



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: January 22, 2008

TO: Honorable Mayor and Members of the Village Council

FR: Genaro "Chip" Iglesias, Village Manager

RE: 720 Harbor Drive: Variance Relating to an Extension of a Dock

RECOMMENDATION

Staff recommends approval of the variance subject to the dock not being used until a new home receives a issuance of a Certificate of Completion. The attached report from the Building, Zoning, and Planning Director recommends approval of the request because it is consistent with the review criteria.

EXPLANATION

For properties along a canal or inland waterway, the Zoning and Land Development Regulations permit a dock to extend 10 ft. from the bulkhead into the water. All docks and boats must be within the D-5 Triangle which is an isosceles triangle.

The subject property has an existing dock which projects into the water 7.5 ft. to approximately 7.75 inches and is 47 ft. 6 in. in length along the bulkhead. The lot has a parallelogram shape with a slight arc along the water which explains the difference in the dock projection.

The applicant wishes to extend the length of the dock along the bulkhead by 18 ft. 4 in. for a total of 68 ft. 4 in. The addition occurs south of the point along the bulkhead where the lot has a slight arc in shape. The addition has a maximum projection of 15 ft. 2 in. while the zoning regulations permit 10 ft. From the waterway, the dock with the addition will appear to have a rectangular shape.

At one time, the lot had a single family home with a dock. The home was demolished in 2004 and the dock remained. Docks are considered as an accessory use to a single family home which is the Main Permitted Use on this property. Under our zoning code, the dock can not be used until a single family home is constructed on the property and a Certificate of Completion is issued.



VILLAGE OF KEY BISCAINE

Department of Building, Zoning and Planning

Village Council
Robert L. Vernon, *Mayor*
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Thomas Thornton
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DT: January 22, 2008

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: 720 Harbor Drive: Variance Relating to an Extension of a Dock

APPLICATION SUMMARY

Applicant	Walter Defortuna and Claudia Batschaver
Request	Permit a portion of a boat dock to project 15 ft. 2 inches into the water (Hurricane Harbor) when 10 ft. is permitted
Site Address	720 Harbor Drive
Master Plan Land Use	Single Family
Zoning District	VE Village Estate (Single Family)
File Number	RV- 28
Recommendation	Approval

EXPLANATION AND ANALYSIS

Explanation: For properties along a canal or inland waterway, the Zoning and Land Development Regulations permit a dock to extend 10 ft. from the bulkhead into the water. All docks and boats must be within the D-5 Triangle which is an isosceles triangle.

The subject property has an existing dock which projects into the water 7.5 ft. to approximately 7.75 inches and is 47 ft. 6 in. in length along the bulkhead. The lot has a parallelogram shape with a slight arc along the water which explains the difference in the dock projection.

The applicant wishes to extend the length of the dock along the bulkhead by 18 ft. 4 in.

for a total of 68 ft. 4 in. The addition occurs south of the point along the bulkhead where the lot has a slight arc in shape. The addition has a maximum projection of 15 ft. 2 in. while the zoning regulations permit 10 ft. From the waterway, the dock with the addition will appear to have a rectangular shape.

At one time, the lot had a single family home with a dock. The home was demolished in 2004 and the dock remained. Docks are considered as an accessory use to a single family home which is the Main Permitted Use on this property. Under our zoning code, the dock can not be used until a single family home is constructed on the property and a Certificate of Completion is issued.

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, 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.

Analysis The stability and appearance of the community will not be affected by the dock addition as views from adjacent lots are not affected. The requirement that the boat and all mooring piles must be within the D-5 triangle is not affected by the granting of the variance.

Recommendation Consistent.

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

Analysis The adjacent properties have docks that project 24 ft. and 14 ft. from the bulkhead. The subject property has a dock that projects 7 ft. 5 inches but the bulkhead has a slight arc. The proposed addition will square off the dock with a maximum projection of 15 ft. 2 in. As such, the proposed dock addition is a consistent use with the surrounding properties. Further, as the property to the north has a dock that projects 14 ft. from the bulkhead, the proposed addition to the dock will not result in a hazard to watercraft.

Recommendation Consistent.

RECOMMENDATION

Staff recommends approval of the variance subject to the dock not being used until a new home receives a issuance of a Certificate of Completion.



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 Kurlancheek, AICP
Director

Date Filed: 11-9-07

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

File # RV 28
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:

SEE ATTACHED ADDENDUM

2. Street Address of Property: 720 HARBOR DRIVE

Legal Description: Lot(s) 12 Block 19

Subdivision: BISCAYNE KEY ESTATES

3. Name of Applicant: WALTER DEFORTUNA & CLAUDIA BATSCHAUER, H+W

Mailing Address of Applicant: 740 SOUTH MASHTA DR. K. B

Business Telephone: 305-859-7445 Home 305-365-1012 Fax 305-858-3995

4. Name of Property Owner if Different from Applicant: N/A
 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, FL 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: 07/09/2005
8. If applicant is lessee, indicate date leased N/A 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? ^{VACANT LOT} If residential, how many apartments 0 hotel units 0. If commercial, how many sq. ft. N/A 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.
SEE ATTACHED ADDENDUM

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

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

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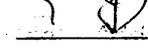
If you need additional signatures please use the above format.

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 Oct-31, 2007

Signature of Owner:  Date Oct-31, 2007

Application Received by:  Date 11-9-07

Approved by: _____ Date _____

AFFIDAVITS

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

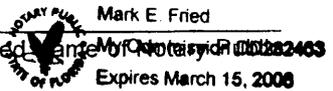
Tenant or Owner Affidavit (if tenant is applicant then owner must sign owner/power of attorney affidavit)
I, Walter Defortuna, being first duly sworn, depose and say that I am the owner/tenant of the property described herein and which is the subject matter of the proposed hearing; that all the answers 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, Walter Defortuna, 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

Sworn to (or affirmed) and subscribed before me this
31 day of Oct. 2007 by Walter Defortuna
Name of person making statement

[Signature]
Signature of Applicant
[Signature]
Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public Mark E. Fried

Expires March 15, 2008

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

Sworn to (or affirmed) and subscribed before me this
_____ day of _____, by _____
Name of person making statement

Signature of President (Corp. Seal)

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, WALTER DEFORTUNA, 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

Sworn to (or affirmed) and subscribed before me this 30 day of Oct., by WALTER DEFORTUNA
Name of person making statement


Signature of Owner


Signature of Notary Public Mark E. Fried State of Florida
My Commission DD282453
Expires March 15, 2008

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known X OR Produced Identification _____

Type of Identification Produced _____

ADDENDUM TO PLANNING AND ZONING APPLICATION

1. Applicant wants to increase the length of the existing 48'9" dock 19'7" 180 degrees on seaward side along an arced bulkhead. The new portion of the dock, within the D5 triangle, would extend 15'2" from the bulkhead into Hurricane Harbor. Increasing the length the dock without extending more than 10' from the bulkhead would cause the dock to parallel the arc of the bulkhead rendering the extension useless for mooring a boat.

13. a. This request should be granted because allowing the property owners to extend the dock to avail themselves the maximum linear footage along the bulkhead allowable by Code (within the D5 triangle) maintains the basic intent and purpose of the regulations. The property to the south has a dock extending 24' from the bulkhead with its north pile 37' from the bulkhead. The property to the north has a dock extending 14' and a lift extending 12' from the bulkhead. The variance would not increase the risk of watercraft hitting the dock. The addition to the dock would be within the D5 triangle. It would not affect adjacent property owners' views across the water and would not affect the stability and appearance of the neighborhood.

13. b. Granting this application for a variance to allow the dock to extend 15'2" from the bulkhead is compatible with the surrounding land uses and would not be detrimental to the community where the docks of the 3 properties to the north all extend from the bulkhead more than 14' and the docks of the 2 properties to the south extend from the bulkhead more than 20'. The dock as proposed would not affect the stability and appearance of the Hurricane Harbor neighborhood.

Signature of Owner/Applicant:



Date Oct. 31, 2007

I, the undersigned, have been notified by Walter Defortuna, the owner of 720 Harbor Drive, Key Biscayne, Florida, of his application for a regulatory variance to build an addition to the dock extending 15'2" feet from the bulkhead. I have read the information applicable for a request for a Regulatory Variance from the Zoning Regulations that is attached hereto.

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.

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



Signature

John H. Dasburg

Type or print name

730 Harbor Drive
Key Biscayne, FL 33149