

natural grade of the ground except for minor amounts of fill which are less than or equal to 100 square feet of the cross-sectional area of the floodway.”

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 District received a request for an after-the-fact application and variance request from the floodway fill requirements set forth in section 40B-4.3030(7), F.A.C., to retain fill exceeding the 100 square feet of the cross-sectional area of the floodway requirement on their property adjacent to the Suwannee River. The applicant originally requested this variance to allow 171 ft² of cross-sectional fill to remain and demonstrated a substantial hardship by providing medical documentation demonstrating the need for a flat walking surface to avoid aggravating an existing medical condition. However, the applicant failed to provide a method by which the underlying rule would be met and was asked at the July Governing Board meeting to return in August with a zero-rise certification and any other measures that could be implemented to satisfy this requirement.

The applicant has assessed the extent of cross-sectional fill area and determined that 49 ft² of the 171 ft² could be removed; and, although the remaining 122 ft² of fill exceeds rule criteria, a zero-rise certification indicates no impact. Due to the activity being done prior to obtaining a permit and failure to meet specific rule criteria by other means, District staff recommends denial of this variance request and the removal of 22 ft² cross-sectional area of fill by the applicant.

The District published a notice regarding the project in the Florida Administrative Register on April 21, 2020. To date, five objections to the issuance of the variance have been received. Staff recommends denial of the variance request from the provisions of section 40B-4.3030(7), F.A.C., due to placing of fill prior to obtaining a permit and failure to meet the maximum 100 ft² cross-sectional area rule criteria by other means.