SAVE THE BAY®
NARRAGANSETT BAY

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Sent via electronic mail to: cstaff1@crmc.ri.gov

January 30, 2025

Jeffery Willis, Executive Director
Rhode Island Coastal Resources Management Council
Stedman Government Center
4808 Tower Hill Road
Wakefield, RI 02879

Re: CRMC File No.: 2025-02-014*, John & Aidan MacSweeney*

Dear Director Willis,

Save The Bay, on behalf of our members and supporters, is pleased to offer comments pertaining to the Coastal Resources Management Council's (CRMC) File Number 2025-02-014, regarding the application submitted by John & Aidan MacSweeney for the construction of a single family dwelling with a driveway, deck and stormwater management system on Arlington Ave. in Warwick, RI along Type 2 waters. While Save The Bay is not opposed to some limited use of this parcel, we do object to the plans as submitted which would require the granting of a 100% construction setback variance and a 50%-100% buffer variance to allow for the proposed permanent alteration of coastal features on the site.

The coastal wetlands and coastal bluff on this site provide important functions and values that not only protect against environmental harms, but also serve to protect against additional flooding of adjacent properties. Permitting such expansive variances is in contrast to CRMC's "no net loss" policy for coastal wetlands and does not meet the Council's "goal to provide for maximum coastal buffer zone widths for projects abutting coastal wetlands that are adjacent to Type 1 and 2 waters." (650-RICR-20-00-1-1.2.2 (C)(1)(h)), and fails to honor that "[t]he establishment of a coastal buffer zone is based upon the CRMC's legislative mandate to preserve, protect and, where possible, restore ecological systems" (650-RICR-20-00-1.1.11(B)(2)).

Construction setbacks and buffer zones are important conditions to be considered during coastal construction to minimize harms to surrounding habitat, to ensure the ecosystem services of a parcel continue to operate to the best of their ability, and to ensure that activity on a parcel doesn't result in undue nuisance and harm to surrounding properties. CRMC's regulations regarding setbacks and buffer zones state that "[c]oastal buffer zones provide multiple uses and multiple benefits to those areas where they are applied (Desbonnet *et al.* 1993). The multiple uses and benefits of coastal buffer zones include… [p]rotection of water quality… [p]rotection of coastal habitat… [e]rosion [c]ontrol…" and "[f]lood [c]ontrol." (650-RICR-20-00-1-1.1.11(B)(1)(a, b, d, and e)). It is self-evident that granting a 100% buffer variance will not meet the Council's goal of

providing a "maximum" - or any - coastal buffer zone for the project as currently designed. CRMC's policies identify that protection of a buffer zone for projects "abutting coastal wetlands that are likely, based on site conditions and best available information, to migrate landward with sea level rise" is for the buffer zone to "... provide protected upland areas that may transition to coastal wetlands in the future." (650-RICR-20-00-1-1.2.2 (C)(1)(i)).

The parcel subject to this application is within a "special flood hazard area" and consists of coastal wetlands on two sides of the site and a clearly erosive coastal bluff on the east side. With the proposed 0% buffer (or even conservatively, on some portions of the site, 50% buffer), a variance cannot ensure that the proposed permanent alteration of the subject coastal wetlands "will not result in significant adverse environmental impacts or use conflicts, including but not limited to, taking into account cumulative impacts" as required by one of the six requirements necessary to grant such a broad and non-conforming variance. (*See* 650-RICR-20-00-1-1.1.7(A)(2), *et al.*).

Specifically, the subject site experiences flooding regularly during king tides and storm events, as evidenced in Figures 1-4, showing road and property flooding/inundation in 2023 and 2024. Figure 1 shows the wrack line associated with a storm high tide nearly 155ft. landward of the end of Arlington Avenue and the coastal bluff edge, covering a portion of the subject site during a storm event on January 13, 2024. Figure 2 shows the abutting wetland owned by the City of Warwick and the subject property, with standing flood water in the abutting wetland on the City of Warwick property during the same storm. Figure 3 shows the approximate location of the storm tide wrack line. Figure 5 provides a map of the approximate location of the storm tide wrack line and flooding in relation to the parcel proposed for development. The displacement and permanent alteration of this site's coastal wetlands by the application, as currently designed, would likely decrease the property's ability to absorb excess water and divert stormwater onto, and exacerbate flooding and erosion on, adjacent properties (a process already occurring, even without this proposed construction, seen in Figure 6).

Additionally, the coastal bluff on the eastern side of the parcel is subject to erosion. According to CRMC's Shoreline Change Map, this shoreline area has experienced an average of 1.8ft of erosion per year, for a total of 116 feet of erosion between 1939 and 2003 (Fig. 7). Review of aerial imagery from 2003 to 2025 documents ongoing erosion of the upland coastal bluff and the adjacent fringe marsh, with a similar annual erosion rate. A brief examination of the municipal tax assessor's map (Fig. 8) shows 19 coastal lots, owned by the City of Warwick, and most of the adjacent former Seashore Rd., already underwater. The presence of the "erosive coastal bluff"as the coastal feature of the eastern portion of the property in question, where former coastal lots once stood, is evidence that the erosive nature of this habitat, which resulted in the loss of those lots to Narragansett Bay, still persists, making this site vulnerable to continued erosion in addition to flooding from large coastal storms (Fig. 9).

CRMC's prohibition against the kind of permanent wetland alterations as proposed by this application cannot be overcome by seeking a variance. The 100% deviation from the setback standard cannot be considered "the minimum variance to the applicable standard" as required under the variance requirements (650-RICR-20-00-1-1.1.7(A)(5). Additionally, the environmental impacts and high likelihood of user conflicts by nuisance flooding and potential exacerbated erosion appear unavoidable by the project, as currently designed. (*See* 650-RICR-20-00-1-1.1.7(A)(2)).

While Save The Bay understands the need for occasional variances to regulations to allow for approval of projects that can successfully meet the necessary standard for such variances, the allowance for 100% variances of our state's coastal regulations erodes away at the efficacy of those regulations and the important environmental functions they are intended to protect. In Why Coastal Regulations Fail, when reporting on general reasons for state and local regulation failures, Neal et al. point to "[v]ariances that undercut the regulatory intent by the tyranny of small decisions…." "[T]hese decisions are of such a small scale that their cumulative effects are not considered. Swaney et al. (2012) refer to this as the tyranny of small decisions and question whether it is possible to safeguard vulnerable regions from these incremental effects of small decisions"(2017)[1].

Thank you for the inclusion of these comments into the permit file and your consideration of our recommendations.

Sincerely,

Capt. Chris Dodge
Narragansett Baykeeper - Save The Bay
100 Save the Bay Dr.
Providence, RI 02905
(401) 272-3540 x116
cdodge@savebay.org

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MEMBER

PLEASE SEE NEXT PAGES FOR FIGURES REFERENCED IN THESE COMMENTS

[1] Neal, W.J., et al., Why coastal regulations fail, Ocean & Coastal Management (2017), http://dx.doi.org/10.1016/j.ocecoaman.2017.05.003 (citing Swaney, D.P. et al. 2012. Five critical questions of scale for the coastal zone. Estuar. Coast. Shelf Sci. 96, 9e21.).

Figure 1: View taken from Arlington Ave., looking southeast, at flooding and the storm tide wrack line on plat/lot 356-162 (Owner: John & Aidan MacSweeney). Photo taken on January 13, 2024 at 11:30 am, approximately 3 hours after storm tide with a verified tidal height of 7.19ft NOAA Newport tide gauge (See Fig. 4).

Figure 2: View from Arlington Ave., looking southeast, of plat/lot 356-161 (Owner: City of Warwick) and 356-162 (Owner: John & Aidan MacSweeney). Photo taken on January 13, 2024 at 11:30 am, approximately 3 hours after storm tide with a verified tidal height of 7.19ft NOAA Newport tide gauge (See Fig. 4).

Figure 3: View from Arlington Ave., looking east, of plat/lot 356-160 (Owner: Ralph A Pagano), 356-161 (Owner: City of Warwick) and 356-164 (Owner: John & Aidan MacSweeney). The visible wrack line is seen approximately 155' landward from the end of Arlington Ave., in addition to standing water on 356-160. Photo taken on January 13, 2024 at 11:30 am, approximately 3 hours after storm tide with a verified tidal height of 7.19ft NOAA Newport tide gauge (See Fig. 4).

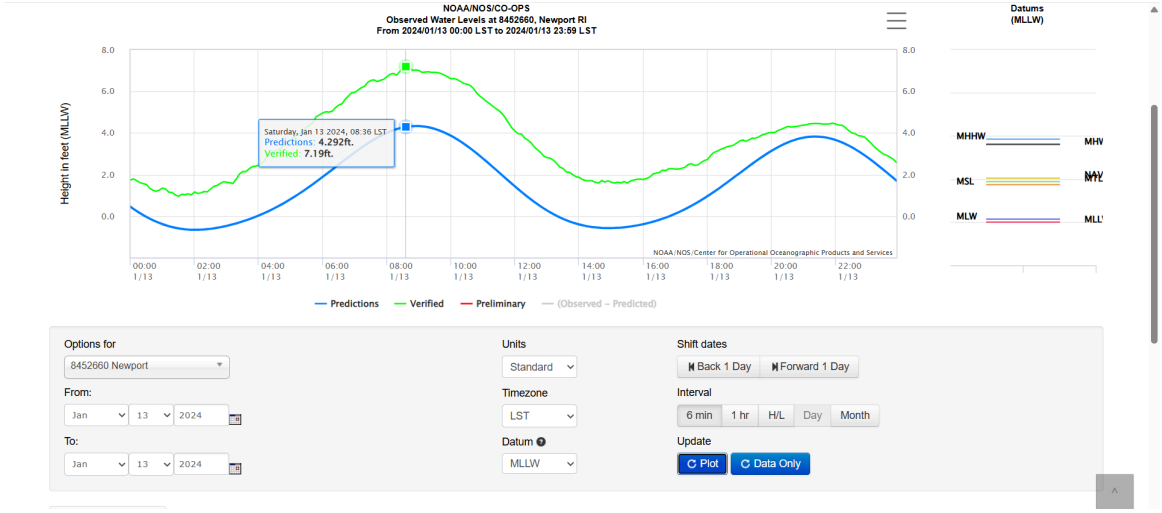

Figure 4: Verified tidal height from NOAA Newport tide gauge on January 13, 2024 when the reference photos were taken in Figures 1-3.

Figure 5: Aerial image documenting approximate location of wrack line, shown in Figures 1-3, associated with storm tide during January 13, 2024 storm.

Figure 6: View looking northeast towards plat/lot 356-162 (Owner: John & Aidan MacSweeney) from plat/lot 356-203 (Owner: Diane Greenwald) during flooding in 2024, showing inundation and standing water on 356-203.

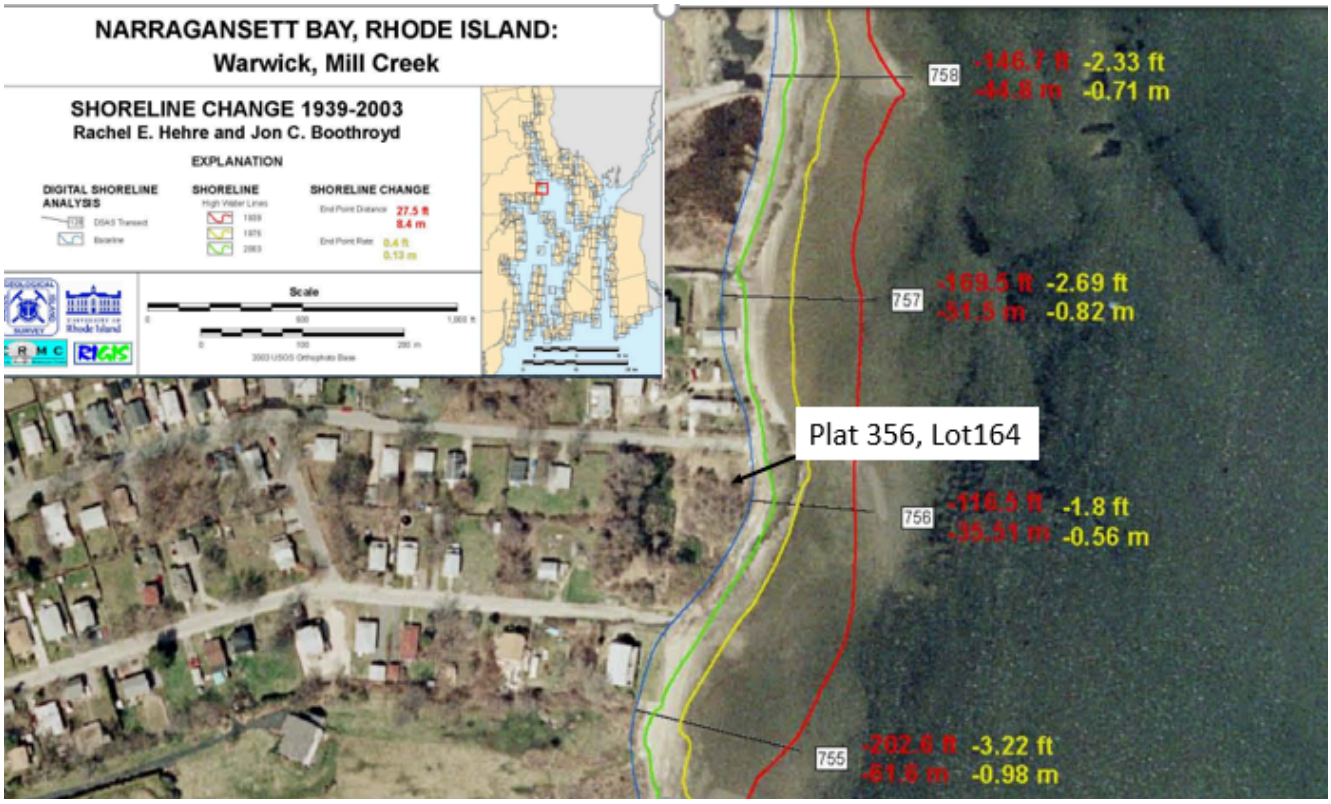

Figure 7: RI CRMC shoreline change map showing documented recession of shoreline due to erosion from 1939 to 2003. The red line indicates the high water line in 1939, yellow line indicates the same in 1975, green line indicates the same in 2003, and blue line is the baseline for the digital shoreline analysis from 2003/2004.

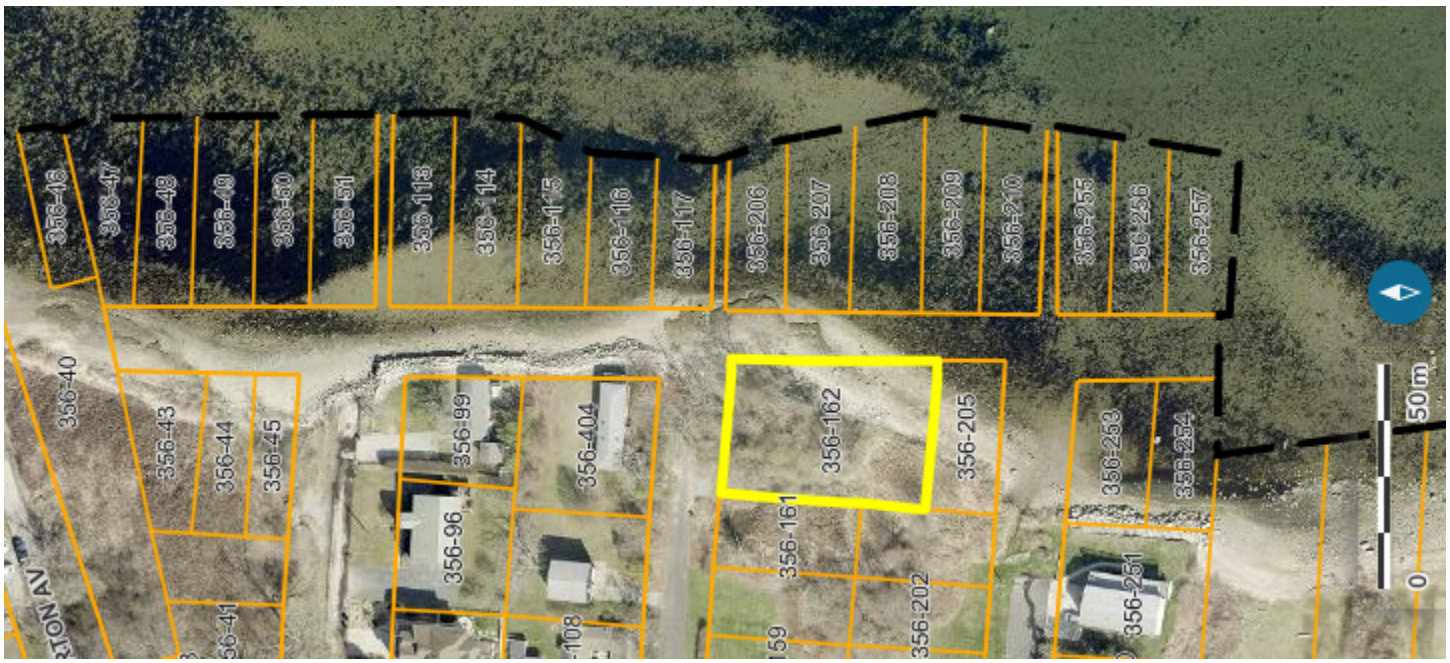

Figure 8: City of Warwick, RI axisgis.com plat map showing the now abandoned Seashore Rd. running north/south (left/right on image) and 19 City of Warwick owned parcels, now in Narragansett Bay, between Samuel Gorton Ave to the north (left) and Grove Ave. to the south (right).

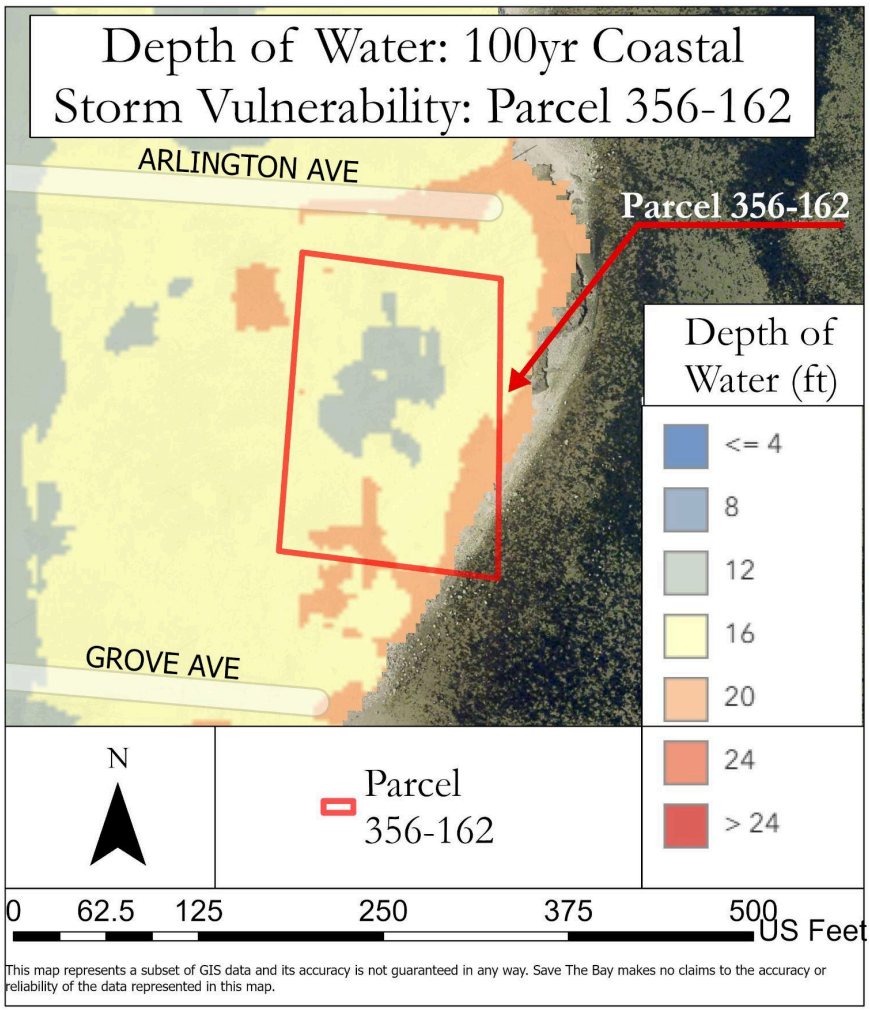

Figure 9: A screenshot from RI CRMC Beach SAMP StormTools for Beginners, overlaid with parcel 356-162 (Owner: John & Aidan MacSweeney) boundaries, showing areas of flooding associated with given increases in water depth based on sea level rise projections.

cstaff1@crmc.ri.gov

From: dgreenwald123 <dgreenwald123@cox.net>
Sent: Friday, February 28, 2025 12:56 PM
To: cstaff1@crmc.ri.gov
Cc: dgreenwaldwpl@gmail.com
Subject: 2025-02-014
Attachments: crmc letter.docx; Pics for CRMC.docx; Lots at Arlington & Grove.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Attached are 3 files which comprise my objection to construction at Arlington Ave, Warwick as outlined in the file 2025-02-014.

They include a letter, pictures of the flooding in the area and an outline of the surrounding property Lots.

I would appreciate it if you could just acknowledge receipt of this email.

Thank you,

Diane Greenwald

41 Grove Ave
Warwick, RI 02889

203-526-0581

File 2025-02-014

March, 1, 2025

The purpose of this letter is to express my concerns and objections to the construction of a home on vacant Lots 162, 163, and 204 on Arlington Ave., Warwick 02889. My property, Lot 203 at 41 Grove Ave. is adjacent to the proposed building area.

1) As I understand, CRMC regulations are "intended to protect and enhance the functions and values of freshwater wetlands, buffers, floodplains, areas subject to flooding, and areas subject to storm flowage." Building on the site could negate the benefits of the regulations and could increase the flooding risk for surrounding properties.

2) Allowing construction on a wetland lot so close to the shore would set an unfortunate precedent. The proposed construction does not meet the required setback from the coastline of 50'. Surrounding area homes that are close to the shore were permitted and built many years ago.

As you are aware, this whole area is in a VE Floodzone. We have substantial flooding already with normal storms.

I have included (4)pictures taken from my yard during a storm on January 13, 2024 where the purposed building Lots with phragmites are visible.

The Bay was flowing through the trees and wetlands , the first time I remember that happening in 15 years. It was worse than Hurricane Sandy because the coastline has eroded significantly.

I appreciate the opportunity to respond to this proposed building project. I know that CRMC has the best interests of our coastal lands in mind and works hard to protect them. Thank goodness.

Sincerely,

Diane Greenwald
41 Grove Ave
Warwick, RI 02889
203-526-0581

File 2025-02-014

Pic #1

Greenwald Lot 203 facing MacSweeney Lot 163-Bldg site

1-13-2024

Pic #2

Greenwald Lot 203 facing MacSweeney Lot 204

1-13-2024

Pic #3

Arlington Rd Lot162

3-?-2024

Pic #4

Grove Ave at the Bay

1-13-2024