



# CAPE COD COMMISSION

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DATE: May 9, 1991 TR# 91022

TO: Mr. William E. Burtis  
Little River Boat Yard  
Mashpee, MA.

FROM: Cape Cod Commission

RE: Hardship Exemption Request  
Cape Cod Commission Act, Section 23

APPLICANT: Little River Boat Yard

PROJECT: Boat Rack Storage Building  
Map 119, Plot 88, (15 Riverside Road), Mashpee, MA.

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (the Commission) hereby approves with conditions the application of the Little River Boat Yard for a hardship exemption under Section 23 of the Cape Cod Commission Act (the Act), c. 716 of the Acts of 1989, as amended, for a boat rack storage building. The decision is rendered pursuant to the vote of the Commission on April 25, 1991.

**PROJECT DESCRIPTION**

The Little River Boat Yard is located off Riverside Drive on Seconsett Island in Mashpee. The 2.97 acre site is an historical boat yard use within a R-3 residential district. The site has undergone demolition of several (14) small residential cottages and the construction of a large (200' long \* 50' wide \* 29' high) steel boat storage building. This building has the ability to house 120 small boats on three levels or 80 larger boats on two levels. The applicant is presently seeking a special permit for the boat storage building which would include a reduction in the size of the building by forty feet in length.

**PROCEDURAL HISTORY**

A Jurisdictional Determination Application was filed with the Commission on January 29, 1991.

On February 25, 1991 the Commission determined that the application was a DRI.

The DRI Referral Form for the boat yard was filed with the Commission on March 6, 1991. The referral was sent by the Mashpee Zoning Board of Appeals.

The applicant filed the DRI Hardship Exemption on March 13, 1991 for a dry rack storage Building of 7,384 square feet.

The subcommittee held two public hearings on March 28, 1991 and April 9, 1991.

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The subcommittee held three public meetings April 9, 1991, April 16, 1991 and April 25, 1991. The public record was closed on April 25, 1991 at 12:00 pm.

**MATERIALS SUBMITTED FOR THE RECORD**

**A. Materials submitted by the applicant:**

1. Hardship Exemption Application March 13, 1991
2. Letter to William C. Henchy April 8, 1991
3. Legal questions to Patty Daley April 17, 1991
4. Drainage information April 19, 1991
5. Previous permit information April 19, 1991
6. Letter to subcommittee on Boat capacity April 19, 1991
7. Emergency spill contingency plan April 19, 1991
8. Pump out information April 19, 1991
9. Plan & detail for proposed fuel storage tanks April 19, 1991  
Prepared by Braman Eng. Co. dated August 23, 1989.
10. Location plan of storage rack April 19, 1991  
Prepared by Braman Eng. Co. dated November 20, 1990.
11. Proposed improvements plan & detail April 19, 1991  
Prepared by Braman Eng. Co. dated August 26, 1988.
12. Water quality information April 23, 1991
13. Drainage calculations April 25, 1991
14. Letter on Mr. Henchy's objections April 25, 1991
15. Hazardous waste information April 25, 1991
16. Plan of land April 25, 1991  
Prepared by Braman Eng. Co. dated April 23, 1991.

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**B. Materials submitted by the Town:**

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|-----------------------------|----------------|
| 1. DRI referral Form        | March 6, 1991  |
| 2. Letter from Harbormaster | March 18, 1991 |

**C. Materials submitted by the public:**

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| 1. Letter of Mr. Bridges                     | March 11, 1991 |
| 2. Letter of Ms. Perry                       | March 20, 1991 |
| 3. Letter of Ms. Bowman                      | March 22, 1991 |
| 4. Letter of Mr. Scolavino                   | March 22, 1991 |
| 5. Letter of Mr. Colella                     | March 25, 1991 |
| 6. Letter of Ms. Hurton                      | March 25, 1991 |
| 7. Letter from American Littoral Society     | March 27, 1991 |
| 8. Letter from Massachusetts Historical Com. | March 27, 1991 |
| 9. Letter of Mr. Heffernan, Jr.              | March 27, 1991 |
| 10. Letter of Mr. Furlani                    | March 27, 1991 |
| 11. Letter of Mr. Cummings                   | March 27, 1991 |
| 12. Letter of Mr. Hughes                     | March 27, 1991 |
| 13. Letter of Mr. Grady                      | March 27, 1991 |
| 14. Letter of Mr. Furlani                    | March 27, 1991 |
| 15. Letter of Mr. Barrett                    | March 27, 1991 |
| 16. Letter of Mr. Foster                     | March 27, 1991 |
| 17. Letter of Mr. Depietri                   | March 27, 1991 |
| 18. Letter of Mr. Koblin                     | March 27, 1991 |
| 19. Letter of Mr. Kazarian                   | March 27, 1991 |
| 20. Letter of Mr. O'Connor                   | March 27, 1991 |
| 21. Letter of Mr. Moore                      | March 27, 1991 |
| 22. Letter of Ms. Driscoll                   | March 27, 1991 |
| 23. Letter from A.P.C.C.                     | March 28, 1991 |
| 24. Letter from W.B.N.E.R.R.                 | March 28, 1991 |
| 25. Letter of Mr. Cohen                      | March 28, 1991 |
| 26. Letter of Mr. Palmer                     | March 28, 1991 |
| 27. Letter from A.L.S.                       | March 28, 1991 |

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28. Letter of Dr. Saunders, Jr.	March 28, 1991
29. Photographs of Boat Yard Rack Building	March 28, 1991
30. Superior Court Judgement # 89-885	March 28, 1991
31. Literature review of boat sewage	March 28, 1991
32. Letter from Rep. Thomas Cahir	March 28, 1991
33. Letter from Sabatia	March 28, 1991
34. Special Permit Decision # SP-89-04-41	March 28, 1991
35. Chronology of permits for the boat yard	March 28, 1991
36. Opinion of value for Driscoll property	March 28, 1991
37. Memo of record from Mr. Henchy, Esq.	March 28, 1991
38. Letter from Hyannis Marina	March 29, 1991
39. Letter of Mr. Walsh	April 2, 1991
40. Letter of Mr. Henchy, Esq.	April 5, 1991
40a Letter of Mr. Gessner	April 5, 1991
41. Letter of Ms. Driscoll	April 5, 1991
42. Letter of Mr. Rodman	April 5, 1991
43. Letter of Mr. Harris	April 5, 1991
44. Photographs of boat building	April 9, 1991
45. Letter from W.B.N.E.R.R.	April 9, 1991
46. Letter of Mr. Thibeault	April 8, 1991
47. Letter of Falconieri	April 8, 1991
48. Letter of Ms. Nickerson	April 8, 1991
49. Letter of Ms. Barr	April 8, 1991
50. Letter of Dr. Saunders, Jr.	April 8, 1991
51. Letter of Mr. Kariotis	April 8, 1991
52. Letter of Mr. Papagni	April 9, 1991
53. Letter of Mr. Moore	April 16, 1991
54. Letter of Mr. Wood	April 16, 1991
55. Letter of Mr. Henchy, Esq.	April 16, 1991
56. Petition of 62 people against the boat yard	April 16, 1991
57. Letter of Ms. Paskauskas	April 17, 1991
58. Letter of Mr. Handel	April 17, 1991
59. Letter of Mr. Henchy, Esq.	April 18, 1991

**JURISDICTION**

On February 25, 1991, at a Jurisdictional Determination hearing, a subcommittee of the Cape Cod Commission (Commission) found the Little River Boat Yard was a Development of Regional Impact (DRI) to be reviewed under Section 12(c)(6) of the Cape Cod Commission Act (Act). Specifically, the subcommittee found that the development qualifies as an auxiliary building of greater than 5000 square feet.

**FINDINGS**

The Commission has considered the application of Mr. William E. Burtis for the proposed Little River Boat Yard rack storage building, and based on consideration of such application and upon the information presented at the public hearing and on the record, makes the following findings pursuant to section 23 of the Act:

1. The Little River Boat Yard is located along the Little River on Seconsett Island in Mashpee.
2. The Little River is a narrow shallow estuarine river with constricted tidal flow, connecting Hamblin Pond to the north with Waquoit Bay to the south.
3. The Waquoit Bay is an Area of Critical Environmental Concern and is within the Waquoit Bay National Estuarine Research Reserve.
4. The Little River is a productive shellfish habitat.
5. The Little River is subject to increasingly high volumes of boat traffic. The boat rack storage building will produce a greater use of the site by the boating public.
6. The Little River is already experiencing the disruptive

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effects (sediment [grain size] distribution, alteration of normal water circulation patterns, turbidity and scouring of the river bottom due to prop wash) of boat traffic.

7. The operations of the boat yard include winter storage, summer valet service and boat repair. Boat storage and repair and maintenance involves the handling of hazardous materials.

8. The primary source of revenue of the boat yard is the storage of boats.

9. A full DRI review would have a negative effect on the applicants ability to operate over this summer season resulting in a financial hardship for the applicant.

10. The boat storage rack building was constructed prior to the effective date of the Cape Cod Commission Act (March 27, 1990). The building did not have a building permit when constructed.

11. Water quality of the Little River will be impacted by the creation of additional impervious surface and the use of the boat storage rack building. Water quality impacts will be mitigated through reconstruction of catch basins and an impervious bermed containment system. Water quality of the Little River will be impacted by uncontained pump out sewerage produced by the boating public.

12. Boat maintenance will generate hazardous waste which will need to be handled and disposed of safely and legally. Potential adverse hazardous waste impacts will be mitigated through proper management.

13. The existing boat storage rack building is not consistent with the plans submitted for Commission review. The plans indicated a storage capacity limit of 64 boats.

**CONDITIONS**

1. The size of the building shall be a maximum of 142 feet in length, 29.5 feet in height and 52 feet in width. Sections A and B of the building, as shown on the plan of the boatyard dated 4/23/91 will be removed. Sections C,D,E,F,G,H, and I shall remain as currently constructed. Boat capacity shall be limited to 64 boats in rack storage and 29 wet slips, as indicated on the plans dated 4/23/91. Additional storage of boats on the grounds, outside of the rack storage building, shall be determined by the local special permit granting authority.
2. An impervious bermed containment system for the rack storage building shall be installed, as indicated on the plans of the boatyard dated 4/23/91. The system consists of 4 foot concrete aprons on both sides of the rack storage building. The leaching pits shall be located no closer to the shore than shown on the plan dated 4/23/91.
3. The applicant shall:
  - a). Reconstruct the easternmost catch basin to allow discharge of stormwater runoff to the unsaturated subsurface instead of allowing discharge directly into the Little River.
  - b). Provide details of the delineation of the drainage areas used in the stormwater runoff calculations.
4. The applicant shall:
  - a). Be in compliance with Massachusetts regulation 310 CMR 30.00 for hazardous waste generation, storage and disposal.
  - b). Obtain Material Safety Data Sheets (MSDS) for all hazardous

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materials used on site, and shall implement a label system to identify the hazards of those materials.

- c). Keep written records of emergency response equipment inspections.
  - d). Provide verification to the Commission's hazardous waste planner of compliance with conditions 4a and 4b during a site visit by the planner within two months of the filing of this decision.
5. The applicant shall post notice of and schedule pump out service in the boatyard.
  6. The landscaping and buffering of the storage building shall be determined by the local special permit granting authority.
  7. All conditions, other than No. 3a and 4a, b and d, shall be met no later than 90 days from date of filing the decision of the Mashpee Zoning Board of Appeals with the Mashpee Town Clerk. Condition No. 3a shall be met no later than 90 days from the date of filing of the Order of Conditions by the Mashpee Conservation Commission. Condition No. 4a, b and d shall be complied with as stated in condition No. 4d.

**CONCLUSION**

Based on the findings above, the Cape Cod Commission hereby approves with conditions a hardship exemption for the Little River Boat Yard pursuant to Section 23 of the Act. The conclusion that a hardship exists is supported by the findings that:

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A full DRI review would have a negative effect on the applicants ability to operate over this summer season resulting in a financial hardship for the applicant; and

The boat storage rack building was constructed prior to the effective date of the Cape Cod Commission Act (March 27, 1990).

The conclusion that the granting of the Hardship Exemption to the Little River Boat Yard with appropriate conditions will not have a substantial detriment to the public good and will not nullify or substantially derogate from the intent or purpose of the Act are supported by the findings that the applicant will: institute hazardous waste management practices; install a drainage system with spill containment features; limit the number of boats; restrict the size of the rack storage building; and provide an on call pump out service for boats.



Richard S. Armstrong, Chairman

5/9/91

Date



Notary

5/9/91

Date

My commission expires: 12/5/97