



VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

Village Council

Robert L. Vernon, *Mayor*
Jorge E. Mendia, *Vice Mayor*
Michael Davey
Enrique Garcia
Steve Liedman
Thomas Thornton
Patricia Weinman

Director

Jud Kurlancheek, AICP

Chief Building Official
Eugenio M. Santiago, P.E.

DT: August 20, 2007

TO: Honorable Mayor and Members of the Village Council

FR: Jud Kurlancheek, ^DInterim Village Manager

RE: Request for Three (3) Variances at 230 Harbor Drive Relating to Boat Dockage

RECOMMENDATION

The applicant is requesting three (3) variances related to boat dockage. It is recommended that the Council deny the request because it is not consistent with the review criteria listed in the Zoning and Land Development Regulations.

Should the Council wish to consider changing the regulations, a referral to the Zoning Ordinance Review Committee (ZORC) may be helpful.

EXPLANATION

The Zoning and Land Development Regulations permit docks that face Biscayne Bay to project 25 ft. from the bulkhead. All docks and boats must be within the D-5 Triangle which is an isosceles triangle. The applicant is requesting the dock to project 40 ft. from the bulkhead, to have two corners, 52 sq. ft. and 93 sq. ft., of the dock outside of the triangle, and all of the boat is outside of the triangle. The dock is L shaped. The portion of the dock that is parallel to the bulkhead is 46 ft. wide long.



VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

Village Council
Robert L. Vernon, *Mayor*
Jorge E. Mendia, *Vice Mayor*
Michael Davey
Enrique Garcia
Steve Liedman
Thomas Thornton
Patricia Weinman

DT: August 20, 2007

Director
Jud Kurlancheek, AICP

TO: Honorable Mayor and Members of the Village Council *Chief Building Official*
Eugenio M. Santiago, P.E.

FR: Jud Kurlancheek, AICP, Director
Building, Zoning, and Planning Department

RE: Request for Three (3) Variances at 230 Harbor Drive Relating to Boat Dockage

APPLICATION SUMMARY

- Request** The applicant is requesting the below three (3) variances:
- a. Permit two corners of a dock to extend outside of the D-5 triangle. One of the corners has an area of 52 sq. ft. and the other has an area of 93 sq. ft.
 - b. Waive the D-5 triangle limit for watercraft in order to dock a watercraft completely outside of the D-5 triangle limit.
 - c. Waive the 25 foot limit of dock extension into Biscayne Bay from the bulkhead in order to construct a dock 40 feet into Biscayne Bay.

Applicant Falcon Financing, Ltd./Phillippe Touret, Director

Site Address 230 Harbor Drive

Master Plan Single Family

Zoning District VE Village Estate (Single Family)

File Number RV - 23

Recommendation Denial

EXPLANATION AND ANALYSIS

The Request: The Zoning and Land Development Regulations permit docks that face Biscayne Bay to project 25 ft. from the bulkhead. All docks and boats must be within the D-5 Triangle which is an isosceles triangle. The applicant is requesting the dock to project 40 ft. from the bulkhead, to have two corners, 52 sq. ft. and 93 sq. ft., of the dock outside of the triangle, and all of the boat is outside of the triangle. The dock is L shaped. The portion of the dock that is parallel to the bulkhead is 46 ft. wide long.

Variance Review Criteria: The Village's Zoning Ordinance provides for the granting of variance(s) subject to a finding that the petition meets the following criteria:

Criteria 1 Maintains the basic intent and purpose of the zoning and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community.

Analysis: The regulations are intended to result in docks, boats, and related marine structures to be located no further than 25 ft. from the property line. These regulations are designed to achieve the following:

- a. The 25 ft. limit is designed to protect watercraft from hitting docks. The applicant is requesting a dock that projects 40 ft. from the bulkhead.
- b. This regulation provides for adjacent owners to view across the water. This aesthetic results in higher property values and maintains a neat and orderly appearance of the community. Adjacent to this property are two (2) single family homes. Immediately south of the applicant's property is a dock that projects 25 ft. from the bulkhead. The property to the north does not have a dock.. The applicant has not provided a letter from the single family home owner that indicates their support of the variances.

Finding: Inconsistent

Criteria 2 Is compatible with the surrounding land uses and would not be detrimental to the community.

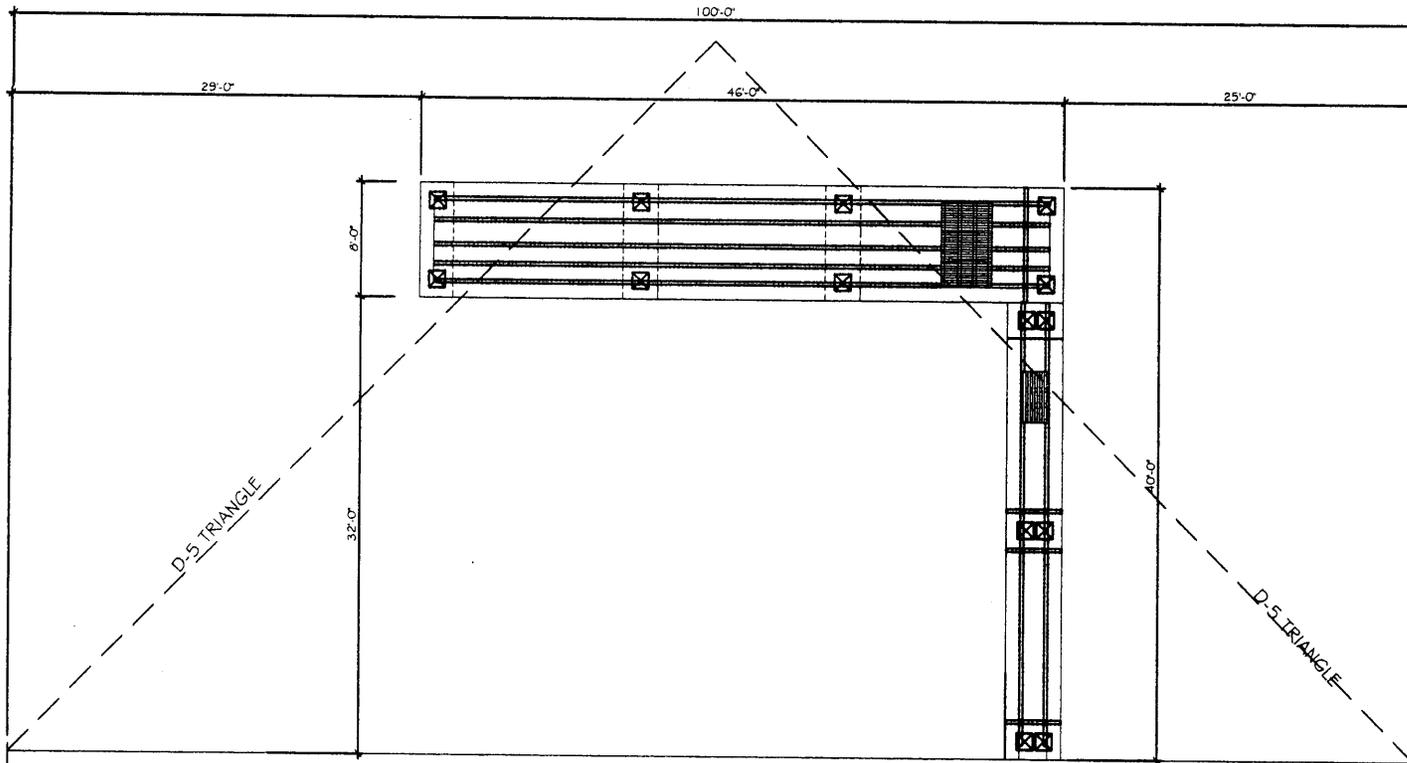
Analysis: The surrounding properties include the Yacht Club and a single family home. The adjacent single family home is does not have a dock. The establishment of a dock that projects 40 ft. may result in a boat that obstructs the neighbors view. The file does not contain a letter from the neighbor that indicates their support for the variances.

Finding: Inconsistent.

RECOMMENDATION

Staff recommends denial of the application because it is inconsistent with the review criteria. Should the Council wish to consider changing the regulations, a referral to the Zoning Ordinance Review Committee (ZORC) may be helpful.

BISCAYNE BAY



PROPOSED DOCK PLAN
SCALE: 1/8" = 1'-0"

Solver Structural Partnership, Inc.
7500 NW 26 St, Suite 212 Phone: (305) 882 8281
Miami, Florida 33122 Fax: (305) 882 8417
E-Mail: solver@struct006.com
DENIS K. SOLANO
P.E. 56502
F.L. 2046
C.O.A. 00009195

REGISTERED PROFESSIONAL ENGINEER
3045-438-0264
2845 NW 3355 Street
Miami, Florida 33142



job name: **TOURET RESIDENCE
230 HARBOR DRIVE
KEY BISCAYNE, FLORIDA**
title: **PROPOSED CONCRETE DOCK**

date: _____
revised: _____
drawn: _____
checked: _____
project no.: _____
revision: _____

sheet no.
S-1
1 of 1



VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

Village Council
Robert Oldakowski, Mayor
Jorge E. Mendia Vice Mayor
Martha Fdez-Leon Broucek
Carol Diaz-Castro
Mortimer Fried
James L. Peters
Robert L. Vernon

Jud Kurlancheck, AICP
Director

Eugenio M. Santiago, P.E.
Chief Building Official

PLANNING AND ZONING APPLICATION

Date Filed: July 23, 2007

File # R1-23
To be completed by staff

1. REQUEST FOR:

- | | |
|---|---|
| <input type="checkbox"/> SUPERVISORY VARIANCE | <input type="checkbox"/> AMENDMENT TO |
| <input type="checkbox"/> ADMINISTRATIVE VARIANCE | ZONING ORDINANCE |
| <input checked="" type="checkbox"/> REGULATORY VARIANCE | <input type="checkbox"/> SPECIAL EXCEPTION |
| <input type="checkbox"/> APPEAL OF AN | <input type="checkbox"/> AMENDMENT TO THE |
| ADMINISTRATIVE DECISION | COMPREHENSIVE PLAN |
| <input type="checkbox"/> SITE PLAN APPROVAL | <input type="checkbox"/> ZONING DISTRICT CHANGE |
| <input type="checkbox"/> UNUSAL USE | |
| <input type="checkbox"/> OTHER _____ | |

Explain your request:

We are requesting a Variance of the Village of Key Biscayne Zoning Code, Section 30-100 (3) Docks and Mooring Piles, Item 5, which states "No dock shall extend from a bulkhead into any canal, lake, or waterway a distance greater than ten feet, or ten percent of the width of the waterway, whichever is less. Notwithstanding the foregoing, no dock or mooring pile shall extend into Biscayne Bay a distance of more than 25 feet from the bulkhead" in order to construct a dock that projects 40' into Biscayne Bay. Due to the 40' projection of the dock, we are also requesting a variance of Item 3, to allow the dock and vessel to be moored there to broach the D-5 triangle. This request is being made due to Miami-Dade County Code requirements which mandates a minimum of 4' mean low water within the slip area for any boat dock located within Biscayne Bay. At this specific property that depth is not reached until 40' water ward of the seawall. Dredging in order to achieve greater depth at this site is not allowed due to significant resources.

2. Street Address of Property: 230 Harbor Drive Folio # 24-4232-006-0180.

Legal Description: Lot(s) 24 Block 17

Subdivision: Tropical Isle Homes

3. Name of Applicant: **Falcon Financing, Ltd. / Phillippe Touret, Director**
Mailing Address of Applicant: **230 Harbor Drive, Key Biscayne, Florida 33149**
Business Telephone: **(786) 888-8188** Home: **(305) 361-6005** Fax:
4. Name of Property Owner if Different from Applicant:
Address of Property Owner if Different from Applicant:
Business Telephone: Home: Fax:
5. Contact Person: Name **Phillippe Touret** Address **230 Harbor Dr, Key Biscayne, FL 33149.**
Phone Number: **(305) 361-6005** Fax:
6. Name / address of anyone else who should receive notice of hearing?
Trident Environmental Consultants, 2845 NW 35th Street, Miami, Florida 33142
7. If applicant is owner, indicate date purchased: **May, 1996.**
8. If applicant is lessee, indicate date leased _____ Years _____
9. Is there an option to purchase the property? Yes () No ()
10. Is the request the result of a violation notice? No If yes, attach a copy of the violation.
11. Existing use of property: **Single Family Residence.** If residential, how many apartments
_____ hotel units _____. If commercial, how many sq. ft. _____ in your space. Single family
home? Yes (X) No ()
12. If this application pertains to an Appeal of an Administrative Decision, indicate the basis of
the appeal. (If necessary attach additional explanation). **N/A.**
13. If this is a request for a variance, the Code requires that you substantiate why this request
should be granted. In order to do this properly, please indicate how your request complies
with the following standards:
- a. Maintains the basic intent and purpose of the zoning, subdivision and other land use
regulations, which is to protect the general welfare of the public, particularly as it
affects the stability and appearance of the community.
- The basic intent of the Zoning code as it pertains to docks is to provide to prevent
view of the water ward extension of a dock to be a hazard to navigation, or impede
boat traffic. The proposed concrete boat dock, projecting 40' from the seawall does
not impede boat traffic in the area, and is consistent with other docks along Harbor
Drive.**

Of the 21 properties located on Harbor Drive between 200 Harbor Drive and 452 Harbor Drive only seven (7) properties currently have docks. Of these seven docks only two of them (240 and 300 Harbor Drive) comply with the 25' maximum projection imposed by the Zoning code. Prior to the Zoning Code Change, docks were allowed to extend past 40' on the Open Bay. This allowed docks to be constructed on the following properties: 260 Harbor Drive (34' dock, 50' mooring piles constructed in 1996, destroyed during hurricanes, and new dock must project 40'), 280 Harbor Drive (40' dock constructed prior to 1990), 290 Harbor Drive (30' dock, 46' mooring piles, constructed in 1997), 330 Harbor Drive (45' dock constructed in 1996), 360 Harbor Drive (30' dock constructed prior to 1990).

Historically the properties on this portion of Harbor have lacked sufficient water depths to allow dock construction at 25' from the seawall. Due to extremely dense seagrasses (which grow in shallow waters) dredging within this portion of Biscayne Bay is not allowed by any of the environmental agencies (including Army Corps of Engineers, Florida Department of Environmental Protection and Miami-Dade County DERM.) Hurricane activity has also severely affected the depth contour along Harbor Drive, and subsequently no new docks have been constructed on this section of Harbor Drive since the 2005 Hurricanes.

DERM's biological assessment of this site revealed dense resources along the property and that the 4' water depth required was not achieved until 40' water ward from the seawall. (See DERM Letter). This configuration allows for avoidance of the seagrasses located along the seawall and allows for sufficient water depth when mooring a vessel. Due to the dock's projection beyond the D-5 triangle, Letters of Consent will be required by DERM from both adjacent property owners.

- b. Is compatible with the surrounding land uses and would not be detrimental to the community.

The construction of a dock projecting 40' into Biscayne Bay in this section of Harbor Drive is consistent with the existing docks in the area. There are 21 properties between 200 Harbor Drive, and 452 Harbor Drive. Of these properties, seven have docks, and only two of these seven docks comply with the 25' maximum projection restriction. Due to the typical lot width and dock location, all of the vessels moored on these docks project outside the D-5 triangle.

- 14. If this is a request for any other type of application, please see staff for a listing of the evaluation criteria.
- 15. All supporting data and exhibits submitted with this application become a permanent part of the public records.
- 16. If you are a lobbyist as described in the Village Code, please contact the Village Clerk at 305-365-5506.

SUPERVISORY VARIANCES ONLY

The Supervisory procedure requires the nearest abutting property owner to approve your request and your certification that the work was not performed by you. Your signature on this application constitutes your certification that you did not perform the work. The next step is to request the nearest property owner to sign below or provide a letter approving your request. Their signature certifies that they have read this application and approves of the request.

ABUTTING PROPERTY OWNER AFFIDAVIT

I, the undersigned, have read or have had read to me the information applicable for a request for a Supervisory Variance from the Zoning Regulations. I fully understand that by subscribing my name to the below consent form that I am waiving any objection to the proposed construction as outlined above and as shown on the plans accompanying this application. I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of the applicant,

_____	_____	_____	_____
Date	Name (Type or Print)	Address	Signature

ADMINISTRATIVE VARIANCES ONLY

The Administrative Variance procedures require all abutting property owners to approve your request. The attached map will assist you in identifying who must sign the below petition. It is suggested you meet with staff prior to circulating your petition.

ABUTTING PROPERTY OWNER AFFIDAVIT

I, the undersigned, have read or have had read to me the information applicable for a request for a Supervisory Variance from the Zoning Regulations. I fully understand that by subscribing my name to the below consent form that I am waiving any objection to the proposed construction as outlined above and as shown on the plans accompanying this application. I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of the applicant,

_____	_____	_____	_____
Date	Name (Type or Print)	Address	Signature

_____	_____	_____	_____
Date	Name (Type or Print)	Address	Signature

_____	_____	_____	_____
Date	Name (Type or Print)	Address	Signature

_____	_____	_____	_____
Date	Name (Type or Print)	Address	Signature
_____	_____	_____	_____
Date	Name (Type or Print)	Address	Signature
_____	_____	_____	_____
Date	Name (Type or Print)	Address	Signature
_____	_____	_____	_____
Date	Name (Type or Print)	Address	Signature

If you need additional signatures please use the above format.

CERTIFICATION OF COMPLIANCE WITH APPLICABLE REGULATIONS

(I)(We) certify that (I)(we) understand and will comply with the provisions and regulations of the Zoning Regulations. (I)(we) further certify that the above statements and drawings made on any paper or plans submitted herewith are true to the best of (my)(our) knowledge. (I)(we) understand that the application and attachments become part of the official records of the Village and are not returnable.

Signature of Applicant:		Date <u>07/23/07</u>
Signature of Owner:		Date <u>07/23/07</u>
Application Received by:		Date <u>7-23-07</u>
Approved by:	_____	Date _____

AFFIDAVITS

Complete one or more of the following that relates to your request.

Corporation Affidavit

I, Phillippe Touret, being first duly sworn, depose and say that I am the Director of the aforesaid corporation, and as such, have been authorized by the corporation to file this application and all supplemental data attached to and made a part of this application are honest and true to the best of our knowledge and belief; that said corporation is the owner/tenant of the property described herein and which is the subject matter of the proposed hearing.

I, Phillippe Touret, hereby authorize the staff of the Village of Key Biscayne to enter my property for the purpose of inspecting the property and posting a NOTICE OF PUBLIC HEARING on my property and I take the responsibility of removing this notice after the date of hearing. I also authorize members of the Village Council to inspect my property. I understand these inspections are necessary to permit staff and members of the Village Council to perform their responsibilities as required by the Zoning Ordinance.

**STATE OF FLORIDA
COUNTY OF MIAMI-DADE**



Signature of Director (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this
24 day of July, by Phillippe Touret
Name of person making statement.



Signature of Notary Public – State of Florida



Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification _____
Type of identification Produced _____



Falcon Financing, Ltd.
230 Harbor Drive
Key Biscayne, Florida

