



**PLANNING & DEVELOPMENT DEPARTMENT
STAFF REPORT**

Port Authority Meeting Date: January 4, 2024

STAFF REPORT – 15 BOWEN ROAD

Project Name: 15 Bowen Road Pier, Ramp and Float Replacement and Riprap Revetment

Applicant: Nicole Sanborn, Tidewater Engineering

Owner: Eric Dyer

Proposed Development: Replacement of an existing pier, ramp, and float structure with a 6'x59' pier, 3'x40' gangway, 10'x16' landing float and two 10'x20' main floats. Application also proposes stabilization of the shoreline with a stone riprap revetment.

Waivers: 4.7.4 Height of Pier

Map & Lot Numbers: Map 17, Lot 4

Staff Recommendation: Approval of request

Riparian Line Determination:

Riparian lines were determined using the colonial method.

Site Description:

The subject property is in the Residential – Urban zone. The closest active dock is roughly 85 feet away.

Description of Request:

The applicant requests replacement of an existing 6'x67' pier, 3'x30' gangway, 12'x16' landing float, and 12'x20' main float with a 6'x59' pier, 3'x40' gangway, 10'x16' landing float and two 10'x20' main floats. The applicant is proposing to raise the pier deck to 8' above the mean high water to ensure flood resilience. Shortening of the main pier will keep it from extending below the mean low water mark. Float system width is being reduced to stay within existing footprint to reduce new indirect impacts to habitat.

The applicant also proposes a stone riprap revetment to stabilize storm damaged shoreline. This will result in disturbance below the highest annual tide, and therefore requires Port Authority approval. The impacts of the revetment above the highest annual tide will be reviewed by the Planning Board.

Performance Standards:

For the purposes of this report, and the application before the Board, the normal high-water mark referenced in the KPA Rules is equivalent to the mean high-water mark referenced in the application and survey

- (1) *KPA Rules 4.7.2: The construction of any piers, docks, wharves, and other structures and uses extending over or beyond the normal high-water mark of a water body or within a wetland must comply with all applicable requirements of Town Code Title 16.*
 - **Town Code Title 16 incorporates by reference the 2015 International Residential Building Code. Compliance with this code will be ensured through the building permitting process.**
- (2) *KPA Rules 4.7.3: Non-commercial private piers may have a maximum width of 6 feet as measured parallel to the shoreline and be limited to the minimum size necessary to accomplish their purpose. Except for temporary ramps and floats, the total length of a ramp, pier and float structure may not extend more than 150 feet beyond the normal high-water mark and piers not extend more than 100 feet beyond the normal high-water mark nor extend below the mean low water mark, whichever is shorter.*
 - **This application does not propose any change to the existing pier width. Both the existing and new pier, ramp and float structures extend 112' beyond the mean high-water mark. The proposed pier extends 52' beyond the mean high-water mark.**
- (3) *KPA Rules 4.7.4: The maximum height of the pier deck may not exceed six (6) feet above the normal high-water mark, and the handrails not exceed 42" without the specific approval of the Port Authority.*
 - **This application proposes raising the pier to 8' above the normal high-water mark to ensure flood resiliency. This will require a waiver to Section 4.7.4, Height of Pier.**
- (4) *KPA Rules 4.7.5: Commercial piers are limited to the minimum size necessary to accomplish their purpose. They may not extend beyond the mean low water mark except with credible proof by the applicant that the extension is necessary for the water-dependent use of the pier. The maximum height of the pier deck may not exceed six (6) feet above mean high water mark and the handrails not exceed 42", without a showing of necessity and specific approval of the Port Authority.*
 - **This application is for a residential use pier, this standard is not applicable.**

(5) *KPA Rules Chapter 4.7.6: Piers, wharves, and pilings must be set back at least 25 feet from property lines and 50 feet from other structures that are fixed in place below the normal high- water mark and not owned or controlled by the applicant unless a letter of permission is granted by abutting or other controlling property owner. If abutting property owners reach a mutual agreement regarding structures which have a lesser setback, which does not interfere with navigation, is practical and is consistent with the intent of these regulations, that setback may be authorized by the Port Authority if the applicant agrees to record any ensuing permit (which will have that agreement as a condition) and the abutters' letters of no objection, with the Registrar of Deeds, or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property in the Town.*

- **The addition of the proposed floats will be greater than 25 feet from the property lines and greater than 50 feet from abutting marine structures.**

Surrounding Land Uses:

North: Residential – No waterfront, no marine structures.

South: Residential – Waterfront, no marine structures.

East: Back Channel/Spruce Creek

West: Commercial – Dock, pier & floats.

Findings of Fact:

Section 16.9.2.E requires the Kittery Port Authority to use the following process when hearing requests:

Findings of fact. An application shall be approved or approved with conditions if the Port Authority makes a positive finding based on the information presented. The application must be demonstrated that the proposed use will shall:

(1) *Maintain safe and healthful conditions;*

- **Staff believes that the modifications will maintain safe and healthful conditions.**

(2) *Not result in water pollution, erosion or sedimentation to surface waters;*

- **Staff does not believe that this development will result in water pollution, erosion or sedimentation to surface waters.**

(3) *Adequately provide for the disposal of all wastewater;*

- **No subsurface wastewater or septic work are proposed for this project.**

(4) *Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;*

- **Staff does not believe that this development would have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat.**

(5) *Conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;*

- **Staff does not believe that this development would have an adverse impact on shore cover or points of access.**

(6) *Protect archaeological and historic resources;*

- **Staff does not believe that this development would have an adverse impact on archeological or historic resources.**

(7) *Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;*

- **Staff does not believe that this project will adversely affect commercial fishing or maritime activities.**

(8) *Avoid problems associated with floodplain development and use; and*

- **Staff does not believe that this development would have an adverse impact within the floodplain.**

(9) *Is in conformance with the provisions of this title.*

- **This project is *NOT* in conformance with Section 4.7.4, Height of Pier, unless a waiver is granted.**

Using the standards and criteria found in the LUDC as well as the standards found in the Kittery Port Authority Rules and Regulations, Staff recommends **APPROVAL** of the proposed development. For the Port Authority to approve, a waiver from Section 4.7.4, Height of Pier, would need to be granted.