



**Final Decision of Yarmouth Planning Board
Findings of Fact and Conclusions of Law**

Craig & Denise Benson Residential Dock – REVISION REQUEST
Shoreland Zone Review and Chapter 701 Article II.R. Docks, Piers, Wharves
104 Spruce Point Rd., Yarmouth, ME; Map 54 Lot 27
Prepared by: Nicholas Ciarimboli, Code Enforcement Officer/Planning Assistant
Planning Board Meeting Date: August 26, 2020

On August 26, 2020, the Yarmouth Planning Board voted to deny the Shoreland Zoning Application for the Residential Dock - Float Size Waiver request with the following motions and votes:

On the basis of the application, plans, reports and other information submitted by the applicant, and findings contained in Planning Board Report dated August 18, 2020 relevant to the Zoning and Shoreland Zone Review Permit for Craig & Denise Benson seeking a waiver to increase the size of the float beyond the 320 SF maximum dimension at 104 Spruce Point Rd., Map 54 Lot 27, and the testimony presented at the Planning Board hearing, the Planning Board finds the following

Regarding Zoning **Review Chapter 701, Article II.R.** including the proposed waiver for increase to maximum float size from 320 SF to 720 SF to accommodate their vessels and address the unusual conditions with regards to wind, fetch, and wake at the float site, that the plan **is not** in conformance with the standards for review of this section, and **is not** approved.

Such motion moved by Peter Thompson, seconded by Andrew Bertocci, and voted 7 in favor, 0 opposed.

Regarding Shoreland **Permit Review Chapter 701, Article IV.R.11**, that the plan **is not** in conformance with the standards for review of this section and **is not** approved.

Such motion moved by Peter Thompson, seconded by Andrew Bertocci, and voted 7 in favor, 0 opposed.

Findings and Conclusions:

The denial is based on the following findings and conclusions. The waiver allowance is established in Chapter 701 Article II Section R.4 for additional area over the maximum 320 SF for 'special need'.

Chapter 701 Article II.R.4

4. The following maximum dimensional requirements shall apply for private docks, located outside of the WOC, WOC II, WOCIII, GD, and Industrial Zones. The requirements for ramp and float size may be waived by the Planning Board if it finds that the proposal has special needs requiring additional area, such as, but not limited to; high intensity uses as in cooperative or community docks, need for handicap access, or unusual wind and tide conditions requiring a larger float for stability. Maximum Pier width shall not be waived.

- a. Pier: Six (6) feet in overall width*
- b. Ramp: Three and one half (3.5) feet in width*
- c. Float: Three hundred twenty (320) square feet.*

Special Need is to be determined by the Planning Board, but the ordinance offers some specific examples, “*such as, but not limited to; high intensity uses as in cooperative or community docks, need for handicap access, or unusual wind and tide conditions requiring a larger float for stability*”.

The applicant stated during their presentation that the larger float would give them greater stability for boarding their 58-foot vessel in an area with rough water conditions. The Board considered the information presented in Exhibit 2.0 from Atlantic Environmental that describes the wind analysis and 7.5-mile wind fetch in the vicinity of the proposed dock, leading to the need for a larger float for stability, as well as information provided by Captain Sarah Kaplan dated 7/20/20 describing wind and wake factors contributing to the need for a larger float for stability and safety. While acknowledging that the site conditions might justify a float size larger than the 320 sf normally allowed, the Planning Board found that the basis of the request for the specific float size requested of 12’ x 60’, totaling 720 sf, was substantially due to the large vessel size and not solely the condition of the waters. The ‘special need’ in this scenario is applicable in an unusual environmental condition that would require the additional size for greater stability due to such factors as wind and tide conditions. The increased stability can be gained by reasonably enlarging the float, but should not result in a much larger float, over twice the normal standard, with dimensions driven primarily by the desire to accommodate a longer vessel. It was determined by the Planning Board members that a larger vessel in and of itself does not constitute a ‘special need’ under the standards for granting a waiver of maximum float size to the extent requested by the applicant.

Attestant: *Alexander Jaegerman*