



**PLANNING & DEVELOPMENT DEPARTMENT
STAFF REPORT**

Port Authority Meeting Date: January 4, 2024

STAFF REPORT – 23 BOWEN ROAD

Project Name: 23 Bowen Road Pier, Ramp, and Float

Applicant: Ryan McCarthy, Tidewater Engineering

Owner: Paul J. McKeon Jr. and Jessica McKeon

Proposed Development: Installation of a 4’x16’ boardwalk, a 6’x76’ pier, a 3’x45’ gangway, an 8’x20’ landing float, and two 10’x21’ floats.

Waivers: 4.7.4, Height of Pier

Map & Lot Numbers: Map 17, Lot 6

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 marine structure is roughly 80 feet away.

Description of Request:

The applicant requests the installation of a 4’x16’ boardwalk, a 6’x76’ pier, a 3’x45’ gangway, an 8’x20’ landing float, and two 10’x21’ floats.

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.*

- **The proposed residential pier is 6 feet in width. The total length of the pier, ramp and float structure is 109' beyond the mean high-water mark. The pier extends 50' 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 proposed pier is 8 feet above the mean 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 proposed pier, ramp and float structure will be roughly 80 feet from the closest marine related structure and is outside of the 25-foot setback from the property lines.**

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.