

reconstruction shall occur in the front 75 feet of an area immediately adjacent to and including the normally recognized bank of a water, except for 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. Furthermore, pursuant to the District’s Statement of Agency Organization and Operation, the agency decision deadline for variance requests will be reduced from 90 days to 45 days if the request is demonstrated by the petitioner to be an emergency situation that will cause immediate adverse impacts.

Although it was unclear whether the petitioner was requesting an emergency variance for both the existing residence and concrete seawall tieback anchor (part f) or just the existing 1347 ft<sup>2</sup> residence (parts g, h, and i), staff reviewed both and determined that the petitioner had failed to demonstrate any unusual hardship in asserting it was believed placement of the mobile home was exempt from District permitting. The exemption notation on the County Building permit was not substantiated by any District records. Furthermore, staff found no hardship with the fact that the residence would need to be unoccupied while being repositioned. No hardship for removal of the concrete seawall tieback anchor was provided by the petitioner.

The petitioner has also not provided an alternative means of meeting the underlying purpose of the rule by proposing to offset the impact of the mobile home with the removal of approximately 2,127 ft<sup>2</sup> of obstructions, some of which were already required to be removed by the current Administrative Complaint and Order. Accounting for the area of mobile home within the front 75-foot setback, staff estimates a net reduction of 423 ft<sup>2</sup> of grandfathered obstructions. No alternative means of meeting the underlying purpose of the rule were provided by the petitioner for retaining the concrete seawall tieback anchor.

Denial of the emergency variance request will require, as part of the after-the-fact permit, the mobile home to be repositioned 3.5 to 12 feet., depending on whether the attached deck will remain; and all concrete and the anchoring system to be removed from within the 75-ft. setback, with the exception of a 5 ft. wide path to access one set of stairs and a 5 ft. wide cap/access along the seawall. Granting of the variance will allow the structure and concrete to remain in the 75-ft. setback as part of the after-the-fact permit. The District published a notice regarding the project in the Florida Administrative Register on September 14, 2020. To date, no objections have been received.