

## **PROJECT DESCRIPTION**

Mark DeMello is the current owner of 395 Park Avenue in Portsmouth, where a new residential dock is being proposed. AP 25 Lot 45 is approximately 2,935 sf in total area. The project to be undertaken in which the CRMC approval is required involves construction of a new residential dock consisting of (2) portions of a fixed dock, (1) sloped dock, an aluminum gangway and a floating terminal dock. The areas of the fixed docks are 156 sf & 32 sf, 120 sf for the sloped dock, 72 sf for the gangway, and 80 sf for the floating dock, respectfully. The proposed dock will extend no further than 50 feet beyond the delineated mean low water, terminating in an area where approximately a 30" depth can be obtained at MLW. The work will commence this spring after CRMC and local permits are issued. Construction should take approximately 2-3 months. See attached site plan where the following work will be performed:

- Construction of a new dock including a 156 sf & 32 sf fixed dock, a 120 sf sloped dock, an 72 sf gangway, and a 80 sf floating dock. Thus, totaling 460 sf in total area, 335 sf of which is past MHW.

## **VARIANCES REQUESTED**

Permission for the dock to be constructed 13.5' to the abutting property line extension in lieu of the 25' required is being requested in order to permit 25' to the other property line. The variance being requested is abutting Lot 44, a vacant lot owned by the Town of Portsmouth. 25' separation is provided to the single family residence on Lot 46.

## **RELATED SECTIONS**

The project location is at 395 Park Avenue in Portsmouth, Rhode Island. The location is shown on the Portsmouth, RI (north)Water Type Map. The project is within Type-2 waters. Reference is made to the Coastal Resources Management Program dated March 30, 2010 and subsequent amendments. Applicable sections for water use and project type are addressed in detail as follows.

### **1.1.7 VARIANCE CRITERIA**

1. The proposed construction conforms with applicable goals and policies of the Coastal Resources Management Program.

The project conforms with the Coastal Resources Management Program goals for Type 2 water to support low intensity recreational and residential uses.

2. The proposed construction will not result in significant adverse environmental impacts or use conflicts, including but not limited to, taking into account cumulative impacts.



The proposed construction will not result in significant adverse environmental impact. There was no SAV observed on the site.

3. Due to conditions at the subject lot, the applicable standard(s) cannot be met.

With the subject lot being about 40' in width, 25' to both property lines is unachievable. Because of this, a 4' wide dock is proposed, throughout the entire length of the dock, at 25' to the abutting (occupied) lot. The lot in which the applicant is seeking a variance is currently a vacant lot, owned by the Town of Portsmouth. In addition, there are no other variances being requested with this application.

4. The application requested by the owner is the minimum variance to the applicable standard(s) necessary to allow a reasonable alteration or use of the site.

As mentioned above, the narrowest dock is being proposed at 4' wide for the dock's length. The minimum 25' is provided to the occupied lot on the west.

5. The requested variance to the applicable standard(s) is not due to any prior action of the applicant or the applicant's predecessors in title. With respect to subdivisions, the Council will consider the factors as set forth in § 1.1.7(B) of this Part below in determining the prior action of the applicant.

Not applicable.

6. Due to the conditions of the site in question, the standard(s) will cause the applicant an undue hardship. In order to receive relief from an undue hardship, an applicant must demonstrate inter alia, the nature of the hardship, and that the hardship is shown to be unique or particular to the site. Mere economic diminution, economic advantage, or inconvenience does not constitute a showing of undue hardship that will support the granting of a variance.

In order to achieve the limited recreational use of the structure, the dock must be constructed closer to one property line. A vacant lot to the east abuts the variance request and the minimum setback distance is provided to the abutter on the west.

### **SECTION 1.2.1: Tidal and Coastal Pond Waters**

#### **Type 2 Waters- Low Intensity Use.**

The proposed dock will support the Council's efforts to provide low intensity recreational and residential use while maintaining the scenic value, water quality, and fish and wildlife habitat in Type 2 waters.

### **SECTION 1.2.2(F): Coastal Cliffs, Bluffs, and Banks**

Policies



1. The existing shoreline consists of a rocky & sandy area in order to mitigate erosion. In no case would the coastal feature be significantly altered as a result of the project, as these areas will remain undisturbed. The start of the deck will be from the raised patio above, provide 5' access below the dock at MHW, and extend into the Type 2 waters adjacent to the site.
2. Special Bluff areas, as recognized by the Council, are not involved in this Project.
3. There are no bluffs on the property, it is not considered to be subject to erosion problems.

### **SECTION 1.3.1(A): Category B Requirements**

- The requirements herein for a Category B Assent are necessary data and information for the purposes of federal consistency reviews. All persons applying for a Category B Assent are required to:
- Demonstrate the need for the proposed activity or alteration;

The dock is needed to support low intensity recreational use as permitted in Type 2 waters.

- Demonstrate that all applicable local zoning ordinances, building codes, flood hazard standards, and all safety codes, fire codes, and environmental requirements have or will be met; local approvals are required for activities as specifically prescribed for non-tidal portions of a project in §§ 1.3.1(B), (C), (F), (H), (I), (K), (M), (O) and (Q) of this Part; for projects on state land, the state building official, for the purposes of this section, is the building official;

There are no potential impacts to fire code, flood hazards, safety codes, environmental requirements, or zoning ordinance since the deck will extend no further than what is acceptable to both CRMC and the constrained site.

- Describe the boundaries of the coastal waters and land area that is anticipated to be affected;

The proposed dock will extend approximately 50' beyond MLW in the Point Judith Pond.

- Demonstrate that the alteration or activity will not result in significant impacts on erosion and/or deposition processes along the shore and in tidal waters;

The proposed dock will not alter the existing shoreline in any way and therefore will not have any significant impacts on erosion or deposition along the shore.

- Demonstrate that the alteration or activity will not result in significant impacts on the abundance and diversity of plant and animal life;

The dock provides no threat to the abundance and diversity of plant and animal life.

- Demonstrate that the alteration will not unreasonably interfere with, impair, or significantly impact existing public access to, or use of, tidal waters and/or the shore;



The proposed dock will be just about even (in elevation) with the patio above the shoreline, with a total of 3 steps up to the dock. The walkway beneath provides the 6' vertical access allowable by CRMC. Therefore, there are no proposed impact to the public access, or use of, tidal waters and the shore. In addition, there are no mooring fields within 50' of the project.

- Demonstrate that the alteration will not result in significant impacts to water circulation, flushing, turbidity, and sedimentation;

The number of pilings proposed was minimized in order to prevent any significant impacts on water circulation, flushing, turbidity, and sedimentation while still providing structural support for the proposed dock.

- Demonstrate that there will be no significant deterioration in the quality of the water in the immediate vicinity as defined by DEM;

All materials used in the construction of the proposed dock are intended for marine use and will not have a significant effect on the water quality. The owners recognize the significance of maintaining good water quality and instill this on anyone that uses their space.

- Demonstrate that the alteration or activity will not result in significant impacts to areas of historic and archaeological significance;

The proposed dock will not impact any historic or archeologic areas.

- Demonstrate that the alteration or activity will not result in significant conflicts with water dependent uses and activities such as recreational boating, fishing, swimming, navigation, and commerce, and;

The proposed dock meets all length standards as set forth by CRMC. In addition, the Sakonnet River is an open-mouthed bay in which the subject lot sits at the north most end. There will be no impact to water dependent activities.

- Demonstrate that measures have been taken to minimize any adverse scenic impact (see § 1.3.5 of this Part).

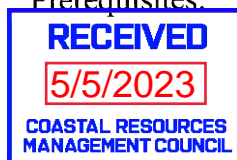
The dock will be no higher than what is necessary per CRMC's regulations and no lower than what is required to allow pedestrian bypass.

### **SECTION 1.3.1(D): Residential, Commercial, Industrial, and Public Recreational Structures**

Policies

1. See Section 1.3.6 for Public Access Plan

Prerequisites:



7. Transportation and utility services for commercial and industrial structures do not apply to this project.

**Prohibitions:**

None of the prohibitions outlined in the CRMP would be violated as a result of this project.

**Standards:**

- 1.a,c. Grading of shoreline features and commercial docks are not applicable to this project.
- 2.a,b. Minimal excavation and grading shall be required as part of the project.

**SECTION 1.3.5: GUIDELINES FOR THE PROTECTION AND ENHANCEMENT OF THE SCENIC VALUE OF THE COASTAL REGION**

**General:**

The project will not change the skyline as viewed from the water as can be clearly illustrated from the photos on Sheet 3 of the proposed dock plan. Therefore, the project will maintain scenic value of the area while maintaining the existing natural coastal features. Additional photos are attached below.

**CONCLUSION**

This project meets all of the requirements of the CRMP for the designated water and shoreline type. Therefore, the project is consistent with the goals of the CRMP for preserving and protecting the state's coastal resources.

