



TOWN OF YARMOUTH
200 Main Street, Yarmouth, Maine 04096
www.yarmouth.me.us

**PLANNING BOARD REPORT
YARMOUTH, MAINE**

Sandpiper Cove Dock Association
Shoreland Zone Review
Chapter 701 Article II. R. Docks, Piers, Wharves
40 Sandpiper Cove Road, Yarmouth, ME
Map 1 Lots 14 & 15

Prepared by: Erin Zwirko, Director of Planning & Development and Julie Dubovsky, Assistant Planner
Report Date: April 7, 2022; Planning Board Meeting: April 13, 2022

I. INTRODUCTION

The applicant, Sandpiper Cove Dock Association, proposes to expand an existing seasonal float of 624 square feet to 864 square feet to meet the increased need in dinghy and short-term boat dockage, kayaking, stand-up-paddleboards (SUPs) and swimming activity for the residential properties with access rights. The Sandpiper Cove Dock Association is part of a 12-lot deeded development of shorefront properties which cooperatively shares the dock. Access to the dock is via a deeded right of way between two residential properties in the subdivision as shown below. The property abuts the existing residential usages on Princes Point. Because the size of the total float is greater than the maximum dimensional standard of 320 square feet (Chapter 701, Article II, R.4.c), a Planning Board waiver is required. A waiver was granted in 2013 for an enlargement from 384 feet to 624 feet.

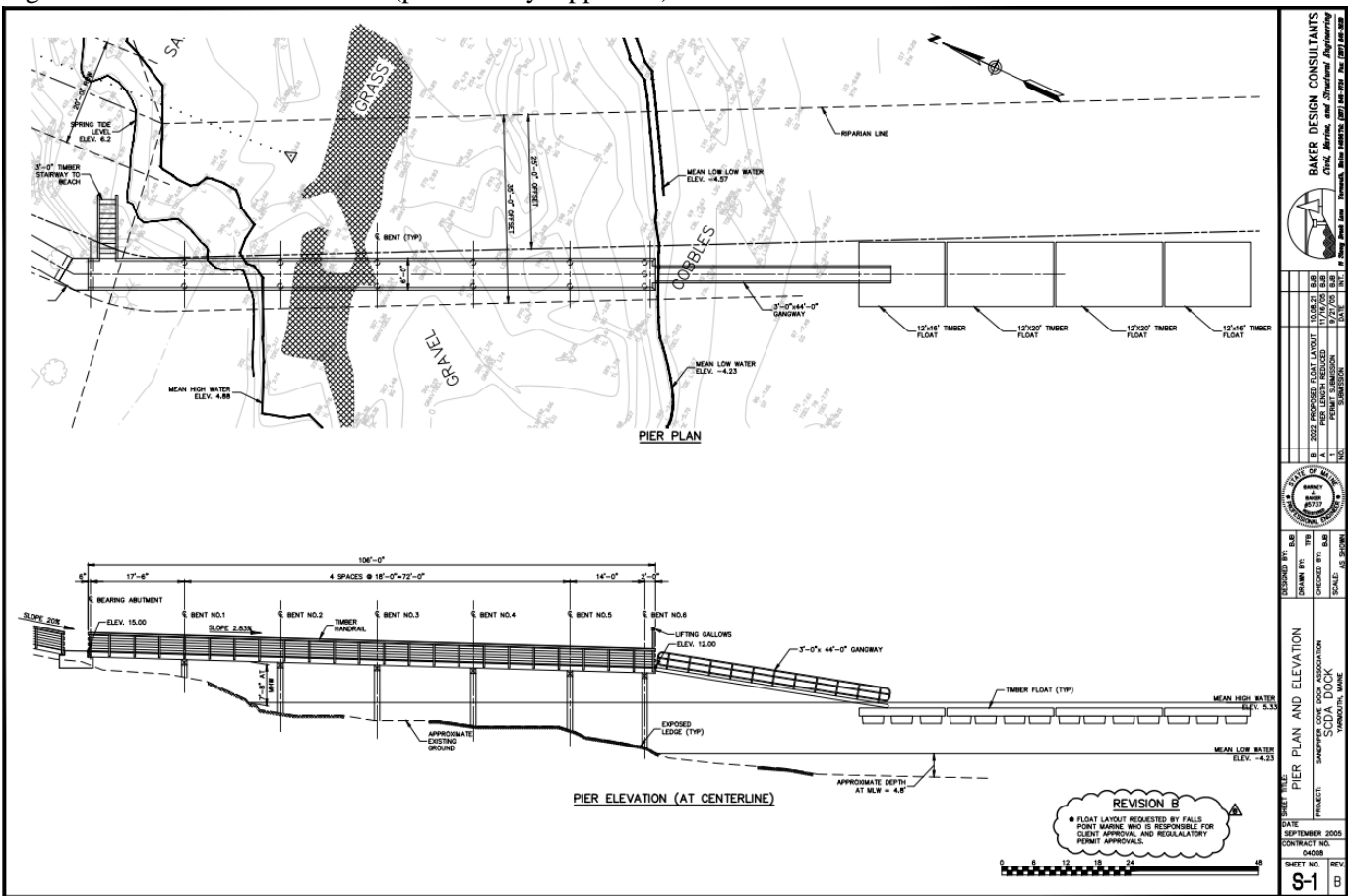
Figure 1. Aerial Map of Project Location



Figure 2. Map of Sandpiper Cove Subdivision and Project Location (provided by Applicant)



Figure 3. Pier Plan and Elevation (provided by Applicant)



II. REQUIRED REVIEWS

<i>Applicant's Proposal</i>	<i>Applicable Standards</i>
Additional (1) 12'x20' float, bringing total float size to 864 square feet	Ch. 701. Art. II. R. Docks, Piers, Wharves Ch. 701, Art II, R.4.c waiver for float size Ch. 701, Art. IV.R.11.a & b Shoreland Review Criteria Low Density Residential District (LDR) Shoreland Overlay District (SOD) Resource Protection District (RPD)
Approved in 2006	NRPA (DEP)
Approved in 2006	U.S. Army Corps of Engineers (Corps)
Approved in 2013	State of Maine Submerged Lands Lease

*17 notices were sent to abutting area residents. A notice also appeared in the April 7th edition of *The Forecaster*. No comments were received from the public as of this writing.

III. PROJECT DATA

<i>SUBJECT</i>	<i>DATA</i>
Existing Zoning	LDR/Shoreland
Existing Use	Association Shared Dock
Proposed Use	Association Shared Dock with beach access stair
Parcel Size	N/A
Lot Size	N/A
Property shoreline	N/A
Stairs Dimension	3'wide timber stairway to beach
Total area of direct impact	106 ft (4 pier spaces) of square bent timbers pinned to ledge
Total Indirect Impact	1,527 sf. Pierhead: 6'x106'=636 sq. ft. Inner Gangway 3x44' =132 sq. ft Float - (2) 12x20' + (2) 12x16' = 864 sq. ft
Estimated cost of the project	\$15,000

Uses in Vicinity: Single family homes with and without docks.

IV. PROPOSED DEVELOPMENT

Please see the application submissions for further description and plans of the proposed improvements.

V. PUBLIC COMMENT

No public comments were received at the time of drafting the report.

VI. RIGHT, TITLE AND INTEREST AND FINANCIAL/TECHNICAL CAPACITY

- The owner of the property, Sand Piper Cove Dock Association, has provided a copy of an easement deed, recorded at the Cumberland County Registry of Deeds (Book 24243 Page 331), which demonstrates that the Grantees have granted the Dock Association, on behalf of its members, a perpetual pedestrian and dock easement to the property.

- b. The estimated cost of the development is \$15,000. Technical design and consulting services are provided by Falls Point Marine, Inc.

VII. ZONING ASSESSMENT

Chapter 701, Article II, Section R governs piers, docks, wharves and floats:

R. DOCKS, PIERS, WHARVES, MOORED FLOATS, BREAKWATERS, CAUSEWAYS, MARINAS, BRIDGES OVER 20 FEET IN LENGTH, AND USES PROJECTING INTO WATER BODIES

1. Purpose: The intent of this Ordinance is to provide for the safe and appropriate construction of structures which provide for water access without creating undue adverse effects on the marine environment. Some areas of Town are potentially sensitive to dock construction, therefore environmental impact analysis may be required to assess potential impacts as part of the review process.
2. All docks create some environmental impact. While single docks may not create significant impacts, cumulative impacts of several docks may cause adverse environmental effects. The intent is also to minimize the cumulative impact of such situations on the marine environment, scenic character, and navigation.
3. Standards of Review: When reviewing a proposed pier, dock, wharf, breakwater, causeway, marina, bridges over 20 feet in length or other structures projecting into Water Bodies, in any area where such structures are not prohibited, the Planning Board shall review the proposal's conformance with the following standards.
 - a. The Permitting Authority may require the applicant to submit an environmental impact analysis assessing the proposal's potential impact on natural areas, including cumulative impacts of the proposed structure in conjunction with other structures.

Staff Comments: The applicants have not submitted a recent environmental impact statement, but prior reviews for the initial floating dock application in 2006 and expansion in 2013 did not necessitate an analysis.

- b. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

Staff Comments: No changes are proposed to the current staircase or timber pier.

- c. The location shall not interfere with developed beach areas, moorings, and points of public access or other private docks.

Staff Comments: The expansion does not seem to interfere with other neighboring points of access or private docks.

- d. The facility shall be located and constructed so as to create minimal adverse effects on fisheries, existing scenic character, or areas of environmental significance, such as: clam flats, eel grass beds, salt marshes, mussel bars and regionally, statewide and national significant wildlife areas as determined by Maine Department of Inland Fisheries and Wildlife (I.F.W.).

Staff Comments: The Harbormaster had no concerns on adverse effects at this site. The 2006 Natural Resources Protection Act permit provided in the application materials indicated that IFW did not have any concerns. As a condition of approval, the applicant shall provide confirmation that DEP has approved the additional float.

- e. The activity will not unreasonably interfere with the natural flow of any surface or subsurface waters or impede the navigability of a river or channel. In making a determination regarding potential impediments to navigation, the Permitting Authority may request comments from the Harbor and Waterfront Committee.

Staff Comments: The Harbormaster has indicated that the project will not interfere with navigation.

- f. The facility shall be no larger in height, width or length than necessary to carry on the activities and be consistent with the surrounding character and use of the area. A temporary pier, dock or wharf in Non-Tidal waters shall not be wider than six (6) feet for non-commercial uses.

Staff Comments: The floating dock is seasonal and only one 12'x20' additional float is being requested, bringing the total to 864 square feet of seasonal float. The Harbormaster noted that as this area is shallow at low tide, a longer dock providing access to deeper water is practical.

- g. New permanent piers and docks on Non-Tidal waters shall not be permitted unless it is clearly demonstrated to the Permitting Authority that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

Staff Comment: Prior approval from the DEP was granted in 2006. As a condition of approval, the applicant shall provide confirmation that DEP has approved the additional float.

- h. Areas, 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.

Staff Comments: In 2013, there were 8 members and now there are 12 in the Sandpiper Cove Dock Association. Although no documentation has been submitted, the Association states that there are more water-based activities occurring and insufficient space to provide safe access/egress for all users.

- 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.

Staff Comments: The applicant states that “with this design, a potential 2,976 additional square feet of impact is preserved by utilizing a shared dock approach.” As it is a cooperative use of a shared space, the floating dock meets the criteria for “special needs.” The Harbormaster also expressed support for the use of a shared dock and lessens the impacts on public docks and on the shoreline from a multitude of private docks.

5. MITIGATION

The Permitting Authority may require a mitigation of adverse impacts and may impose any reasonable conditions to assure such mitigation as is necessary to comply with these standards. For the purpose of this Section, "mitigation" means any action taken or not taken to avoid, minimize, rectify, reduce, eliminate or compensate for any actual or potential adverse impact on the significant environmental areas, including minimizing an impact by limiting the dimensions of the Structure and type of materials used; the magnitude, duration, or location of an activity; or by controlling the time of an activity.

Staff Comments: Not applicable.

6. Notwithstanding the requirements stated above, steps, stairways or similar Structures may be allowed with a permit from the Planning Department, to provide Shoreline access in areas of steep slopes or unstable soils or to provide access to a permitted pier or dock provided that the structure is limited to a maximum of four (4) feet in width; that the Structure does not extend below or over the Normal High-Water Line of a Water Body or Upland Edge of a Wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on, or is otherwise available to, the property, and that no cleared opening greater than two hundred fifty (250) square feet in the forest canopy (or other existing woody vegetation if a Forested Canopy is not present) is created, and that no cleared line of sight to the water is created if reasonably practical.

Staff Comments: Stairs, pier and gangway already installed and prior approvals are included in the applicant's submission.

VIII. SHORELAND PERMIT REVIEW

If the Planning Board is the Permitting Authority, it shall hold a public hearing in accordance with Chapter 702 Article I.E. Notification, prior to the Planning Board rendering a decision the Permitting Authority shall consider the following criteria:

1. Will maintain safe and healthful conditions;

Staff Comment: The project will improve safety and access to the pier.

2. Will not result in water pollution, erosion, or sedimentation to surface waters;

Staff Comment: The project will not impact water quality.

3. Will adequately provide for the disposal of all sewage and wastewater;

Staff Comment: Not applicable.

4. Will not have an unreasonable adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

Staff Comment: The Town of Yarmouth's Harbormaster has no concerns about adverse impacts.

5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters and other identified scenic resources;

Staff Comment: No shore cover should be affected in association with the float expansion.

6. Will protect archaeological and historic resources as designated in the comprehensive plan;

Staff Comment: The Applicant has submitted project information to the Maine Historic Preservation Commission and Native American tribes as part of updating the U.S. Army Corps of Engineers permitting. As a condition of approval, the applicant shall provide confirmation that the USACE has approved the additional float.

7. Will not adversely affect existing commercial, fishing, or maritime activities in the Commercial, WOC I, WOC III, GD, or Industrial Districts,

Staff Comment: The project is not located in any of the districts listed above and will have no impact on existing commercial, fishing, or maritime activities located in such districts. The Harbormaster has no concerns with the proposed expansion.

8. Will avoid problems associated with floodplain development and use, and

Staff Comment: The float expansion will have no effect on, nor be affected by the floodplain.

9. Has been designed in conformance with the land use standards of the SOD.

Staff Comment: The project appears to meet the land use standards of the SOD.

IX. STAFF RECOMMENDATION

This application has been reviewed by the Town departments and there are no comments or concerns.

X. PROPOSED MOTION

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report dated April 7, 2022 relevant to the Shoreland Overlay District Permit for the Sandpiper Cove Dock Association for float expansion project at Map 1 Lot 14 and Lot 15, and the testimony presented at the Planning Board hearing, the Planning Board finds the following:

1. WAIVER

Regarding Zoning **Review Chapter 701, Article II.R.** including the proposed waiver for increase in maximum float size from 624 square feet to 864 square feet to provide safer access for all users of the shared dock, that the plan **[is/is not]** in conformance with the standards for review of this section, and **[is/is not]** approved.

Such motion moved by _____, seconded by _____, and voted _____ in favor, _____ opposed, _____.
(note members voting in opposition, abstained, recused, or absent, if any).

2. SHORELAND OVERLAY DISTRICT (SOD) PERMIT

Regarding **Shoreland Permit Review Chapter 701, Article IV.R.11**, that the plan **[is/is not]** in conformance with the Shoreland Overlay District standards of the land use code, and **[is/is not]** approved subject to the following conditions.

Such motion moved by _____, seconded by _____, and voted _____ in favor, _____ opposed, _____.
(note members voting in opposition, abstained, recused, or absent, if any).

Conditions of Approval

1. Ramp and float shall be removed by the property owner for upland storage between November and April.
2. The applicant shall provide documentation that the Maine Department of Environmental Protection and the U.S. Army Corps of Engineers have approved the larger float.

Attachments:

1. No Comments from Steve Johnson, Town Engineer, Memo 3/23/2022
2. Will Owen, Harbormaster, Email 4/4/2022
3. No Comments from Erik Street, DPW Director, Email 4/4/2022

Submit Comments to Erin Zawirko by 4/1/22**TOWN OF YARMOUTH****200 Main Street****Yarmouth, Maine 04096****(207)846-2401****Fax: (207)846-2438****NOTICE OF PLANNING DEPARTMENT FILING & REQUEST FOR COMMENT**

Date Rec'd.: 2/15/22

Agenda Date: 4/13/22

Project Description: Shoreland Permit

Project Location: Sandpiper Cove

Applicant: Sandpiper Cove Dock Association

Agent/Contact: Kathy Keegan - kathy@fallspoint.com**Project Description:**

Oversize float for Sandpiper Cove Association

No Comments!

3.23.2022

- ☐ Review For Completeness/Checklist
- ☐ Respond To Applicant Re: Completeness
- ☐ Staff Input/Request Sent:

1. Director of Public Works (full size)
2. **Town Engineer (full size)**
3. Fire Chief (pdf)
4. Police Chief (pdf)
5. Director of Community Svcs (pdf)
6. Yarmouth Water District (pdf)
7. Code Enforcement Officer (full size)
8. Town Manager (pdf)
9. Harbormaster (pdf)
10. School District (pdf)
11. Tree Warden (pdf)
12. Economic Development Director (pdf)
13. Planning Director (full size)
14. Assessor - Subdivision Only (pdf)
15. Bike & Ped Committee (pdf)
16. Assistant CEO/Fire Inspector (pdf)
17. Traffic Peer Review - TYLin (pdf)

Date Completed:

3/16/223/16/223/16/22XXXXXXXXX——XX———

- ☐ Notice Letters Created/Sent

- ☐ Agenda To PB

- ☐ Agenda Posting:

1. Forecaster

2. Website

3. Bulletin Board

- ☐ Copy Of Findings And Decision In File

Juliana Dubovsky

From: Erik Street
Sent: Monday, April 4, 2022 12:38 PM
To: Juliana Dubovsky
Subject: RE: Planning Board - Shoreland Permit Application

Hi Julie,

I do not have any comments - Thank you for checking in and sorry for my slow response.

Erik S. Street
Director of Public Works
Town of Yarmouth
207-846-2401

From: Juliana Dubovsky <jdubovsky@yarmouth.me.us>
Sent: Monday, April 4, 2022 12:02 PM
To: Erik Street <ESTreet@Yarmouth.me.us>
Subject: FW: Planning Board - Shoreland Permit Application

Hi Erik,
Do you have any comments on the [shoreland application](#) on the 4/13 Planning Board agenda? Please see the link or attached app.

Thank you!

From: William Owen <wowen@yarmouth.me.us>
Sent: Monday, April 4, 2022 11:52 AM
To: Juliana Dubovsky <jdubovsky@yarmouth.me.us>
Subject: Re: Planning Board - Shoreland Permit Application

Hey Julie,

I do not see any issue with this possible extension. I am in support of the associations as they are made up of multiple users from surrounding properties which takes pressure off the public docks and lessens the number of individual piers per property on our shoreline. That area is shallow at low tide so getting to deeper water makes sense for users to have better access.

Let me know if you need any additional information for the surrounding waterfront.

Thank you for reaching out
Will

MPO Will Owen
Yarmouth Police Department
178 North Road
Yarmouth, ME 04096

From: Juliana Dubovsky <jdubovsky@yarmouth.me.us>

Sent: Monday, April 4, 2022 9:50:39 AM

To: William Owen <wowen@yarmouth.me.us>

Subject: Planning Board - Shoreland Permit Application

Good morning, Will.

I'm the new assistant planner for the Town and I'm working on a Shoreland Zoning Permit application before the Planning Board. It is for an additional floating dock for the Sandpiper Cove Dock Association. Here is a [link to the materials](#) on the website and a copy of their application is also attached. Could you please let me know if you have any comments or concerns before the end of this week?

Thank you very much for your assistance.

Sincerely,

Julie Dubovsky
Assistant Planner
Town of Yarmouth, ME
200 Main Street
Phone: 207-846-2401
Fax: 207-846-2438
jdubovsky@yarmouth.me.us