

CRMC DECISION WORKSHEET

2022-12-053

James & Cathleen Phillip

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
2022-12-053	South Kingstown	117D Sherman Road		A*	<input type="checkbox"/>	X
		Plat	82-4			
		Owner Name and Address				
Date Accepted	12/16/22	James & Cathleen Phillip		Work at or Below MHW		X
Date Completed	06/21/23	PO BOX 490		Lease Required		<input type="checkbox"/>
		East Greenbush, NY 12061				

PROJECT DESCRIPTION

c/m a residential boating facility

KEY PROGRAMMATIC ISSUES

Coastal Feature: Riprap revetment

Water Type: Type 2, Low Intensity Use, Point Judith Pond

Red Book: 1.1.6(E), 1.1.7, 1.2.1(B), 1.2.2(F), , 1.2.3, 1.3.1(D)1.3.5

SAMP: RI's Salt Pond SAMP Region, Lands Developed Beyond Carrying Capacity

Variances and/or Special Exception Details: 25' length variance to Redbook 650-RICR-20-00-01 Section 1.3.1(D)(11)(I)

Additional Comments and/or Council Requirements: N/A

Specific Staff Stipulations (beyond Standard stipulations):

"All construction shall be via barge-mounted equipment only, no work shall occur on or directly seaward of the abutting ROW"

STAFF RECOMMENDATION(S)

Engineer _____

Recommendation: _____

Biologist **TAS** _____

Recommendation: _____

Other Staff _____

Recommendation: _____

**No Tech. Obj; Defer for
Objections Received**

Engineering Supervisor Sign-Off

date

6/22/23

Executive Director Sign-Off

date

6/23/23

Supervising Biologist Sign-off

date

6/21/23

Staff Sign off on Hearing Packet (Eng/Bio)

date

Name: James & Cathleen Phillip
CRMC File No.: 2022-12-053
Staff Report



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

DATE: 19 June 2023
TO: Jeffrey M. Willis, Executive Director
FROM: T. Silvia, Sr. Environmental Scientist

Applicant's Name:	James & Cathleen Phillip
CRMC File Number:	2022-12-053
Project:	To c/m a residential boating facility
Location:	117D Sherman Road; South Kingstown: Plat(s): 82-4; Lot(s): 81
Water Type/Name:	2, Point Judith Pond (South Kingstown), Low Intensity Use
Coastal Feature:	Riprap revetment
Plans Reviewed:	<i>"New Dock Plans, AP 82-4, Lot 81, 117D Sherman Road, South Kingstown.."</i> dated 11/9/22 as last revised 2/25/23 by Thomas J. Principe, III, RPE.
Staff Recommendation:	No technical objection, defer for objections

A)INTRODUCTION/SITE HISTORY:

1—This application was accepted on 12/16/2022 and staff issued an Information Request via email for 8 additional items/clarification on 1/31/2023. Revisions were reviewed on 3/13/2023 and a public notice commenced on 3/29/2023. On 4/11/2023 staff learned from an affected abutter that a private ROW adjacent to the site was owned by several nearby landowners and the Notice was sent to those affected on 4/28/23 with an additional 30day extension for comments through 5/28/2023. Letters of objection were received from nearby landowners, several of whom also spoke directly with staff during the Notice period.

2—The ACOE issued a 'likely Pre-Construction Notification (PCN)' comment at the 5/18/2023 monthly General Permit (GP) meeting and the June meeting was canceled. It is staff's understanding that a PCN will be issued shortly. RIHPHC issued their signoff in January 2023.

3—The project site is located just north of the Succotash marina district, on the southwestern shore of Point Judith Pond. The lot is surrounded by residential development and abutting homeowners have docks.

4—Prior CRMC PD#2012-08-104 was issued for the feasibility of redevelopment by a former lot-owner and #2014-02-045 was issued/modified to the subject owner for the current residential development on the site. Staff's site visit 4/24/2023 revealed the site to be in conformance with the previous permit conditions.

B) PROPOSED PROJECT:

1—The applicant is proposing to construct a new residential boating facility in accordance with Redbook 650-RICR-20-00-01 Section 1.3.1(D), with the exception of the requested length variance per Section 1.3.1.(D)(11)(l). The design is a 4' x 72' fixed timber pier, 3' x 20' ramp and 6' x 21' (126sf) terminal float.

2—The proposed project meets and exceeds the 25' property line setback requirement, meets the minimum 18" water depth and is designed by a licensed PE, consistent with the Section requirements. There is no submerged aquatic vegetation (SAV) or coastal wetland at the site location and the facility is to be elevated to provide for 5' lateral access at the cited MHW mark.

3—The facility is proposed to be sited 75' seaward of the cited MLW mark, requiring a 25' length variance. CRMC regulations aim to achieve between 18" -3' of depth at the terminus of the facility and allow up to a 150sf terminal float. This design meets the minimum depth (20" proposed) and has a smaller float (126sf).

4—The Council should note that the current planset contains errors. First, the distance beyond MLW is measured incorrectly as past practice is to measure along the centerline of the facility. However, the total distance remains unchanged at 75'. Second, the plan appears to scale 1:20 rather than the cited 1:10. Should the Council approve the application, staff will request final revised plans with these corrections.

C) OBJECTIONS RECEIVED:

1—Staff first was contacted by P. Krasnov, who noted that the adjacent ROW was partially owned by several landowners in the plat and that there were errors on the submitted plan regarding the parcel access (see below). The applicant had only submitted a direct abutters list, to which the project was Noticed. Staff advised that a copy would be sent to the other owners and additional time allotted for comment (see above).

2—On 4/28/23 staff spoke by phone with abutting neighbors Dunphy and Wahlberg regarding the application review process, their concerns with the previous work and current proposal, congestion impacts, property line/setback locations, ROW access and current recreational use of the shoreline.

3—Letters of objection from Mr. Krasnov and the Wahlbergs were received the end of May, following up on previous comments as well as additional concerns regarding marine life, setbacks, clamming & SAV impact.

D) STAFF COMMENTS:

1—Staff notified the consulting engineer regarding the improper original Notice and that objections were received. The revised plans submitted in March included the SAV report (none found July 2022) and written variance request (length) as well as removed the originally proposed boat lift (prohibited in these waters).

Name: James & Cathleen Phillip
CRMC File No.: 2022-12-053
Staff Report

2—Staff does note the objectors' concerns regarding the existing easement and ROW. The upland 'paved driveway' is called out by Mr. Krasnov as an existing gravel easement which is to remain open for parking/access. Should the Council approve the project, staff will also request this note to be re-labeled on the plans, although private easement restrictions do not fall under the purview of CRMC staff.

3—Additionally, there were numerous complaints received by the CRMC during the previous dwelling construction surrounding the ROW access to the water (also privately held) by adjacent landowners. Staff does note that dock construction could temporarily impact the nearby water use should a barge be located directly in front of the ROW. A stipulation could be included such as 'All construction shall be via barge-mounted equipment only, no work shall occur on or directly seaward of the abutting ROW' should the Council approve the project.

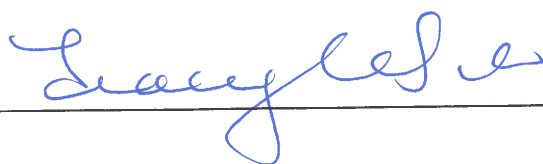
4—Staff notes the abutters' concerns with historic recreational activities such as swimming, boating and clamming in the nearshore waters in front of this parcel. However, it is staff's opinion that these activities are not necessarily precluded with a new dock as much of the shoreline would remain unobstructed (over 35' in each direction). Additionally, CRMC zones these waters for many uses, including docks.

5—It is staff's opinion that the applicant has met the variance burdens of proof, specifically as the dock is designed consistent with Redbook requirements where possible. The required length variance is due to existing site conditions, is within the length typically administratively approved for similar site conditions and is consistent with nearby facilities, including the two abutters' (slightly longer due to shoreline configuration). It is staff's opinion that while cumulative impacts from proposed docks are a valid concern across the waterbody, given the existing resources in this location and the large setback between existing and proposed facilities, there are likely to be no significant environmental impacts from this particular proposal.

E) RECOMMENDATION:

It is staff's opinion that the proposal is designed in accordance with Redbook requirements, excepting the length variance. The variance request is consistent with Section 1.1.7 criteria and is allowable for residential boating facilities. It is staff's opinion that the applicant has minimized the request due to the existing site conditions and that the chosen design minimizes environmental impacts. The cited potential user conflicts are similar to all potential dock proposals and do not appear to be more significant in this location. Without objections, this project could have been reviewed administratively. Staff has no technical objection to the proposal as last revised and defers to the Council for consideration of the public comments. Additionally, staff requests that should the Council approve the application, revised plans correcting the three errors noted herein are required to be received prior to any Assent issuance. Lastly, in addition to the proposed stipulation contained above regarding construction access to the facility, standard stipulations are withheld pending Council's Decision.

Signature: _____



T. Silvia, Staff Biologist