

Cstaff1

From: DOvidioLaw <chris@dovidiolaw.com>
Sent: Monday, March 25, 2024 2:08 PM
To: Cstaff1@crmc.ri.gov; Lisa Turner
Cc: Christopher Lowe
Subject: Fwd: CRMC Application 2023-04-094
Attachments: Lowe Objection_2023-04-094_3 25 24.pdf; Untitled attachment 00586.htm; D'Ovidio Law Logo_Email copy.pdf; Untitled attachment 00589.htm; Lowe Objection_2023-04-094_3 25 24.pdf; Untitled attachment 00592.htm; D'Ovidio Law Logo_Email copy.pdf; Untitled attachment 00595.htm

Dear Sir or Madam:

Attached, please find my client, Christopher Lowe's, objection to and request for a hearing on the above-referenced application.

Please confirm receipt.

Thanks.



D'OVIDIO LAW

ATTORNEY & COUNSELOR AT LAW

March 25, 2024

Sent via Cstaff@crmc.ri.gov

Mr. Jeffrey Willis, Executive Director
Coastal Resources Management Council
Stedman Government Center, Suite 116
4808 Tower Hill Road
Wakefield, RI 02879-1900

Re: **CRMC Application 2023-04-094**

Dear Director Willis:

This office represents Christopher Lowe of 14 New Meadow Road, Barrington, RI. Pursuant 650 R.I. Code R. § 010-00-1.5.1(F) and § 020-00-1.1.6(G), Mr. Lowe objects to and requests a hearing on the above-referenced application.

As more fully described below, the application proposes a fishing pier, which will adversely impact Mr. Lowe's reasonable use and enjoyment of his property, shore access and ability to install a dock. Mr. Lowe reserves the right to submit additional documents, information and testimony at the hearing on the above-referenced application.

I. Scope of Project

The application proposes to replace a bike path bridge over the Barrington River and construct a fishing pier. As shown in the site plan sheet 10 of 26 and sheets 7 and 19 of 38, the Lowe Property abuts the bike path's right-of-way and is adjacent to the proposed fishing pier.

II. Fishing Pier Impacts on Lowe's Property

As shown in the attached photographs (Exhibits 1-3) nearly all of the Lowe Property shoreline consists of a 5-6' stone revetment, except, for a stairway/path to the shore located at southeastern edge of property. The stairway/path abuts the bike path's right-of-way. The Lowe's use the stairway/path to access the river to swim, kayak and fish.

A. Noise Impacts

The 100+/- sqf area just below the proposed fishing pier is currently just large enough for 1-3 anglers. Boisterous anglers at various hours of the day have previously required Mr. Lowe to ask anglers to at least refrain from lude language. The 820+/- sqf fishing pier will become an angler's destination and accommodate at least 15-25 anglers. This newly created anglers' destination, and associated all-hours of the day use, will exacerbate existing conditions and significantly and adversely impact Lowe's reasonable use and enjoyment of his property. Contrast with transient

bike path users, who generally do not congregate for long periods of time, particularly, in the middle of the night.

B. Shoreline Access Impacts

The fishing pier will be located just above the Lowe's existing stairway/path to the shore (See Exhibit 4). Angler's will be casting and fishing into the area that the Lowe's traditionally use to launch kayaks, fish and swim. Currently, the use conflict is manageable with 1-3 occasional anglers. The fishing pier's newly created anglers' destination will create an unmanageable use conflict scenario for the Lowes.

C. Riparian Right Impacts

As shown in the Exhibit 4 the only practical location for Lowe's future dock¹ is less than 50' from the fishing pier, which is well within an angler's casting zone.

The dock must be 25' from the neighboring riparian property line extension to the north. See § 1.3.1. D.11.k. Due to potential submerged rocks bordering the Lowe's property, egress and ingress to the dock must occur in the area between the future dock and fishing pier – the area where casting and fishing will occur. This scenario creates an unmanageable use conflict.

III. Conclusion

The proposed project requires several special exceptions and variances.

Pursuant to § 1.1.8. A.2., projects requiring special exceptions must take all reasonable steps to minimize use conflict. Similarly, pursuant to § 1.1.7.A 2., projects requiring variances must not result in significant use conflicts. Similarly, pursuant to § 1.1.1.A.1.j., the application must demonstrate that the project will not result in significant conflicts with water dependent uses and activities such as recreational boating, fishing, swimming, navigation, Pursuant to § 1.1.8. A.3., projects requiring special exceptions must demonstrate that there is no reasonable alternative means of, or location for, serving the compelling public purpose.

As discussed above, the fishing pier will cause unavoidable and unacceptable use conflicts, including, but not limited to Mr. Lowe's recreational boating, fishing, swimming and navigation for his future dock.

The applicant has not demonstrated that the complained of fishing pier serves a compelling public purpose and that there is no alternative location for the fishing pier.

¹ Section 1.3.1.D.3.f. It is the Council's policy to authorize only one (1) residential or limited recreational boating facility per lot of record as of October 7, 2012 to minimize user conflicts and cumulative impacts in tidal waters.

Mr. Lowe respectfully requests that the CRMC make a determination that the aforementioned objection is substantiated by genuine and material reason. Mr. Lowe respectfully requests that the CRMC deny the application vis-à-vis the fishing pier.

Cordially

A handwritten signature in cursive script, reading "Christopher A. D'Ovidio".

Christopher A. D'Ovidio,
Attorney for Mr. Lowe.

EXHIBIT 1



EXHIBIT 2





EXHIBIT 4

