

one deck per parcel located at the top of the bank no larger than 200 square feet and a boardwalk no wider than five feet to provide reasonable pedestrian access to 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 applying section 40B-4.3030(3), F.A.C., by asserting that the owners’ association does not have the funds to raise the existing unpermitted roof, and that raising the roof will reduce the pavilion’s stability. The applicant has also failed to provide other means by which the purpose of the underlying rule will be met by asserting that the roof is minimally (nine inches) below the required elevation of 41 feet.

The applicant has failed to demonstrate any unusual hardship in applying section 40B-4.3030(13), F.A.C., by asserting the concrete slab is necessary to create an even walking surface to allow more members of the community to use the pavilion; that the pavilion is necessary for community socializing; or that the owners’ association believed at the time of reconstruction that the necessary authorization from the District had been obtained. The District has no record of an authorization, verbal or otherwise, for this pavilion. The applicant has also failed to provide other means by which the purpose of the underlying rule will be met by asserting that the small footprint of the pavilion and placement of the concrete slab at grade would have negligible impacts.

The District published a notice regarding the project in the Florida Administrative Register on March 17, 2020. To date, there have been no objections to the variance request.