

water dependent structures such as docks.” A variance requested pursuant to section 120.542, Florida Statutes, must demonstrate that the purpose of the underlying statute will be or has been achieved by other means; and that application of the rule would create a substantial hardship or would violate principles of fairness.

The applicant has failed to demonstrate any unusual hardship in his request to allow the unpermitted structure (residential home) and concrete to remain. For the structure, the applicant asserts that it was believed that all permits were obtained when the home was constructed, and moving the home would make access to the house impossible because it would then be within the County’s 25-foot road setback. A variance from this setback was never requested. For the concrete, the applicant asserts that the concrete is required for the chosen retrofit seawall, but did not provide justification that the chosen retrofit was the only viable option for the project location. Furthermore, the applicant has not demonstrated that the requirement of the underlying statute has been met by other means through the removal of other existing structures and tree planting that leaves, at a minimum, 600 ft² of structures and concrete over what is authorized in rule.

The District published a notice regarding the project in the Florida Administrative Register on July 23, 2020. To date, no objections to the denial of the variance have been received. Staff recommends denial of the variance request from the provisions of section 40B-4.3030(13), F.A.C., due to placing of structures and concrete prior to obtaining a permit and failure to meet the hardship and the requirement to meet the rule criteria by other means.