

# CRMC DECISION WORKSHEET

2024-04-075

Edon Realty Trust

|                                    |  |      |  |
|------------------------------------|--|------|--|
| 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                            |
| 2024-04-075             | North Kingstown | 353 Earle Drive   |    | A*                   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|                         |                 | Plat  | 89 |                      |                          |                                     |
|                         |                 | Owner Name and Address  |    |                      |                          |                                     |
| Date Accepted           | 4/17/2024       | Edon Realty Trust   |    | Work at or Below MHW |                          | <input checked="" type="checkbox"/> |
| Date Completed          | 4/1/2025        | c/o Donna Rossetti, Trustee 47 Grist Mill Lane<br>Walpole, MA 02081 |    | Lease Required       |                          | <input type="checkbox"/>            |

## PROJECT DESCRIPTION

Construct/maintain a 4' x 130' residential pier

## KEY PROGRAMMATIC ISSUES

**Coastal Feature:** Coastal Bluff with stone

**Water Type:** Type 2, Low Intensity Use

**Red Book:** 1.1.6; 1.1.7; 1.2.1(B); 1.2.3; 1.3.1(D); 1.3.5

**SAMP:** N/A

Variances and/or Special Exception Details: Variance for dock length (1.3.1(D)(l)); Variance to property line extension setback (1.3.1(D)(k))


Additional Comments and/or Council Requirements:

Specific Staff Stipulations (beyond Standard stipulations):

## STAFF RECOMMENDATION(S)

|             |            |                 |                                 |
|-------------|------------|-----------------|---------------------------------|
| Engineer    | _____      | Recommendation: | _____                           |
| Biologist   | <b>PJO</b> | Recommendation: | <b>No Objection to approval</b> |
| Other Staff | _____      | Recommendation: | _____                           |

  
Engineering Supervisor Sign-Off  
4/10/25  
date  
  
Executive Director Sign-Off  
11 APR 2025  
date

  
Supervising Biologist Sign-off  
4/10/25  
date  
Staff Sign off on Hearing Packet (Eng/Bio)  
date



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

DATE: 03-26-2025  
TO: Jeffrey M. Willis, Executive Director  
FROM: Peter O'Rourke

---

|                   |   |
|-------------------|---|
| Applicant's Name: | Edon Realty Trust   |
| CRMC File Number: | 2024-04-075   |
| Project:          | Residential Boating facility in a new Location.   |
| Location:         | 353 Earle Drive; North Kingstown: Plat(s): 89; Lot(s): 101,110  |
| Water Type/Name:  | Type 2, Narragansett Bay  |
| Coastal Feature:  | Coastal bluff with rip rap and backed by a sea wall.  |
| Plans Reviewed:   | Proposed residential pier, Edon Realty Trust & Donna Rosetti Trust 353 Earle Drive AP 89 Lot 110 North Kingstown, RI. By Warren Hall, civil engineer, Dated 01-30-2025, sheets 1-5. |

---

**INTRODUCTION:**

The application was initially submitted in April of 2024, for a Residential Boating Facility on undeveloped Lot 101, on the north side of Earle Drive, owned by the applicant and contiguous to dwelling #353. At the time of submission, the applicant owned the adjacent dwelling (#369/Lot 109) which was also requesting a dock under a separate application. Both applications were sent to 30 Day Public Notice, and the applicant was notified that as they owned two adjacent lots, to minimize impact, one dock serving both lots was recommended. Subsequent to the submission, the property that holds dwelling #369 was sold, and their separate application closed.

After several objections from the public and review by staff, staff recommended that the facility be relocated to the south side of Earle Dr (Lot 110), the location of the dwelling identified as 353 Earle Dr. The applicants did as requested by staff and submitted revised plans depicting the facility on Lot 110 in February 2025.

The revised application is requesting an Assent to construct a residential boating facility requiring two variances under the Red Book. Section 1.3.1(D)(11)(k): requires a 25' setback from a property line extension – this facility crosses that line. If the affected abuttor (in this case, the Town of North Kingstown/Earle Dr), provides a letter of no objection, no variance is needed. If the affected abuttor does not provide the letter, a Professional Land Survey plan and a written Variance request is required. These have been submitted. Section 1.3.1(D)(11)(l): requires the pier to extend no further than 50' seaward of mean low water and the 72.5' request requires a variance of 22'5 feet. The Variance for the Length is typically one that can be approved administratively, but all property line extension setback Variances require Council review.

Signed:  Staff Biologist

Signed: \_\_\_\_\_ Staff Engineer



Above: Aerial Imagery of lot and surround, approximated dock (not to scale)

#### APPLICABLE POLICIES, STANDARDS & ETC:

|                          |  |  |
|--------------------------|--|--|
| Section 1.1.6.(G)        | Substantive Objections                 | See Below  |
| Section 1.1.7            | Variances                              | Variances have been requested                                  |
| Section 1.2.1(B)         | Type 2 Low intensity use               | Residential Neighborhood                                       |
| Section 1.2.3            | Historical/Archaeological significance | RIHPHC no Objection  |
| Section 1.3.1.(D)(11)(k) | Residential dock standards             | Shown to cross property line extension-25' separation required |
| Section 1.3.1.(D)(11)(l) | Residential dock standard              | Extends to 72.5' beyond 50' the standard                       |
| Section 1.3.1.(D)(11)(z) | Table 8: Minimum design criteria       | Meets 18' required depth                                       |
| Section 1.3.5            | Scenic value guidelines                | Consistent with other properties                               |

#### COMMENTS ON VARIANCE REQUEST:

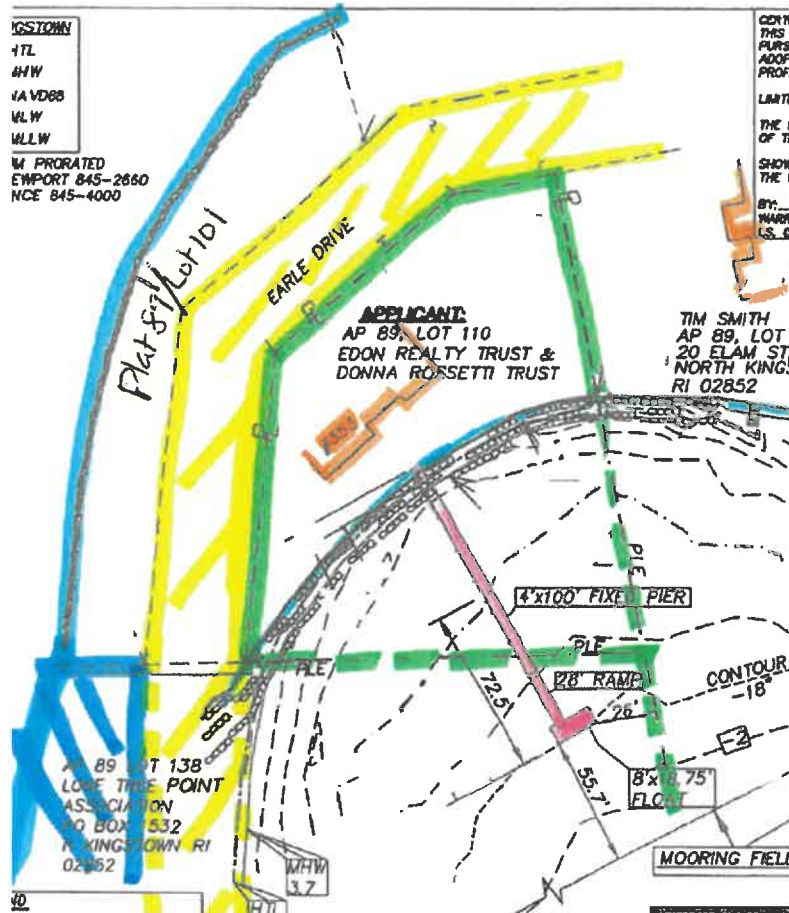
The Application asks for two variances. The applicant has situated the facility to meet the 25' Setback from the lot to their east, which is eligible to request a facility (and had a request last year), and crosses their property line extension to the south. Objectors have stated that the lot line being crossed is that of the Lone Tree Beach Association lot, Plat 89 Lot 138. However, based on the Town of North Kingstown GIS, and the Professional Land Survey submitted by the applicant, Earle Dr exists between the subject property and that lot, and lot 138 is not a direct abutter. The Town of North Kingstown, which did not provide a letter of no objection, is the direct abutter. (the Town has submitted a letter of objection).

Signed: *Ameylin for PJO*

Staff Biologist

Signed: \_\_\_\_\_

Staff Engineer



**Above:** Portion of submitted plan edited and highlighted by staff. Green: Subject lot with PL extension shown. Yellow: Earle Drive Right-of-Way. Dark Blue: Lone Tree Point lot. Light Blue: Coastal Feature

The second variance is under section 1.3.1(D)(11)(i) requesting to extend to 72.5 beyond MLW when the standard is 50'. This request is necessitated to have the required minimum 18" of water at MLW (Ref 1.3.1(D)(11)(z)).

The configuration of the lot and the shoreline create a situation where the property line extensions create a "closed box", and it is not possible to situate a dock within that "box" that meets CRMC Regulations. In order to reach a minimum water depth of 18 inches, the facility has to cross one of the two property lines. In order to avoid adversely impacting the property to the east (dwelling #163), and their potential to build their own dock, the applicant has met the property line extension on that side and crossed the other property line extension.

It is staff's opinion that the applicant has met the burdens of proof for the two Variances requested.

#### COMMENTS ON OBJECTIONS:

Several objections were received during the public notice period. Most objections are from members of the Lone Tree Point Beach Association, which owns lot 138 as well as lot 177 further to the south. The Town of North Kingstown Town Council has also submitted an objection.

Objections and concerns received during the public comment period can be classified into five broad categories. These categories are safety and navigation, habitat impacts, public access, impacts to recreational

Signed: *[Signature]* for PJO

Staff Biologist

Signed: \_\_\_\_\_

Staff Engineer



uses/visual impacts. The final objection theme regards the crossing of the property line and the presumed riparian rights of the beach club neighbors, which was discussed earlier in this report.

Staff offers the following commentary on the objections received:

**Safety and navigation:** Objections raised include concern that dock would create increased boat traffic near a heavily used beach area; navigation concern for recreational watercraft and swimmers; mooring field proximity; and general multi-use user conflicts.

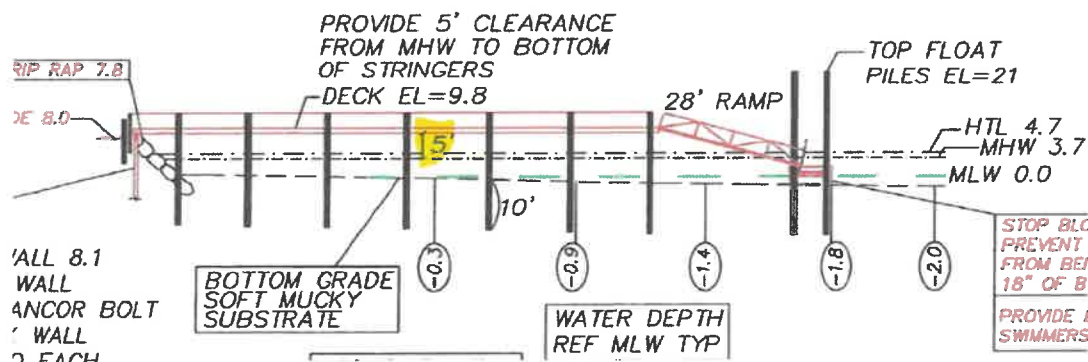
Residential Boating Facilities are an accepted use within Type 2 waters, and while safety of multi-users around such a structure, is a valid concern, it should not preclude the approval of an acceptable and permissible structure. The facility is appropriately situated more than 50 feet from the edge of the identified mooring field as required by Section 1.3.1(D)(11)(m), which requires 50 foot setback, is at the northernmost edge of the beach at a shoreline location that provides no beach, and swimming within the mooring area is safety concern of the Harbor Master.

**Habitat impacts:** Concerns raised include: interference with shell fishing; impacts to shellfish beds; risk of boat debris and fuel contamination; breeding area for a number of species including horseshoe crabs; concerns about impacts to water circulation and sedimentation patterns.

The area is open to shellfishing, and a residential boating facility would pose a temporary disturbance during its construction.

CRMC staff reached out to DEM Division of Marine Fisheries regarding the concern for horseshoe crabs (HSC). This area is not documented to have them, but the DEM biologist noted that “HSC will utilize many protected, sandy beaches throughout RI as this is their ideal spawning habitat”. The biologist did note that the nearby North Kingstown Town Beach has documented breeding Horseshoe Crabs, and it is staff’s opinion that if they can utilize the heavily used Town Beach, the presence of this residential boating facility will not cause significant impact. Prime breeding months are May-June, and should the Council choose, a construction restriction for those months may be imposed.

**Public access:** Several objections assert that lateral access along the shore will be blocked. CRMC Section 1.3.1(D)(11)(d) states: “Lateral access shall be provided under, around or over as appropriate for the site conditions at all new residential docks”. It has long been CRMC practice to provide 5’ elevation at MHW as an acceptable lateral access provision. As can be seen in this detail from the current submission, 5’ of height is provided at the cited MHW mark.



**Impacts to recreational uses:** Objections assert impacts to several recreational uses including: interference with shellfishing; swimming, paddleboarding, kayaking, etc.; unlike the 2 existing docks on the Point, this dock extends into swimming area; dock would be a benefit to one at the expense of the community.

As noted above, the proposed facility is not expected to significantly impact shellfish, and docks are often located within multi-use areas. All users are responsible for their own safety, and CRMC is unaware of docks resulting in significant impact to other users (as an example, docks are present in close proximity to Barrington Town Beach, as well as within Bluebell Cove in Portsmouth, both known for heavy recreational use). The facility will extend less than 45' over the property line extension.

**Visual impacts:**

Construction of a residential boating facility is consistent with existing and expected uses of this waterbody and shoreline. Apart from two variances due to site conditions this project has been designed consistent with CRMC dock standards under section 1.3.1.(D).

**Riparian Rights:** Several members of the neighboring beach association have asserted that the proposed facility will interfere with riparian rights associated with their lot 138, as it appears that the Subject lot Property Line extension has been mistaken for the property line associated with Lot 138 located on the western side of Earle Dr. The property line issue has been explained earlier, and it appears that property line extension has been conflated with riparian rights by the objectors. CRMC utilizes property line extensions for siting of structures; riparian rights are a judicial matter.

The submitted plans, which depict the extension of a small east/west property line of the subject lot, appear to be mistaken as the extension of lot 138 across Earle Dr. As noted and illustrated in the Variance Section of this report, the immediate "Abuttor" to the subject lot is the platted Earle Drive right-of-way. There is no impact to the presumed riparian rights of the beach club lot (138). CRMC does not extend property line extensions across roadways.


CRMC does acknowledge that the beach has assumed much of the Earle Dr right-of- way, and that the beach is frequently utilized by members of the beach club, and presumably by members of the general public as well. It is the opinion of the reviewing staff that the placement of the proposed dock, for which less than 45 feet will cross the southern property line extension into this public trust resource will not have significant impact on users of the resource in this area.

**Section 1.1.6(G) Review:**

A review of the standards set for substantive objections as set forth under 1.1.6(G) of the Redbook  
This proposal does not trigger any standards:

- There is no loss of property by the objectors
- The applicant has requested Variances and staff supports the Variances, therefore the proposal meets the standards of the Red Book.
- There are no substantial environmental impacts expected.

It is reviewing staff's opinion that the objections do not rise to the level of substantive objection in accordance with Section 1.1.6(G).

Signed: 

Staff Biologist

Signed: \_\_\_\_\_

Staff Engineer

## COMMENTS ON APPLICANT'S OBJECTION RESPONSE:

The applicant has received the objections but did not choose to respond. The applicant's engineer provided additional visuals to clarify the property line extension question. This information is included within the Agenda package.

## CONCLUSION & RECOMMENDATION:

Residential Boating Facilities are an acceptable use within Type 2 Waters, and in areas where the shoreline is uneven, frequently cross over property line extensions. This facility represents a fairly standard dock request, despite what objectors state to be unusual circumstances.

The Red Book Section 1.2.1(C)(2)(d) states: *Residential boating facilities ....., may be permitted in Type 2 waters, provided it can be demonstrated that there will be no significant adverse impact to coastal resources, water dependent uses or public's use and enjoyment of the shoreline and tidal waters of the State. It is the Council's policy that one or more of the following conditions describe a situation, condition, or proposal that is deemed to have a significant adverse effect on Rhode Island's coastal resources and therefore is grounds for denial or modification of an application for an Assent:*

- (1) The construction of the proposed facility may cause significant impacts on coastal wetlands and other public trust resources (e.g. shellfish, finfish, submerged aquatic vegetation, etc.);*
- (2) Access to the construction site is not available without causing significant impacts to Rhode Island's coastal resources (e.g. coastal wetlands);*
- (3) The proposed facility would 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); or*
- (4) Water depths adjacent to the site would require dock span lengths in excess of the standards contained in § 1.3.1(D) of this Part in order to allow normal and appropriate use of the dock by a vessel."*

It is staff's opinion that none of the four conditions required for denial or modification are presented by this application, as demonstrated by the applicant and examined in this report. Staff does not believe that the objections rise to the criteria of substantive, and that the applicant has met the Variance Criteria. Should the Council concur, Staff has no objections to the Council Approval of this application.

Should the Council approve this request, standard dock stipulations will be prepared.

Signed: \_\_\_\_\_

Staff Biologist

Signed: \_\_\_\_\_

Staff Engineer