

**TOWN OF GOLDEN BEACH  
COMMUNITY DEVELOPMENT  
MEMORANDUM**

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**To:** Building Regulatory Advisory Board  
Town of Golden Beach

**From:** Michael J. Miller, AICP *MJM*  
Consultant Village Planner

**Date:** October 1<sup>st</sup>, 2020

**Subject:** Zoning Variance Application  
Elevated Boat / Boat Lift at Existing Single-Family Residence  
268 South Parkway  
Lots 18 & 19 of Block G, Section D  
MMPA Project No.04-0101-0523

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**ISSUE**

In June 2020 the applicant, Boat Lifts & Docks of South Florida, as agent for the property owners, Jason & Carolina Rubin, submitted a request to install a boat lift in an existing boat slipway within the rear of the site. The location of the existing boat slipway is legal nonconforming (does not meet current 10' side setback). While the boat slip location is legal nonconforming, by installing a boat lift which would elevate a boat, this alteration conflicts with Town Code Sections 46-55 and 46-87. Initially MMPA believed since the boat slipway was existing and nonconforming a boat lift was acceptable. The applicant's boat lift application was presented to the BRAB at their August 11<sup>th</sup>, 2020 meeting. The BRAB acknowledged the pre-existing boat slip but felt a variance was necessary for the boat lift and elevated boat per Town Code (Sec. 46-87(b)), and to allow notice to be given to neighbors. The applicant was advised of this action and subsequently submitted a variance application which will be heard with the deferred BRAB application. The application form is requesting a variance from only Sec. 46-55 to permit a boat lift in the 10' side setback. While this Code citation is valid (vessel / structure must meet setback - 10'), a variance is also necessary from Sec. 46-87(b) - "No elevated boats / docks allowed in the side setbacks". The application form should be updated to include both Code sections and provide justification for both. MMPA has prepared our staff report assuming the application will be revised to address both Code sections.

- Variance from Town Code Section 46-55 to allow a boat lift to be installed less than ten (10) feet from the side lot line.
- Variance from Town Code Section 46-87(b) to allow an **elevated boat or dock** to encroach in any instance within the side setback area (10 feet).

## ANALYSIS

As per the Town's request MMPA has completed our review of the above referenced variance application and provide the following comments for consideration:

**Variance #1 to Sec. 46-55** - The application form submitted requests a variance from Town Code Section 46-55 to allow the placement of a boat lift to be less than ten (10) feet from a side lot line (southeast corner of the property adjacent to the Grand Canal). The plans submitted show the applicant is proposing the construction of a new 4-post boat lift in an existing boat slipway within the lot. The new boat lift at its closest proximity will be about six (6) feet, seven (7) inches from the side lot line, requiring a variance of three (3) feet, five (5) inches. The applicant stated they purchased the property with the existing boat slipway. The boat lift is for protection of the boat.

**Variance #2 to Sec. 46-87(b)** - As stated above in our preamble discussion, the application form submitted did not include another important Code section that the BRAB was mostly concerned with - a elevated boat within the minimum side setback that could block the waterway view by the adjoining neighbors. This requirement is listed in Section 46-87(b) and will be included in this application review by the Town. The applicant will be requested to update their initial variance application form. This Code section states in part: "Neither elevated boats or docks shall encroach in any instance within the side setback area". Again, while the boat slipway is nonconforming, the addition of a boat lift which will hold an elevated boat out of the water will violate this Code section (10' side setback) unless a variance is granted.

The applicant obtained several pre-approvals / clearances from the Florida Department of Environmental Protection (FDEP) in a letter dated January 3<sup>rd</sup>, 2020. Because the boat lift will be on private land (not over public water) certain exemptions were approved by FDEP. FDEP reviewed and determined this application qualified for: (1) regulatory exemption - **Approved**, (2) propriety authorization (related to state-owned submerged lands), and federal approval may be necessary for work in wetlands or waters of the United States - **Not Required**, and (3) Federal Review not required - **Approved**. The proposed activity outlined in the application qualifies for authorization pursuant to the State Programmatic General Permit V-R1, and a **SEPARATE permit** or authorization will not be required by the Army Corps.

The existing boat slip appears to be about 26' deep and 16' wide (to edge of interior seawall caps). Since a boat cannot be moored in the D-5 triangles no portion of a boat could stick out of the boat slip into the canal because it would be in the triangles - so a boat could be about 25' long at most unless they get a variance. According to the plans / survey the vertical seawall in the boat slip is about 4' from the eastern side lot line, but the seawall cap is 3' wide and extends toward the boat slip water about 2' from the seawall face itself. The plans show the edge of the seawall cap to the eastern side lot line at 6'-10" near the canal and at the other end 7'-2" but at the closest point about 4' for the actual vertical seawall. The new pilings that would hold the boat lift are almost up against the seawall cap so they would be about 7' from the side lot line. There is no "dock" in the side setback now or proposed - only the existing boat slip, the vertical seawall and seawall cap. The Code does not specifically mention pilings or boat lifts in the side setbacks - only elevated boats, docks or other (undefined) structures (i.e. boat lift). Again, while the boat slipway already exists and its location is considered legal nonconforming, there is no dock in the boat slipway nor anything else (boat lift) that could "elevate" a boat. It does not seem feasible to construct a smaller boat lift in the west side of the boat slip and meet the

minimum 10' side setback, as few larger boats are that narrow (8'+/-). If a boat lift was installed and a boat was elevated this would be considered a "new condition" that would appear to violate the elevated boat criteria in Sec. 46-87(b). Therefore, a variance is necessary to install a boat lift within the 10' side setback area. The purpose of the Miami-Dade (D-5 triangle) and Town's Code restrictions (GB D-5 triangle / side setbacks / dock & boat lift design criteria / other waterward facilities) is to help keep open areas between homesites and to preserve view vistas along the waterways. Presumably if a boat lift was installed and a boat was elevated the adjoining homesite's view of the canal might be compromised. A variance process affords neighboring sites an opportunity to be aware of the request and to comment on this matter.

As to the details of the boat lift, a new 24,000 lb. / 4-post boat lift on four (4) new wood pilings is proposed to be constructed within the existing boat slip. The proposed boat lift is located entirely within the boat slipway and will not encroach into the Grand Canal. Due to the boat slipway location within the lot the new wood piles and boat lift complies with all of the D-5 triangles. The proposed boat lift is fifteen (15) feet in length and thirteen (13'-11") feet in width and is completely within the existing boat slipway. According to the proposed plans the boat lift will be at approximately +2'-4" NAVD (scaled from the plan). The existing seawall elevation is +4.0' NAVD (within acceptable range). The existing wood boat dock parallel to the seawall in the Grand Canal and seawalls will remain (+4.0' NGVD) which is permitted. It appears a portion of the existing seawall / cap fronting the Grand Canal may encroach slightly into the waterway – but that is an existing condition and not related to the boat lift.

#### NON-USE VARIANCE JUSTIFICATION

The comments below are based on the applicants request for a variance to Section 46-55 and also to Section 46-87(b) that staff finds necessary to allow an elevated boat and boat lift within the ten (10) foot side lot line setback.

*The variance requested is for relief from the provisions of the Town Code.*

The applicant seeks relief from Section 46-55 of the Town's Code of Ordinances, which states "Vessels, floating docks, or other structures that are moored or installed at a dock or seawall: (1) shall protrude no further than 25 feet into the waterway from the face of the seawall or bulkhead, **(2) shall maintain a setback of at least ten feet from the waterward projection of the side property lines,** and (3) shall be maintained entirely within the established setback.

The applicant also needs relief from Section 46-87(b) of the Town's Code, which states in part **"Neither elevated boats or docks shall encroach in any instance within the side setback areas"**.

- 1) *To recommend the granting of the variance, it must meet all the following criteria.*
  - a. *The Variance is in fact a Variance from a zoning regulation as set forth within the Zoning Chapter of the Town Code.*

The applicant states this will be a variance from Section 46-55 to allow a lift to be placed within an existing boat slipway, which will place the lift within 10-feet

setback area. In addition, a variance from Section 46-87(b) is also necessary. The lift at its closest proximity will be 6'-7" from the side lot line, requiring a variance of 3 feet, 5 inches. MMPA agrees that the variances requested are valid to provide relief from the normal Zoning Code requirements.

- b. *Special conditions and circumstances exist which are peculiar to the land or structure involved, and which are not applicable to other lands or structures in the same district.*

The applicant states the boat slipway is existing and was constructed for the purpose of mooring a vessel within it. Such boat slipways are not common in the Town, although there are others. The lack of prevalence of such a slipway would make this circumstance and condition peculiar to this property and would not necessarily lead to similar request at other properties. MMPA has identified at least 6 other boat slipways in the Town. There are not common presumably because they take away buildable area within the development site boundaries.

- c. *The special conditions and circumstances do not result from the actions of the applicant.*

The applicant states they did not construct the boat slipway; it was present when they purchased the property. The applicant states they are merely requesting to utilize the existing boat slipway for mooring of a vessel as the slipway was intended, and wishes to moor said vessel upon a lift to keep it out of the water to protect the vessel's outer finish. MMPA agrees with this premise – but due to the slipway location a raised boat and boat lift could negatively impact the neighbor.

- d. *Granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Chapter of the Town Code to other lands or structures in the same district.*

The applicant states the granting of the variance will not confer upon the applicant any special privileges that any waterfront property owner already enjoys. It will merely allow the applicant to moor the vessel out of the water, as any property owner with a lift can already do. Although rare, there are other slipways in Town that have an approved lift within it.

2. *Literal interpretations of the provisions of the Zoning Chapter of the Town Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of zoning regulations and would work unnecessary and undue hardship on the applicant.*

The applicant states literal interpretation of Section 46-55 (and 46-87(b)), would not allow the applicant to moor their vessel out of the water, commonly done by vessel owners throughout the Town, within the existing slipway. Not being able to keep the vessel out of the water can cause the vessel finish to wear out quicker, and potentially lead to damage to the vessel hull. MMPA notes a boat lift could be installed legally in the Grand Canal at the existing dock.

3. *The variance granted is the minimum Variance that will make possible the reasonable use of the land or structure.*

The applicant states since the slipway is already existing and was designed for the mooring of vessels, the installation of the lift is the minimum variance that will make possible the reasonable use of the slipway. MMPA notes the boat slipway has existed for many years as-is and it is assumed a boat was moored there in the water.

4. *The granting of the variance will be in harmony with the general intent and purpose of the Town Code and the Variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

The applicant states granting of the variance will be in harmony of the general intent and purpose of the Town Code, and it will not be injurious to the area, including the direct adjacent neighbors, or detrimental to the public welfare. The boat lift, like the slipway will be entirely with the applicant's property.

As noted previously, the applicant's justification was only based on Section 46-55. The major impact from this new boat lift and elevated boat will be to the adjoining neighbor, as the boat lift and elevated boat placed very close the side lot line may negatively block the view to the water by the neighbors. Because of this the application should be revised to include justification to grant a variance to Sec. 46-87(b) as well.

#### **SUMMARY**

In June 2020 the applicant, Boat Lifts & Docks of South Florida, as agent for the property owners, Jason & Carolina Rubin, submitted a request to install a boat lift in an existing boat slipway within the rear of the site. The location of the existing boat slipway is legal nonconforming (does not meet current 10' side setback). While the boat slip location is legal nonconforming, by installing a boat lift which would elevate a boat, this alteration conflicts with Town Code Sections 46-55 and 46-87. The applicant's boat lift application was presented to the BRAB at their August 11<sup>th</sup>, 2020 meeting. The BRAB acknowledged the pre-existing boat slip but felt a variance was necessary for the boat lift and elevated boat per Town Code (Sec. 46-87(b)), and to allow notice to be given to neighbors. The applicant was advised of this action and subsequently submitted a variance application which will be heard with the deferred BRAB application.

MMPA has reviewed the requested non-use variance for the proposed installation of a new boat lift in an existing boat slipway on the lot. The proposed boat lift would be constructed within the 10' side setback area. The boat lift at its closest proximity will be about 6'-7" from the side property lot line, requiring a variance of 3'-5". The boat slipway is pre-existing as to its location. If a sizable (tall) boat was moored in the boat slip it could block the view of the neighboring house. However, the addition of a boat lift and elevated boat would be more prominent. In our opinion the neighbor should be consulted and agree to the variance request.

Overall MMPA believes the placement of the proposed new boat lift is a reasonable request given the existing boat slipway location (within the 10' side setback), if water visibility for the neighbor is not blocked.



## TOWN OF GOLDEN BEACH NOTICE OF PUBLIC HEARING

The **Building Advisory Board** and The **Town Council** of the Town of Golden Beach will hold a **Public Hearing** on the following proposal:

(X) Variance Request(s)

Installation of a Boat Lift into a Boat Slipway.

Relief from Town Code Section 46-55 - Vessels, floating docks, and other structures moored or installed at a seawall or dock.

Vessels, floating docks, or other structures that are moored or installed at a dock or seawall: (1) shall protrude no further than 25 feet into the waterway from the face of the seawall or bulkhead, (2) shall maintain a setback of at least ten feet from the water ward projection of the side property lines, and (3) shall be maintained entirely within the established setback.

Request is to allow the lift to be at 6'7" from the side lot property line. Instead of the 10' required by the code.

Relief from Town Code Section 46-87(b) Proximity of lot lines.

(b) No portion of a dock, boat lift, hydro hoist or any other method of elevation, mooring piles, boat davits, dolphin piles or any other structure, and no portion of a boat elevated above the water moored at a dock or seawall, shall protrude into the waterway, unless it is within the triangle formed by connecting the points indicated below, that form a triangle where the waterfront property line is the base of the triangle and the triangle sides extend towards the waterway at a 45 degree angle until the lines intersect on the waterway side of the lot, but never to exceed 25 feet into the waterway from each of the lot property line. Neither elevated boats nor docks shall encroach in any instance within the side setback area. The base of the triangle shall be determined as follows:

(1) The base of the D5 triangle for all lots is set back five feet inside each of the side property lines.

(2) When the lot line is curved, the base shall be measured at the straight line, forming the chord, connecting the two side property lines (or the two side setback lines) at the point where they cross the seawall. The side setback shall be determined based upon the length of the chord as provided in this subsection, above.

Request is to allow the lift, when elevated, to be at 6'7" from the side lot property line. Instead of the 10' required by the code.

JOB ADDRESS:	268 South Parkway, Golden Beach, FL. 33160
OWNER ADDRESS:	268 South Parkway, Golden Beach, FL. 33160
REQUESTED BY:	Jason Rubin
LEGAL DESCRIPTION:	Lot 3, Block C, GB Sect A, PB 9-52
FOLIO NO.:	19-1235-002-0520

The **BUILDING ADVISORY BOARD** will consider this item:

PLACE: GOLDEN BEACH TOWN HALL  
1 GOLDEN BEACH DR., GOLDEN BEACH, FL.

DATE: October 13, 2020 at 6pm

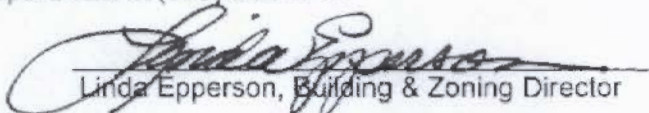
Zoom Meeting ID: 845 8159 7145 Passcode: 912382 For Dial in only call: 929-205-6099

The **TOWN COUNCIL** will consider this item:

PLACE: GOLDEN BEACH TOWN HALL  
1 GOLDEN BEACH DR., GOLDEN BEACH, FL.  
DATE: October 20, 2020 at 7.00pm or upon the call of the Chair  
Zoom Meeting ID: 832 9789 9019 Passcode: 465292 Dial by your location 929 205 6099

If you wish to submit written comments for consideration, they should be submitted to the Office of the Golden Beach Town Manager, prior to the scheduled meeting. If you have any questions regarding the proposed action, you may contact the Building Department at (305) 932-0744

DATED: October 2, 2020

  
Linda Epperson, Building & Zoning Director

PURSUANT TO FLA. STATUTE 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT: IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE COUNCIL, BOARD OR COMMITTEE WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, AFFECTED PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. ANY INDIVIDUAL WHO BELIEVES HE OR SHE HAS A DISABILITY WHICH REQUIRES A REASONABLE ACCOMMODATION IN ORDER TO PARTICIPATE FULLY AND EFFECTIVELY IN A MEETING OF THE BUILDING REGULATION BOARD MUST SO NOTIFY THE TOWN CLERK, AT (305) 932-0744 AT LEAST 24 HOUR

OCT 13 2020

**TOWN OF GOLDEN BEACH**  
**APPLICATION FOR**  
**BUILDING REGULATION ADVISORY BOARD MEETING/HEARING**

Property Location: 268 S Parkway Meeting Date: APPROVED  
Variance Hearing Dates: Advisory Board DISAPPROVED VARIANCE REQ:   
Town Council

APPROVAL FROM THE BUILDING REGULATION ADVISORY BOARD IS REQUIRED FOR:

- A. Plans for new residence
- B. Plans for addition to or exterior alterations of an existing structure.
- C. Additional structures on premises of existing residences
- D. Review of landscape plan for new construction, renovation or addition to existing residence.
- E. Recommendation to Town Council for the approval or denial of variances and special exceptions.
- F. Recommendation to Town Council for interpretation regarding apparent conflicts or inconsistencies in the zoning provisions in Chapters 46 & 66

**APPLICATION HEARING PROCESS**

**Building Approval:**

Applicant: submit 8 complete packages for approval: each package shall consist of an application, survey, warranty deed and drawings as required. The plans shall be sized as follows: 7 sets; 11" x 17", 1 **full size** set and 1 CD containing all drawings marked with the address. Separate from the landscaping plan submittal

**Landscape Approval:**

Applicant submit, separate from the Building application, 8 complete packages for approval. Each package shall consist of an application, existing landscape survey, and drawings as required. The plans shall be sized as follows: 7 sets; 11 x 17, 1 **full size** set and 1 CD containing all drawings separate from the building plan submittal.

**Zoning Variance Approval:**

Submittals for a zoning variance: submit 16 complete packages for approval: each package shall consist of an application, survey, warranty deed and drawings are required. The plans shall be sized as follows: 15 sets; 11" x 17", 1 **full size** set and 1 CD containing all drawings.

As directed by the Building Official or Building Director.

The Building Regulation Advisory Board (B.R.A.B.) meets at 6:00 P. M. on the second Tuesday of every month. Applications must be submitted 30 days prior to scheduled meeting, (**not including the day of the meeting**), by 2:00 P.M. that day to allow for preliminary review and for mailing of a public notice if a variance is requested.

Fees must be paid at time of application submittal.

Any variances required must be heard and approved by the Town Council after the Building Regulation Advisory Board has considered the item. The Variance will be heard by the Town Council, in the following month, (on the third Tuesday), after the Building Regulation Advisory Board's action, at the Town Council's regularly scheduled meeting.

Please see page 5 for required documents.

**\*\*NOTICE\*\***

**INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED. PLEASE MAKE SURE THAT YOU, THE APPLICANT, HAVE CHECKED AND MARKED ALL ITEMS ON PAGE 5. THANK YOU.**

BUILDING REGULATION ADVISORY BOARD APPLICATION (September 2016)

**TOWN OF GOLDEN BEACH**  
**APPLICATION FOR**  
**BUILDING REGULATION ADVISORY BOARD HEARING**

OCT 13 2020

APPROVED \_\_\_\_\_  
DISAPPROVED \_\_\_\_\_  
VARIANCE REQ: \_\_\_\_\_

1. The application deadline date will be strictly complied with. No application shall be accepted after that date and time.
2. The Building Official and/ or the Building Director will review the application package. If it is determined that the application is incomplete, the item will tabled and not placed on the Agenda for that month.
3. During the three (3) week period from deadline date to the hearing date, the following events shall take place in proper order:
  - a. During the first week of submittal, the Building Official, or agent will endeavor to review the application, and complete a comment sheet 15 days prior to the meeting. The critique sheet will specify all deficiencies for correction.
  - b. The critique sheet will be faxed, or emailed, to the applicant as soon as the review is completed.
  - c. If the deficiencies are substantial the application will be moved to the next scheduled meeting/hearing of the B.R.A.B.
  - d. If the deficiencies are minor, the applicant must submit the corrections including the revised paperwork within 5 days of the scheduled meeting/hearing. Corrections not received for a scheduled Agenda item will be deferred to the next B.R.A.B. meeting/hearing date.
4. A Notice of Hearing for variance will be mailed no later than 10 days before the date of meeting, as per Town Code.
5. During the third week all applications with plans and documents shall be properly arranged. One complete copy of the package will be given to the processor and the Friday, prior to the scheduled meeting one set will be delivered to each Board member. The Building Dept shall retain all originals for the records.
6. All applicants shall be made aware that incomplete applications or deficiencies not corrected in time as per these regulations, will not be included on the agenda, and are hereby rejected, and will be returned to the applicant.
7. After the meeting, three (3) copies of the approved items (one full size and 2 ledger) shall be retained by the building department, the applicant must request the two reduced sized sets for inclusion into the building permit package.

**TOWN OF GOLDEN BEACH  
BUILDING REGULATION ADVISORY BOARD  
SCHEDULE OF FEES**

Town of Golden Beach  
Building Regulatory Advisory Board  
Hearing Date

OCT 13 2020

Appropriate fee shall be paid at time of application. These fees are not refundable.

Type of request

APPROVED \_\_\_\_\_  
DISAPPROVED \_\_\_\_\_  
VARIANCE REQ. \_\_\_\_\_  
**Fee**

- |  |                 |
|--|-----------------|
| 1. Residence (new construction).....   | \$300.00        |
| 2. Addition/Remodel of existing structure.....   | \$225.00        |
| 3. Fencing, site walls, driveways, pool decks<br>(charged per each item included in the plans)   | \$150.00        |
| 4. Accessory Building or Structure.....  | \$150.00        |
| 5. Swimming pools.....   | \$100.00        |
| 6. Docks.....  | \$100.00        |
| <b>7. Boat Lifts.....</b>  | <b>\$100.00</b> |
| 9. Carports, awnings.....  | \$100.00        |
| 10. Landscape plan review; required for new construction, addition and<br>remodeling project. (submit plans with site plan elevations separate<br>from the building plan approval package)   | \$300.00        |
| 11. Resubmissions, based on original fee paid...   | 75.0%           |
| 12. Zoning Variances and special exceptions, per variance<br>or exception:   |                 |
| a. First variance/ exception. ....   | \$750.00        |
| b. Per additional variance/exception, for the same initial variance<br>(example: request for a dock, affecting two different codes)  | \$200.00        |
| c. When a variance is granted, the property owner, at his expense, shall have the<br>resolution for the variance recorded in the public records of Miami-Dade county,<br>and two (2) certified copies of the recorded resolution shall be submitted to the<br>Town for inclusion into the property records |                 |
| d. If the Town Council grants a variance, a building permit must be secured within<br>two years of the approval date or the variance will become null and void   |                 |
| 13. Request to the Board for verification of any section of the Zoning Code,<br>For each Section to be verified.....   | \$100.00        |

**TOWN OF GOLDEN BEACH  
BUILDING REGULATION ADVISORY BOARD  
SCHEDULE OF FEES**

OCT 13 2020

APPROVED \_\_\_\_\_  
DISAPPROVED \_\_\_\_\_  
VARIANCE REQ. \_\_\_\_\_

14. Application for the legalization of construction built without the approval of the B.R.A.B., when the Board should have approved such construction, will be assessed a fee equal to four (4) times the regular fee applicable to the matter.

15. Special Requests for a meeting, variance, or waiver of plat hearing:

- a. For matters that have been heard, but the process had not been completed, i.e., tabled subjects, or unfinished subjects to be continued, the applicant must notify the Building & Zoning Department in writing if they would like the item continued

If the notification is received by the Department before the deadline for the next B.R.A.B. meeting, there will be no charge for the continuance. If the notification is received after the deadline, and the applicant still wants the matter included in the agenda for the next meeting, there will be a special fee of

\$200.00

- b. If the agenda has already been prepared and the applicant wants the matter to be heard, the request must be received in writing to be added to the agenda at the beginning of the meeting with the approval of the Building Official or Building & Zoning Director. There will be a special fee of

\$200.00

- c. When a special meeting or hearing of the B.R.A.B. is requested by an applicant, for either a new matter or continuance of a subject already heard, there will be a special fee for a 2 hour time period of

\$500.00

If the time limit is exceeded, an additional fee of ½ of the fee will be assessed for the second time period

\$250.00

**TOWN OF GOLDEN BEACH**  
**APPLICATION FOR**  
**BUILDING REGULATION ADVISORY BOARD HEARING**

Town of Golden Beach  
 Building Regulatory Advisory Board  
 Hearing Date

OCT 13 2020

Applicant check here	Complete application, sign, and notarize.	APPROVED DISAPPROVED VARIANCE REQ	Bldg Dept Use
	If a zoning variance is applied for, the petition for variance, pages 9, 10 and 11 shall be submitted with the application and shall include: a. Property Legal Description b. Property Folio number c. Street address d. Owners of record e. Owner and agent names and signatures properly notarized.		
X	Eight (8) property surveys, building plans, Warranty Deeds, and applications (1 original, 7 copies). Survey not older than six (6) months. Completed sets are to be submitted as follows: Seven (7) copies no larger than 11" x 17" & 1 original at full size. Sixteen (16) copies are required for a variance, (15 copies no larger than 11" x 17" and 1 original at full size). Each completed package shall consist of 1 each of an application, survey, Warranty Deed and building plans. Submit 1 CD with all documents included		
	Conceptual construction drawings prepared and signed by a licensed design professional that shall include, at a minimum, the following: a. Site plan at a scale not less than 1/8" = 1'-0" (Include grade elevations) b. Proposed Floor Plan views, at a scale not less than 1/4"=1'-0" c. Cross and longitudinal sections preferably through vaulted areas, if any. d. Typical exterior wall cross section. e. Full elevations showing flat roof and roof ridge height and any other higher projections. f. Sample board of construction materials to be used. g. Existing and proposed ground floor elevations (NGVD). h. Grading & Drainage Calculations i. Zone 3 Properties: Affidavit of Seawall Conformity		
	Landscaping Plan, separate from building plan package, prepared and signed by a licensed landscape design professional: Each completed package shall consist of 1 each of an application, existing landscape survey, Warranty Deed, landscape plans with building site plans. Seven (7) 11 x 17 and One (1) full size set. Submit 1 CD with all documents included. Mark CD accordingly (separate from building)		
	Pervious area calculations marking the geometrical areas used to calculate the overall required pervious area percentage.		
	Colored rendering showing new or proposed addition Work marked with the applicable address.		
	Estimated cost of proposed work. For additions/remodels fair market value of property showing land value and structure value separately.		
	Site plan detailing construction site personnel parking.		



**TOWN OF GOLDEN BEACH**  
**APPLICATION FOR**  
**BUILDING REGULATION ADVISORY BOARD HEARING**

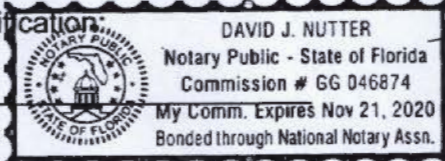
Town of Golden Beach  
Building Regulatory Advisory Board  
Hearing Date

OCT 13 2020

6. Is hearing being requested as a result of a Notice of Violation? APPROVED No  
DISAPPROVED  
VARIANCE REQ: \_\_\_\_\_
7. Are there any structures on the property that will be demolished? No
8. Does legal description conform to plat? Yes
9. Owner Certification: I hereby certify that I am the owner of record (\*) of the property described in this application and that all information supplied herein is true and correct to the best of my knowledge

Signature of owner(s): David Ruti

Acknowledged before me this June 1 day of, 20 20

Type of identification: 

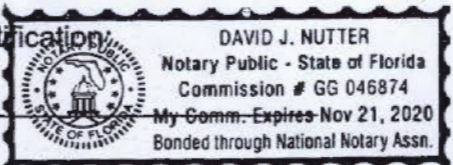
David J. Nutter  
Notary Public

**Owner/Power of Attorney Affidavit:**

I, being duly sworn, depose and say I am the owner (\*) of the property described in this application and that I am aware of the nature and request for: \_\_\_\_\_  
installation of new boat lift in existing slip way relative to my property and I am hereby authorizing David Nutter/Boat Lifts of South Florida to be my legal representative before the Building Regulation Advisory Board and Town Council.

David Ruti  
Signature of owner(s)

Acknowledged before me this 1 day of June 20 20

Type of identification: 

David J. Nutter  
Notary Public

(\*) If owner of record is a corporation then the president with corporate seal, the president and the secretary (without corporate seal), or duly authorized agent for the corporation may execute the application, proof that the corporation is a corporation in good standing.

TOWN OF GOLDEN BEACH  
APPLICATION FOR  
BUILDING REGULATION ADVISORY BOARD HEARING

OCT 13 2020

Property Address: 268 S Parkway, Golden Beach, FL 33160  
Legal Description: Golden Beach Sec D PB 10-10 Lots 18 & 19 B1K G  
Owner's Name: Jason Rubin Phone: 305-582-4631 Fax:   
Agent's Name: David Nutter Phone: 954-971-0811 Fax: 954-532-5073  
Board Meeting of:   
APPROVED  
DISAPPROVED  
VARIANCE REQ.

- NOTE: 1. **Incomplete applications will not be processed.**  
2. Applicant and/or architect must be present at meeting.

Application for: Installation of new 4-post boat lift in existing slip way  
Lot size: 20,951sf  
Lot area: 4,233sf  
Frontage:   
Construction Zone:   
Front setback:   
Side setback: 10' for lift (Section 46-55)  
Rear setback:   
Coastal Construction: Yes ☐ No ☒ East of coastal const. control line: Yes ☐ No ☒  
State Road A1A frontage: No  
Swimming pool: ☐ Yes ☐ No Existing: ☐ Proposed: ☐  
Fence Type: ☐ Existing: ☐ Proposed: ☐  
Finished Floor elevation N.G.V.D.:   
Seawall: Concrete panel Existing: Yes Proposed: ☐  
Lot Drainage:   
How will rainwater be disposed of on site? Not applicable

Adjacent use (s): Single-family residences  
Impervious area:   
% of impervious area:   
Existing ground floor livable area square footage:   
Proposed ground floor livable area square footage:   
Existing 2<sup>nd</sup> floor livable area square footage:   
Proposed 2<sup>nd</sup> floor livable area square footage:   
Proposed % of 2<sup>nd</sup> floor over ground floor:   
Vaulted area square footage:   
Vaulted height:   
Color of main structure:   
Color of trim:   
Color & material of roof:   
Building height (above finished floor elevation):   
Swale: (Mandatory 10'-0" from edge of payment, 10 ft. wide x 1 ft. deep minimum):

Existing trees in Lot: ☐ in Swale: ☐  
Proposed trees in Lot: ☐ in Swale: ☐  
Number & type of shrubs: ☐  
Garage Type: ☐ Existing: ☐ Proposed: ☐  
Driveway width & type: ☐

Signature of Applicant:  Date:

OCT 13 2020

TOWN OF GOLDEN BEACH  
ACKNOWLEDGEMENT and AFFIDAVIT BY OWNER  
Chapter 46 Waterways of the Code of Ordinances  
Article IV Seawalls and Docks.

APPROVED \_\_\_\_\_  
DISAPPROVED \_\_\_\_\_  
VARIANCE REQ: \_\_\_\_\_

Affidavit by Owner:

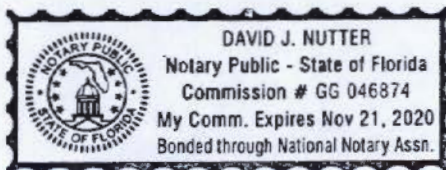
Folio No.: 19-1235-004-0140 Address: 268 S Parkway

Legal Description: Golden Beach Sec D PB 10-10 Lots 18 & 19 Blk G

Being duly sworn, deposes and says: That He/She is the Owner named in the permit application for construction or other related work to be performed on, or in connection with, the premises, as indicated above, and is in agreement that granting of a permit for construction on said premises, agrees to repair, or replace said seawall in question, to a conforming 4 foot elevation and to replace/and or repair any deteriorated seawall or portion thereof, as required by the Town's Code of Ordinances, Article IV "Seawalls and Docks, The Dept. of Environmental Resource Management, and the Florida Building Code 2010.

Jason Rubin  
Signature of Owner or Legal Representative  
Print Name: Jason Rubin

Sworn to and subscribed before me this June day of, 20 20



David J. Nutter  
Notary Public State of Florida at Large

       Personally know to me        Produced Identification

TOWN OF GOLDEN BEACH  
BUILDING REGULATION ADVISORY BOARD  
APPLICATION FOR  
PETITION FOR VARIANCE

OCT 13 2020

APPROVED \_\_\_\_\_  
Date: APPROVED \_\_\_\_\_  
VARIANCE REQ: \_\_\_\_\_  
Fee: \_\_\_\_\_

I, Jason Rubin hereby petition the Town of Golden Beach for a variance from the terms of the Town of Golden Beach Code of Ordinances affecting property located at: 268 S Parkway Folio No. 19-1235-004-0140

As specified in the attached "Application for Building Regulation Advisory Board" and related supporting material.

The Variance requested is for relief from the provisions of **(list section number(s) of the Town of Golden Beach Code of Ordinances):** Sec. 46-55. - Vessels, floating docks, and other structures moored or installed at a seawall or dock, to allow the lift to be less than 10 feet from the side lot line & Sec. 46-87(b) to allow the lift and vessel to be less than 10 feet from the side lot line to allow the vessel to extend beyond the D-5 triangle boundary line

1. In order to recommend the granting of the variance, it must meet all the following criteria (please provide a response to each item):
  - a. The Variance is in fact a Variance from a zoning regulation as set forth within the Zoning Chapter of the Town Code. There will be a variance from Section 46-55 to allow a lift to be placed within an existing slipway, which will place the lift within the 10-foot setback area. The lift at its closest proximity will be 6 feet, 7 inches from the side lot line, requiring a variance of 3 feet, 5 inches. And a variance from Sec. 46-87(b) for the same distance from side lot line as described for the variance from Sec. 46-55, but for both the lift and vessel, and to allow the vessel to extend beyond the D-5 triangle boundary by (at its farthest point) 2 feet, 6 inches.
  - b. Special conditions and circumstances exist which are peculiar to the land or structure involved, and which are not applicable to other lands or structures in the same district. The slipway is existing and was constructed for the purpose of mooring a vessel within it. Such slipways are not common in the Town, although there are others. The lack of prevalence of such slipways would make this circumstance and condition peculiar to this property, and so would not necessarily lead to similar requests at other properties.
  - c. The special conditions and circumstances do not result from the actions of the applicant. The applicant did not construct the slipway; it was present when he purchased the property. The applicant is merely requesting to utilize the existing slipway for the mooring of the vessel as the slipway was intended, and wishes to moor said vessel upon a lift to keep it out of the water to protect the vessel's outer finish.
  - d. Granting the Variance requested will not confer on the applicant any special privilege that is denied by the Zoning Chapter of the Town Code to other lands or structures in the same district. Granting of the variances will not confer upon the applicant any special privilege that any waterfront property owner already enjoys. It will merely allow the applicant to moor the vessel out of the water, as any property owner with a lift can already do. Although rare, there are other slipways in Town that have an approved lift within it.

TOWN OF GOLDEN BEACH  
BUILDING REGULATION ADVISORY BOARD  
PETITION FOR VARIANCE

OCT 13 2020

APPROVED

DISAPPROVED  
VARIANCE REQ.

2. Literal interpretations of the provisions of the Zoning Chapter of the Town Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of zoning regulations and would work unnecessary and undue hardship on the applicant. Literal interpretation of Sections 46-55 & 46-87(b), would not allow the applicant to moor his vessel out of the water, as commonly done by vessel owners throughout the Town, within his existing slipway. Not being able to keep a vessel out of the water can cause the vessel finish to wear out quicker, and potentially lead to damage to the vessel hull.
3. The Variance granted is the minimum Variance that will make possible the reasonable use of the land or structure. Since the slipway is already existing and was designed for the mooring of vessels, the installation of the lift as designed will be the minimum for both variances from that will make possible the reasonable use of the slipway.
4. The granting of the Variance will be in harmony with the general intent and purpose of the Town Code and the Variance will not be injurious to the area involved or otherwise detrimental to the public welfare. Granting of the variances will be in harmony of the general intent and purpose of the Town Code, and it will not be injurious to the area, including the direct adjacent neighbors, or detrimental to the public welfare. The lift, like the slipway will be entirely within the applicant's property.

Does the Variance being requested comply with all the above listed criteria?  
X Yes \_\_\_\_\_ No

5. Our code states that submission of a written statement is invited and encouraged. Has the applicant (petitioner) explained the variance to the owners of the nearest adjacent residences and sought their approval in writing? X Yes \_\_\_\_\_ No.

Please attach any written letters of no objection to this petition. The applicant spoke with the effected neighbor, and that neighbor has stated that they have no objection to the installation of the lift.

6. Is this request related to new construction? \_\_\_\_\_ Yes X No
7. Is construction in progress? \_\_\_\_\_ No
8. Is this request as a result of a code violation? \_\_\_\_\_ No
9. Did this condition exist at the time property was acquired? X Yes \_\_\_\_\_ No
10. Is this request sought as a remedy to a case to be heard, or action taken by the Special Magistrate? \_\_\_\_\_ No
11. Do you have a building permit? \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ No  
Building Permit No. \_\_\_\_\_ Date issued: \_\_\_\_\_

TOWN OF GOLDEN BEACH  
BUILDING REGULATION ADVISORY BOARD  
PETITION FOR VARIANCE

OCT 13 2020

TOWN OF GOLDEN BEACH  
BUILDING REGULATION ADVISORY BOARD  
PETITION FOR VARIANCE  
AFFIDAVIT BY OWNER

APPROVED \_\_\_\_\_  
DISAPPROVED \_\_\_\_\_  
VARIANCE REQ: \_\_\_\_\_

Affidavit by Owner for Variance Request(s):

Folio No.: 19-1235-004-0140 Address: 268 S Parkway

Legal Description: Golden Beach Sec D PB 10-10 Lots 18 & 19 Blk G

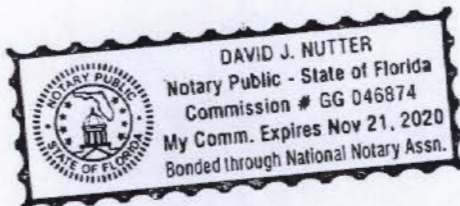
Being duly sworn, deposes and says: That He/She is the Owner named in the application for Building Advisory Board for the hearing date of \_\_\_\_\_ relating to Variance requests for construction or other work to be performed on, or in connection with, the premises located as indicated in the application.

I acknowledge notification by The Town of Golden Beach, that granting of a variance(s) by The Town Council, is conditioned on the following:

1. That a Building Permit for the contemplated work pursuant to the Variance must be issued within two (2) years from the date of the approval of the Resolution granting such variance request.
2. If a Building Permit is not issued within the two (2) year time limit set then the Resolution granting the Variance approval will be null and void.
3. That as the applicant, and at my own expense, I shall record a certified copy of the Resolution in the public records of Miami-Dade County and return two (2) certified copies to the Golden Beach Town Hall for inclusion into my property records.

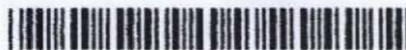
*Sam Ruti*  
Signature of Owner or Legal Representative

Sworn to and subscribed before me this June 1 day of, 20 20



*[Signature]*  
Notary Public State of Florida at Large

\_\_\_\_ Personally know to me      \_\_\_\_ Produced Identification



CFN 2018R0086155  
 OR BK 30860 Pgs 2514-2515 (2Pgs)  
 RECORDED 02/12/2018 14:46:16  
 DEED DOC TAX \$25,500.00  
 HARVEY RUVIN, CLERK OF COURT  
 MIAMI-DADE COUNTY, FLORIDA

Town of Golden Beach  
 Building Regulatory Advisory Board  
 Hearing Date

OCT 13 2020

APPROVED \_\_\_\_\_  
 DISAPPROVED \_\_\_\_\_  
 VARIANCE REQ: \_\_\_\_\_

Prepared by and return to:  
 William P. Doney  
 Attorney at Law  
 Caldwell Pacetti Edwards Schoech & Vintor P.A.  
 1555 Palm Beach Lakes Blvd. Suite 1200  
 West Palm Beach, FL 33401  
 561-655-9639  
 File Number: R197R00  
 Will Call No.:

Parcel Identification No. 19-1235-004-0140

(Space Above This Line For Recording Data)

## Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this 12th day of January, 2018 between Leonard M. Toonkel and Janis G. Toonkel, husband and wife, whose post office address is 248 South Parkway, Golden Beach, FL 33140 of the County of Miami-Dade, State of Florida, grantor\*, and Jason Rubla, a married man, whose post office address is 419 Tamarind Dr., Hallandale, FL 33009 of the County of Broward, State of Florida, grantee\*,

Witnesseth that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Miami-Dade County, Florida, to-wit:

Lot 18 and 19, Block G, "Section 'D' of Golden Beach", according to the plat thereof as recorded in Plat Book 18, Page 18, Public Records of Miami-Dade County, Florida.

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whatsoever.

Subject to restrictions, reservations, limitations and other matters of record, if any, provided that this shall not serve to reimpose the same; zoning ordinances, restrictions and prohibitions imposed by governmental entities and authorities; and taxes and assessments for the current year and subsequent years.

\* "Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

DoubleTime

Town of Golden Beach  
Building Regulatory Advisory Board  
Hearing Date

OCT 13 2020

APPROVED \_\_\_\_\_  
DISAPPROVED \_\_\_\_\_  
VARIANCE REQ: \_\_\_\_\_

Signed, sealed and delivered in our presence:

Witness Name: Carolina Paredes

Witness Name: Jessica Ortega

Witness Name: Carolina Paredes

Witness Name: Jessica Ortega

Leonard M. Toonkel

Janis G. Toonkel

State of Florida  
County of Miami-Dade

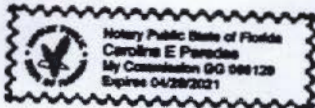
The foregoing instrument was acknowledged before me this 11 day of JANUARY, 2018 by Leonard M. Toonkel and Janis G. Toonkel, who ☒ are personally known or ☐ have produced \_\_\_\_\_ as identification.

[Notary Seal]

Notary Public

Printed Name: Carolina Paredes

My Commission Expires: 4/28/21





# OFFICE OF THE PROPERTY APPRAISER

City of Golden Beach  
Building Regulatory Advisory Board  
Hearing Date

## Summary Report

Generated On: 10/13/2020

Property Information	
Folio:	19-1235-004-0140
Property Address:	268 S PARKWAY Golden Beach, FL 33160-2219
Owner	JASON RUBIN
Mailing Address	268 S PARKWAY GOLDEN BEACH, FL 33160 USA
PA Primary Zone	1300 SGL FAMILY - 2801-3000 SQ
Primary Land Use	0101 RESIDENTIAL - SINGLE FAMILY : 1 UNIT
Beds / Baths / Half	5 / 4 / 0
Floors	2
Living Units	1
Actual Area	Sq.Ft
Living Area	Sq.Ft
Adjusted Area	4,233 Sq.Ft
Lot Size	20,951 Sq.Ft
Year Built	Multiple (See Building Info.)



Assessment Information			
Year	2019	2018	2017
Land Value	\$3,436,515	\$3,433,857	\$3,614,586
Building Value	\$175,985	\$249,550	\$251,518
XF Value	\$0	\$31,734	\$36,586
Market Value	\$3,612,500	\$3,715,141	\$3,902,690
Assessed Value	\$3,612,500	\$901,528	\$875,560

Benefits Information				
Benefit	Type	2019	2018	2017
Save Our Homes Cap	Assessment Reduction		\$2,813,613	\$3,027,130
Homestead	Exemption		\$25,000	\$25,000
Second Homestead	Exemption		\$25,000	\$25,000

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

Short Legal Description	
GOLDEN BEACH SEC D PB 10-10 LOTS 18 & 19 BLK G LOT SIZE 119.720 X 175 OR 12726-907 1285 1	

Taxable Value Information			
	2019	2018	2017
<b>County</b>			
Exemption Value	\$0	\$50,000	\$50,000
Taxable Value	\$3,612,500	\$851,528	\$825,560
<b>School Board</b>			
Exemption Value	\$0	\$25,000	\$25,000
Taxable Value	\$3,612,500	\$876,528	\$850,560
<b>City</b>			
Exemption Value	\$0	\$50,000	\$50,000
Taxable Value	\$3,612,500	\$851,528	\$825,560
<b>Regional</b>			
Exemption Value	\$0	\$50,000	\$50,000
Taxable Value	\$3,612,500	\$851,528	\$825,560

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
01/12/2018	\$4,250,000	30860-2514	Qual by exam of deed
12/01/1985	\$650,000	12726-0907	Sales which are qualified
06/01/1982	\$210,000	11483-1397	Sales which are qualified
09/01/1978	\$150,000	10150-2130	Sales which are qualified

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

Version:



# FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office  
3301 Gun Club Road, MSC 7210-1  
West Palm Beach, FL 33406  
561-681-6600

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Noah Valenstein**  
Secretary

Town of Golden Beach  
Building Regulatory Advisory Board  
Hearing Date

OCT 13 2020

January 3, 2020

APPROVED \_\_\_\_\_  
DISAPPROVED \_\_\_\_\_  
VARIANCE REQ: \_\_\_\_\_

Jason Rubin  
268 S Parkway  
Golden Beach, FL 33160

Re: File No.: 13-0382604-001-EE  
File Name: Rubin Lift

Dear Jason Rubin:

On December 11, 2019, we received your request for verification of exemption to install a boatlift. The project is located in the Intracoastal Waterway, Class III Waters, adjacent to 268 S Parkway, Golden Beach (Section 35, Township 51 South, Range 42 East), in Miami-Dade County (Latitude N 25° 57' 45.23", Longitude W 80° 7' 18.68").

Your request has been reviewed to determine whether it qualifies for (1) regulatory exemption, (2) proprietary authorization (related to state-owned submerged lands), and (3) federal approval that may be necessary for work in wetlands or waters of the United States.

**Your project qualifies for all three.** However, this letter does not relieve you from the responsibility of obtaining other federal, state, or local authorizations that may be required for the activity.

If you change the project from what you submitted, the authorization(s) granted may no longer be valid at the time of commencement of the project. Please contact us prior to beginning your project if you wish to make any changes.

If you have any questions regarding this matter, please contact Kaitlyn Mallett at the letterhead address or at 561-681-6658, [Kaitlyn.Mallett@FloridaDEP.gov](mailto:Kaitlyn.Mallett@FloridaDEP.gov).

OCT 13 2020

**1. Regulatory Review – VERIFIED**

Based on the information submitted, the Department has verified that the activity as proposed is exempt, under Chapter 62-330.051(5)(h), Florida Administrative Code, from the need to obtain a regulatory permit under Part IV of Chapter 373 of the Florida Statutes.

APPROVED

the activity as proposed is

VARIANCE REQ.

This exemption verification is based on the information you provided the Department and the statutes and rules in effect when the information was submitted. This verification may not be valid if site conditions materially change, the project design is modified, or the statutes or rules governing the exempt activity are amended. In the event you need to re-verify the exempt status for the activity, a new request and verification fee will be required. Any substantial modifications to the project design should be submitted to the Department for review, as changes may result in a permit being required.

**2. Proprietary Review- NOT REQUIRED**

The activity does not appear to be located on sovereign submerged lands, and does not require further authorization under chapter 253 of the Florida Statutes, or chapters 18-20 or 18-21 of the Florida Administrative Code.

**3. Federal Review - APPROVED**

Your proposed activity as outlined in your application and attached drawings qualifies for Federal authorization pursuant to the State Programmatic General Permit V-R1, and a **SEPARATE permit** or authorization **will not be required** from the Corps. Please note that the Federal authorization expires on July 26, 2021. However, your authorization may remain in effect for up to 1 additional year, if provisions of Special Condition 19 of the SPGP V-R1 permit instrument are met. You, as permittee, are required to adhere to all General Conditions and Special Conditions that may apply to your project. Special conditions required for your project are attached. A copy of the SPGP V-R1 with all terms and conditions and the General Conditions may be found at <https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book>.

Authority for review - an agreement with the USACOE entitled "Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection (or Duly Authorized Designee), State Programmatic General Permit", Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

**Additional Information**

Please retain this letter. The activities may be inspected by authorized state personnel in the future to ensure compliance with appropriate statutes and administrative codes. If the activities are not in compliance, you may be subject to penalties under Chapter 373, F.S., and Chapter 18-14, F.A.C.

**NOTICE OF RIGHTS**

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be

OCT 13 2020

final and effective until a subsequent order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

APPROVED \_\_\_\_\_  
DISAPPROVED \_\_\_\_\_  
VARIANCE REQ: \_\_\_\_\_

#### Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at [Agency\\_Clerk@dep.state.fl.us](mailto:Agency_Clerk@dep.state.fl.us). Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

#### Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While you are not required to publish notice of this action, you may elect to do so pursuant Rule 62-110.106(10)(a).

OCT 13 2020

The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C. If you do not publish notice of this action, this waiver will not apply to persons who have not received written notice of this action.

#### Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at [Agency\\_Clerk@dep.state.fl.us](mailto:Agency_Clerk@dep.state.fl.us), before the deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

#### Mediation

Mediation is not available in this proceeding.

#### FLAWAC Review

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

#### Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000) and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within 30 days from the date this action is filed with the Clerk of the Department.