

CRMC DECISION WORKSHEET

2023-12-058

Bette Gruskay Trustee Et Als

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
2023-12-058	South Kingstown	Brant Road South		A	<input type="checkbox"/>	X
		Plat	90-4			
		Owner Name and Address				
Date Accepted	1/3/2024	Bette Gruskay Trustee Et Als		Work at or Below MHW	<input type="checkbox"/>	
Date Completed	3/27/2024	404 Roosevelt Avenue Unit 502 Central Falls, RI 02863		Lease Required	<input type="checkbox"/>	

PROJECT DESCRIPTION

Construct a new dwelling serviced by denitrifying OWTS, public water supply, pervious driveway and stormwater BMPs; To establish vegetated buffer zone, all per the submitted plans

KEY PROGRAMMATIC ISSUES

- Coastal Feature:** Coastal (including contiguous freshwater wetland) wetland
- Water Type:** Type 2, Low Intensity Use, Green Hill Pond
- Red Book:** Sections 1.1.4(D), 1.1.7, 1.1.9, 1.1.10, 1.1.11, 1.2.1(B), 1.2.2(C), 1.2.3, 1.3.1(B), 1.3.1(C), 1.3.1(F), 1.3.4, 1.3.5
- SAMP:** Salt Pond SAMP, Lands Developed Beyond Carrying Capacity
- FWWVC:** Section 9.11

Variations and/or Special Exception Details:

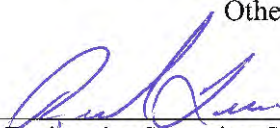
- 12.5' construction setback variance (25%)
- 15-20' buffer-derived setback variance (60-80%)
- 47.5' buffer zone variance (63%)
- 5-10' freshwater setback variance (50-75%)

Additional Comments and/or Council Requirements: Buffer variance >50% requires Council review

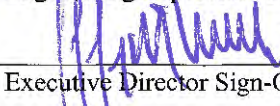
Specific Staff Stipulations (beyond Standard stipulations): Deed restriction limiting further development

STAFF RECOMMENDATION(S)

Engineer _____ Recommendation: _____
 Biologist **TAS** Recommendation: **Approval**
 Other Staff _____ Recommendation: _____

 _____
 Engineering Supervisor Sign-Off _____ date 4/2/24

 Supervising Biologist Sign-off _____ date

 _____
 Executive Director Sign-Off _____ date 2 APR 24

 Staff Sign off on Hearing Packet (Eng/Bio) _____ date

Name: Bette Gruskay Trustee Et Als
CRMC File No.: 2023-12-058
Staff Report



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

DATE: 27 March 2024
TO: Jeffrey M. Willis, Executive Director
FROM: T. Silvia, Sr. Environmental Scientist

Applicant's Name:	Bette Gruskay Trustee Et al.
CRMC File Number:	2023-12-058
Project:	To construct a new single family dwelling serviced by denitrifying OWTS, public water, pervious driveway and stormwater management BMP and to establish a vegetated buffer zone; Variance required to buffer/setback distances.
Location:	Brant Road South; South Kingstown: Plat(s): 90-4; Lot(s): 130
Water Type/Name:	Type 2, Green Hill Pond, Low Intensity Use
Coastal Feature:	Coastal (including contiguous fresh) wetland
Plans Reviewed:	"Site Plan for Onsite Wastewater Treatment System, Lot 130, Plat 90-4..Brant Road South...South Kingstown.." dated September 16, 2022 as last revised 03/25/2024 by Jeffrey K. Balch, PLS and Carolyn J. Doyle, RPE (sheet 1 of 2) and Sheet 2 entitled "Details for New Onsite Wastewater Treatment System.." last revised 12/06/2022 by Carolyn J. Doyle, RPE
Recommendation:	Approval, with stipulations

A) INTRODUCTION

1—The project site is located within the Twin Peninsula neighborhood along the northeastern shore of Green Hill Pond (Figure 1). This substandard plat is characterized by dense residential development squeezed amongst areas of freshwater and coastal wetland, similar to the subject lot proposal. Public water service is available, with accompanying private septic systems.

2—Prior CRMC Preliminary Determination (PD) report #2017-12-055 evaluated the site for potential residential development. Findings confirmed the coastal feature, noting the 75' vegetated buffer zone and 100' construction setback requirement based on stated lot size of 28,800sf. Recognizing the lot couldn't meet the full offsets, staff could support variances for a minimum 25' buffer zone per Salt Pond Special Area Management Plan (SAMP), and a 12.5' construction setback (Redbook), with minimal house footprint,

stormwater treatment and advanced septic system. Lastly, a deed restriction limiting additional future development would be required to receive approval recommendations.

3—The current application was accepted 1/3/24 and staff conducted a followup site visit 1/31/24 noting current conditions relatively unchanged from prior review; Staff concurs with the coastal feature delineation. The site is regulated by the coastal Redbook, Freshwater Wetlands in the Vicinity of the Coast (FWWVC) Rule and SAMP Lands Developed Beyond Carrying Capacity (LDBCC) requirements.

4—Reduced in size from the PD layout, now totaling ~640sf, the dwelling is slightly larger than the footprint recommended in the previous report, though one less bedroom is proposed than the original design. The applicant received local variance relief for the current layout, which also includes additional buffer zone with reduced setback, per current staff guidance.

5—As the buffer zone variance is greater than 50%, Council review is required per Section 1.1.11. Part of the recent revisions were staff attempts to achieve administrative review for the project, by increasing the buffer zone. Although some increase in buffer width was achieved, the required variance must still be granted by the full Council as it remains larger than 50%.

B) APPLICABLE REGULATORY REQUIREMENTS (Redbook, SP SAMP, FWWVC):

650-RICR-20-00-01 Redbook Section 1.1.4(D)	Freshwater Wetlands in the Vicinity of the Coast	See FWWVC Rules below
Section 1.1.7	Variances (var.)	buffer zone, construction setback, buffer-derived setback variances
Section 1.1.9	Setbacks	12.5' construction setback var. 15-20' buffer-derived setback var.
Section 1.1.10	Climate Change/Sea Level Rise(SLR)	Some access impacts at 2' SLR
Section 1.1.11	Coastal Buffer Zones	47.5' buffer zone variance
Section 1.2.1(B)	Type 2 Low Intensity Use	Dense residential neighborhood
Section 1.2.2(C)	Coastal Wetlands	No proposed alteration; Buffers
Section 1.2.3	Historic/Archaeologic Significant	RIHPHC signoff received
Section 1.3.1(B)	Filling/Removing/Grading	Proposed sediment/erosion control
Section 1.3.1(C)	Residential...Structures	Local building/signoff received
Section 1.3.1(F)	Sewage/Stormwater Treatment	OWTS/stormwater management
Section 1.3.4	Critical Coastal Areas	Salt Pond SAMP
Section 1.3.5	Scenic Value Guidelines	Residential development
650-RICR-20-00-3 SP SAMP	Section 3.4.2(E)/ Section 3.4.3(C)	Table 1: Lands Developed Beyond Carrying Capacity (LDBCC)
650-RICR-20-00-09 FWWVC	Section 9.11.2(A)(3)	Setback variance required (20')

C) STAFF COMMENTS:

1—It is staff's opinion that the project has been designed consistent with the Redbook Sections cited above, except as described herein. Proper sedimentation and erosion controls, stormwater management (rain garden and pervious driveway) and advanced-treatment onsite wastewater treatment system (OWTS) are proposed, typical of residential development. The proposed buffer zone provides screening for wildlife habitat, water quality improvement and scenic values, adding to the functions already provided by the wetland. Historic signoff has been received from the applicable state agency, with no direct impact to the coastal feature.

2—Relative to Section 1.1.11, a 75' vegetated buffer zone is required, which the lot cannot accommodate. The Prior PD recommended a 25' buffer zone and recent staff comments recommended additional buffer zone with reduced setback, in order to further protect the existing habitat and coastal wetland. The applicant has provided additional variable 3'-20' buffer zone inland of the submitted 25' proposal, approximately 30% more buffer than originally submitted, per staff's guidance. Total buffer is 27.5-38' across the lot, a 47.5' (*63%) variance, reduced from submitted proposal.

3—Relative to Section 1.1.9, a minimum 50' construction setback from the coastal feature is required (equal to the required buffer-derived setback of 25' +25'). Recognizing the lot cannot accommodate the full setbacks, the prior PD recommended a total setback of 37.5' (25' buffer + 12.5' setback), which the applicant submitted. Following current staff guidance to increase the buffer zone, the buffer-derived setback was reduced (10' to the dwelling/5' to accessory structures such as driveway/stormwater BMP); This is consistent with past CRMC guidance for small lot development and results in the same total setback of 37.5' from the coastal feature as the prior PD guidance. Total construction setback variance remains 25% and buffer-derived setback variance is 60% (accessory structures) & 80% (dwelling). The reduced buffer-derived setback results in a larger vegetated buffer zone.

4—Relative to Section 1.1.10, a coastal hazard analysis (CHA) worksheet was provided as required for new development/work within the 50' construction setback. The results for the chosen 30yr design life (2' SLR or 100yr return period + 2') indicate the southern portion of the parcel is likely to be affected, as well as access to the site from the southwest. However, the dwelling location, OWTS location and access to the site from the northwest do not appear to be affected under this design scenario.

The recommended Stormtools Design Elevation (SDE) is 18.5' for a 2'SLR/30yr design life. The applicant proposes 20' First Floor Elevation (FFE), with a dwelling on piling foundation, meeting the recommended SDE. Coastal Environmental Risk Index models indicate Severe damage potential for the site during future storm/flood events, especially if the SDE is not met. It is important to note that the entire neighborhood will be similarly affected in a 100yr flood event and many of the nearby dwellings are not elevated like this proposal. Given the project is designed to meet the recommended SDE, staff could support the reduced 37.5' setback.

5—The Salt Pond SAMP, while referencing the Redbook Section 1.1.11 buffer zone requirement (75'), requires an '*absolute minimum*' buffer width of 25' for LDBCC should a variance be necessary. Consistent with the former PD comments, the applicant has provided the minimum 25' buffer width, as well as additional buffer zone where possible on the lot (~28-38' variable width). The SAMP as well as Redbook Section 1.3.1(F) require denitrifying technology for new septic systems; The applicant proposes a DEM-

approved “*GST Fujiclean Cen5 septic treatment tank to a Geomatrix GST leach field, an enhanced nitrogen removal system designed for use in nutrient sensitive areas*”, per the narrative, which meets this requirement.

6—Adjacent to coastal wetlands (Section 1.2.2(C)), coastal buffer zones are especially important, offering flood storage, water quality/stormwater treatment, wildlife habitat and nutrient uptake, among other functions. However, on lots where the coastal feature represents more than 50% of the lot, a variance to the buffer zone may be granted by the Council (Section 1.1.11(C)(1)). The coastal wetland present on the site encompasses more than 50% of the lot. Should the Council grant these variances, similar to prior PD comments, staff requests a deed restriction limiting further development on the lot; This would include future buffer or setback variance requests as well as new construction. The applicant (as well as potential new buyer) has been made aware of this requirement.

7—The FWWVC Rules were recently updated, and comments regarding the former requirements were not included in the prior PD. The lot, located within River Region 2, has a Jurisdictional Area of 100’, which envelopes the entire lot. The parcel also contains/adjoins a deciduous swamp less than an acre in size, which requires a 25’ buffer zone. Within this wetland, the Phragmites marsh requires a 50’ buffer zone, however both buffer distances are enclosed within the proposed coastal buffer zone.

The Rules also require a 20’ construction setback to the primary dwelling and a lesser setback to the accessory structures noted above. The proposed dwelling and accessory structure locations will require a variance to the construction setback, however, it too is consistent with the proposed coastal setback variances. When more than one regulatory program affects a site, the more restrictive applies; On this site the programs are comparable in the requirement and relief sought relative to the proposed setback distance.

D) VARIANCE REQUEST:

1—The applicant has submitted a Section 1.1.7 variance request. Per staff’s request, there is a reduced buffer zone variance (50’ to 47’), a slightly larger buffer-derived variance (12.5’ to 15’ for the dwelling) and a similar construction setback variance (12.5’ to 12’). It is staff’s opinion that the project conforms to the applicable goals and policies of the Redbook, as noted above. Significant impacts and use conflicts should not result from this proposal, which is consistent with nearby development and meets the minimum SAMP requirements.

2—Additionally, it is clear by the existing lot conditions (coastal feature encompassing almost two-thirds) that the requirements cannot be met for this pre-existing parcel. It is staff’s opinion that the applicant has followed both prior PD guidance as well as current staff comments to minimize the impacts of site development, with a small dwelling footprint, reconfigured layout and increased buffer zone. Additionally, the applicant received significant local variance relief in order to move the dwelling further inland.

3-- The applicant also submitted a FWWVC narrative, and accompanying variance request, per Section 9.11. It is staff’s opinion that the proposed design meets the criteria for variance relief under all Programs.

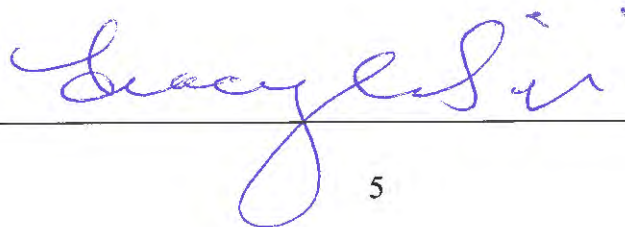
Name: Bette Gruskay Trustee Et Als
CRMC File No.: 2023-12-058
Staff Report

E) SUMMARY:

1—Due to the pre-existing condition of this parcel and the presence of greater than 50% coastal feature on the lot, it is clear the full requirements cannot be met. The applicant has attempted to minimize development impacts as noted herein, including an increase in proposed buffer zone where possible. The minimum SAMP requirements are met, the FWWVC requirements are consistent with the Redbook requirements and the CHA results predict no direct impacts to the proposal within the chosen design life of 2' SLR/30yr.

It is staff's opinion that the applicant has met the variance criteria and has no objection to the issuance of an Assent for this project. In addition to standard stipulations withheld pending Council decision, should the Council approve the application, staff requests a stipulation requiring the applicant to provide a recorded deed restriction limiting future development on the lot as noted above, prior to issuance of an Assent by the agency.

Staff Signature: _____



Tracy A. Silvia, Biologist



FOR ILLUSTRATIVE PURPOSES ONLY
NOT A SURVEY PLAN

RECEIVED
12/22/2023
COASTAL RESOURCES
MANAGEMENT COUNCIL

A Soil Survey Map
Bran Rd South
A.P. 90-4, Lot 130
South Kingstown, RI

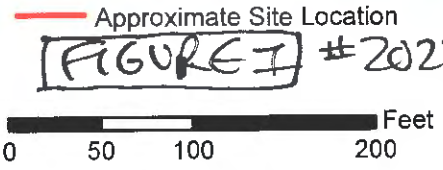


FIGURE 7 #2023-12-58

RIGIS Spring 2023 aerial
RI DEM Mapping
Natural Resource Services, Inc.
PO Box 311
160 Tankham Lane
Harrisville, RI 02830
p (401) 568-7350
(c) RIGIS