



VILLAGE OF KEY BISCAIYNE

Office of the Village Manager

Village Council

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

Village Manager

Genaro "Chip" Iglesias

DT: October 12, 2007

TO: Honorable Mayor and Members of the Village Council

FR: Genaro "Chip" Iglesias, Village Manager

RE: Request for Two (2) Variances at 300 Harbor Drive Relating to Boat Dockage

RECOMMENDATION

The applicant is requesting two (2) 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 and to permit all of the boat to be 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
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Thomas Thornton
Patricia Weinman

DT: October 12, 2007
TO: Genero "Chip" Iglesias, Village Manager
FR: Jud Kurlancheek, AICP, Director
Building, Zoning, and Planning Department

Director
Jud Kurlancheek, AICP
Chief Building Official
Eugenio M. Santiago, P.E.

RE: Request for two (2) Variances at 300 Harbor Drive Relating to Boat Dockage

APPLICATION SUMMARY

Request	The applicant is requesting the below three (2) variances: <ul style="list-style-type: none">a. Waive the D-5 triangle limit for watercraft in order to dock a watercraft completely outside of the D-5 triangle limit.b. 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	Victor Henriquez
Site Address	300 Harbor Drive
Master Plan	Single Family
Zoning District	VE Village Estate (Single Family)
File Number	RV - 26
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 with the

D-5 Triangle which is an isosceles triangle. The applicant is requesting the dock to project 40 ft. from the bulkhead and to permit all of the boat to be 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 approximately 40 ft. from the bulkhead. The property to the north has a dock that projects approximately 25 ft. from the bulkhead. The applicant has not provided a letter from the adjacent single family home owners 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.



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 Kurlancheek, AICP
Director

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

PLANNING AND ZONING APPLICATION

Date Filed: 8/23/07

File # RV-26
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: 300 Harbor Drive Folio # 24-4232-006-0110.

Legal Description: Lot(s) 17 Block 17

Subdivision: Tropical Isle Homes

3. Name of Applicant: **Victor Henriquez**
Mailing Address of Applicant: **300 Harbor Drive, Key Biscayne, Florida 33149**
Business Telephone: **(305) 373-9000** Home: **(305) 361-9634** 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 **Victor Henriquez** Address **300 Harbor Dr, Key Biscayne, Fl 33149.**
Phone Number: **(305) 361-9634** 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: **January 1995.**
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.

A current water depth survey indicates that the dock constructed at this property in 1999 no longer has sufficient water depths, and mooring on the waterward face of the dock is impossible. The construction of a new dock will require a water depth of 4' MLW. The 4' water depth required is not achieved until 40' water ward from the seawall. 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

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