

Variance Request:

In support of this variance request, the Applicant provides the following evidence, information, data, materials and arguments.

The Applicant requests a variance from RI Coastal Resources Management Program (CRMP) standard §1.3.1.D.11.m which provides as follows:

All residential and limited recreational docks, piers, and floats shall meet the setback policies and standards contained in municipal harbor management plans and/or harbor ordinances approved by the Council. However, in all cases, residential and limited recreational docks, piers, and floats shall be setback at least fifty (50) feet from approved mooring fields and three-times the U.S. Army Corps of Engineers authorized project depth from federal navigation projects (e.g., navigation channels and anchorage areas).

This section provides that all residential docks (which is applicable to the within matter seeking an assent to construct a residential dock) comply with the setback policies and standards of municipal harbor management plans. The project location is in the Town of Warren. The section further provides that residential docks comply with the minimum required fifty (50) foot setback from approved mooring fields.

In order to assess whether the shared dock described in the application provides adequate separation, Harbor Engineering reviewed the Town's *Harbor Management Plan (HMP)* to determine if there were any mooring fields in the vicinity of the Site. The document was adopted January 12, 2010. According to the HMP, there is a mooring field within the general vicinity. Mooring Field #7 parallels Brownell Street on the Mount Hope Bay. The mooring field is dedicated for the purposes of recreational boating, is reported to have 42 dedicated moorings (not at capacity) and provides an average depth of 12 feet. Per the document, the mooring field boundaries start from just east of the mouth of the Kickemuit River and extends along the Touisset shoreline to the Warren/Swansea town line where it concludes. Figure G1, provided below, was also obtained from the Town's HMP and illustrates several aspects of the field:



Figure G1: Location of the Town of Warren’s Mooring Field #7 as presented in the Town’s Harbor Management Plan

As described in the Town’s HMP and indicated in Figure G1 above, the landside boundary of the mooring field follows the edge of the *Touisset shoreline*. The same boundary also bisects two clearly identified and existing residential docks installed prior to the time the referenced aerial photograph was taken. The applicant maintains that the location of this boundary is incorrect. The true location of the mooring field boundary should be considered where the water depth is appropriate to support moorings which would be established with the consideration of the vessels and mooring tackle. Areas too shallow to support a mooring should not be considered as part of the field. While Harbor Engineering surveyed the bathymetry in the area, it was determined the closest mooring to the proposed residential dock was located in approximately 5 feet of water depth relative to Mean Low Water. The same mooring, owned by one of the applicants, is located 149 feet offshore from where the proposed floating dock is to be installed.

Furthermore, Harbor Engineering attempted to replicate the northern boundary of the mooring field by referring to the coordinates provided in the Town’s HMP. The coordinates were converted from GPS (Lat/Long) to NAD83 (North American Datum 1983, current State Plane Coordinate System). Once the points were converted and placed on the site plan, it was determined that the coordinates for Point E are incorrect. Figure G2 (below) prepared by Harbor Engineering using the provided GPS coordinates in Google Earth Pro, shows the location of each point established for the mooring field. It is recommended that RICRMC work with the Town to correct the Town’s HMP location of point ‘E’.

RECEIVED
By Brittany at 1:38 pm, Feb 08, 2021



Figure G2: Coordinates of the Warren Mooring Field #7 entered into Google Earth. Issue with the coordinates for Point ‘E’ identified.

The following discussion supports this variance request as required in CMP Section §1.1.7.

Criteria

- (1) *The proposed alteration conforms with applicable goals and policies of the RI Coastal Resources Management Program.*

The application meets the applicable goals and policies as outlined in Parts 2 and 3 of the CRMP for the construction of a residential boating facility within Type 2 waters. In accordance with the CRMP, the proposed structure will not “significantly interfere with and/or impact other public trust uses of the tidal or inter-tidal areas of the shoreline (e.g. interfere with navigation)” per CRMP §1.2.1.C.2(d).

The Town of Warren Harbor Management Commission reviewed the proposed residential dock that included a 4ft x 121ft fixed pier, 3ft x 30ft gangway and 10ft x 20ft float (projecting 108 feet seaward of Mean Low Water). It issued a letter of no objection dated December 5, 2020. Since the time of that letter, the Applicants agreed to reduce the length of the pier from 121 feet to 90 feet (limiting the structure’s projection into Mount Hope Bay to 75 feet seaward of Mean Low Water) at the recommendation of RI CRMC staff.

RECEIVED
By Brittany at 1:38 pm, Feb 08, 2021

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

The proposed variance will not have any significant or adverse environmental impacts. No sensitive environmental resources exist in this location (i.e. SAV).

The proposed shared structure will help mitigate cumulative impacts since both neighboring property owners will be sharing the same structure rather than each having their own. In addition, the proposed structure will be constructed using typical marine construction methods, consistent with other structures in the area.

- (3) Due to conditions at the site in question, the applicable standard cannot be met.*

The variance requested is technically necessary for any dock being proposed in this mooring field since the documented location of the mooring field literally precludes the possibility of any residential docks being constructed. As discussed previously, water depths ascertained from a recent survey confirmed the true/effective location of the mooring field is located much further offshore than what is documented in Figure G1 above. This position is logically supported by the fact that the Town's Harbor Management Commission concluded the proposed residential dock will not interfere with the mooring field as indicated by its letter of 'no objection' to RICRMC.

- (4) The modification requested by the applicant is the minimum variance to the applicable standard necessary to allow a reasonable alteration or use of the site.*

The total length of the proposed residential dock structure places the terminus of its float a distance of 149 feet of the closest mooring which happens to belong to one of the Applicants. No other moorings are in closer proximity to the proposed structure. Although a lengthier structure (~30 feet longer) could be safely accommodated in the mooring field (and was not objected to by the Town's Harbor Management Commission), the reduced length proposed by the Applicants places the floating dock in approximately 2.5 feet of water depth relative to Mean Low Water. This reduced length is the minimum length possible to allow the dock to remain accessible for the Applicants' use during most days/tides.

RECEIVED
By Brittany at 1:38 pm, Feb 08, 2021



- (5) *The requested variance to the applicable standard 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) below in determining the prior action of the applicant.*

The variance requested has nothing to do with the prior actions of the Applicants or their predecessors in title.

- (6) *Due to the conditions of the site in question, the standard 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.*

The site in question is encumbered by and burdened with the condition of a mooring field which upon closer examination (as demonstrated above) establishes boundaries which precludes the installation of any residential docks along the Touisset shoreline that is adjacent to a RICRMC Water Type 2 classification. This condition causes an undue hardship that deprives the applicants of the lawfully permitted use of their property. In reality, the effective landside boundary of the area mooring field is between 100-150 feet offshore from where the new floating dock is being proposed. In addition, the Town's Harbor Management Commission even concluded the proposed residential dock will not interfere with the mooring field as indicated by its letter of 'no objection' to RICRMC.

The Applicants would like to have similar access to the Mount Hope Bay as their neighbors, by having a shared structure that is comparable (albeit shorter) to others in the area that have been previously authorized by RICRMC.

RECEIVED
By Brittany at 1:38 pm, Feb 08, 2021



RICRMP Standards

The following items are provided to address the Category B requirements outlined in RICRMP Part 1:

- 1) *Demonstrate the need for the proposed activity or alteration;*

The Applicants are seeking permission to build a shared residential boating facility to improve their access to the waters of Narragansett Bay. The Site is situated at the southern shore of Touisset Point and includes an upland area with a combination of manmade structures that extend down to the cobble beach below.

It is the Applicants' goal to safely access navigable waters of Mount Hope Bay for recreational boating and fishing. The proposed dock system will be shared by two residences further reducing the already limited impacts associated with a timber pier and floating dock. The length of the proposed structure is necessary to provide a minimum water depth of 2.5 feet relative to Mean Lower Low Water datum which is suitable for a floating dock and a variety of smaller boats.

- 2) *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 nontidal 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;*

The Town of Warren Building Official and the Zoning Department have reviewed the application. The Building Official found no local building permit was necessary. No additional comments or recommendations were made by the zoning department during review and acceptance. Design and construction shall conform to the minimum requirements outlined in RICRMP § 1.3(D) Table 8, as required for residential dock construction.

- 3) *Describe the boundaries of the coastal waters and land area that are anticipated to be affected;*

The Site, situated on the northwestern shore of Mount Hope Bay, is classified as a RICRMC Type 2 Water. The coastal feature includes a series of manmade structures including a concrete seawall, terrace and a stone gravity retaining wall. Mean high water is generally located along the toe of the gravity retaining wall, making the shoreline generally not walkable during high tide.

The nearshore area consists of a cobbled shoreline, which includes large boulders that project well above the mudline, especially to the north of the Site. No vegetation has been observed within tidal and subtidal portions of the Site.

- 4) *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 activity includes the installation of a fixed timber pier, gangway and floating dock with associated anchor piles. The densely cobbled shoreline precludes the potential that the proposed project would have any significant impacts on erosion and/or deposition processes along the shore and in tidal waters.

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

The proposed activity is consistent with the types of construction completed at neighboring properties where the proposed residential boating facility is planned. Given the area shoreline is developed and there is a lack of vegetation in the area, no impacts are anticipated related to the abundance and diversity of plant and animal life.

- 6) *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 pier is elevated such that it will provide approximately 5.5-foot minimum clearance between MHW and the underside of the pier. Existing piers with floating docks that project out into Mount Hope Bay similar distances are currently in use in the region as shown on Sheet-7 of the project plans. Based on this information, the proposed facility will not adversely impact pedestrian access along the cobbled shoreline or boats navigating in the area.

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

The proposed residential boating facility will be supported by a series of timber piles, with large gaps in between. The large gaps between piles will ensure the natural processes (including water circulation, flushing, turbidity, and sedimentation) will continue.

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

The proposed residential boating facility will be constructed consistent with traditional marine construction methods and materials. The proposed project will not cause a significant deterioration in the quality of water in the immediate vicinity.

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

There are no areas of historic or archaeological significance within the area of the proposed activity.



10) 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 facility will enhance the Applicants' ability to enjoy various water-dependent activities including recreational boating, fishing and swimming in the coastal waters of Mount Hope Bay. In addition, as discussed previously, the proposed facility will be constructed similarly to other structures in the area that have not impacted water-dependent uses or activities in the area.

11) Demonstrate that measures have been taken to minimize any adverse scenic impact (see Section § 1.3.5).

To minimize any adverse scenic impacts, the Applicants are proposing to share one structure rather than build their own individual structures. This will reduce the number of piers in the area and is consistent with the CRMC's stated desire to encourage "the construction of facilities that service a number of users" per the CRMP. The appearance of the proposed residential boating facility will be consistent with other residential boating facilities in the region.