



VILLAGE OF KEY BISCAYNE

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 a Variance at 621 N. Mashta Drive Relating to Boat Dockage

A handwritten signature in black ink, appearing to be "Chip Iglesias", is written over the "FR:" line of the memo.

RECOMMENDATION

The applicant is requesting a variance 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 a canal, lake or waterway to project 10 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 14 ft. from the bulkhead. The boat will be inside the triangle. The dock is 20 ft. 6 x 14 ft. The file includes letters from the adjacent neighbors at 611 and 621 N. Mashta Drive "waiving any objection" to the granting of the variance.



VILLAGE OF KEY BISCAINE

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

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

RE: Request for a Variance at 621 N. Mashta Drive Relating to Boat Dockage

APPLICATION SUMMARY

Request	The applicant is requesting the below variance: Waive the 10 foot limit of dock extension into a canal, waterway or lake from the bulkhead in order to construct a dock 14 feet into Biscayne Bay.
Applicant	J. Barclay Collins
Site Address	621 N. Mashta Drive
Master Plan	Single Family
Zoning District	VE Village Estate (Single Family)
File Number	RV - 27
Recommendation	Denial

EXPLANATION AND ANALYSIS

The Request: The Zoning and Land Development Regulations permit docks that face a canal, waterway, or lake to project 10 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 14 ft. from the bulkhead. The boat will be inside 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 10 ft. from the property line. These regulations are designed to achieve the following:

- a. The 10 ft. limit is designed to protect watercraft from hitting docks. The applicant is requesting a dock that projects 14 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 with boat docks that appear to project 10 - 15 ft. into the waterway. The applicant has 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

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-León Broucek
Carol Diaz-Castro
Mortimer Fried
James L. Peters
Robert L. Vernon

PLANNING AND ZONING APPLICATION

Jud Kurtancheck, AICP
Director

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

Date Filed: 9-21-07
File # RV-27
to be completed by staff

1. REQUEST FOR:

- () SUPERVISORY VARIANCE
() ADMINISTRATIVE VARIANCE
(X) REGULATORY VARIANCE
() APPEAL OF AN ADMINISTRATIVE DECISION
() SITE PLAN APPROVAL
() UNUSUAL USE
() OTHER
() AMENDMENT TO ZONING ORDINANCE
() SPECIAL EXCEPTION
() AMENDMENT TO THE COMPREHENSIVE PLAN
() ZONING DISTRICT CHANGE

Explain your request: Applicant requests a variance to replace a dock that extends 11.7 ft. from the bulkhead into Hurricane Harbor with a dock extending 14 ft. from the bulkhead. The depth of the water at low tide is shallower than the draft of applicant's sailboat if moored to a dock extending 10 ft. from the bulkhead. Applicant's boat hit bottom at extreme low tides when moored to the 11.7 ft. dock. The depth of the water increases outward from the bulkhead. Applicant desires to moor his boat in water with sufficient depth to avoid damage to the boat and to the harbor bottom.

2. Street Address of Property: 621 N. Mashta Drive
Legal Description: Lot(s) 8 Block 1
Subdivision: Mashta Island

3. Name of Applicant: J. Barclay Collins
Mailing Address of Applicant: 1185 Avenue of the Americas
New York, NY 10036
Business Telephone: 212-536-8576 Home 305-361-3913 Fax 212-536-8339

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 Mark E. Fried Address 1110 Brickell Ave, Ste. 700
Miami, Florida 33131
 Phone Number 305-371-7079 Fax 305-423-3215
6. Name/address of anyone else who should receive notice of the hearing?
Mailing list is attached.
7. If applicant is owner, indicate date purchased: July 23, 2004
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 residence. If residential, how many apartments ___ hotel units ____ . If commercial, how many sq. ft. _____ in your space. Single family home? Yes () No ()
12. If this application pertains to an Appeal of a Administrative Decision, indicate the basis of the appeal. (If necessary attach additional explanation)

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.
 This request should be granted because allowing the dock to be built 14 ft. from the bulkhead 4 ft. greater than the code and 2.5 ft. greater than the dock being replaced allows the applicant to use his water frontage to dock his boat.
 The increase of 4 ft. will not affect the stability and appearance of the community.
- b. Is compatible with the surrounding land uses and would not be detrimental to the community.
 The 14 ft. dock will extend from the bulkhead less than the docks of the neighboring properties. The granting of the variance is compatible with the adjacent properties and would not be detrimental on navigation in Hurricane Harbor.

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 and Administrative 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

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: *J. Buckley* Date Sept. 18, 2007

Signature of Owner: *J. Buckley* Date Sept. 18, 2007

Application Received by: *(D)* Date 9-21-07

Approved by: _____ Date _____

AFFIDAVITS

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

Tenant or Owner Affidavit (if tenant is applicant then owner must sign owner/power of attorney affidavit)
I, J. Barclay Collins, II, being first duly sworn, depose and say that I am the owner/tenant of the property described herein and which is the subject matter of the proposed hearing; that all the answers to the questions in this application and all supplemental data attached to and made a part of the application are honest and true to the best of my knowledge and belief.

I, J. Barclay Collins, II, 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 ~~NEW YORK~~
COUNTY OF MIAMI-DADE ~~NEW YORK~~

J. Barclay Collins
Signature of Applicant

Sworn to (or affirmed) and subscribed before me this
18th day of Sept 2009 by J. Barclay Collins
Name of person making statement

Janis Fiorelli
Signature of Notary Public - State of Florida
JANIS FIORELLI
Notary Public, State of New York
No. 01514931584
Print, Type, or Stamp Commissioned Name of Notary Public
Certificate Filed in New York County
Commission Expires March 30, 2011

Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____

Corporation Affidavit

I, _____, being first duly sworn, depose and say that we are the President/Vice President, and Secretary/Ass't. Secretary 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, _____, 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 President (Corp. Seal)

Sworn to (or affirmed) and subscribed before me this
____ day of _____, by _____
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 _____

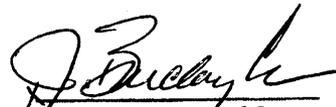
Owner/Power of Attorney Affidavit

I, being duly sworn, depose and say that I am the owner of the described real property and that I am aware of the nature and effect the request for: Planning and Zoning Application for
a Regulatory Variance

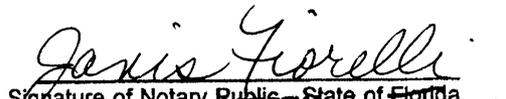
relative to my property, which is hereby made by me OR I am here by authorizing Mark E. Fried to be my legal representative before the Village Council.

I, J. Barclay Collins, II, 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~~ NEW YORK
COUNTY OF ~~MIAMI-DADE~~ NEW YORK


Signature of Owner

Sworn to (or affirmed) and subscribed before me this
18th day of Sept. 2007 by J. Barclay Collins
Name of person making statement


Signature of Notary Public, State of Florida
JANIS FIORELLI
Notary Public, State of ~~Florida~~ New York
No. 01FI4831564

Print, Type, or Stamp Commissioned in New York County
Certificate Filed in New York County
Commission Expires March 30, 2011

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

MARK E. FRIED
Professional Association
Attorney At Law
1110 BRICKELL AVENUE
SUITE 700
MIAMI, FLORIDA 33131

Telephone (305) 371-7079
Facsimile (305) 371-5727

E-Mail: mfried@markfriedlaw.com

October 1, 2007

Mr. Jud Kurlancheek
Director
Building, Zoning & Planning Department
Village of Key Biscayne
85 West McIntyre Street
Suite 250
Key Biscayne, FL 33149

HAND DELIVERED

Re: Planning & Zoning Application
621 N. Mashta Drive

Dear Jud:

I am supplementing Mr. Collins' application by submitted a copy of the letter Mr. Collins gave to each adjacent neighbor and a letter from each waiving any objection to the construction of the dock as show in the site plan.

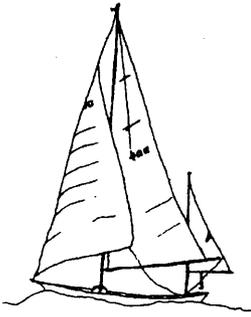
Sincerely,
MARK E. FRIED, P.A.

By: 

Mark E. Fried

Enclosures

cc: J. Barclay Collins, III



VILLA DEI CONIGLIETTI
621 NORTH MASHTA DRIVE
KEY BISCAYNE, FLORIDA 33149

September 26, 2007

Dear Neighbor,

You will be receiving from the Village materials relating to a variance we are requesting to rebuild our dock on Hurricane Harbor, which was damaged in the hurricanes of 2005 and has to be reconstructed. Because the existing Village code permits only a 10-foot dock extension into Hurricane Harbor, we need a variance to rebuild our preexisting dock, which extended 12 feet into the Harbor. (As you may know, these rules were developed for the more narrow canals and don't make much sense in much wider Hurricane Harbor. The allowance in Biscayne Bay is 40 feet.)

In the process of seeking the variance we are now asking to extend our dock an additional two feet, to make it 14 feet. This will prevent my sailboat from grounding at low tide, which now occurs. The new dock will meet all DERM sightline and set off requirements and has already been approved by DERM.

So, the sum of all the paper work you will be receiving (copies of which I've enclosed) is that we are asking to build a 20' 6" wide by 14 feet extension into harbor dock to replace our 20' 6" wide by 12 feet deep dock, no other changes.

We would be very grateful for your consent, which will help immensely in the approval process. I am enclosing a copy of the consent and a return envelope.

Many thanks for your help.

Best regards,

Barclay Collins and
Christine Housen

JBC:jbm

I, the undersigned, have been notified by J. Barclay Collins, II, the owner of 621 North Mashta Drive, Key Biscayne, Florida, of his application for a regulatory variance to build a dock extending 14 feet from the bulkhead. I have read the information applicable for a request for a Regulatory Variance from the Zoning Regulations.

I fully understand that by subscribing my name below that I am waiving any objection to the proposed construction as outlined in his Planning and Zoning Application and as shown on the plans accompanying his application. My property is next door to Mr. Collins'. The proposed dock and Mr. Collins' sailboat, 50 feet, will be within the triangle as per the diagram shown on the plans and will not interfere with the views from my property.

I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of Mr. Collins.

Betty J. Burch-Spanje
Signature

BETTY J. BURCH-SPANJE
Type of print name

621 N Mashta Drive
Key Biscayne, FL 33149



I, the undersigned, have been notified by J. Barclay Collins, II, the owner of 621 North Mashta Drive, Key Biscayne, Florida, of his application for a regulatory variance to build a dock extending 14 feet from the bulkhead. I have read the information applicable for a request for a Regulatory Variance from the Zoning Regulations.

I fully understand that by subscribing my name below that I am waiving any objection to the proposed construction as outlined in his Planning and Zoning Application and as shown on the plans accompanying his application. My property is next door to Mr. Collins'. The proposed dock and Mr. Collins' sailboat, 50 feet, will be within the triangle as per the diagram shown on the plans and will not interfere with the views from my property.

I further certify that I have subscribed my name freely and without any duress or apparent misrepresentation on the part of Mr. Collins.



Signature

RODRIGO ARBOLEDA

Type or print name

611N. Mashta Drive
Key Biscayne, FL 33149