

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

MEMORANDUM

TO: Governing Board

FROM: Leroy Marshall, Chief, Office of Engineering/Environmental Resource Permitting

THRU: Steve Minnis, Deputy Executive Director, Business and Community Services

DATE: October 30, 2020

RE: Emergency Variance Request for General Works of the District Permit Application WOD-029-237339-1, Cothron Residence, Dixie County

RECOMMENDATION

Deny, without prejudice, an emergency variance from section 40B-4.3030(13), Florida Administrative Code (F.A.C.), for General Works of the District Permit Application WOD-029-237339-1 to Forrest Cothron; and formalize the Governing Board's decision through the issuance of a Final Order executed by the Executive Director.

BACKGROUND

Section 40B-4.3030(13), F.A.C., states in part, "No construction, additions or 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.." and a variance from this rule must demonstrate a hardship or the principles of unfairness; and that the purpose of the underlying statute has been achieved by other means. 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.

Staff determined that the petitioner had failed to demonstrate any unusual hardship to keep the concrete cap and tie backs as constructed. The hardship the petitioner is asserting is self-imposed as the petitioner constructed the seawall, cap, and tiebacks without permits or consultation with District staff.

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 unpermitted concrete by removing grandfathered concrete. Although the petitioner requests that 802 square feet remain, the petitioner does not include the sidewalks that have been allowed to remain. Including these areas, the actual amount of impervious to remain within the 75-foot setback would be 1,041, leaving no net reduction of impervious surfaces within the 75-foot setback. In addition, there is no proof that the grandfathered impervious is still under the new capped concrete.

Denial of the emergency variance request will require, as part of the after-the-fact permit, all concrete to be removed from within the 75-ft. setback, with the exception of a 5 ft. wide path to access stairs and a 5 ft. wide cap/access along the seawall. Granting of the variance will allow the 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.

LM/tm
Attachments