

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
TOWN OF JAMESTOWN ZONING BOARD OF REVIEW

APPLICATION OF SHM JAMESTOWN BOATYARD, LLC

**APPENDIX TO OBJECTORS’ MEMORANDUM OF LAW OPPOSING  
APPLICATION FOR SPECIAL USE PERMIT**

**NOTE**

The pdf version of this appendix has “electronic bookmarks” for easy reference to sections of the brief and the filings and exhibits that comprise the appendix. The list of bookmarks may also act as an additional table of contents for this document. Some of these bookmarks are expandable, revealing other bookmarks within the document. Expandable bookmarks are denoted with a “+” at the far left. Clicking on the “+” will reveal additional bookmarks to certain portions of each document.

Documents within this appendix, or particular sections of a cited document, can also be obtained through the appendix page numbers in the annotations included within the memorandum.

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# Town of Jamestown

RHODE ISLAND  
02835

TOWN CLERK  
(401) 423-0200

September 14, 1984

Coddington Yachts Center, Inc.  
JAMESTOWN BOAT YARD  
Racquet Road  
Post Office Box 347  
Jamestown, RI 02835

Dear Sirs:

At a meeting of the Jamestown Zoning Board held on September 11, 1984 the following vote was passed:

That the application of Coddington Yachts Center, Inc. dba Jamestown Boat Yard whose principals are John L. Sweeney and Jonathan Billings, whose property is located at Dumpling Drive and further identified as Tax Assessor's Plat 10, Lots 18, 19, 20, 141 and 143 for variance from Article IV, Sections 404, 405 and 406 and Article VI, Sections 600, 601, 602 and 610 to construct a building for indoor yacht storage be dealt with as follows:

- 1) That a special exception be granted for construction of a building for boat storage use, under the following conditions:
  - a) That the building be 60' x 180' and otherwise in accord with Exhibit B as amended,
  - b) Entrance and egress shall be limited to that portion of Racquet Road marked "access", "A", "B" on Exhibit B as amended,
  - c) That the building be architecturally in harmony with the surrounding neighborhood, including wood shingle siding,
  - d) That a permanent visual screen of evergreens be provided along the west wall of the building.
- 2) That a variance from the setback requirements be granted for a setback of six (6) feet from the westerly lot line.

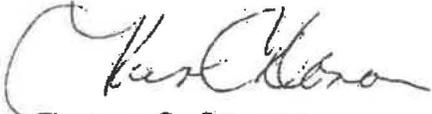
Such relief is in accord with Sections 405, 602 and 610 of the Zoning Ordinance.

September 14, 1984

The following findings of fact were noted:

- 1) The placement of the building in the corner of the lot is preferred by the abutters who expressed their opinions at the hearing, and
- 2) The business is not expanding; it is already in the business of storing boats; the structure is intended to refine the storage area.

Sincerely,



Theresa C. Donovan  
Deputy Town Clerk

xc: Building Inspector



ZONING BOARD OF REVIEW  
Town of Jamestown

Doc # 00050465  
Bk # 867 Ps #

73

93 Narragansett Avenue  
401-423-7200

Jamestown, Rhode Island  
02835-1199

February 24, 2016

Jamestown Boat Yard  
Christian Infantolino, Esq.  
77 Narragansett Avenue  
Jamestown, RI 02835

Dear Sir,

The following is the decision on your Petition heard by the Town of Jamestown Zoning Board of Review on February 23, 2016.

After testimony was completed at the public hearing for which due notice was given and a record kept, the Town of Jamestown Zoning Board of Review, after taking into consideration all of the testimony and exhibits at the public hearing, makes the following determination:

A motion was made by Richard Boren and seconded by Joseph Logan to grant the request of Jamestown Boat Yard, Inc. whose property is located at 60 Dumplings Dr., and further identified as Assessor's Plat 10, Lots 141, 143, & 20, for a Special Use Permit granted under Article 6, Special Use Permits and Variances, pursuant to Section 82-7044, Alteration of a non-conforming use and Article 3, Section 82-301/Table 3-1 Section F.8 and F.9, and dimensional relief from Section 82-302 District Dimensional Regulations, and Table 3-2, for setback relief and lot coverage relief, to permanently enclose the existing temporary structure and construct a permanent structure to replace 2 other temporary structures for the continued use of boat storage.

Regarding this request, this Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTION 600.

Regarding the request for a Variance, this Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTION 606, PARAGRAPHS 1 through 4, and SECTION 607, PARAGRAPH 2.

Regarding the request for a Special Use Permit, this Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTION 602.

This Variance is granted with the following restriction(s):

The conditions set forth in a letter dated 2/23/16 from Joseph J. Nicholson, Jr. Esq., to the Zoning Board and assented to by the applicant is incorporated herein as if set forth in full and shall be appended to the decision.

This project must be constructed in strict accordance with the site and building plans duly approved by this Board.

This motion is based on the following findings of fact:

1. Said property is located in a R80 zone and contains 92,965 sq. ft.
2. Building #2 has been drastically reduced.
3. There is no longer a need for dimensional relief for building #2.
4. Nine abutting families have agreed to the application with the afore mentioned conditions.
5. All construction will take place within the required setbacks.
6. The permanent structures will replace longstanding temporary structures for the continued use of boat storage.
7. The temporary sheds have been in existence on the property at least since 1994 and do not stand up to bad weather.
8. The applicant is seeking to aesthetically improve the boatyard.

The motion carried by a vote of 5 -0.

Richard Boren, Joseph Logan, Judith Bell, Terence Livingston, and Edward Gromada voted in favor of the motion.

Dean Wagner was recused and Richard Cribb was absent.

This special use permit/variance shall expire one year from the date of granting unless the applicant exercises the permission granted.

Doc# 00050465  
Bk: 867 Pg: 75

Very truly yours,

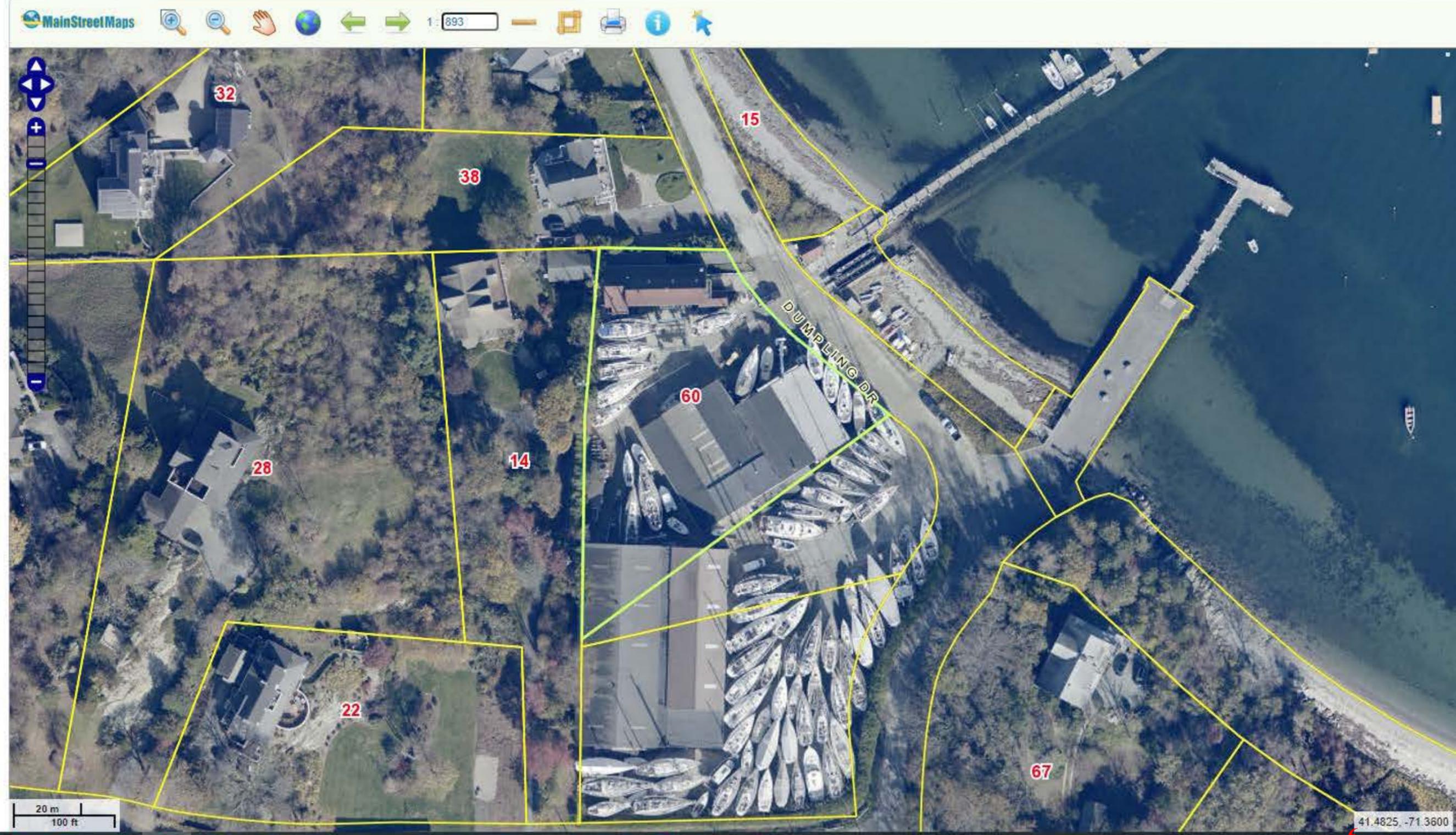


Richard Boren, Chairman  
Jamestown Zoning Board of Review  
RB/pw

**60 DUMPLING DRIVE**  
10-143



- Zoom To
- Property Card
- Abutters List
- Tax Map
- Property List
- Report an Issue



Application of SHM Jamestown Boat Yard, LLC whose property is located at 60 Dumpling Drive, and further identified as Assessor's Plat 10, Lots 141, 143, 20, for a Modification to a Special Use Permit granted under Article 6, Special Use Permits and Variances, pursuant to Section 82-704, Alteration of a non-conforming use and Article 3 Section 82-301/ Table 3-1 Section F.8 and F.9, and dimensional relief from Section 82-302-District Dimensional Regulations, and Table 3-2, for setback relief and lot coverage relief, to remove an existing stairway and replace with a stairway that meets code and an ADA compliant access ramp. Said property is located in a R80 zone and contains 92,965 square feet.



TOWN OF JAMESTOWN  
ZONING BOARD OF REVIEW

**Application for Modification to a Special Use Permit under the Zoning Ordinance**

Zoning Board of Review;

Jamestown, R.I.

Date: 9/27/2021

To Whom it may concern:

The undersigned hereby applies to the Zoning Board of Review for an exception or a variation in the application of the provisions or regulations of the zoning ordinance affecting the following described premises in the manner and on the grounds hereinafter set forth.

Applicant: SMH Jamestown Boat Yard, LLC      Address: c/o Christian Infantolino, Esq.,  
77 Narragansett Avenue  
Jamestown, RI 02835

Owner: Same

Lessee: None

1. Location of premises: No. 60 Dumpling Drive
2. Assessor's Plat 10 Lots 141, 143, 20
3. Dimensions of lot: frontage: +/-    ft. depth: +/-    ft. Area: 92,965sq. ft.
4. **Zoning Districts in which premises are located: Use:RR80** Area: 80,000 sq. ft. Height: 35 ft.
5. How long have you owned the premises? 1/31/2020
6. Is there a building on the premises at present? Yes
7. Size of existing building: Rigging Shop and Office building stairs currently cover 318sq ft.  
The proposed ramps and staircase will have a new coverage area of 768 sq ft for an increase of 450 sq ft.

Size of proposed building or alteration: 450 square feet inclusive of ADA accessible ramps.

Existing Lot Coverage 33%

Proposed Lot Coverage 33.5%

8. Distance of proposed building or alteration from lot lines:

**Required:** front: 40' rear: 40' side: 30'

**Proposed:** Rear: 6'8" (rigging Shop and Office) NO Change on other buildings

9. Present use of premises: Boat storage/Maintenance/Office

10. Proposed use of premises: No Change

Location of septic tank & well on lot: No Change

11. Give extent of proposed alterations: Applicant proposes to remove existing steep stairway and replace with stairway that meets code and has ADA accessible ramps into building.

12. Number of families for which building is to be arranged: 0

13. Have you submitted plans for above to Inspector of Buildings? Yes

Has the Inspector of Buildings refused a permit? Yes

14. Provision or regulation of Zoning Ordinance or State Enabling Act under which application for exception or variance is made:

This application seeks a modification to a Special Use Permit granted under Article 6, Special Use Permits and Variances, pursuant to Section 82-7044, Alteration of a non-conforming use and Article 3 Section 82-301/Table 3-1 Section VI. F.8 and VI.F.9, and dimensional relief from Section 82-302 District Dimensional Regulations, and Table 3-2 for set back relief and lot coverage relief to replace out of code stairway to code and add ADA accessible ramps. Total improvements are 450 square feet inclusive of the ADA ramps.

15. State the grounds for exception or variation in this case:

The granting of the modification will not substantially or permanently injure the appropriate use of the property in the surrounding area; and

The granting of the special use permit will not result in conditions inimical to the public health, safety, morals and welfare.

The hardship the applicant sees relief from is due to the unique characteristics of the subject land.

The hardship is not the result of any prior action of the applicant.

The requested relief will not alter the general character of the surrounding area or impair the intent of the ordinance.

The relief granted is the least relief necessary.

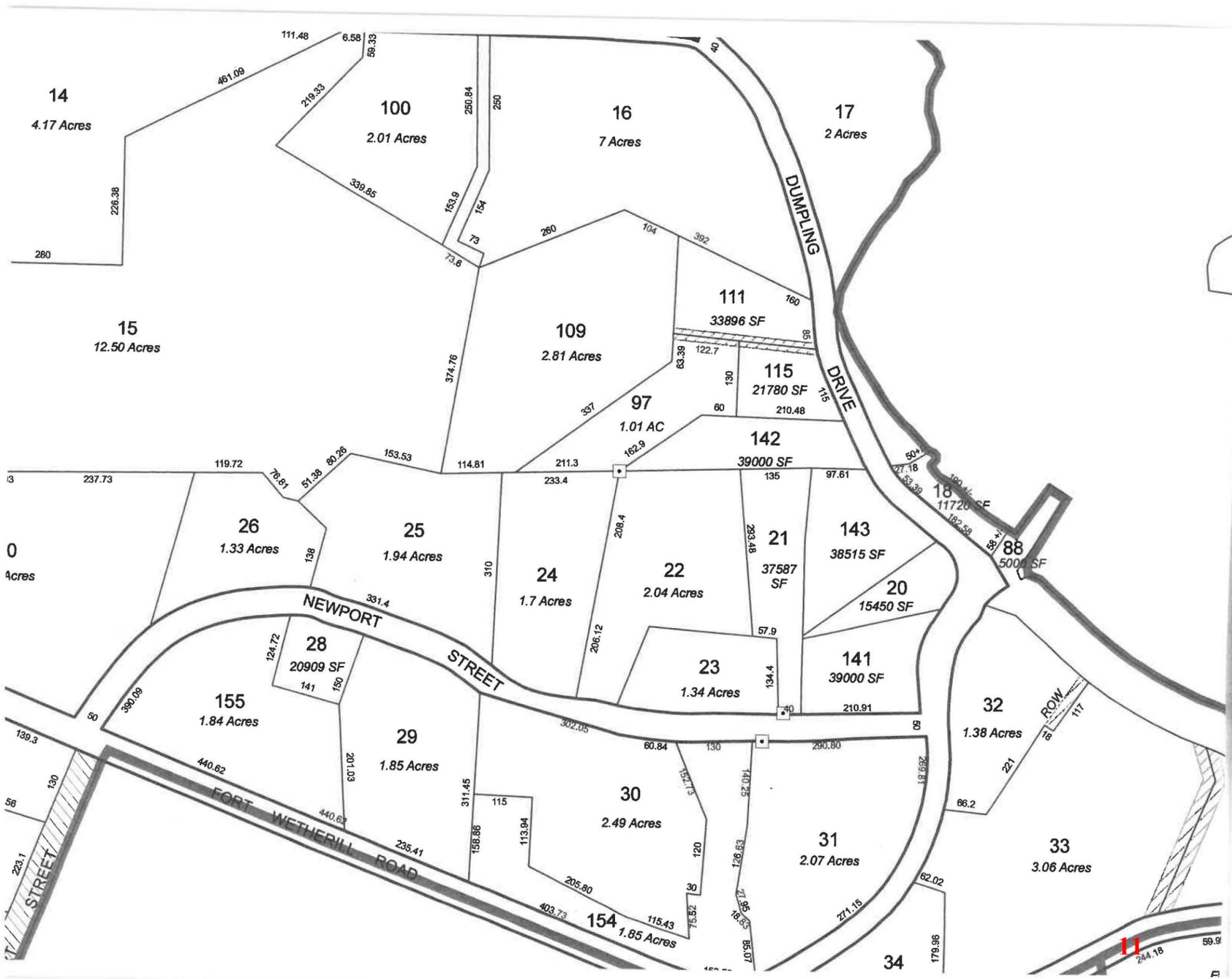
Respectfully Submitted,

Signature: /s/ christian s. infantolino, esq., attorney for  
applicants

Address: 77 Narragansett Avenue  
Jamestown, RI 02835

Phone: 401-423-0400

**NOTE:** A LOCATION PLAN AND SKETCH AND DRAWINGS NECESSARY TO GIVE  
FULL INFORMATION MUST BE FILED WITH THE APPLICATION



Parcel ID: 10-115  
SERTL, CORNELIA F & MARK C  
7 BROOKWOOD ROAD  
ROCHESTER NY 14610

Parcel ID: 10-141  
SHM JAMESTOWN BOATYARD LLC  
C/O SAFE HARBORS MARINAS  
14785 PRESTON ROAD, STE. 975  
DALLAS TX 75254

Parcel ID: 10-142  
MOSSOP, W LINCOLN  
291 SPENCER AV  
EAST GREENWICH RI 02818

Parcel ID: 10-143  
SHM JAMESTOWN BOATYARD LLC  
C/O SAFE HARBOR MARINAS  
14785 PRESTON ROAD, STE 975  
DALLAS TX 75254

Parcel ID: 10-17  
OCEAN HIGHLANDS LLC  
C/O ERIKA FORSYTH  
171 PERKINS STREET  
MELROSE MA 02176

Parcel ID: 10-18  
SHM JAMESTOWN BOATYARD LLC  
C/O SAFE HARBOR MARINAS  
14785 PRESTON ROAD, STE 975  
DALLAS TX 75254

Parcel ID: 10-20  
SHM JAMESTOWN BOATYARD LLC  
C/O SAFE HARBOR MARINAS  
14785 PRESTON ROAD, STE 975  
DALLAS TX 75254

Parcel ID: 10-21  
HEINTZ, CHARLENE R.  
PO BOX 131  
JAMESTOWN, RI 02835-0131

Parcel ID: 10-22  
GRAVDAHL, JEFFREY W TRUST. ET  
SALL, NANCY & TROUT, BARBARA  
19 SEAFARER COURT  
JAMESTOWN RI 02835

Parcel ID: 10-23  
PENSA FRANK A & DONNA A TE  
22 NEWPORT STREET  
JAMESTOWN RI 02835

Parcel ID: 10-31  
DRISCOLL, KEITH L. ET AL  
90 TURKEY HILL ROAD SOUTH  
WESTPORT CT 06880

Parcel ID: 10-32  
BOSCHEN, JEAN Y., TRUSTEE  
C/O DICK BOSCHEN  
BOSCHEN DESIGN ARCHITECTURE  
NEW YORK NY 10038-3109

Parcel ID: 10-88  
DUMPLINGS ASSOC INC  
P.O. BOX 273  
JAMESTOWN RI 02835

Parcel ID: 10-97  
MARSHALL, LUCIA & JOHN  
32 DUMPLING DRIVE  
JAMESTOWN RI 02835

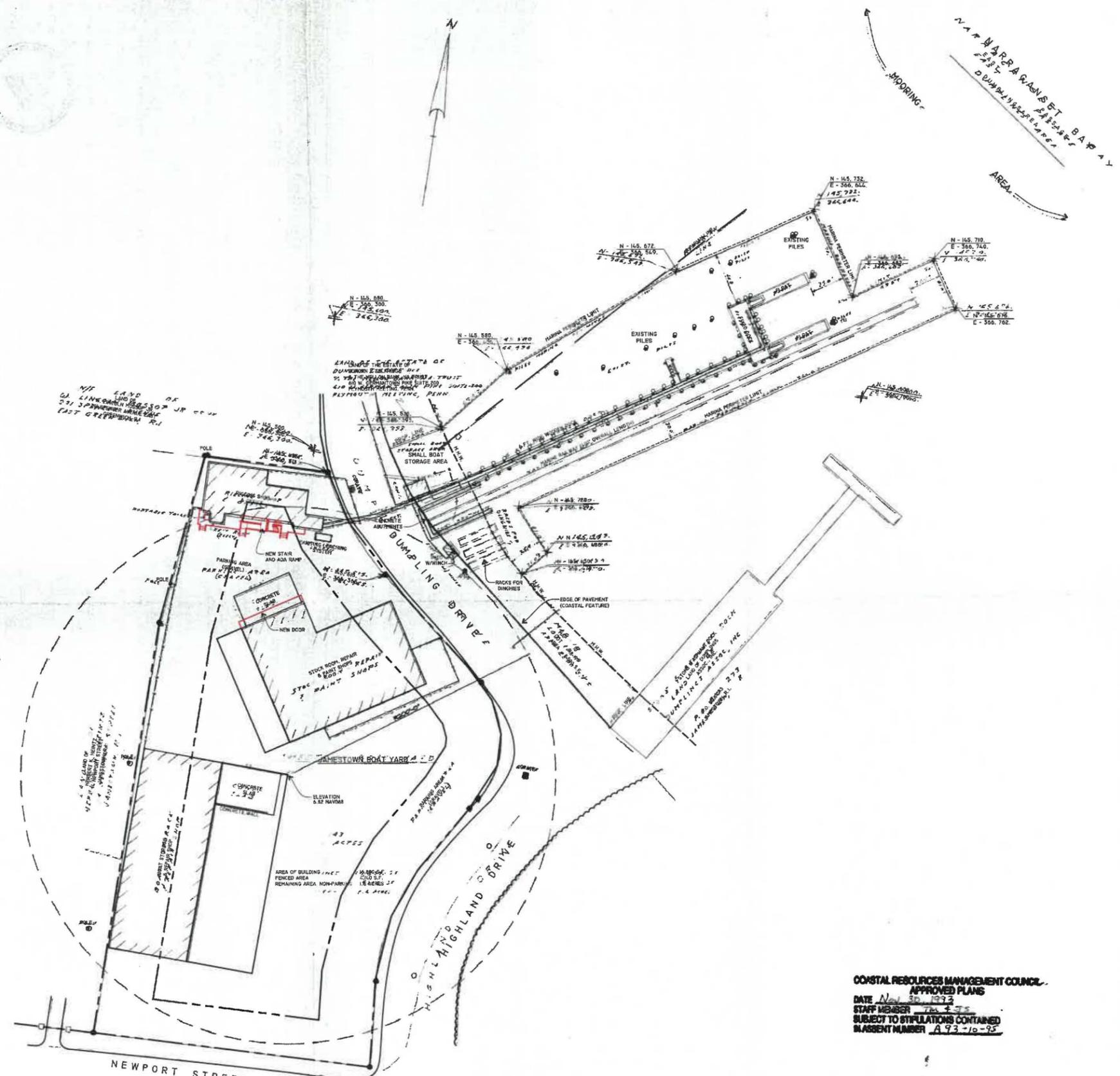


Jamestown Boat Yard Jamestown RI

Burja Lambert Architects 01.22.21

Schematic Stair and Ramp  
Option 2, Ramp 1:12 Slope





NOT LAYED OUT  
LINE OWNED BY  
21 JAMES TOWN MARINE  
EAST GREENSBORO, RI

EXAMINE THE STATE OF  
DUMPLING DRIVE OF  
21 JAMES TOWN MARINE  
EAST GREENSBORO, RI  
RETRACTED FROM PENN.

STOCK ROOM REPAIR  
PAINT SHOPS  
NEW STAIR AND ADA RAMP  
NEW DOOR

NEWPORT STREET  
NEWPORT  
ON APPROX. STRIPS

DRAWN BY  
W. L. LAND SURVEYORS INC.  
1558 NINTOWN ROAD  
PAWEEVILLE, R.I.

COSTAL RESOURCES MANAGEMENT COUNCIL  
APPROVED PLANS  
DATE Nov 30, 1993  
STAFF MEMBER 763-778  
SUBJECT TO STIPULATIONS CONTAINED  
IN ASSENT NUMBER A 93-10-95



SCALE 1"=40'  
PLAN SHOWING THE  
MARINA PERIMETER LIMIT FOR  
CODDINGTON YACHT CENTER, INC  
OWNING BUSINESS AT THE  
JAMESTOWN BOAT YARD INC  
60 DUMPLING DRIVE  
JAMESTOWN, R. I.  
02401-1117  
12. 1 1/2 1982 1992



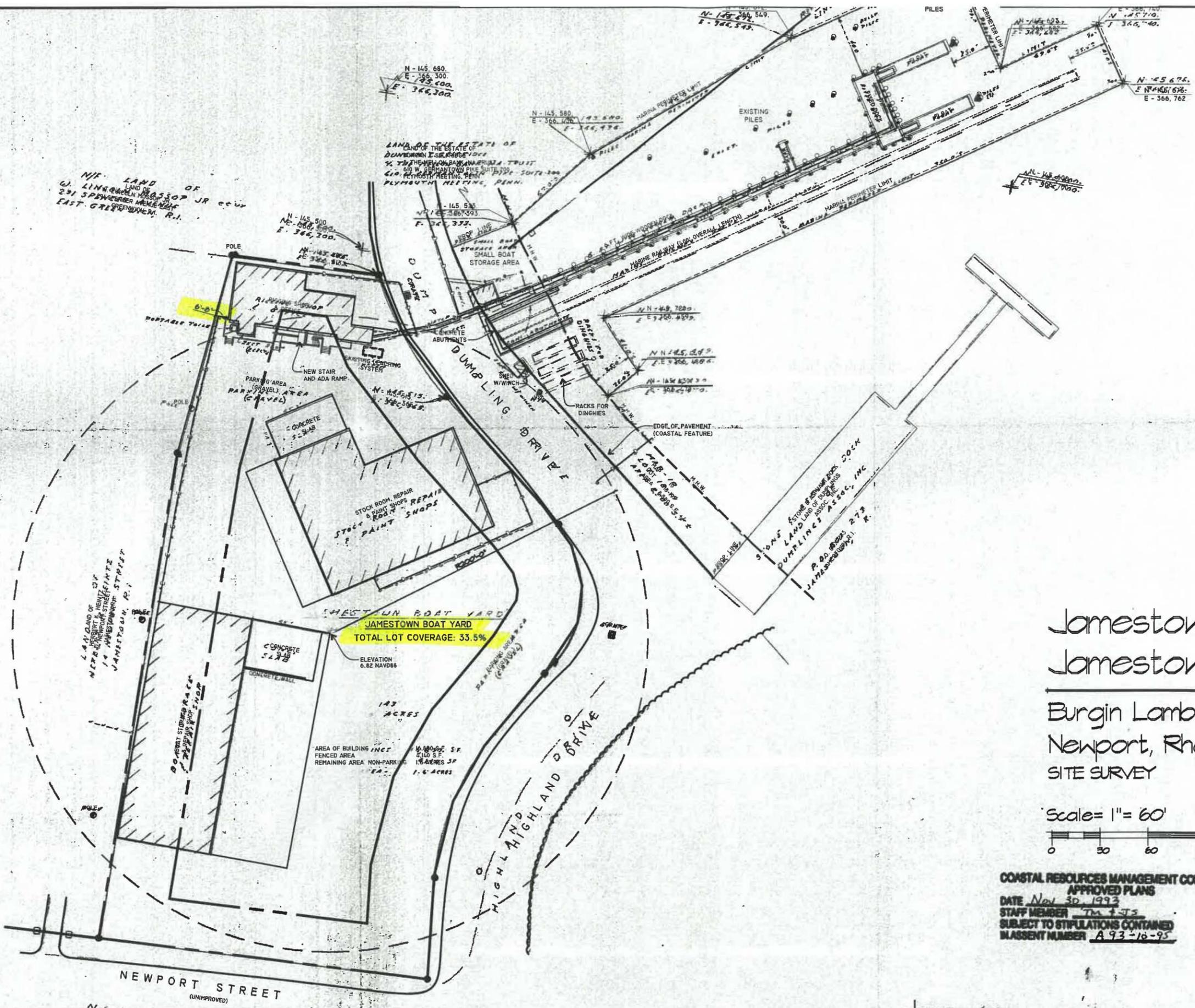
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▲	06/25/2018

**PROGRESS SET**  
DATE 06/25/18  
FOR CONSTRUCTION

SITE SURVEY

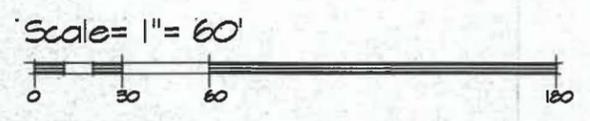
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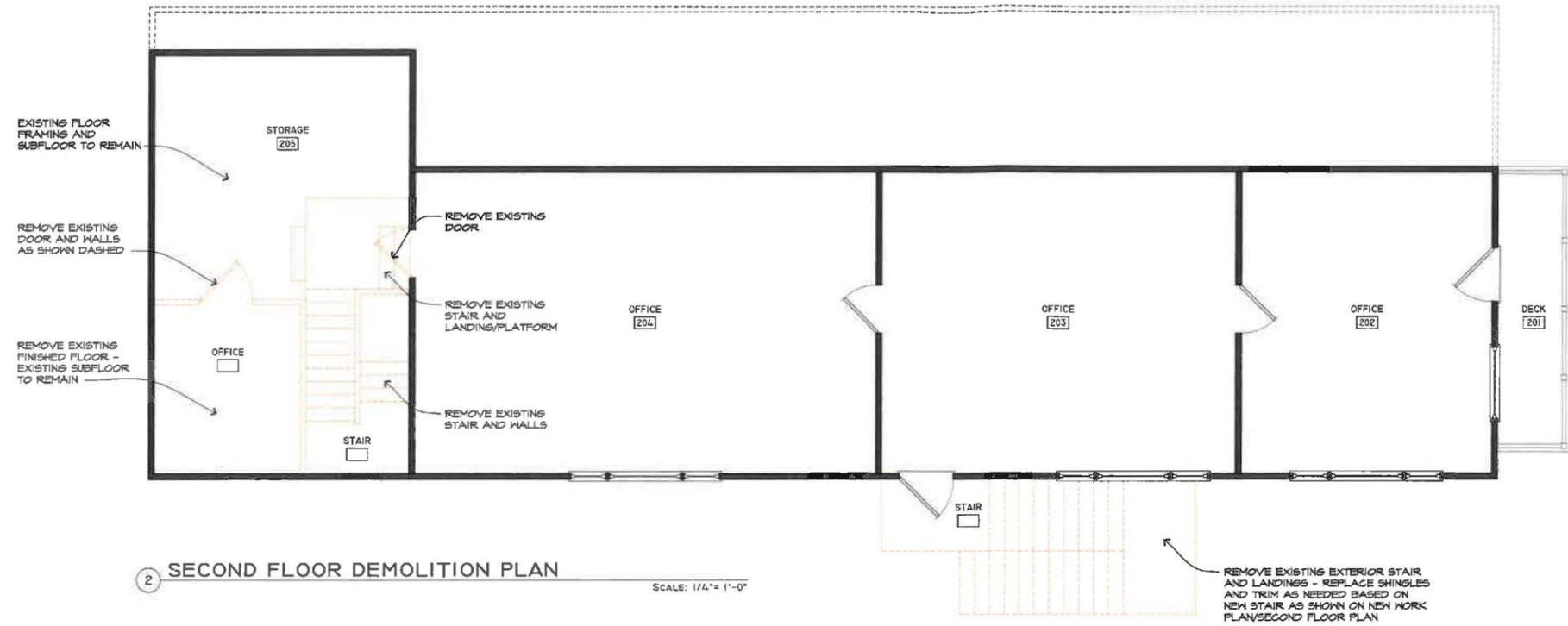


Jamestown Boat Yard  
 Jamestown, Rhode Island

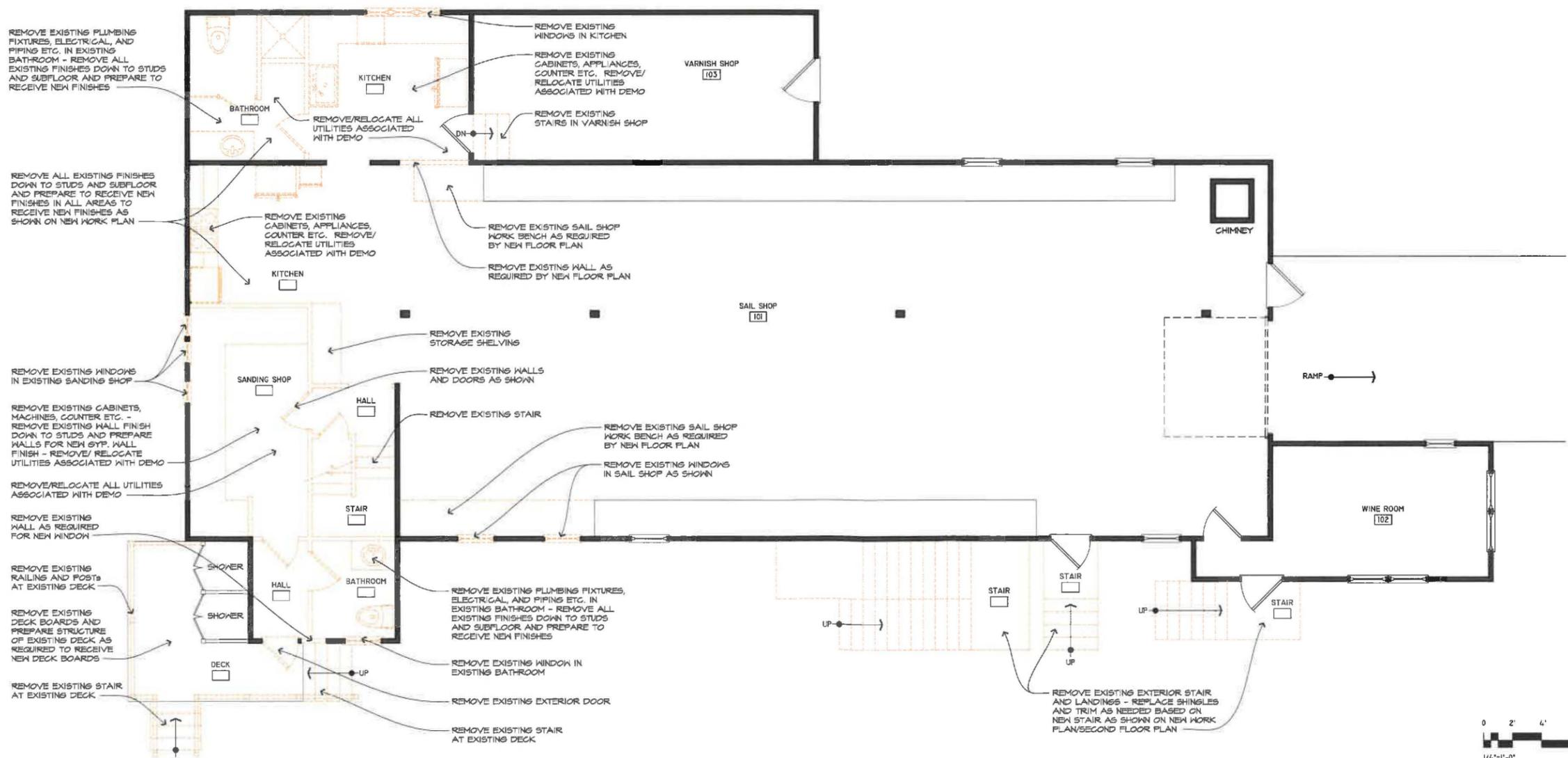
Burgin Lambert Architects  
 Newport, Rhode Island  
 SITE SURVEY



COASTAL RESOURCES MANAGEMENT COUNCIL  
 APPROVED PLANS  
 DATE Nov 30 1993  
 STAFF MEMBER T.M. J.S.  
 SUBJECT TO STIPULATIONS CONTAINED  
 IN ASSENT NUMBER A 93-10-95



2 SECOND FLOOR DEMOLITION PLAN  
SCALE: 1/4" = 1'-0"



1 FIRST FLOOR DEMOLITION PLAN  
SCALE: 1/4" = 1'-0"

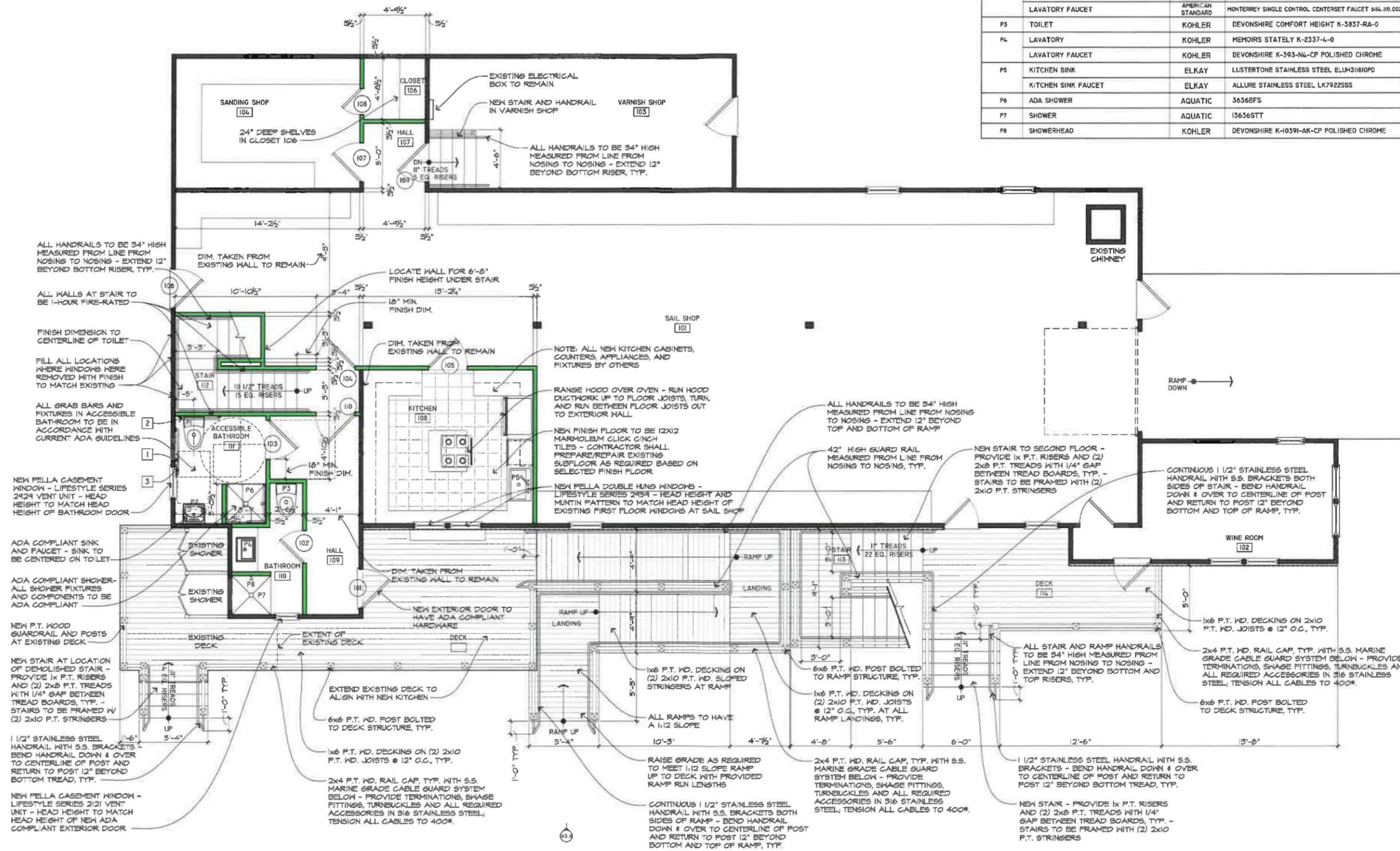
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	06/15/2021

DATE 06/15/21

DEMOLITION PLANS

A2.0

PLUMBING FIXTURE SCHEDULE			
NUMBER	DESCRIPTION	MANUF.	MODEL
P1	TOILET	AMERICAN STANDARD	AFWALL MILLENNIUM FLOWISE
	TOILET FLUSH VALVE	AMERICAN STANDARD	MANUAL FLOWISE I.28GPF
P2	LAVATORY	AMERICAN STANDARD	LUCERNE WALL-HUNG LAVATORY 0355.027
	LAVATORY FAUCET	AMERICAN STANDARD	MONTERREY SINGLE CONTROL CENTERSET FAUCET 044.00.002
P3	TOILET	KOHLER	DEVONSHIRE COMFORT HEIGHT K-3837-RA-0
P4	LAVATORY	KOHLER	MEMOIRS STATELY K-2337-4-0
	LAVATORY FAUCET	KOHLER	DEVONSHIRE K-393-NL-CP POLISHED CHROME
P5	KITCHEN SINK	ELKAY	LUSTERTONE STAINLESS STEEL ELUH31810PD
	KITCHEN SINK FAUCET	ELKAY	ALLURE STAINLESS STEEL LK7922SS
P6	ADA SHOWER	AQUATIC	3636BFS
P7	SHOWER	AQUATIC	13636STT
P8	SHOWERHEAD	KOHLER	DEVONSHIRE K-10391-AK-CP POLISHED CHROME

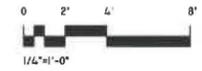


**1 FIRST FLOOR PLAN**

SCALE: 1/4" = 1'-0"

- HARDWARE SCHEDULE AT ALL DOORS**
- HINGES: STANLEY S KNUCKLE HINGES WITH STANDARD WEIGHT BALL BEARINGS IN STEEL SATIN CHROME FINISH
  - LOCKSETS: SCHLAGE AL SERIES STANDARD DUTY 626 FINISH KEYED LEVER LOCKSETS ALL KEYED ALIKE
  - CLOSERS: NORTON 1600 SERIES WITH SS FINISH

EQUIPMENT SCHEDULE			
NUMBER	DESCRIPTION	MANUF.	MODEL
1	HORIZONTAL GRAB BAR	BOBRICK	B-9806 x 18
2	HORIZONTAL GRAB BAR	BOBRICK	B-9806 x 36
3	VERTICAL GRAB BAR	BOBRICK	B-9806 x 42
4			
5			



**BURGIN LAMBERT ARCHITECTS**  
 150 Bellevue Avenue  
 Newport, Rhode Island 02840  
 Tel: 401.847.3339  
 Fax: 401.847.3382  
 www.burginlambert.com

**Jamestown Boat Yard**  
**60 Dumping Drive**  
**Jamestown, RI**

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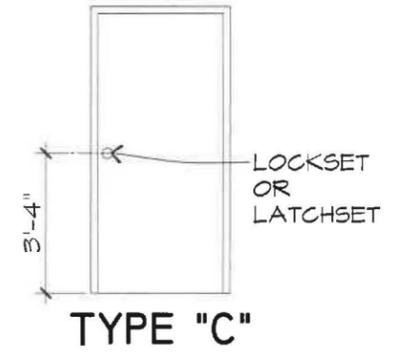
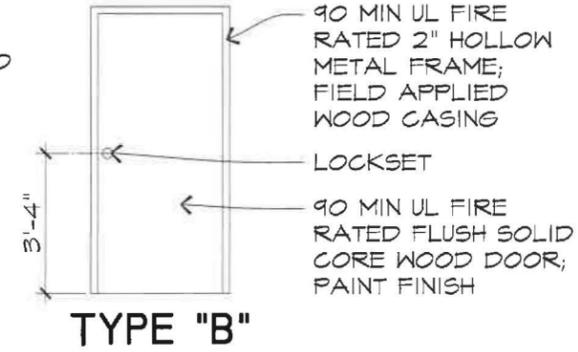
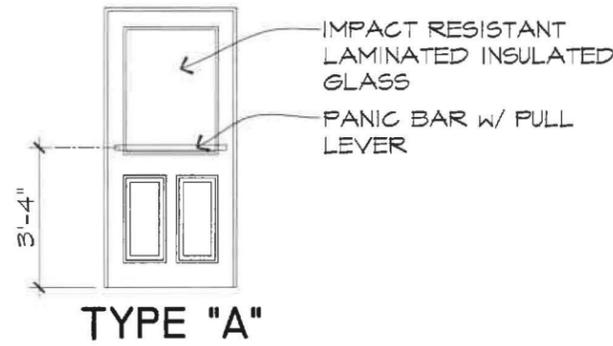
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FIRST FLOOR PLAN

**A2.1**



DOOR SCHEDULE								
TAG	TYPE	DESCRIPTION	MATERIAL/FINISH	DOOR SIZE (WxH)	R.O. (WxH)	MANUFACTURER	MODEL	REMARKS
101	A	SWING DOOR	ALUMINUM CLAD WOOD / GLASS	3'-0" x 6'-8"	PER MANJ.	UPSTATE DOOR	D2070	COMMERCIAL DOOR, ADA SILL, IMPACT RATED
102	B	SWING DOOR	SOLID CORE WOOD FLUSH / PAINT	2'-6" x 6'-8"	PER MANJ.	UPSTATE DOOR	D0001	UL RATED 90 MINUTE ASSEMBLY
103	B	SWING DOOR	SOLID CORE WOOD FLUSH / PAINT	3'-0" x 6'-8"	PER MANJ.	UPSTATE DOOR	D0001	UL RATED 90 MINUTE ASSEMBLY
104	B	SWING DOOR	SOLID CORE WOOD FLUSH / PAINT	3'-0" x 6'-8"	PER MANJ.	UPSTATE DOOR	D0001	UL RATED 90 MINUTE ASSEMBLY
105	B	SWING DOOR	SOLID CORE WOOD FLUSH / PAINT	3'-0" x 6'-8"	PER MANJ.	UPSTATE DOOR	D0001	
106	A	SWING DOOR	ALUMINUM CLAD WOOD / GLASS	3'-0" x 6'-8"	PER MANJ.	UPSTATE DOOR	D2070	COMMERCIAL DOOR, ADA SILL, IMPACT RATED
107	C	SWING DOOR	SOLID CORE WOOD FLUSH / PAINT	3'-0" x 6'-8"	PER MANJ.	UPSTATE DOOR	D0001	
108	C	SWING DOOR	SOLID CORE WOOD FLUSH / PAINT	2'-0" x 6'-8"	PER MANJ.	UPSTATE DOOR	D0001	
109	C	SWING DOOR	SOLID CORE WOOD FLUSH / PAINT	3'-0" x 6'-8"	PER MANJ.	UPSTATE DOOR	D0001	
110	B	SWING DOOR	SOLID CORE WOOD FLUSH / PAINT	3'-0" x 6'-8"	PER MANJ.	UPSTATE DOOR	D0001	UL RATED 90 MINUTE ASSEMBLY
201	C	SWING DOOR	SOLID CORE WOOD FLUSH / PAINT	2'-8" x 6'-8"	PER MANJ.	UPSTATE DOOR	D0001	
202	C	SWING DOOR	SOLID CORE WOOD FLUSH / PAINT	2'-8" x 6'-8"	PER MANJ.	UPSTATE DOOR	D0001	



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△	06/15/2021

DATE 06/15/21

DOOR SCHEDULE

A2.3

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▲	DATE:
▲	06/15/2021

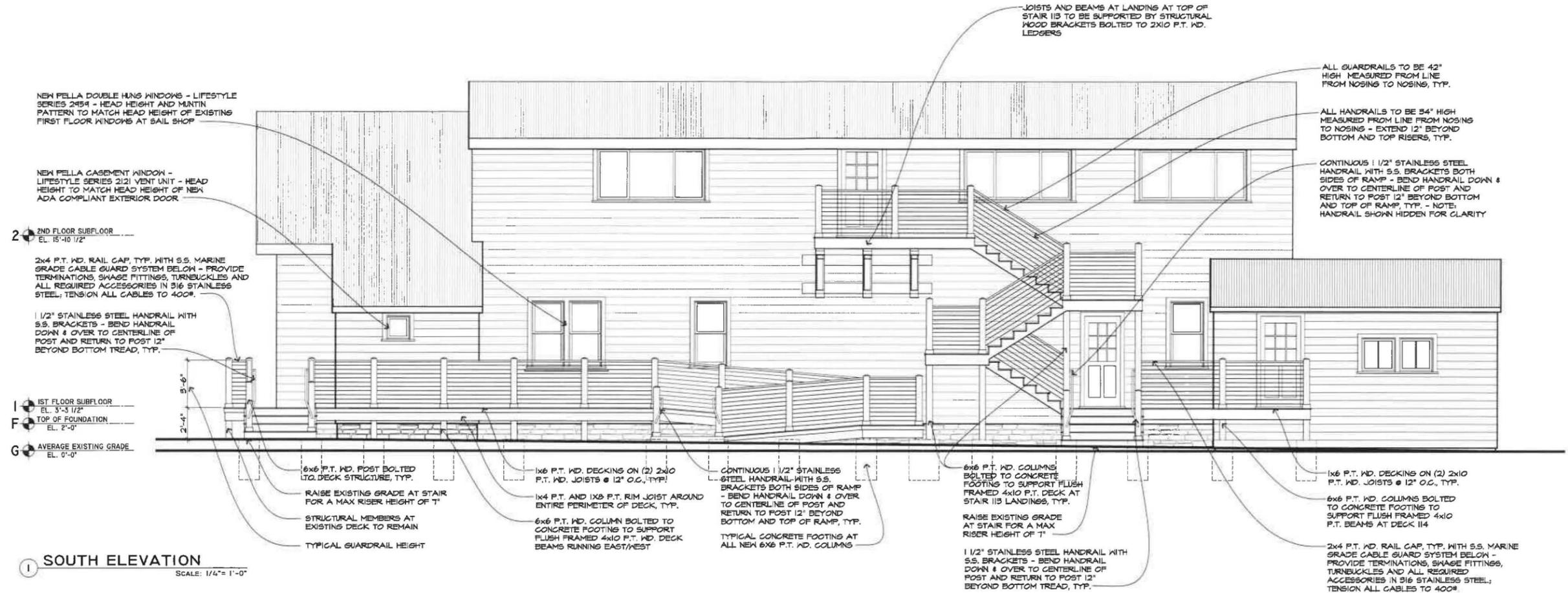
DATE: 06/15/21

EXTERIOR  
ELEVATIONS

A3.0

21

NOT TO SCALE. THIS DRAWING IS FOR INFORMATION ONLY. IT IS NOT TO BE USED FOR CONSTRUCTION. ANY CHANGES TO THIS DRAWING MUST BE APPROVED BY BURGIN LAMBERT ARCHITECTS, INC.





Jamestown Boat Yard - Jamestown RI

Burgh-Lambert Architects - 01/22/21

Schematic Stair and Ramp  
Option 2: Ramp 1:2 Slope



Jamestown Boat Yard - Jamestown RI

Burgin Lambert Architects - 01.22.21

Schematic Stair and Ramp  
Option 2, Ramp 1:12 Slope







# Safe Harbor Jamestown Boatyard

53° 10:51 AM 11 MPH VHF 72 JAMESTOWN, RI

[Inquire Now](#)

Safe Harbor Jamestown Boatyard is peacefully nestled among the scenic granite bluffs and gorgeous coastal landscapes of Narragansett Bay's East Passage. Block Island, the Cape, and Newport Harbor are all within easy reach, while a premier marine service facility, **first-class amenities**, and summer days abundant in lively cookouts, acclaimed music festivals, and thrilling regattas give boaters a truly all-inclusive waterfront experience.

INQUIRE NOW

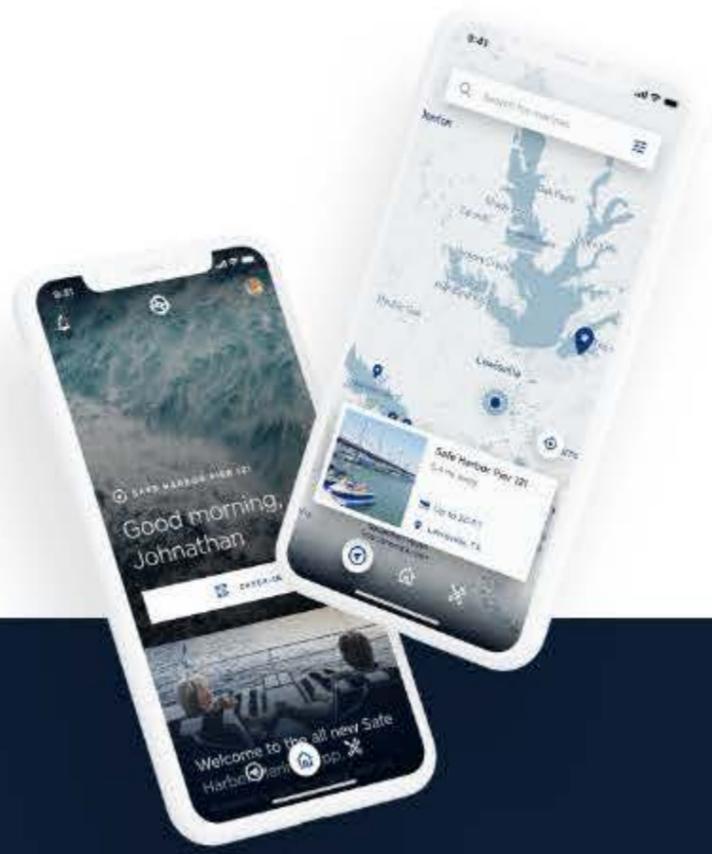
- Moorings
- Dry Storage
- Winter Storage
- Marine Services

### Moorings

15' - 70'	20'	UNRESTRICTED
Length Overall	Max Beam	Max Draft

**YOUR MOORING INCLUDES**

- Launch Service
- Space On Dinghy Rack



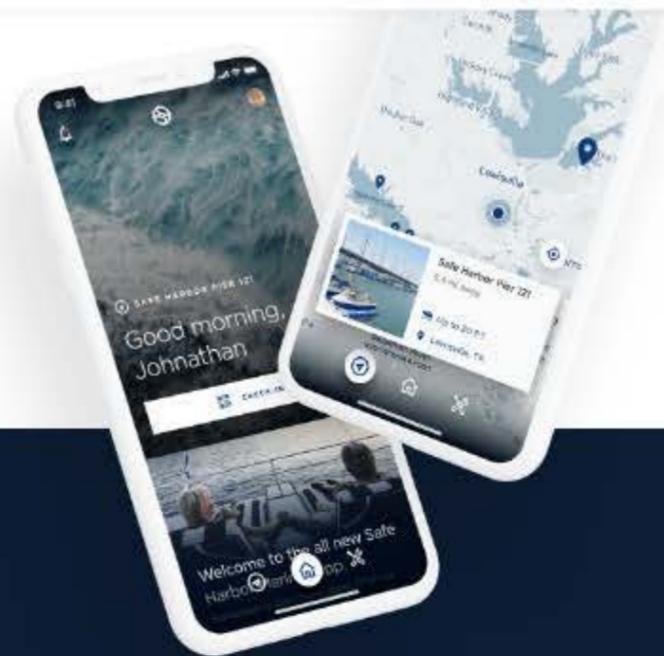
### Membership

When you become a Member of Safe Harbor, you have access to our entire network of premium locations, amenities, events and unparalleled boating lifestyle opportunities.

EXPLORE BENEFITS

### Featured Amenities

- Barbecue Grills
- Community Leisure Space
- Complimentary Parking
- Complimentary Wi-Fi
- Courtesy Bikes



## Membership

When you become a Member of Safe Harbor, you have access to our entire network of premium locations, amenities, events and unparalleled boating lifestyle opportunities.

EXPLORE BENEFITS

## Featured Amenities

- Barbecue Grills
- Community Leisure Space
- Complimentary Parking
- Complimentary Wi-Fi
- Courtesy Bikes
- Dog Park
- Fire Pit
- Kitchenette
- Lawn Games
- Restrooms
- Showers

SHOW LESS

INQUIRE NOW

SAFE HARBOR JAMESTOWN BOATYARD

Join us.

To inquire about becoming a Member, please share your information. We'd love to hear from you.

60 Racquet Road, Jamestown, RI 02835, USA

401.423.0600

41.4821359, -71.360527

Monday	8:00 AM - 9:00 PM
Tuesday	8:00 AM - 9:00 PM
Wednesday	8:00 AM - 9:00 PM
Thursday	8:00 AM - 9:00 PM
Friday	8:00 AM - 9:00 PM
Saturday	8:00 AM - 9:00 PM
Sunday	8:00 AM - 9:00 PM

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
TOWN OF JAMESTOWN  
ZONING BOARD OF REVIEW

\* \* \* \* \*  
PROCEEDINGS AT HEARING \*  
IN RE: \*  
\*  
SHM JAMESTOWN BOAT YARD,  
LLC \*  
\* \* \* \* \*

Jamestown Town Hall  
93 Narragansett Avenue  
Jamestown, RI 02835  
23 November 2021

BEFORE:  
Richard A. Boren  
Dean J. Wagner  
Terrence Livingston  
James King  
Jane Bentley  
Judith Bell  
John Shekarchi  
Alex Finkelman

PRESENT:  
For the Applicant:  
Christian S. Infantolino, Esquire  
MORNEAU & MURPHY  
77 Narragansett Avenue  
Jamestown, RI 02835

For the Objectors:  
Kelly M. Fracassa, Esquire  
NACCARATO & FRACASSA  
85 Beach Street, Building C, Unit 8  
Westerly, RI 02891

For the Town of Jamestown:  
Wyatt A. Brochu, Esquire  
RUGGIERO, BROCHU & PETRARCA  
1130 Ten Rod Road, Suite D102  
North Kingstown, RI 02852

ALSO PRESENT:  
William L. Moore, Zoning Officer  
Pat Westall, Clerk

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I N D E X

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ID FULL

(Opposition's)

A Safe Harbor Jamestown Boatyard  
website screenshot 43

SPEAKERS:

JEFFREY GRAVDAHL 62



IN RE: SHM JAMESTOWN BOAT YARD, LLC

23 November 2021

1  
2  
3 MR. BOREN: As a preliminary matter, is  
4 there any resolution regarding what was before us  
5 last time concerning Mr. Fracassa's client?

6 MR. INFANTOLINO: Mr. Fracassa is here. I  
7 do believe that, you know, they came to an  
8 agreement on the fence and the fence location.  
9 There was no other -- there was no dual surveying  
10 or anything of that nature. But they did come to a  
11 written agreement is my understanding with a signed  
12 letter on the property line and its existence.

13 MR. BOREN: Is that being contested this  
14 evening?

15 MR. FRACASSA: No, it is not. My client,  
16 on that matter, is Charlene Heintz, and she has  
17 come to an agreement with the boatyard. So, the  
18 boundary issue is not an issue tonight.

19 THE STENOGRAPHER: Sir, can I have your  
20 full name, please.

21 MR. FRACASSA: Oh, I'm sorry. Kelly  
22 Fracassa.

23 THE STENOGRAPHER: Spell it.

24 MR. FRACASSA: F-r-a-c-a-s-s-a.

25 THE STENOGRAPHER: Are you an attorney?

1 MR. FRACASSA: I am.

2 THE STENOGRAPHER: Thank you.

3 MR. BOREN: You may proceed.

4 MR. INFANTOLNIO: Thank you. And if I  
5 need to speak up I will, but I would prefer to keep  
6 my mask on because I have children in the school  
7 and they have had an outbreak, a couple there, so  
8 I'm trying to stay as safe as possible, especially  
9 through the holidays. So, if I do need to speak  
10 up, just, please, let me know.

11 Good evening. Christian Infantolino. I'm  
12 with Morneau & Murphy. I am representing Safe  
13 Harbor Marina tonight.

14 We are here tonight to request a modification  
15 to the special use permit as well as the  
16 dimensional relief in the rear further setback and  
17 the lot or total lot coverage.

18 (Microphone adjustments.)

19 MR. INFANTOLINO: The relief being  
20 requested is so that the applicant can put in place  
21 ADI -- ADA-compliant access ramps, also replace an  
22 exterior stairway.

23 I don't know if you guys have been there, but  
24 there is a really steep stairway on the outside of  
25 the building, so they're going to try and -- I'll

1 let Bill explain it -- but take the grade away a  
2 little bit, make the steps a little bit wider. And  
3 then make some interior modification. I'm calling  
4 it like a reallocation of their assets inside the  
5 building. The interior modifications do include  
6 relocating the kitchen area. And I have asked  
7 for --

8 MR. BOREN: Hold on. Is that before us?  
9 Is that before us, the interior modifications?

10 MR. INFANTOLINO: So, I did not believe  
11 so. The -- in discussions, both with Mr. Fracassa  
12 and with the building official, they felt that  
13 the -- the interior modifications could be a use  
14 issue. I don't believe it is a use issue. So, in  
15 an abundance of caution, we added interior  
16 modifications to our notice and also to our  
17 presentation, just so that we were, you know, being  
18 fully -- we're fully informing everybody about what  
19 is happening and what is going on. So, I'm more  
20 than happy to explain the interior modifications.  
21 If you would like to, we can strike those from  
22 our -- you know, our conversation as well. Bill is  
23 here to do a quick explanation of them, you know,  
24 but I don't believe that -- personally, I don't  
25 believe they're needed. But we wanted to have belt

1 and suspenders.

2 MR. WAGNER: I think I would like to hear  
3 it, I would like to hear about the interior  
4 modifications.

5 MR. MOORE: So, in 1981, the owner of the  
6 property had received a variance to remodel what we  
7 call "the rigging shed," the shed that is in the  
8 north end of this property. They got a variance to  
9 do that remodel. And I felt since they got a  
10 variance in 1981 to remodel that shed, out of an  
11 abundance of caution, I wanted them to come to the  
12 board. They're going to do remodeling again.  
13 They're going to do expansion of the some decks. I  
14 wanted it in front of this board whether it's under  
15 82-302 or it's under 82-704, depending on your  
16 opinion on whether it's a nonconforming use or use  
17 existing by special use permit.

18 We do not have any proof that these previous  
19 owners of the property have ever gotten a special  
20 use permit to operate a boat and repair shop there.  
21 They were there before the zoning was created, so  
22 it is a legal use. Whether it's a legal use of  
23 nonconformance or whether it's a legal use by  
24 special permit is still a question. So, that's why  
25 the interior renovations are in front of you and

1 out of the abundance of caution for the abutters.

2 MR. WAGNER: Did the variance they got in  
3 1981 have to do with a different building or this  
4 exact building?

5 MR. MOORE: That building. That building  
6 that I -- again, this won't happen again for this  
7 board. I sent you stuff today, and I have it here  
8 if you want to read them. From now on, special use  
9 permits and everything will be my job to make sure  
10 this board has -- and I believe these are all. I  
11 e-mailed them to you all today. But for your  
12 reading pleasure (Handing document).

13 MR. KING: Thank you, sir.

14 MR. MOORE: Thank you.

15 (Laughter.)

16 MR. KING: So, this is with regard to the  
17 change of use?

18 MR. MOORE: The first one is the one for  
19 that little shed.

20 MR. WAGNER: But shed -- it says the use  
21 for boat storage.

22 MR. MOORE: The first one?

23 MR. WAGNER: Yes.

24 MR. MOORE: So, it wasn't big enough for  
25 boat storage back then. It was not quite big

1           enough for that, but that's why they got a variance  
2           because of the remodel. Right?

3                   MR. WAGNER: I'm confused then. It says,  
4           "from construction of a building for boat storage  
5           use."

6                   MR. MOORE: Keep reading. The first page.

7                   MR. WAGNER: What was I reading?

8                           (Board reviewing document.)

9                   MR. MOORE: I will read it to you. So, it  
10           says the property is, you know, goes through the  
11           140, Plot 10 Lot 143 for a variance, remodel the  
12           existing building which is located 14 feet from the  
13           front line, 40 feet -- where 40 feet is required,  
14           10 feet from the rear instead of the required 40,  
15           and 4 feet from the right side of the lot line.  
16           So, it didn't say they were expanding the  
17           footprint, it just said to remodel it, and that's  
18           why it's in front of us, because that's what  
19           they're doing again.

20                   MR. INFANTOLINO: And the variance was for  
21           the dimensional at the time of the --

22                   MR. LIVINGSTON: It was for what?

23                   MR. INFANTOLINO: Dimensional  
24           requirements. Because it is -- the buildings, you  
25           know, are closer to the lot lines than needed. So,

1 when you're touching a building, it's closer to the  
2 lot line at the time. I'm only guessing. In  
3 1980s, I was probably still in diapers.

4 MR. BOREN: Before you put on witnesses,  
5 how many buildings are there on this property?

6 MR. BURGIN: Three.

7 MR. INFANTOLINO: Three total.

8 MR. BOREN: What is this building used  
9 for?

10 MR. INFANTOLINO: This has got the rigging  
11 shop.

12 MR. BOREN: What is it?

13 MR. INFANTOLINO: The rigging shop. The  
14 office is upstairs. There is the kitchen areas and  
15 bathrooms existing right now.

16 MR. BURGIN: Yes.

17 MR. INFANTOLINO: Nothing else?

18 MR. BURGIN: No. Bathroom and shower.

19 MR. INFANTOLINO: Bathroom and shower.

20 MR. SHEKARCHI: Mr. Chairman, if I may. I  
21 think what Mr. Burgin is trying to say is that --  
22 and I'm saying not okay with the application -- but  
23 it seems like the condition in 1984 was for use of  
24 the property.

25 MR. BOREN: You mean 1981?

1 MR. SHEKARCHI: Only for use of the boat  
2 storage. I think what he's saying it's going from  
3 boat storage to other activities. And if we are  
4 and it is a use variance, it is not a modification  
5 of a dimensional variance.

6 MR. BOREN: It doesn't say what it was  
7 being used for in 1981. But now you're going to  
8 1984.

9 MR. MOORE: '81 is a building.

10 MR. BOREN: Why don't you make the  
11 presentation, and we will have questions as we go  
12 along.

13 MR. SHEKARCHI: You go along.

14 MR. INFANTOLINO: And I did. If I was  
15 just going to touch base on where we are. That  
16 particular property it's not nonconforming by use.  
17 It's an allowable use in the R80 district by a  
18 special use permit. It was being utilized and used  
19 as a boat -- a boat facility, boat storage  
20 facility, prior to the enactment of the zoning  
21 ordinance, and that is why it didn't require to get  
22 a special use permit. It was a -- because it was  
23 grandfathered in there. It was pre-existing at the  
24 time. The use is an allowable use, and so the  
25 standard of review on it should be that it's a



1 special use permit.

2 I think that is sort of where it comes into  
3 play. Ever since the beginning of time they were  
4 being used as a boat storage facility, and they  
5 just never -- it was never required to get a  
6 special use permit to use it as boatyard.

7 With that being said, I left off stating that  
8 there was going to be some interior modifications,  
9 relocating the kitchen area and the bathroom, and  
10 adding a bathroom upstairs where the offices are  
11 currently being used.

12 I do have Bill Burgin with Burgin Lambert  
13 Architects to explain and provide test -- explain  
14 the plan and provide testimony. And I hoping I was  
15 going to call Bill right now.

16 I'm going to request that the board accept  
17 Mr. Burgin as an expert witness.

18 MR. BOREN: So accepted.

19 MR. KING: I mean, boat storage, I guess,  
20 can be for stuff, storage for stuff on boats as  
21 you're advertising. The use of this property has  
22 not changed, correct?

23 MR. INFANTOLINO: Absolutely. It is  
24 not -- we are not requesting a change of use here.  
25 We're not expanding upon the use here. This

1 application -- and Bill will be able to weigh it out  
2 really clearly -- is we're trying to add  
3 ADA-complaint ramps on the exterior to be able to  
4 get to the bathrooms. Relocate the bathrooms so  
5 that they're a little bit -- they're easier to  
6 access from the ADA ramp. And then on the interior  
7 of the building, like I said, out of an abundance  
8 of caution, they want to relocate -- there is two  
9 kitchen areas right now that, you know, are over  
10 200 square feet. They want to --

11 MR. WAGNER: Tell me about the kitchen  
12 area. Why do you need a kitchen area for a rigging  
13 shop? That's what I am trying to figure out.

14 MR. INFANTOLINO: Sort of the employee  
15 areas, like an employee sitting area. And, you  
16 know, we're not talking a commercial kitchen. We  
17 don't have a Health Department license, and we're  
18 calling it a kitchen area. You know, Bill will be  
19 able to explain it a little bit more, the layout of  
20 it.

21 MR. KING: A lunchroom type of thing?

22 MR. INFANTOLINO: A lunchroom. It's not a  
23 commercial kitchen.

24 MR. WAGNER: Okay.

25 MR. INFANTOLINO: And so, yes. So, it

1 will be relocating those areas, and basically  
2 allowing better flow of the downstairs. And then  
3 like they're fixing the really steep stairway on  
4 the exterior.

5 So, I'm going to request that Bill come in.

6 **WILLIAM BURGIN**

7 called as a witness and having been first duly  
8 sworn, testifies as follows:

9 THE STENOGRAPHER: Your name, please.

10 THE WITNESS: William Burgin, B-u-r-g-i-n.

11 I have some drawings here that are -- you guys  
12 have, but it just may be a little bit easier for me  
13 to sort of explain it.

14 This (Indicating) is the upper floors. This  
15 building basically has been here since 1910. It's  
16 been a -- originally, it was --

17 And, Jane, don't contradict me here.

18 But originally it was for the --

19 MR. BOREN: Are you suggesting Jane was  
20 here in 1910?

21 (Laughter.)

22 THE WITNESS: Thank you. I think it was  
23 handed down.

24 But it was a service building for the boats  
25 that ran back and forth to the house on the island

1 there. And it's been doing about the same thing  
2 the entire time.

3 They have been repairing boats in there and  
4 storing boats in there and so on for at least  
5 110 years anyhow.

6 This (Indicating) is the upper floor, in that  
7 gable. This (Indicating) is an addition that was  
8 put on. There is a very steep set of stairs here  
9 (Indicating). This (Indicating) is a computer  
10 office that they no longer use anymore because the  
11 computers are so small. And down below there is --  
12 you come into this building, and once you come in  
13 through the main front door or this little side  
14 door (Indicating), you come into the building, you  
15 have to walk through the sanding shop (Indicating),  
16 which is where they sand all the teak, and walk  
17 through that room and then back out and out into  
18 the large space (Indicating), which also has,  
19 literally, two kitchens in it. It has a kitchen  
20 right here (Indicating), which was, you know, used  
21 for events and things like that, and another  
22 kitchen here (Indicating) that is used on a daily  
23 basis. And then here is (Indicating) is the paint  
24 shop where they varnish this beautifully sanded  
25 wood here, and then here's a bathroom back here

1 (Indciating), which is the only handicap access, or  
2 accessible bathroom, in the whole building. And  
3 then up front here (Indicating) is another  
4 bathroom.

5 And basically what we're trying to accomplish  
6 is to rearrange this so that it, you know, works  
7 better for the day-to-day operation more than  
8 anything else.

9 Right now the masts that are stored in here  
10 for the kind of boats they store now actually come  
11 all the way to the back here and are above your  
12 head when you're standing in the kitchen.

13 So, what we're --

14 MR. WAGNER: So, is that the wine room on  
15 the far right?

16 THE WITNESS: Yes. That's where the  
17 previous owner stored their cork there, their  
18 homemade wines.

19 MR. LIVINGSTON: What is it used for now?

20 THE WITNESS: Actually --

21 (Audience member speaking.)

22 THE STENOGRAPHER: You're not sworn in.

23 THE WITNESS: It's another office.

24 MR. INFANTOLINO: It's an office.

25 MR. WAGNER: Did you take the wine out?

1 THE WITNESS: Yes.

2 MR. INFANTOLINO: It will be taken right  
3 out.

4 THE WITNESS: All right. So, this  
5 (Indicating) is -- this is the upper floor. What  
6 we propose to do on this floor is to put a -- first  
7 of all, remove that incredibly steep staircase and  
8 put a code-level staircase down here that is  
9 actually fireproof -- or fire resistant rather.

10 And then here (Indicating) is a bathroom that  
11 can be used by the staff on this upper level.

12 You come downstairs and this (Indicating)  
13 staircase actually accesses this floor which is  
14 it's already -- the second floor, it's already --  
15 it's already here, but the rise is actually taller  
16 than the run, so it's more like a ladder than a  
17 staircase. And when you slip and fall here, you go  
18 right straight to the bottom. So, the -- what  
19 we're trying to accomplish is, one, replace the  
20 staircase to the offices and, two, create a  
21 handicap or an accessible route from the ground  
22 into these areas here where the clients and staff  
23 can use that, the accessible bathrooms. Moving the  
24 bathroom, as you may remember, out of this space  
25 and moving it here (Indicating) means that the

1 public or the -- their clients don't have to walk  
2 through the entire rigging shop in order to get to  
3 use the facilities.

4 This (Indicating) is the stair that comes  
5 down. This kitchen right here (Indicating) is  
6 combined. Both of these kitchens that were here  
7 and it's actually 200 square feet less than the  
8 combined kitchens as this area where they have the  
9 masts overhead now has its own dedicated area, and  
10 it's a small shop, another additional small shop to  
11 make up for the shop that we took out in order to  
12 put the kitchen here (Indicating).

13 The paint booth -- the sanding booth is now  
14 directly adjacent to the paint booth so that you  
15 don't have to walk through the kitchen and the shop  
16 and everything else with the sanded wood and get it  
17 painted and so on and so forth.

18 So, that's what we're trying to do inside. I  
19 mean, inside there is no actual additions to the  
20 exterior of the building. The only additions to  
21 the exterior are the ramp assembly used for the  
22 access and the new staircase. And those --  
23 those -- actually, I can show you.

24 If you -- this (Indicating) is a blowup of  
25 what you have there. But you can see that the red

1 is the new handicap access, and the black is the  
2 existing. And they overlap each other. What we're  
3 using the ramp is now part of the new staircase and  
4 utilizes the existing -- the deck off the outdoor  
5 showers.

6 We have -- we have -- all right.

7 I told you about the kitchens. Combined are  
8 200 square feet, and the proposed kitchen is  
9 156 square feet. The --

10 MR. BOREN: Oh, I'm sorry. What is the  
11 present kitchen? I was trying to write this down.  
12 Proposed is 156. Present was 200.

13 MR. INFANTOLINO: I'm sorry. The proposed  
14 is 156.

15 MR. BOREN: Yes. I have that as 156.

16 MR. INFANTOLINO: And the total existing  
17 was -- 200? 200.

18 MR. BOREN: 200 existing?

19 MR. INFANTOLINO: Correct. And we're  
20 going down to 156.

21 MR. BOREN: Right. Do you happen to have  
22 any photographs of the building as it exists now?  
23 I know you have done the drawings of what you're  
24 proposing, but it would be nice to see what  
25 presently exists there.



1 THE WITNESS: I have one that was taken  
2 probably in the -- well, here's the one. Here's  
3 one after the '38 hurricane, which is not going to  
4 be useful to you, and the other one is --

5 MR. BOREN: You were the only one here in  
6 the '38 hurricane.

7 THE WITNESS: This is one after they  
8 invented propane.

9 (Laughter.)

10 THE WITNESS: And that's not going to do  
11 you any good. Yes, we have -- I should have  
12 brought some, but I neglected to.

13 MR. WAGNER: Is the applicant going to  
14 speak?

15 MR. INFANTOLINO: If he needs to.

16 MR. WAGNER: Well, I was going to ask  
17 about the intentions of the use of the rigging shop  
18 and office. Are there any changes?

19 MR. INFANTOLINO: No changes in use. No  
20 intentions of changing use. It's more than -- it's  
21 more making the use more efficient for the area.  
22 Like Bill explained, you know, to be able to get to  
23 the one from one area they don't have to walk  
24 through the sanding shop. In order to get to the  
25 ADA-accessible bathroom, they don't have to walk

1 through the entire paint shop. They will be able  
2 to access from the outside, that's the whole  
3 relocation. And then the bathroom upstairs is so  
4 that the employees who are working in the offices  
5 don't have to go down soon-to-be-fixed really steep  
6 staircases.

7 MR. BOREN: Mr. Burgin, with respect to  
8 the present stairway, what is that composed of? In  
9 other words, is it just wood?

10 THE WITNESS: Yes. It's just timber,  
11 timber frame staircase with wood treads, no risers,  
12 a handrailing that you can't really hold onto.  
13 It's very difficult for me to do this job, because  
14 of getting up and down.

15 MR. BOREN: Why don't you tell us what the  
16 difference is between the proposed stairways and  
17 ramp versus the present stairway.

18 THE WITNESS: All right. Well, the --  
19 from a construction standpoint, the treads and  
20 risers on the new staircase will be 6 inches for  
21 the riser and 12 inches for the treads. So, it's a  
22 very comfortable exterior stair, not only in the  
23 summer when it's not raining and snowing on it, but  
24 in the winter when it is.

25 MR. BOREN: The tread will be 6 inches and

1 the riser?

2 THE WITNESS: The riser will be 6 inches,  
3 and the tread would be 12. And the handicap ramp  
4 is -- the length of the ramp is designed to be  
5 1 and 20. So, it's not really categorized as a  
6 ramp. It's a very casual and walk. And what we  
7 have done is doubled up on it so that it makes it  
8 casual. And, you know, a handicap ramp can be as  
9 steep as 1 and 12. But in this case, this is like  
10 a walk. And we have done this in, you know, at  
11 least four or five or six public beach facilities.  
12 So, that it's a very nice comfortable walk for  
13 people going in there. It's not like a steep ramp  
14 where you have got to hold on to both rails, and  
15 the total existing footprint of the stair going up  
16 to the office and the ramp and -- or rather the  
17 deck and stairs that go into the bathrooms in the  
18 rear is 318 square feet. The total proposed  
19 coverage would be 600 -- 768 feet.

20 MR. BOREN: 600 -- I'm sorry?

21 THE WITNESS: 600 -- 768 feet. And the  
22 additional square footage amounts to about  
23 450 square feet.

24 MR. BOREN: And why is there that  
25 difference?

1 THE WITNESS: Well, because the ramp takes  
2 up ground floor area, ground floor area, but again  
3 it's much more comfortable.

4 So --

5 MR. LIVINGSTON: I just have a --  
6 Mr. Infantolino, just so the record is clear,  
7 exactly why are you here? What is the issue?

8 MR. INFANTOLINO: The issue is that the  
9 building is located 6 feet 8 inches off of the rear  
10 property line. And so we would be doing an  
11 exterior -- we're touching the building. Right?  
12 That needs a variance for that. The increase,  
13 which we were just getting into here, there will be  
14 an increase of approximately 160-something square  
15 feet when you back out the ADA stuff. It increases  
16 the lot coverage a little bit. So, it goes up  
17 to -- I think that total -- we did the total  
18 number. So, it's a total of 768. It brings it up  
19 to 33.5 percent lot coverage from a 33 percent lot  
20 coverage. So, for the variance standpoint, which  
21 is what we needed, because we're touching the  
22 building we do need the variance from the 6 foot 8  
23 and then the 33.5 percent lot coverage for the  
24 dimensional variances on that.

25 The second portion of why we're here is

1 because the boatyard operates, like we're talking  
2 about earlier, in a residential neighborhood  
3 underneath the special use permit. So, whatever  
4 special use permit is out there is a caution and/or  
5 to be able to touch any buildings that are there.  
6 Even if we're offered under the grandfathering  
7 right of the special use permit, we do need the  
8 request to modify and/or touch the building.

9 MR. LIVINGSTON: Including the inside?

10 MR. INFANTOLINO: The inside is, again, I  
11 don't believe I need relief for the inside. I  
12 believe the interior modifications were brought to  
13 the attention by the opposing counsel and the  
14 request doesn't tell the whole story in the fear  
15 that there was the potential that we were  
16 increasing and/or expanding on the use of the  
17 operation, which we are not, and so that's what the  
18 interior modification is about.

19 MS. BELL: Okay. Is the interior of the  
20 building handicap accessible?

21 THE WITNESS: No.

22 MR. INFANTOLINO: The main floor is,  
23 though.

24 THE WITNESS: Yes. But just the first.  
25 The second floor --

1 MS. BELL: The bathroom is not -- on the  
2 first floor, is it not handicap?

3 THE WITNESS: Both newly renovated  
4 bathrooms are handicap accessible, but not by the  
5 ramp and -- you know, on the first floor, but the  
6 second floor is not accessible.

7 MR. BROCHU: Mr. Chairman, if I could go  
8 to the question. So, it was -- it's staff's  
9 position that this use on the property was  
10 pre-existing, legal nonconforming, so -- but it is  
11 an allowed use in the zone with the special use  
12 permit. Given that there was no global special use  
13 permit issued, as it was legal nonconforming, the  
14 staff's view was that the changes to the building  
15 where the exterior or interior should come before  
16 the board so the board could evaluate them under  
17 those standards given the current regulatory  
18 environment as that use, although there was no  
19 global special use permit issued, because it was  
20 legal nonconforming, that changes to the building  
21 where the exterior/interior would fall under the  
22 special use permit review.

23 MR. SHEKARCHI: Mr. Chairman, I guess it  
24 may -- again, it's irrelevant. I don't agree with  
25 that. I think you have a legal nonconforming use,

1 and anything on the interior is grandfathered.  
2 Under the statute, it's a continuous use. The  
3 burden is -- doesn't exist that you have to not  
4 say. I think you have continuous use. I think  
5 it's here for dimensional relief on the  
6 intensification of a nonconforming use of the lot  
7 coverage.

8 MR. BROCHU: But the changes to an  
9 interior could change the use that was existing  
10 under the legal nonconforming.

11 MR. SHEKARCHI: But they're saying that  
12 it's not changing.

13 MR. BROCHU: Well, they're saying that  
14 here. But I think that it's --

15 MR. WAGNER: That is not the question.

16 MR. SHEKARCHI: Well, that's how staff  
17 evaluates it.

18 MR. WAGNER: That's why I question it:  
19 Staff.

20 MR. BROCHU: The staff evaluates it.  
21 We're not getting sworn legal testimony. Okay? We  
22 don't know the extent of kitchen renovations. For  
23 example, you know, if they were to put in a full,  
24 blown kitchen and that changes the use of the  
25 property that is something that staff felt this

1 board should --

2 MR. WAGNER: I was looking for the  
3 drive-up window next. That's what I'm looking for.

4 (Laughter.)

5 MR. KING: Does this become a de facto  
6 commercial kitchen?

7 MR. BROCHU: Right. I think it was  
8 important to get on record, both from the town's  
9 perspective and in consideration of the  
10 neighborhood, exactly what they were doing so then  
11 the building official would have clear guidance on  
12 what was approved or not approved based on the  
13 representations or recommendations of the applicant  
14 tonight.

15 THE WITNESS: I think --

16 MR. INFANTOLINO: Wait.

17 (Pause.)

18 MR. INFANTOLINO: Were there any other  
19 questions? I didn't know.

20 MR. BOREN: Mr. Burgin, you may proceed.

21 THE WITNESS: Well, I think the kitchen  
22 itself has actually been reduced considerably in  
23 size, both, you know, so that it combines it into  
24 one kitchen.

25 And the other thing is that from a footprint



1           standpoint of the exterior stairs and deck and  
2           ramp, we basically, you know, increase that size by  
3           450 square feet, but 282 feet of that is an  
4           ADA-compliant, you know, ramp, stair, whatever you  
5           want to call it, that's not required to get any  
6           variances whatsoever, so we're sort of half and  
7           half on that, but nonetheless we have some of that  
8           on our side in terms of making that -- those --  
9           that first floor compliant.

10                   MR. BOREN:   Okay.

11                   THE WITNESS:   And I think that's --

12                   MR. INFANTOLINO:   Yes.   Just, again, I  
13           want to get the criteria on the record just so that  
14           we that can make sure everything is good.

15           BY MR. INFANTOLINO:

16   Q.   Mr. Burgin, in your opinion will the granting of  
17           this relief result in conditions that are harmful  
18           to the public health, safety, morals and welfare?

19   A.   No.

20   Q.   In your opinion, will the granting of this relief  
21           substantially or permanently injure the appropriate  
22           use of the property?

23   A.   No.

24   Q.   Is the hardship from which the applicant seeks  
25           relief due to the unique characteristics of the

1 subject land or structure?

2 A. Yes.

3 Q. Will the granting of the relief alter the general  
4 characteristics of the surrounding area or impair  
5 the intent of our zoning ordinance?

6 A. No.

7 Q. Is the relief being requested the least relief  
8 necessary, in your opinion?

9 A. Yes.

10 MR. INFANTOLINO: Thank you.

11 MR. BOREN: Mr. Fracassa, are you  
12 representing an objector? And would you like to  
13 cross-examine? Do you have any questions of  
14 Mr. Burgin?

15 MR. FRACASSA: For the --

16 MR. BOREN: First, who do you represent?

17 MR. FRACASSA: I represent Charlene  
18 Heintz, Mary Marshall, and about 12 other people  
19 who I can't remember.

20 (Laughter.)

21 MR. BOREN: So, you represent a group?

22 MR. FRACASSA: I do represent a group.

23 And I just have a few questions for Mr. Burgin, and  
24 there may not be many at all.

25 CROSS-EXAMINATION

1 BY MR. FRACASSA:

2 Q. Mr. Burgin, you're an architect, an outside  
3 architect, which was hired by SMH Jamestown  
4 Boatyard; is that correct?

5 A. Yes.

6 Q. Okay. So, you're not an officer or a member of the  
7 LLC; is that correct?

8 A. No.

9 Q. Okay. And I believe you testified here tonight,  
10 and correct me if I'm wrong, that the applicant is  
11 simply looking to use the property, including the  
12 renovated uses, for the same uses which they are  
13 using the property now; is that correct?

14 A. Yes.

15 Q. Okay. Now --

16 MR. BOREN: Could you be a little bit  
17 more definitive.

18 MR. FRACASSA: That was a little wonky.

19 (Laughter.)

20 BY MR. FRACASSA:

21 Q. Mr. Burgin, I'll ask you a question. This may not  
22 be a fair one. Have you seen the --

23 MR. BOREN: Since when do you ask fair  
24 questions?

25 (Laughter.)

1                   MR. FRACASSA: Thank you for pointing that  
2 out, Chairman Boren.

3                   BY MR. FRACASSA:

4 Q. Have you seen the Safe Harbor Jamestown Boatyard  
5 website?

6                   MR. INFANTOLINO: Objection.

7                   MR. BOREN: You may ask it.

8 A. Frankly, I'm -- probably, but don't have any  
9 recollection of it.

10 Q. Okay. All right. And maybe I'll just cut right to  
11 the chase here, just to help things out here. The  
12 neighbors -- if this property is going to be  
13 used -- if the renovations, which are the subject  
14 of the variance in the special use permit, are  
15 simply to be used for the same purposes which the  
16 boatyard is being used now then as far as legally  
17 concerned this is a nothing bird, and that's a good  
18 thing for you folks. However, taking a look at the  
19 Safe Harbor Jamestown Boatyard website here and  
20 SM --

21                   MR. BOREN: Why don't you hold for that a  
22 moment.

23                   MR. FRACASSA: I can.

24                   MR. BOREN: Why don't you put that on --  
25 you're going to have the opportunity to present

1 your own case and make an argument. So, why  
2 don't -- if it's not for Mr. Burgin to answer --

3 MR. FRACASSA: Yeah.

4 MR. BOREN: -- why don't you wait.

5 MR. FRACASSA: It's kind of on the order  
6 of approval.

7 MR. BOREN: I know you want to --

8 MR. FRACASSA: Again, not to be unfair.

9 MR. LIVINGSTON: But let me ask you a  
10 question. If you have something there you think is  
11 a different use, there has got to be somebody on  
12 SHM's side you could ask that question to.

13 MR. FRACASSA: Yes. And if there is --

14 MR. LIVINGSTON: That would be the owners,  
15 right?

16 MR. FRACASSA: Probably. If the owners  
17 are here, I would love to ask them some questions.

18 MR. LIVINGSTON: Put them under oath. Ask  
19 them the questions.

20 MR. FRACASSA: Great. Let's do it.

21 MR. BOREN: Do you have more witnesses?

22 MR. INFANTOLINO: No. I don't have any  
23 other witnesses.

24 MR. BOREN: So, you rest?

25 MR. INFANTOLINO: I do. I do want to say

1 that, you know, before you tonight is not a change  
2 of use application. Before you tonight is an  
3 application exactly what we've put testimony on to.  
4 And we are held by the variances as special use  
5 permits that the yard operates under, and in the  
6 event that the use does ever change we are required  
7 to come before you.

8 MR. WAGNER: So, you wouldn't object to us  
9 putting a condition upon the granting of the  
10 request of us putting a condition that there will  
11 be no change in use of that rigging other than as  
12 rigging shop and office on that building?

13 MR. INFANTOLINO: Do you have a problem  
14 with that?

15 MR. BOREN: Well, I think Mr. Fracassa --

16 MR. INFANTOLINO: Yes. I mean, I want to  
17 make sure sure that, you know, when I say "rigging  
18 shop," I mean he's sands in there, you know, so  
19 there's --

20 MR. WAGNER: Anything they traditionally  
21 do.

22 MR. INFANTOLINO: I know the duties are  
23 not changing. It's a reallocation of the space.

24 MR. BOREN: Let me ask you this. And  
25 maybe we can cut to the chase. Can you put -- just

1 bring up either one of your clients, have them  
2 sworn in, and just simply testify what the present  
3 use is and what the proposed use is.

4 MR. INFANTOLINO: Sure.

5 MR. BOREN: That really gets to the issue.

6 MR. INFANTOLINO: Sure.

7 MR. BOREN: The heart of the issue.

8 MR. BROCHU: Mr. Chairman --

9 MR. BOREN: And, Mr. Fracassa, you still  
10 have the opportunity to question them.

11 MR. FRACASSA: Thank you.

12 MR. BROCHU: Mr. Chairman, before  
13 Mr. Burgin is done, in speaking with the building  
14 official, in looking at the plans -- and I know we  
15 put it on the decision, strict conformance language  
16 into our decision, this application would be  
17 approved, but there is no lighting shown on the  
18 plans.

19 MR. BOREN: No what, please?

20 MR. BROCHU: Lighting. Traditionally,  
21 under special use permit, that's usually one of the  
22 issues that gets touched upon is what lighting is  
23 going to be associated with the renovations. I  
24 don't know if they have any proposed any lighting  
25 to share with the board. But in speaking with the

1 building official, we noted there was none on the  
2 plans.

3 MR. MOORE: Well, if this application is  
4 approved, they have to light the stairways and  
5 ramps. So, I would say just to the board, if they  
6 approve to at least allow per code lighting that is  
7 not in the plan.

8 MR. BROCHU: I wouldn't want to see a  
9 situation where it's not on the plan and then  
10 they're going to try to get the lighting and then  
11 there is a bureaucratic issue there.

12 MR. WAGNER: Sorry. Go ahead.

13 **BRANDON SOMERS**

14 called as a witness and having been first duly  
15 sworn, testifies as follows:

16 THE STENOGRAPHER: Your name, please.

17 THE WITNESS: Brandon Somers, S-o-m-e-r-s.

18 MR. BOREN: You're not coming in clearly.

19 If you're going to wear the mask --

20 THE WITNESS: Sure.

21 MR. BOREN: -- you have to speak very  
22 succinctly.

23 THE WITNESS: Sure.

24 MR. BOREN: What is your name, again?

25 THE WITNESS: Brandon Somers.



DIRECT EXAMINATION

BY MR. INFANTOLINO:

Q. Brandon, can you tell the board what is your position at Safe Harbor Marina?

A. I'm the general manager.

Q. And to answer the question about lighting, is there existing lighting currently on the property?

A. Yes.

Q. And with the new renovations, would you intend -- you would intend to keep those stairs lit and ramps lit according to code?

A. Yes.

Q. And in a downward facing manner?

A. Yes.

Q. And not to increase the intensity of the lighting?

A. Sure.

Q. Mr. Somers, could you please tell the board what is the existing use of the building that we're discussing?

A. As stated, it's a rigging shop and offices upstairs as well as the bathrooms and break room. The rig shop doubles as our break room.

MR. BOREN: Rig or rigging shop? Define that for us.

THE WITNESS: Well, we have a number of

1 departments with that -- within the yard. The  
2 rigging shop and -- composes rigging for the  
3 yachts. So, the masts, that sort of work is  
4 tackled there, you know. For instance, we have a  
5 mechanic shop that handles engines that is in a  
6 different part of the facility. So, this is just  
7 one of the sectors we handle.

8 MR. BOREN: How many employees work in  
9 that building, on a day?

10 THE WITNESS: Maybe five or six.

11 MR. BOREN: Is your office in that  
12 building?

13 THE WITNESS: Yes.

14 MR. BOREN: And those five to six  
15 employees, are they workers that actually do the  
16 work on the rigging, the sanding, things of that  
17 nature?

18 THE WITNESS: Yes. I mean, that -- no.  
19 It comprises some of the office staff as well as  
20 some people in the rigging shop.

21 MR. BOREN: Okay. What is done in the  
22 rigging shop? What is done within that building?  
23 I have heard Mr. Burgin mention teak, I heard  
24 Mr. Burgin mention sanding.

25 THE WITNESS: Sure.

1 MR. BOREN: Why don't you tell us  
2 everything that's done in that building.

3 THE WITNESS: So, currently the rigging  
4 shop -- although it sounds like there is a lot of  
5 work done there, most of the rigging is done on the  
6 rigs, out on the boats. So, it is primarily  
7 storage of the furling units for the headsails as  
8 well as some inside work that is tackled there on  
9 the benches, which, honestly, is minimal. There is  
10 a sanding and varnishing shop there. So, depending  
11 on what workload we have we may have someone  
12 sanding or varnishing there. And then there is an  
13 office at the front of the building. That is for  
14 the launch operator. And then our normal office is  
15 upstairs.

16 MR. WAGNER: How many offices?

17 THE WITNESS: It's one whole story. You  
18 know, one floor, basically. So, it's --

19 MR. BOREN: The upstairs?

20 THE WITNESS: Yes, the upstairs is the  
21 office, correct.

22 MR. BOREN: And do you intend to keep it  
23 that way?

24 THE WITNESS: Yes.

25 BY MR. INFANTOLINO:

1 Q. Mr. Somers, with this remodel or modifications  
2 inside, do you intend to change any of the uses of  
3 the building inside?

4 A. No.

5 MR. BOREN: Are you intending to have more  
6 employees work inside?

7 THE WITNESS: No.

8 MR. BOREN: Well, will the extent of what  
9 you presently do in that building change at all,  
10 will it increase?

11 THE WITNESS: No.

12 (Pause.)

13 MR. BOREN: Does anybody else have any  
14 questions before Mr. Fracassa?

15 MR. LIVINGSTON: I just --

16 So, you would have no problem of us putting  
17 any kind of condition that the use will not change  
18 other than as you have stated here today, correct?

19 THE WITNESS: Sure. I mean, I would --  
20 you know, if we decided to do some mechanical work  
21 in there instead of rigging work, I would hate for  
22 that to be written into the record.

23 MR. LIVINGSTON: What do you mean  
24 mechanical work, that they need in a rigging shop?

25 THE WITNESS: Correct.

1 MR. LIVINGSTON: I mean, we can put  
2 rigging, mechanical.

3 THE WITNESS: Service work. I don't know  
4 that we need to define it as strictly rigging.  
5 There is service -- there is service and offices  
6 would be, I think, the way I would look at it.

7 MR. INFANTOLINO: It is an active  
8 boatyard, and they would want to be able to utilize  
9 their space as efficiently as possible. And I  
10 guess that my was hesitation with the condition. I  
11 wanted to leave it -- I don't want it to be  
12 extremely broad. We're not changing it. But,  
13 again, service work on the boats, you know, whether  
14 it be varnishing one day or -- you know.

15 MR. WAGNER: I don't think that's the  
16 concerns the neighbors have. I think we will  
17 probably hear some more about that. The concern is  
18 going to be the actual change of use in the  
19 building, what is the kitchen for, what is going  
20 on.

21 MR. INFANTOLINO: And I --

22 MR. WAGNER: I haven't seen the website,  
23 but maybe we'll hear about that.

24 MR. INFANTOLINO: Sure.

25 MR. WAGNER: That's what -- that's what

1 the concern is, I think.

2 MR. INFANTOLINO: That's not what is being  
3 proposed. If that use of does come to change,  
4 we're under the strict guidance to come to you for  
5 approval for that.

6 MR. BOREN: How many buildings are on the  
7 premises?

8 THE WITNESS: Three.

9 MR. BOREN: And what is the --

10 THE WITNESS: I take that back. There  
11 is -- there are two subsequent little shacks. So,  
12 I excluded those. There is -- if you want to  
13 include those, there is five.

14 MR. BOREN: Okay. And is this building  
15 the largest building on the premises?

16 THE WITNESS: No.

17 MR. BOREN: Second largest, third largest?

18 THE WITNESS: Third largest.

19 MR. WAGNER: The other building is for  
20 boating storage mostly?

21 THE WITNESS: We have a boat storage  
22 facility and we have our services bays, which are  
23 kind of centrally located in the facility.

24 MR. WAGNER: And how long have you been  
25 the general manager?

1 THE WITNESS: A year.

2 MR. WAGNER: And were you employed --  
3 where were you employed before that?

4 THE WITNESS: At the boatyard.

5 MR. WAGNER: How long?

6 THE WITNESS: This is probably my  
7 sixteenth year.

8 MR. WAGNER: Okay.

9 MR. BOREN: Mr. Fracassa?

10 MR. FRACASSA: Yes.

11 CROSS-EXAMINATION

12 BY MR. FRACASSA:

13 Q. Mr. Somers, who specifically are you employed by?

14 A. Safe Harbor Marines.

15 Q. Safe Harbor Marina?

16 A. Yes.

17 Q. Okay. What is Safe Harbor Marina?

18 A. They are a real estate investment trust that owns a  
19 number of boatyards.

20 Q. And they own a number of boatyards throughout the  
21 country; is that correct?

22 A. That's correct.

23 Q. All right. And they're based out of Texas?

24 A. That is correct.

25 Q. All right.

1 A. We are now -- to be fully transparent, we are now  
2 owned by a company called "Sun Communities." And,  
3 frankly, I don't know where their office is, but --  
4 but our true driving factor is Safe Harbors, and  
5 they are out of Dallas.

6 Q. Okay. How long has Safe Harbor Marinas been  
7 affiliated with the Jamestown Boatyard?

8 A. Two years.

9 Q. Two years?

10 A. Yes.

11 Q. Okay. Now, you're familiar with the -- and this  
12 may help clear up a lot of confusion.

13 A. Sure.

14 Q. You're aware that Safe Harbor Jamestown Boatyard  
15 has a website, correct?

16 A. I am.

17 Q. And you're familiar with that website?

18 A. Somewhat.

19 Q. Somewhat.

20 A. I'm more familiar with our own website, which is  
21 JBY.com. Safe Harbor manages their own string of  
22 websites.

23 Q. Okay. I'll show you --

24 MR. FRACASSA: If I can have this marked  
25 first, please.



1 (Document handed.)

2 MR. BOREN: Thank you. Copies  
3 for everybody?

4 MR. FRACASSA: I have got a ton of copies.  
5 I have copies for all you folks.

6 MR. INFANTOLINO: Can I have a copy of  
7 that?

8 MR. FRACASSA: Well, not all of you if he  
9 wants one.

10 (Laughter.)

11 MR. WAGNER: I'll share.

12 MR. INFANTOLINO: Thank you.

13 MR. BOREN: Opposition No. 1 -- No. A.

14 (Opposition Exhibit A so marked.)

15 MR. FRACASSA: A.

16 MR. BOREN: Put a copy in this  
17 (Indicating).

18 MR. FRACASSA: And I just want to let the  
19 board know that we may not be oppositioned  
20 depending on what comes out of this tonight.

21 MR. BOREN: I didn't get a copy. I'll  
22 look at the one --

23 MR. KING: Have this one, and I'll share  
24 with --

25 MR. FRACASSA: Do you have the copy that

1 was marked?

2 MR. BOREN: Yes, I do.

3 MR. FRACASSA: I would like to show it to  
4 the victim.

5 MR. BOREN: Yes.

6 (Laughter.)

7 BY MR. FRACASSA:

8 Q. I'll show you what has been marked there.

9 A. Sure.

10 Q. If you could just take your time and take a look at  
11 the pages there.

12 A. Sure.

13 Q. I believe it's five pages total. And I will  
14 represent to you that I accessed the website today,  
15 and I made screenshots of what I viewed on the  
16 website. And one of those pages, I believe it's  
17 either the third or the fourth page, is a blowup of  
18 the featured amenities portion of the site.

19 A. (Witness reviewing document.) Sure.

20 Q. Okay. Now, before we get to any questions about  
21 it, do you recognize that as screenshots of the  
22 Safe Harbor Jamestown Boatyard website?

23 A. Sure.

24 Q. Okay. And have you -- I'm just going to go to the  
25 first page of the exhibit, which you have there,

1 and hopefully you're able to read it because it's  
2 in -- it's in smaller print. I'm cheating on this  
3 thing here (Indicating). And I'm just going to  
4 read it briefly. "Safe Harbor Jamestown Boatyard  
5 is peacefully nestled among the scenic granite  
6 bluffs and gorgeous coastal landscapes of  
7 Narragansett Bay's East Passage, Block Island, the  
8 Cape, and Newport Harbor and are all within easy  
9 reach, while a premier marine service facility,  
10 first-class amenities, and summer days abundant in  
11 lively cookouts, acclaimed music festivals, and  
12 thrilling regattas give boaters a truly  
13 all-inclusive waterfront experience." Did I read  
14 that correctly?

15 A. You did.

16 Q. All right. And at least most of that and perhaps  
17 all of that, depending on what we discuss tonight,  
18 that's related to what Jamestown and the area have  
19 to offer; is that correct? That's not speaking  
20 specifically to this boatyard. Am I getting that  
21 right?

22 A. That is in the area. Sure.

23 Q. Now, if we can go to either the third or fourth  
24 page regarding the featured amenities -- and if you  
25 could take a look at the blowup there.

- 1 A. (Witness reviewing document.) Sure.
- 2 Q. All righ. And you have seen that page before,  
3 correct?
- 4 A. I have.
- 5 Q. All right. And it lists featured amenities as  
6 "Barbecue Grills, Community Leisure Space,  
7 Complimentary Parking, Complimentary Wi-Fi,  
8 Courtesy Bikes, a Dog Park, Fire Pit, Kitchenette,  
9 Lawn Games, Restrooms and Showers." Did I get that  
10 right?
- 11 A. You did.
- 12 Q. Okay. Now, those featured amenities, do any of  
13 those exist at the Jamestown Boatyard currently?
- 14 A. Yes. Some do.
- 15 Q. Which ones?
- 16 A. I would say all but the dog park.
- 17 Q. All but the dog park exists at the Jamestown  
18 Boatyard. Who uses the barbecue grills?
- 19 A. Anyone from our staff to the customers.
- 20 Q. Who are your customers?
- 21 A. Any of our current customers or transient  
22 customers.
- 23 A. And so it's to people who come in the boats who  
24 come and go; is that correct?
- 25 A. People that come on the boats?

1 Q. I'm not a boater so my boat speak is pretty lousy.

2 A. Sure. Well, let me try and speak to our clientele  
3 a little bit. We seek to have a very small  
4 turnover, both in our storage and in our moorings.  
5 So, this year our moorings were probably 95 percent  
6 sold. So, with those, with that number of moorings  
7 95 percent sold, that leaves a few moorings that  
8 are what we call transients, and there is a service  
9 that you can rent out those moorings on. So, for  
10 the times when there are -- when the mooring is  
11 vacant, yes, we try and fill that space with a  
12 transient customer, which is either one of our  
13 customers that does not have a seasonal mooring  
14 agreement with us. So, someone that may store with  
15 us or has been a customer for years but keeps their  
16 boat somewhere else, or someone who we don't know,  
17 just a normal transient customer.

18 Q. Okay. Now, how many fire pits do you have there?

19 A. We have one.

20 Q. What do they do at the fire pit, just hang out?

21 A. Yes.

22 Q. Now, I take a look at the -- looking at the  
23 application here. And I'll show you a copy of it,  
24 if you want to look at it.

25 A. Okay.

1 Q. Present use of premises: Boat storage,  
2 maintenance, office. How does a fire pit fit into  
3 that?

4 A. I don't know where the fire pit is --

5 MR. INFANTOLINO: Objection. We're  
6 talking about the building, not the entire yard.

7 MR. FRACASSA: Okay.

8 BY MR. FRACASSA:

9 Q. You also advertise on the -- well, what's also on  
10 the website here is kitchenette?

11 MR. INFANTOLINO: Objection. This is a  
12 corporate website, not a Jamestown Boatyard  
13 website.

14 MR. FRACASSA: Well, then he can testify  
15 to that.

16 MR. INFANTOLINO: He's already said that.

17 BY MR. FRACASSA:

18 Q. If we take a look at some of the uses here, the  
19 featured amenities, one of those is a kitchenette;  
20 is that correct?

21 A. That is correct.

22 Q. And that's inside the building, correct?

23 A. Yes.

24 Q. All right. And that's one of the areas which is  
25 being modified through this proposal; isn't it?

1 A. That's correct.

2 Q. Who uses the kitchenette?

3 A. Mostly our staff.

4 Q. Mostly your staff?

5 A. Yes. If we have -- if we have someone showing up  
6 that is departing for a while, we allow them to  
7 store their groceries in the fridge so it doesn't  
8 go bad. Most of the boats don't have a provision  
9 to maintain adequately a temperature in a  
10 refrigerator because they're on batteries. So,  
11 the -- they shut down their boat, they put their  
12 food in our refrigerator. They take off for a  
13 couple days, come back, take their food and go on  
14 their way.

15 Q. Do they do any cooking there?

16 A. No. They have their own boat. If they want to  
17 make a sandwich I don't think I would object, but  
18 they are not coming in to use our facilities to  
19 bake a cake.

20 Q. Okay. But they're coming in to use your facilities  
21 to store food; am I getting that right?

22 A. Yeah. Sure.

23 Q. Okay.

24 A. And, again, this -- I use that example to  
25 illustrate how the facility is used. Not -- it is

1 an infrequent use.

2 Q. Okay. So, the kitchenette is not entirely used by  
3 employees, it's also used by some of your  
4 customers; is that correct?

5 A. Sure. If you want to needle down into it, sure.

6 Q. Okay. And as far as the renovations here, what  
7 effect will that have on use by customers?

8 A. None.

9 Q. It won't increase at all?

10 A. I don't think so.

11 Q. Will any cooking in the kitchen be done for  
12 customers?

13 A. Yeah, if we have a Christmas party. Same as --  
14 same as now. If we have a -- if we have some type  
15 of party to show our support of our customers, yes,  
16 we may -- we may heat something up in the oven or  
17 we may wash some dishes from the event.

18 Q. How often does that occur?

19 A. A smattering of times a year.

20 Q. More during the summer?

21 A. Sure.

22 Q. And the renovations which you're doing here will  
23 accommodate that, will they not?

24 A. Yeah. No more than they do currently.

25 Q. Okay. And the featured amenities also include



1       restrooms; is that correct?

2   A.   Yes.

3   Q.   All right.  And so featured -- these restroom are  
4       also used by your customers and not just by your  
5       staff; is that correct?

6   A.   That is correct.

7   Q.   Okay.  And also it notes showers there, too; is  
8       that right?

9   A.   Say that again?

10  Q.   Showers?

11  A.   Are you asking if showers is on this piece of  
12       paper?  Yes.

13  Q.   Well, I understand it's on the piece of paper.  I'm  
14       sorry.  I probably didn't phrase that question  
15       correctly.  Are the showers at the boatyard used  
16       solely by the employees?

17  A.   No.

18  Q.   Okay.  And they're used by your customers; is that  
19       correct?

20  A.   Are they -- are you asking if they're solely used  
21       by our customers --

22  Q.   No?

23  A.   -- or are they used by both.

24  Q.   I'm asking if they're used by your customers as  
25       well as your employees?

1 A. Yes.

2 Q. Okay. And how often are they used by your  
3 customers?

4 A. I -- I don't count.

5 Q. Okay.

6 A. Nor do I count how often they're used by my  
7 employees.

8 Q. Okay. Say during the summertime, that's -- the  
9 summertime is your biggest season, correct?

10 A. Well, it depends on what gauge you're using to  
11 judge that.

12 Q. As far as -- well, let's use the gauge of your  
13 customers; namely, the transients, the people who  
14 come in, maybe use the kitchenette, people who  
15 would use the barbecue grills, the community  
16 leisure space, the fire pits, the lawn games, which  
17 are advertised there, all of those folks.  
18 Customers use those as well; is that correct?

19 A. Yes.

20 Q. And the time when you have, mostly have customers  
21 there who would use these amenities, which are  
22 noted on the website, is during the summertime; is  
23 that correct?

24 A. Yes.

25 Q. Okay. Now, do you run a yacht club here?

1 A. No.

2 Q. Are you looking to run a yacht club here?

3 A. No.

4 MR. INFANTOLINO: Objection.

5 BY MR. FRACASSA:

6 Q. Where is the complimentary parking located?

7 A. In our facility.

8 Q. How many parking spaces do you have in your  
9 facility?

10 MR. INFANTOLINO: Objection. We're not  
11 here for parking.

12 MR. FRACASSA: Well --

13 MR. BOREN: You may ask the question. Go  
14 ahead.

15 A. I don't know the number, but we have a parking plan  
16 that we have gone over with the town before. It's  
17 a flexible parking plan, because, as you know, we  
18 store boats. So, like an event center, you may  
19 have all the cars parked bumper to bumper or you  
20 may have individual spaces that are easier to come  
21 and go from.

22 Q. Right. You're -- the boating customers, the people  
23 who have the boats out on the water, either docked  
24 or out on the mooring?

25 A. Sure.

1 Q. They park there; is that correct?

2 A. No. It depends.

3 Q. Where do they park?

4 A. Well, as you mentioned, they may be transients.

5 So, that means they come on their boat and leave on

6 their boat. So, they may park anywhere in the

7 world.

8 Q. They don't have any cars there. But how about the

9 people who -- is there a marina there?

10 A. Depends on how want to define "a marina."

11 Q. How do you define "marina"?

12 A. Well, some people think of it as a large sprawling

13 complex that has a lot of docks. That's not us.

14 Q. Okay. How about just a small number of docks where

15 boats tie up for customers?

16 A. You could call it that. Our facility, we do mostly

17 service work. We have a number of out-hauls and

18 small docks for people with center consoles, but

19 all of our docks are mostly for service work.

20 Q. Okay. So, do you have any understanding as to who

21 gets to use the complimentary parking, which is

22 noted as a featured amenity on your website?

23 A. Yes. Our seasonal customers.

24 Q. Okay. Courtesy bikes, do you rent bikes out of the

25 building?

1 A. No. It's a courtesy.

2 Q. Okay. What do you mean "a courtesy"?

3 A. You're a customer --

4 Q. If you could just explain --

5 A. Sure. If you're a customer of ours, and you need  
6 to get to town to go grab a sandwich, there is a  
7 bike for you.

8 Q. And how many bikes do you have available for your  
9 customers?

10 A. Two.

11 Q. Just two bikes?

12 A. They're really -- they used to be Steve DeVoe's  
13 bikes. I honestly don't know where they are now.

14 Q. Oh, gees.

15 (Laughter.)

16 BY MR. FRACASSA:

17 Q. All right. Two bikes. I don't think that is a big  
18 deal.

19 A. Okay.

20 Q. Let's see. What is the community leisure space, if  
21 you know?

22 A. We have a deck leading out to our -- out to the  
23 fixed pier where you access the launch, and that's  
24 also where the barbecue is. There is roughly a  
25 10 by 10 deck that people can sit at a picnic table

1 and enjoy each other's company.

2 Q. Okay. All right.

3 MR. BOREN: Does that have anything to do  
4 with this particular building?

5 THE WITNESS: It does not.

6 (Pause.)

7 MR. FRACASSA: I'm just taking a look. I  
8 may be done.

9 MR. WAGNER: Is the business expanding?

10 THE WITNESS: It is not.

11 MR. FRACASSA: I'm all set. Thank you.

12 MR. INFANTOLINO: May I?

13 MR. BOREN: Go ahead, yes.

14 REDIRECT EXAMINATION

15 BY MR. INFANTOLINO:

16 Q. Mr. Somers, Mr. Fracassa pointed out a website and  
17 all of the features. And on that, one of his  
18 questions, I believe you stated, and correct me if  
19 I'm wrong, that a majority of the amenities are  
20 currently existing on the property except for the  
21 dog park; is that correct?

22 A. That is correct.

23 Q. And you're currently utilizing those existing  
24 amenities today?

25 A. I am.

1 Q. And with these modifications to the building, do  
2 you intend to change any of the uses that you're  
3 currently doing today?

4 A. No.

5 MR. INFANTOLINO: Thank you.

6 MR. LIVINGSTON: You're not going to have  
7 a dog park, right?

8 THE WITNESS: I don't know. Now that it's  
9 brought to my attention, it's pretty tempting. No.

10 (Laughter.)

11 MR. WAGNER: Are you a cat guy?

12 (Laughter.)

13 MR. INFANTOLINO: Does the board have any  
14 further questions for Mr. Somers?

15 MR. BOREN: Pardon?

16 MR. INFANTOLINO: Does the board have any  
17 further questions for Mr. Somers?

18 MS. BENTLEY: I do.

19 MR. BOREN: Anybody else?

20 MS. BENTLEY: I don't think this was  
21 answered, how many parking spaces you have for your  
22 regular customers. First of all, how many moorings  
23 do you have here?

24 THE WITNESS: We have 86, I believe.

25 MS. BENTLEY: 86.

1 THE WITNESS: 87.

2 MS. BENTLEY: So, at any given time you  
3 could have 86 people show up to park?

4 THE WITNESS: That would be -- that would  
5 be a feat, but sure.

6 MS. BENTLEY: How many parking spaces do  
7 you have for your 86 people?

8 MR. INFANTOLINO: There has been a parking  
9 plan submitted in several prior applications that  
10 shows and utilizes that this particular boatyard is  
11 over two acres in size, and they can fit -- they  
12 have parked easily the amount parking required for  
13 the amount of moorings that they have for this  
14 particular property.

15 And the expansion that we're requesting for  
16 today does not necessitate an addition and/or a  
17 subtraction of required parking spaces. The  
18 boatyard is in full compliance with their parking.

19 To date we have received no zoning infractions  
20 for the same.

21 MS. BENTLEY: So, essentially, it doesn't  
22 really answer my questions. How many parking  
23 spaces do you have available?

24 THE WITNESS: Well, we don't have a  
25 parking lot so we don't have parking spaces marked



1 out on the ground. So, to count individual spaces  
2 on the ground is not the way to look at it. In the  
3 parking plan we have calculated the square footage  
4 and the square footage of a vehicle. We have also  
5 drawn it as -- it sounds like you're requesting for  
6 parking spaces. And I don't have that exact number  
7 in my head, but we do have a parking plan that can  
8 illustrate that.

9 MS. BENTLEY: Another question I have.

10 THE WITNESS: Sure.

11 MS. BENTLEY: I looked at this  
12 comprehensive plan, and actually I was down there  
13 on Saturday walking around the premises.

14 THE WITNESS: Uh-huh.

15 MS. BENTLEY: I went to the back, which is  
16 very close to the line, and I saw that the showers  
17 are open.

18 THE WITNESS: Sure.

19 MS. BENTLEY: They're just curtains and  
20 the showers. Are you closing that in?

21 THE WITNESS: We had talked with Charlene  
22 about the possibility of doing so.

23 MS. BENTLEY: Because it's so close to  
24 that line, is there going to be all kinds of  
25 equipment back there abutting putting up this

1 structure?

2 THE WITNESS: I don't know if I would say  
3 all kinds. No. I mean, the only structure there  
4 would be something to cover the showers to shield,  
5 to shield Charlene's vantage point from her deck.  
6 So, this would not be a --

7 MS. BENTLEY: Well, what I saw was pretty  
8 rustic. So, are you planning to upgrade those  
9 showers?

10 THE WITNESS: If we need to put a covering  
11 on those, then, yes, we will probably have to  
12 reorient or change the showers.

13 MR. BOREN: The drawings that Mr. Burgin  
14 provided us show that the railings are a very  
15 modern contemporary cable railing. Is that, in  
16 fact, what you intend to use?

17 THE WITNESS: That is our intent.

18 MR. BOREN: That could be a condition if  
19 we wanted to put that as a condition since you did,  
20 in fact, provide drawings with cable railings?

21 THE WITNESS: Yeah, yup. I guess my only  
22 fear with that is if there is some reason why they  
23 couldn't be used for the -- in terms of  
24 construction, I just don't want to speak to that.

25 MR. BOREN: Well, one reason is that

1 they're probably five times the cost of just wooden  
2 railings.

3 THE WITNESS: Sure.

4 MR. BOREN: They're probably the most  
5 expensive railings you could think of.

6 MR. INFANTOLINO: Thank you, Bill.

7 (Laughter.)

8 MR. BURGIN: If you own a shipyard and you  
9 work with wire and stainless steel, I mean --

10 THE WITNESS: It's basically free.

11 (Laughter.)

12 MR. MOORE: A lot of rigging wiring.

13 MR. WAGNER: There you go.

14 THE WITNESS: No. Our intent with it is  
15 to make the facility -- to improve the aesthetics  
16 as well as the functionality. So, as drawn is what  
17 is envisioned. And we would like to proceed that  
18 way unless there is some -- some -- there is  
19 something that stops us from doing that. And at  
20 this point it's not the dollars.

21 MR. BOREN: Thank you. We have done this  
22 in a little unusual fashion, both Mr. Infantolino  
23 and Mr. Fracassa.

24 Mr. Fracassa, we have received in  
25 correspondence letters from certain people, and I

1 would like you to first verify that you represent  
2 those people. I'm trying to see whether we need  
3 everybody to testify or whether we introduce the  
4 letters and we don't need people testifying. So,  
5 let me just name the people and see if --

6 MR. FRACASSA: They may have to verify  
7 themselves.

8 MR. BOREN: I know. That's all right.

9 Okay. Clay and Jeff Bovie (Phonetic). Are  
10 you represented by Mr. Fracassa?

11 MR. FRACASSA: Is that a yes?

12 UNIDENTIFIED PARTIES: Yes.

13 MR. BOREN: Yes. Okay.

14 MR. WAGNER: We didn't get those in our  
15 packets.

16 MR. BOREN: No. We were supposed to and  
17 we didn't.

18 MR. WAGNER: Well, we didn't. So, if  
19 briefly, they want to say something briefly, I  
20 would like to hear what they have to say.

21 MR. BOREN: Okay. We will. We will. All  
22 right. I just want to make sure that --

23 Richardson?

24 UNIDENTIFIED PERSON: Yes.

25 MR. BOREN: Charlene Heintz?

1 UNIDENTIFIED PERSON: Yes.

2 MR. BOREN: William Hutchinson?

3 UNIDENTIFIED PERSON: Yes.

4 UNIDENTIFIED PERSON: Actually two  
5 Richardson.

6 MR. BOREN: Meghan and Michael Rainone  
7 (Phonetic)?

8 UNIDENTIFIED PERSON: Yes.

9 MR. BOREN: Okay. Is there anybody that  
10 has supplied us with correspondence -- and we just  
11 received that this evening -- who would like to  
12 speak, please come up and do so.

13 UNIDENTIFIED SPEAKER: I would like to  
14 speak. I haven't submitted it to you, but I have  
15 it here.

16 MR. BOREN: Okay. Would you like to come  
17 up and be sworn in and say something?

18 MR. KING: For or against?

19 MR. BOREN: Pardon?

20 MR. KING: For or against?

21 MR. BOREN: I'm presuming against.

22 Just go ahead. We have done this in a little  
23 strange way.

24 Is there anybody that wanted to speak in favor  
25 of the application?

1 (Pause.)

2 MR. BOREN: And now I'm going to ask if  
3 there is anybody who would like to speak either in  
4 opposition or has questions regarding the  
5 application.

6 MR. GRAVDAHL: Speak in opposition.

7 MR. BOREN: What is your name, please.

8 MR. GRAVDAHL: Jeff Gravidahl.

9 **JEFFREY GRAVDAHL**

10 called as a witness and having been first duly  
11 sworn, testifies as follows:

12 MR. BOREN: How do you spell your last  
13 name, please.

14 MR. GRAVDAHL: G-r-a-v-d-a-h-l.

15 THE STENOGRAPHER: Thank you. J-e-f-f?

16 MR. GRAVDAHL: J-e-f-f-r-e-y.

17 MR. BOREN: Why don't you tell us where  
18 you're living and --

19 MR. GRAVDAHL: I live at 19 --

20 MR. BOREN: -- how close you are?

21 MR. GRAVDAHL: Excuse me?

22 MR. BOREN: And how close are you to the  
23 shipyard?

24 MR. GRAVDAHL: Well, I reside at  
25 19 Seafarer Court in the North End. But I am a

1 co-owner of a property known as Birdview, which is  
2 at 28 Newport Street, which sits above the  
3 boatyard. We are an abutter within the 200 feet  
4 range.

5 The property has been in our family for  
6 approximately 70 years. I also speak on behalf of  
7 my coowners Barbara Trout and Nancy Sall. They are  
8 also full-time residents of Jamestown.

9 The very second that Safe Harbor purchased the  
10 Jamestown Boatyard, the intensity of the  
11 nonconforming business use of the property  
12 increased dramatically. The boatyard spiraled from  
13 catering to a relatively small number of local  
14 boatowners to being an advertised destination spot  
15 for all Safe Harbor's thousands of members to visit  
16 and use. Just as all of Safe Harbor's other yards  
17 and marinas are made available to -- made available  
18 to Safe Harbor members.

19 My sisters and I oppose any and all changes or  
20 alterations that are designed to attract transient  
21 Safe Harbor members to the property. Such  
22 amenities would include but not limited to  
23 kitchens, showers, decks, meeting rooms, and  
24 expanded bathroom facilities.

25 We believe it is the responsibility of the

1 zoning board to prevent the expansion and intensity  
2 of use of any nonconforming business property  
3 located in an R80 residential zone, and we trust  
4 that this board will fulfill its responsibility now  
5 and in the future.

6 Thank you.

7 MR. BOREN: Is there anybody else that  
8 would like to speak?

9 (Pause.)

10 MR. BOREN: Mr. Fracassa?

11 MR. FRACASSA: It would just be a quick  
12 summary. That's about it. I don't know if you  
13 want that now.

14 MR. BOREN: Well, I will let you make a  
15 quick summary, but I will also provide  
16 Mr. Infantolino with a quick summary.

17 MR. INFANTOLINO: He can go first.

18 MR. BOREN: Since Mr. Infantolino has the  
19 burden, he goes last.

20 MR. FRACASSA: Okay. I was a little -- I  
21 was actually a little surprised by some of the  
22 testimony here tonight. I mean, I looked at the  
23 website, and I did not know whether or not that was  
24 simply, you know -- and I'm speaking specifically  
25 about the featured amenities, because those



1 featured amenities, those are an advertised -- that  
2 is something to attract people and attract members  
3 of Safe Harbor and Safe Harbor membership network  
4 to the Jamestown Boatyard. And those amenities, if  
5 you take a look at them, they look an awful lot  
6 like a yacht club, a recreational facility of  
7 sorts, when you have barbecue pits and fire pits,  
8 and complimentary Wi-Fi, and kitchenette, and  
9 things of that nature. And that's where the  
10 concern and the question of the neighbors really  
11 came from.

12 And I was here tonight mostly to explore that.  
13 And if I take a look at -- if we take a look at the  
14 application here, present use of premises, both  
15 storage, maintenance and office. That's pretty  
16 vanilla. But that stands starkly in contrast with  
17 what is advertised on the Safe Harbor Marina  
18 website for the Jamestown Boatyard, and now we're  
19 finding out that those amenities actually exist.

20 This is more than just a boatyard or boat  
21 maintenance or an office. This is coming darn  
22 close to a yacht club. Now, a yacht club, as long  
23 as you don't have alcohol with it, is a use which  
24 is permitted by special use permit.

25 Now, whether these amenities have been there

1 from the get-go or not, I have no idea. I don't  
2 know if anybody knows that. But this is a  
3 different animal.

4 What is advertised on the website and what  
5 apparently is being used at this is quite a bit  
6 different from the vanilla present use of the  
7 premises boat storage, maintenance office.  
8 Proposed use of premises: No change. This is a  
9 little bit different.

10 And I understand my brother's concern  
11 attempting to limit the questioning solely towards  
12 what was happening inside the structure. But a  
13 special use permit applies to the entire property,  
14 the entire use. The use isn't limited to just what  
15 is in the inside there. You have to take a look at  
16 everything which is happening at this place.

17 And I was also very surprised to hear that  
18 they don't even have a parking lot, don't have a  
19 number of parking spaces, yet they have amenities.  
20 And I understand the transient boaters aren't going  
21 to need parking, but the other customers, which  
22 they have, who have boats there, who don't use it  
23 just for boat storage, but at the docks, they're  
24 going to need some parking here. There has got to  
25 be a parking plan with this particular application

1 that has got to take into account everything here.

2 MR. BOREN: If I could interrupt you for a  
3 second, I have a question to ask.

4 The application is a very simple application.  
5 And are we, as a zoning board, limited to the four  
6 corners of the application as opposed to reasoned  
7 speculation -- and I'm not going to say wild  
8 speculation, because it's very reasoned  
9 speculation -- regarding the amenities and the  
10 testimony you have elicited? But are we still  
11 limited to the four corners of the application,  
12 which on its face is more than reasonable and  
13 limited?

14 MR. FRACASSA: If it were the -- the  
15 answer to that question is no. You're limited to,  
16 I would say, the four corners of the property.  
17 Special use applies to the whole property. And the  
18 present use of premises, i.e., the whole property,  
19 they're telling us it's boat storage, maintenance,  
20 and office. But we were here tonight, and what we  
21 have seen advertised on their website, it's a whole  
22 heck of a lot more than that. So, I think they  
23 have got a very big issue overall with the use of  
24 this premises. And trying to focus it solely on  
25 just the building and, no, let's not talk about

1 anything else going on at this property for which  
2 we're seeking a special use permit related to the  
3 whole property, the application is woefully  
4 incomplete.

5 And for that reason I would ask that it be  
6 denied without prejudice to file a complete  
7 application that accounts for all of the uses on  
8 the premises.

9 Thank you.

10 MR. BOREN: Mr. Infantolino.

11 MR. INFANTOLINO: You heard testimony  
12 tonight of what the existing uses were and what the  
13 proposed uses are. And that testimony is that  
14 nothing is going to change.

15 The amenities that my brother pointed out are  
16 on a corporate website, not on the Jamestown  
17 Boatyard's website, and they're amenities that are  
18 associated with a boatyard as well.

19 The uses at the boatyard are not changing and  
20 are not planning on changing. They're not  
21 expanding the use of -- that is currently existing,  
22 and that's not what is before you tonight.

23 The use itself, as we determined, is an  
24 allowable use by special use permit. However, this  
25 particular use as the boatyard and in the area has

1       been grandfathered in since the early 1900s was  
2       being used as a boatyard, well before the enactment  
3       of our zoning ordinance and any requirements.

4             The -- any change of that use would require us  
5       to come back before you. We would have had a  
6       zoning violation or, you know, if we were in  
7       violation of that.

8             And the testimony before you basically said  
9       that, you know, that the stairway is not going to  
10      create harmful effect. The reallocation of the  
11      bathrooms are not created -- they are not expanding  
12      upon what is currently existing there.

13            I would implore this board to grant this  
14      special use permit -- modification of the special  
15      use permit as well as the variances that were  
16      requested within the application in order to  
17      accommodate these.

18            MR. BOREN: I think -- and I will address  
19      to both of you. From a procedural point of view, I  
20      think there are a couple of ways or a few ways that  
21      we can proceed, and one of them is not voting  
22      tonight. I don't believe that we should vote  
23      tonight.

24            One option that I think we can give to you is  
25      that I think there are a number of legal issues

1 that were raised, and we could request memoranda,  
2 briefs, on those legal issues, whether, in fact,  
3 the special use permit that you applied for doesn't  
4 effect the entire property, whether we're limited  
5 to the four corners of this application. That's  
6 one suggestion that I have.

7 The second suggestion would be that we could  
8 request a transcript. I can write an opinion  
9 without setting forth any viewpoint, just setting  
10 forth what all of the facts are, findings of fact,  
11 and then we can vote and discuss that at the next  
12 meeting.

13 I think the better option is to request briefs  
14 from both of you, because I think these are  
15 important issues.

16 Dean?

17 Terry?

18 MR. WAGNER: I would ask the applicant  
19 what their thought is on that. Just initially,  
20 would you be opposed to that?

21 MR. INFANTOLINO: I'm not necessarily  
22 opposed to it. I do believe that we have met our  
23 burden for the special use permit and proven that  
24 we are not expanding upon the use of the property.  
25 You know, so if the board would prefer to have

1 memorandum, you know, I'll accept that as, you  
2 know, a request.

3 MR. BOREN: I ask other people to your  
4 thoughts.

5 MR. KING: I think the only file that  
6 change that I could see is maybe the changing of a  
7 lunchroom area into what would become a commercial  
8 kitchen by code, I would think, because I don't  
9 think you would have a kitchen -- I defer to the  
10 building inspector. But if we were to eliminate  
11 the creation of a commercial kitchen and make it  
12 more of a storage area or a -- you know, like a  
13 pantry area for people that are in transit that  
14 eliminates the auspice of having a commercial  
15 kitchen that could be used for other things. I  
16 think the rest of the project is more purely for  
17 safety, but that's --

18 MR. LIVINGSTON: I'll go along with  
19 whatever the applicant wants to do. I mean, I  
20 think I have enough to make a decision. I don't  
21 see the kitchen -- I personally don't see the  
22 kitchen as a big issue. I understand it's a  
23 lunchroom. I'll do whatever everybody wants to do,  
24 but I think I have enough.

25 UNIDENTIFIED PERSON: Is there still an

1 opportunity to speak? From the neighbors.

2 MR. BOREN: No. At this point we have  
3 basically closed it.

4 But, Mr. Fracassa, what would you like to do  
5 representing the neighbors? What would be your  
6 preference?

7 MR. FRACASSA: If there are some legal  
8 issues, which you're wrestling with, I think  
9 Mr. Infantolino and I should probably address them,  
10 if you can let us know what those issues are.

11 And as far as getting a transcript, it  
12 probably would be a good idea for both of us to get  
13 one.

14 MR. BOREN: I personally would not like to  
15 make a decision without seeing each of you address  
16 legal issues, whether we're -- and I think I -- you  
17 have said it in one way or I said it: Are we  
18 limited to four corners of the application, or  
19 is -- when you're looking for a modification of the  
20 special use permit, are we talking about the entire  
21 property, and are you -- is that part of the  
22 burden? I think addressing those issues are  
23 important issues. And I'm not prepared to make a  
24 decision tonight.

25 MR. INFANTOLINO: I believe you did even



1       hear testimony from the applicant that even if you  
2       were to look outside of the four corners of the  
3       application and look at the use of the property in  
4       the whole that the existing use of the property is  
5       not going to change. It's not going to expand.  
6       It's not that they are -- they're not changing the  
7       use of the property. What is existing there now is  
8       going to exist there after. So, even if you were  
9       to look outside of the building and the building's  
10      use and the fact that it's a rigging shop and an  
11      office space and you looked at the yard in total,  
12      the applicant has already stated that the existing  
13      uses that are there are not going to change and  
14      he's made not -- based on -- based on this -- these  
15      modifications. So, even if you were to look  
16      outside the four corners, even if you were to take  
17      the entire property, you know, as a whole, those --  
18      the use as is today is not changing. It's not  
19      being proposed to change, and if it did and were,  
20      we would be required to come before the board.

21               MR. BOREN: I understand that position.  
22      And Mr. Fracassa has somewhat of a slanted position  
23      otherwise.

24               MR. FRACASSA: Slanted?

25               (Laughter.)

1 MR. BOREN: A different position.

2 MR. FRACASSA: Yeah. My position is that  
3 the -- I mean, it's all well and good to say that  
4 we're not changing anything there. But this thing  
5 may have already changed into something which no  
6 one thought it was going to change into. And  
7 that's something that I would like to address,  
8 because it does go to the legal issue.

9 MR. LIVINGSTON: I'm talking more of an  
10 enforcement issue rather than a -- rather than an  
11 application issue.

12 MR. FRACASSA: But if the -- if the use  
13 which is there is different from what is  
14 represented in the application, then how can this  
15 board properly rule on this application when the  
16 use there is not the same as what you're being  
17 asked to rule on?

18 MR. BOREN: I would like the parties,  
19 counsel, to get the transcript and provide  
20 memoranda to the board.

21 MR. INFANTOLINO: On --

22 MR. LIVINGSTON: I'll make a motion then  
23 for the applicants to submit memorandum on the  
24 issues that the chairman wants.

25 And who pays for the transcript? The parties,

1 right?

2 MR. FRACASSA: We'll split it.

3 MR. BOREN: Yes.

4 MR. FRACASSA: You're cheap, right?

5 (Laughter.)

6 THE STENOGRAPHER: Never.

7 MR. WAGNER: She just doubled her price.

8 (Laughter.)

9 MR. INFANTOLINO: Do we explicitly state  
10 what issues you're looking to having us address?

11 MR. BOREN: Well, I think we have  
12 addressed that. You know, has the -- the use is  
13 really the issue. Has the use already changed?  
14 Does that matter? Is --

15 MR. INFANTOLINO: Well --

16 MR. BOREN: -- is the use --

17 MR. INFANTOLINO: But if the use has  
18 already changed, wouldn't that be an enforcement  
19 issue? We would have already been in violation.  
20 And so, I mean, that to me is --

21 MR. BOREN: Oh, you know what? Another  
22 thing Mr. Fracassa may want to address, is this  
23 what the abutters can live with, this is what  
24 the --

25 (Pause.)

1 MR. WAGNER: Maybe you guys could sit down  
2 and resolve some of these issues.

3 MR. FRACASSA: That's a possibility.  
4 Absolutely. We have talked before. We'll talk  
5 again.

6 Deadlines?

7 MR. BOREN: The next meeting is the 14th.  
8 Do you want to do it for the January meeting? The  
9 next meeting is pretty quick.

10 MR. INFANTOLINO: Yes. We need the  
11 January meeting.

12 MR. BOREN: So, do you want -- again, any  
13 briefs week the before the January 23?

14 MR. FRACASSA: January 23?

15 (Pause.)

16 MR. BOREN: You're not going to go sailing  
17 somewhere in the South Pacific, are you, or golfing  
18 in the South Pacific?

19 MR. FRACASSA: Oh. Don't tempt me.

20 The January 17 -- no. My math is off. 16th?

21 MR. INFANTOLINO: I would just like it so  
22 that we're addressing the same issues, you know.  
23 And I guess -- - I mean, to me I'm still -- I'm  
24 struggling with the legal question that you're  
25 having, because if we are dealing with an

1 enforcement issue that is not necessarily a  
2 memorandum to be drafted. That is not -- you know,  
3 an enforcement issue would be you have changed the  
4 use already now we have to do an enforcement thing.  
5 If you're asking for does the special use permit,  
6 you know, cover the entire property, I mean, I  
7 would personally say yes.

8 MR. BOREN: That's an issue that  
9 Mr. Fracassa already raised.

10 MR. INFANTOLINO: So -- well -- and I  
11 think, you know, I thought that I addressed the  
12 fact that use hasn't changed.

13 MR. BOREN: Let me ask suggest this.

14 MR. INFANTOLINO: And I'm not trying to be  
15 difficult. I just want to be clear so we're not --  
16 three months out.

17 MR. BOREN: Within the next two weeks, the  
18 two of you get together, whether it's by Zoom or by  
19 meeting, and you try to discuss between the two of  
20 you what are the issues. And that there is no --  
21 there will be no surprise in your memos.

22 MR. INFANTOLINO: Okay.

23 MR. FRACASSA: Maybe work out a  
24 stipulation?

25 MR. BOREN: Right.

1           MR. SHEKARCHI: Mr. Chairman, maybe those  
2 during those the discussions you could maybe come  
3 to an agreement that possibly the neighbors could  
4 come to terms to talk out mediation subject to the  
5 conditions of no further expansion or define what's  
6 actually being done there. Maybe that could work  
7 it out.

8           MR. FRACASSA: Sure. Absolutely.

9           MR. BOREN: All right. If there is  
10 nothing else then, is there a motion to adjourn?

11          MR. LIVINGSTON: Motion to adjourn.

12          MR. WAGNER: Second.

13          MR. BOREN: All in favor?

14          (Voice vote.)

15          MR. BOREN: Thank you.

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C E R T I F I C A T I O N

I, Brenda D. P. Hanna, do hereby certify that the foregoing pages are a true, accurate, and complete transcript of my notes taken at the above-entitled hearing before the Town of Jamestown Zoning Board of Review on 23 November 2021.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of Decmber 2021.

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BRENDA D. P. HANNA, NOTARY PUBLIC/  
REGISTERED PROFESSIONAL REPORTER

IN RE: SHM JAMESTOWN BOAT YARD, LLC