. Standard stipulations are withheld pending Council's decision.

Signature: _____



T. Silvia, Staff Biologist

Figure 1: #2022-06-136

Point Break Realty LLC
20 Water Street
Potter Pond, Seaweed Cove



- Legend**
- 20 Water St
 - Deep Hole parking lot
 - Feature 1
 - Feature 2
 - Matunuck Beach
 - Matunuck Pizza Pie Co
 - Ocean Mist

Matunuck Beach

Google Earth

600 ft

