

**JUPITER INLET COLONY
BUILDING AND ZONING COMMITTEE MEETING**

12.19.19

50 Colony Road

Town Hall

5:00 P.M.

AGENDA

1. Call to Order.
2. Roll Call: Earl Fischer, Russell Bourne, William Gilbane, Butch Harper, Lisa Hines, Tony Prosser (alternate).

Planning and Zoning Administrator: Bill Whiteford

3. Motion to approve prior minutes.
4. Public Comments - items not on the agenda (3 minutes).
5. Discussion Item:
 - A. Ch. 21. Waterways. Sec. 21-18. - Length, width and configuration - discussion and recommendation to the Town Commission regarding the length of docks.
6. Any Other Matters.
7. Motion to Adjourn.

STATE MANDATED STATEMENT

If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Town prior to the meeting. Please contact the Town Administrative Office, Administration Building, 50 Colony Road, Jupiter Inlet Colony, and Florida 33469 – Telephone 746-3787.

**JUPITER INLET COLONY
BUILDING AND ZONING COMMITTEE MEETING
November 21, 2019**

MINUTES

1. Call to Order at 5:00 pm by Earl Fischer, Chair.
2. Roll Call: Earl Fischer – present, Russell Bourne – present at 5:10, Lisa Hines – present, Bill Gilbane – present, Butch harper - present. Building and Zoning (B&Z) Administrator: Bill Whiteford – present. A quorum of the Committee was called by the Chair.
3. Motion to approve prior minutes – motion by Hines, seconded by Gilbane, approved by 4-0 vote.
4. Public Comments – questions were raised by the public regarding the status of the home under construction at #82 Lighthouse, which were responded to by the B&Z Administrator. Residents asked if the port-a-potty could be removed. The B&Z Administrator stated the Mayors desire to see it removed and agreed to follow-up on its removal. Mr. Bourne arrived. Questions regarding the status of #100 Lighthouse were responded to by the B&Z Administrator. Questions regarding #12 Ocean were responded to by the B&Z Administrator and followed by a general discussion among the committee members.
5. Workshop Items:
 - A. Driveway Gates – general discussion about the recommendation to the Town Commission regarding residential driveway gates and questions from the public. Presentation by B&Z Administrator regarding the recommendation and follow-up from the discussion held at the prior meeting.

The Chair summarized the recommendation for the members and public – approved by 5-0 vote.
 - B. Contractor Hours - general discussion about the recommendation to the Town Commission regarding contractor work hours and questions from the public. Presentation by B&Z Administrator regarding the recommendation and follow-up from the discussion held at the prior meeting. Frenchman's Creek, Frenchman's Preserve, and Lost Tree were mentioned as good examples during the discussion. Mr. Bourne mentioned his desire to have contractors park in the direction of traffic, which the B&Z Administrator said the Police Dept. is more closely monitoring.

The Chair summarized the recommendation for the members and public – approved by 5-0 vote.

Rooftop Decks and Terraces – discussion and recommendation to the Town Commission regarding rooftop decks and terraces. The B&Z Administrator made a presentation regarding past practice in the town, privacy issues, and the recommendation to treat raised outdoor living spaces similar to enclosed living areas. The committee recommended the code specifically address privacy as a concern. The B&Z Administrator said he would work with the town attorney to do so before first hearing of the code amendment.

A general discussion was held by the committee and the Chair summarized the recommendation for the members and public – approved by 5-0 vote.

6. Any Other Matters – the B&Z Administrator mentioned that artificial turf in side yards facing a street is not specifically address in the code and informed the committee that artificial turf would be allowed in a side yard facing a street, as long as it was screened from view, and gave the example of #49 Ocean. The committee generally agreed that screening in the side yard was the intent of the code.
7. Motion to Adjourn – motion by Gilbane, seconded by Bourne, approved by 5-0 vote without discussion.

LENGTH OF DOCKS

A recent permit application to renovate an existing dock revealed that several docks in town do not comply with the zoning code. At present, docks are allowed in accordance with the standards below. Research, however, indicates that most municipalities in the area contain an administrative waiver provision that allow docks to extend more than 50' or allow longer docks (75'). The town code appears to be closely modeled after the same provisions in the Village of Tequesta code, which allows 75' docks. Staff, therefore, recommends modifying the town code as follows.

- (a) No dock or pier shall be constructed which extends waterward from the mean high water line in excess of the lesser of the following distances:
- (1) ~~Fifty (50)~~ Seventy-five (75) feet; or
 - (2) Ten (10) percent of the waterway width; or
 - (3) The distance from the point at which the dock or pier intersects the mean high water line measured in a straight line to the nearest point on the three-foot mean low water line; provided, however, the foregoing limitations shall not prohibit a dock which does not extend waterward from the mean high water line in excess of six (6) feet; or
 - (4) The distance allowed by the permitting regulations of other agencies that also have jurisdiction over the waterway.

Definitions:

- *Dock* means a fixed or floating structure, including moorings, used for the purpose of berthing buoyant vessels either temporarily or indefinitely, or for a finite period.
- *Pier* means a fixed or floating structure, on or over submerged lands which is used primarily for fishing, swimming or viewing the waterway. A pier shall not include a dock.
- *Mean high water* means the average height of the high waters over a nineteen-year period, or for shorter periods of observation, the average height of the high waters after corrections are applied to eliminate known variations and to produce the result of the equivalent of a mean nineteen-year value. Alternatively, mean high water may mean the average height of the high waters as established and accepted by the United States Army Corps of Engineers.
- *Mean high water line* means the intersection of the tidal plane of mean high water with shore.

DEP:

More information about the DEP dock permitting process can be found here:

<https://floridadep.gov/file/12326/download?token=Xmt8dxXd>

ACOE:

More information about the Army Corp of Engineers (ACOE) dock permitting process can be found here:

https://www.saj.usace.army.mil/Portals/44/docs/regulatory/Items%20of%20Interest/FAQs%20Fact%20Sheet%20Regulatory%20Aug%202013_508.pdf

JUPITER INLET COLONY

Chapter 21 - WATERWAYS

ARTICLE I. - IN GENERAL

Sec. 21-1. - Vessel exclusion zone.

It shall be unlawful for any persons to operate a vessel within an area that has been designated and marked as a swim area or vessel exclusion zone. (Ord. No. 224-135-90, § 1, 3-27-06)

Secs. 21-2—21-15. - Reserved.

ARTICLE II. - DOCK AND PIER CONTROL

Sec. 21-16. - Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Commercial dock means a dock or pier which is used to produce income and shall include any dock or pier not defined herein as a private dock.

Dock means a fixed or floating structure, including moorings, used for the purpose of berthing buoyant vessels either temporarily or indefinitely, or for a finite period.

Mean high water means the average height of the high waters over a nineteen-year period, or for shorter periods of observation, the average height of the high waters after corrections are applied to eliminate known variations and to produce the result of the equivalent of a mean nineteen-year value. Alternatively, mean high water may mean the average height of the high waters as established and accepted by the United States Army Corps of Engineers.

Mean high water line means the intersection of the tidal plane of mean high water with shore.

Mean low water means the average height of the low waters over a nineteen-year period, or for shorter periods of observation, the average height of the low waters after corrections are applied to eliminate known variations and to produce the result of the equivalent of a mean nineteen-year value. Alternatively, mean low water may mean the average height of the low waters as established and accepted by the United States Army Corps of Engineers.

Mean low water line means the intersection of the tidal plane of mean low water with the shore.

Moorings piling means a post, pillar, piling or stake used for the purpose of berthing buoyant vessels either temporarily or indefinitely, or for a finite period, whether or not used in conjunction with a dock.

Pier means a fixed or floating structure, on or over submerged lands which is used primarily for fishing, swimming or viewing the waterway. A pier shall not include a dock.

Private dock means a dock or pier which is used for the private leisure purposes of a resident of a single- or multi-family dwelling unit located on a contiguous riparian parcel, and which does not produce income.

Submerged lands means lands lying in or below the public waters of the state waterward of the mean high water line.

Three-foot mean low water line means the line formed by the intersection of a plane three (3) feet below the tidal plane of mean low water with the shore.

Waterway width means, with respect to any dock or pier to which the measure applies, the straight line distance from the point at which the center line of the dock or pier intersects the mean high water line, measured to the nearest point on the mean low water line of the opposite shore of the waterway. A representative illustrative sketch depicting the manner of determining "waterway width" is on file in the clerk's office, and designated as exhibit "A." (Ord. No. 99-81-2, § 1, 7-6-81)

Sec. 21-17. - Scope.

This article shall apply within the public waters of the state comprising the Loxahatchee River and all creeks, canals or waterways or tributaries connected therewith, located within the geographical boundaries of the municipality lying eastward or downstream of the Florida East Coast Railway bridge over the Loxahatchee River at or near the Atlantic Intracoastal Waterway including Jupiter Inlet in Palm Beach County, Florida. (Ord. No. 99-81-2, § 2, 7-6-81)

Sec. 21-18. - Length, width and configuration.

(a) No dock or pier shall be constructed which extends waterward from the mean high water line in excess of the lesser of the following distances:

- (1) ~~Fifty (50)~~ Seventy-five (75) feet; or
- (2) Ten (10) percent of the waterway width; or
- (3) The distance from the point at which the dock or pier intersects the mean high water line measured in a straight line to the nearest point on the three-foot mean low water line; provided, however, the foregoing limitations shall not prohibit a dock which does not extend waterward from the mean high water line in excess of six (6) feet; or

(4) The distance allowed by the permitting regulations of other agencies that also have jurisdiction over the waterway.

(b) No dock or pier shall be constructed with a maximum width in excess of ten (10) feet.

(c) No dock or pier shall be located less than twenty-five (25) feet from the waterward extension of the property line of any adjoining riparian property owner. For purposes of illustration of this

subsection only, an illustrative sketch is on file in the clerk's office, and designated as exhibit "B." Any dock or pier shall be deemed to comply with this subsection if the waterward end of the center line of the dock or pier is equidistant from the nearest points at which the property lines of adjoining property owners intersect the mean high water line. For purposes of illustration only of this subsection, an illustrative sketch is on file in the clerk's office, and designated as exhibit "C."

- (d) Mooring pilings may not be located within ten (10) feet of the waterward extension of the property line of any adjoining riparian property owner, nor more than fifteen (15) feet waterward of a line of any dock used with the same riparian property. If more than one dock is used with the same property, the endpoint of the dock extending further from the mean high water line shall be used. For the purpose of illustrating the provisions of this subsection, an illustrative sketch is on file in the clerk's office, and designated as exhibit "D."
- (e) All sections or areas of any dock or pier which intersect at any angle with the main portion of a dock or pier extending from the shoreline may not exceed a total combined length of twenty-five (25) feet. For the purpose of illustrating this subsection, an illustrative sketch is on file in the clerk's office, and is designated as exhibit "E."
- (f) The total area of all docks and piers located on any riparian parcel shall not exceed five hundred (500) square feet.
- (g) No building or structure other than an approved dock or pier shall be permitted to be located waterward of the mean high water line.

EXHIBIT "A"

EXHIBIT "A"

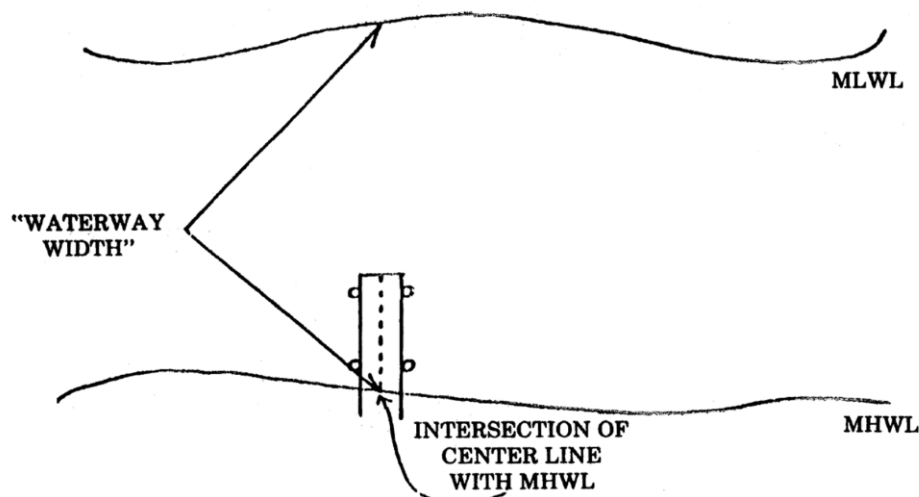


EXHIBIT "A" illustration

EXHIBIT "B"

EXHIBIT "B"

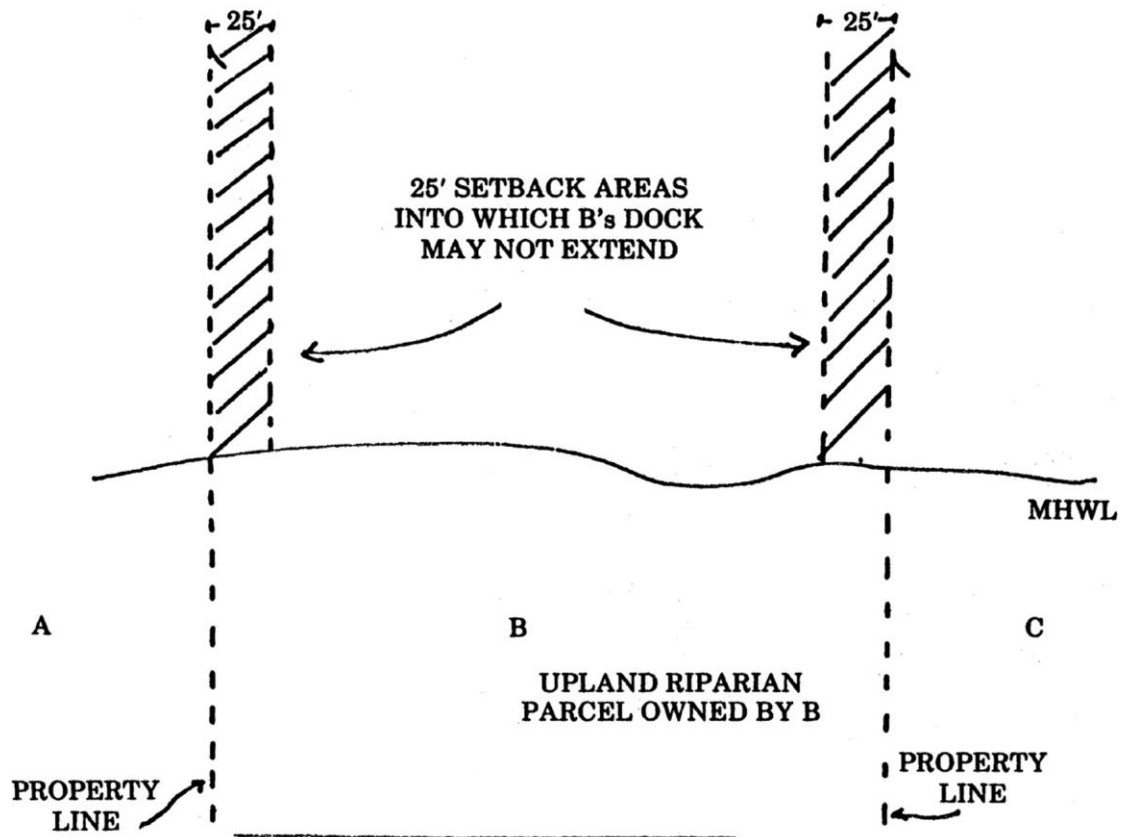


EXHIBIT "B" illustration

EXHIBIT "C"
3(c)ii ILLUSTRATIVE SKETCH
SHOWING CASE OF DEEMED COMPLIANCE
WATERWAYS

EXHIBIT "C"
3(c)ii ILLUSTRATIVE SKETCH
SHOWING CASE OF DEEMED COMPLIANCE

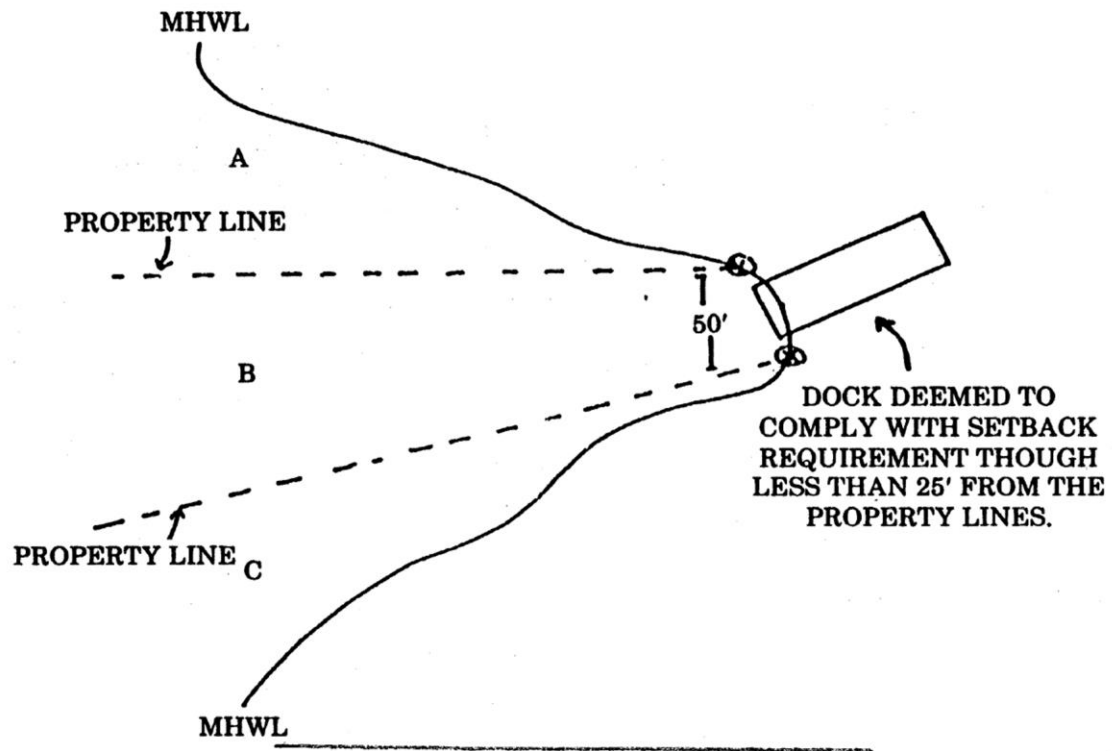


EXHIBIT "C" illustration

EXHIBIT "D"
3(d) ILLUSTRATIVE SKETCH
JUPITER INLET COLONY CODE

EXHIBIT "D"
3(d) ILLUSTRATIVE SKETCH

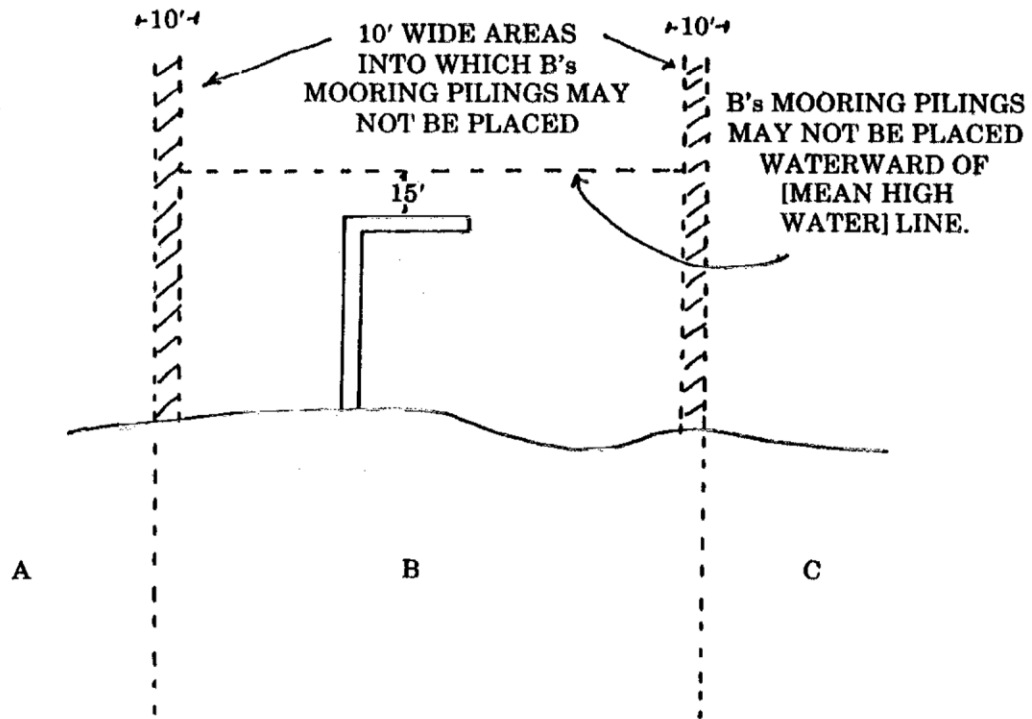


EXHIBIT "D"

EXHIBIT "E"
3(e) ILLUSTRATIVE SKETCH

WATERWAYS

EXHIBIT "E"
3(e) ILLUSTRATIVE SKETCH

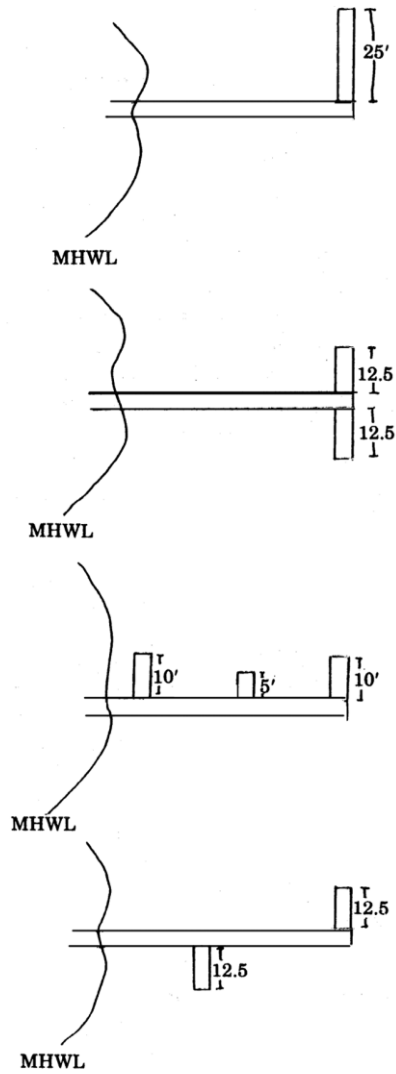


EXHIBIT "E"

Sec. 21-19. - Commercial docks prohibited.

No commercial docks shall be permitted within the area to which this article applies. (Ord. No. 99-81-2, § 4, 7-6-81)

Sec. 21-20. - Boathouses and boat shelters restricted.

No boathouse or boat shelter shall be permitted to be located waterward of the mean high water line. (Ord. No. 99-81-2, § 5, 7-6-81)

Sec. 21-21. - Parking of watercraft.

No person shall anchor, moor or park in a stationary position or cause or permit or allow any other person under his control or command, to anchor, moor or park in a stationary position any vessel or watercraft of any description used or capable of being used as a means of transportation on water, within the area to which this article applies for a period of time in excess of seventy-two (72) continuous hours during any consecutive thirty-day period, unless such vessel is located at a dock with the consent of the owner of such dock. (Ord. No. 99-81-2, § 6, 7-6-81)

Sec. 21-22. - Discharges from vessels.

No person shall discharge or permit, or allow any other person on a vessel under his control or command, to discharge any human or animal excreta from any head, toilet or similar facility on any vessel, or throw, discharge, deposit or leave, or cause or permit to be thrown, discharged, deposited, or left from any vessel any refuse matter of any description into the waters located within the area to which this article applies. (Ord. No. 99-81-2, § 7, 7-6-81)

Sec. 21-23. - Variances.

Application for variances and variance hearings shall be in accordance with the procedure established by article II of chapter 22. However, no variance shall be granted unless such variance will not be contrary to the public interest, unless owing to special conditions, a literal enforcement of the provisions of this article would result in unnecessary and undue hardship. In order to authorize any variance from the terms of this article, the commission must find with respect to the proposed project as follows:

- (1) No hazardous condition would be created;
- (2) The flow of water would not be impeded or interfered with;
- (3) No obstruction to navigation would occur;
- (4) It would not interfere with traditional public uses of the waterway, including but not limited to swimming, fishing or boating;
- (5) It would not create an appreciable obstruction of waterway views or would otherwise detract from aesthetic values;

- (6) It would not appreciably disrupt, interfere with, or disturb marine or benthic life;
- (7) It would not contribute to the pollution of the waterway or the degradation of its condition;
- (8) It would not interfere with the lawful rights of riparian owners;
- (9) It would be consistent with any other applicable laws, rules or plans. (Ord. No. 99-81-2, § 8, 17-6-81)

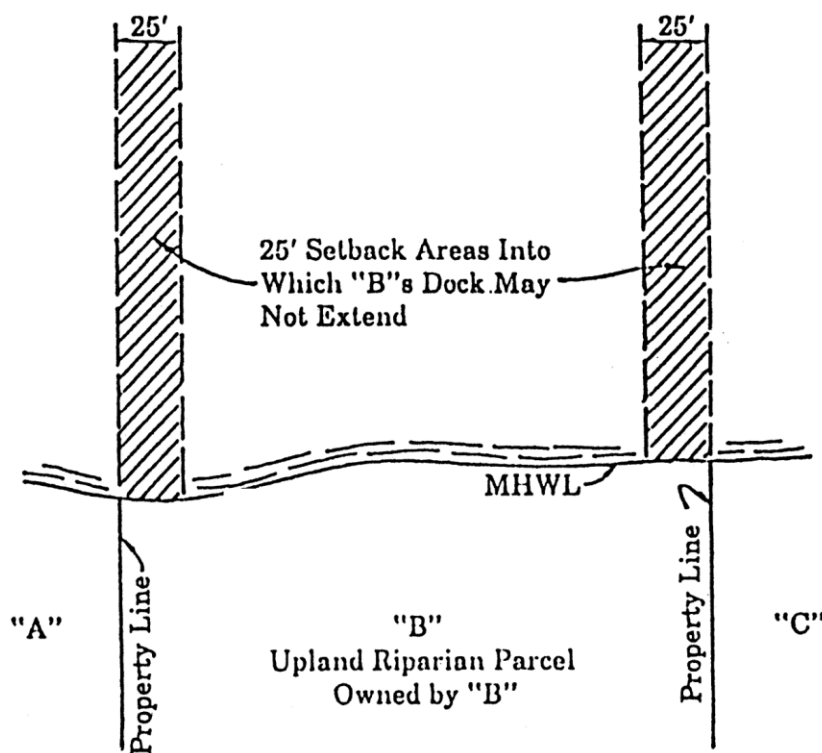
Sec. 21-24. - Nonconforming uses.

- (a) The use of any structure, land, dock or pier that does not conform to the requirements of this article, to the extent it can be said to have existed prior to July 6, 1981, shall be termed a nonconforming use. Such nonconforming use shall be allowed to continue subject to the requirements that any alteration, remodeling or additions thereto shall be such as to conform with this article in all respects. Upon the destruction or removal of any nonconforming use or structure under this article shall thereafter require that all subsequent structures or uses including docks and piers shall be in accordance with this article. All docks, piers, mooring pilings, commercial docks and private docks constructed after July 6, 1981, shall be constructed in accordance herewith. Such docks, piers, mooring pilings, commercial docks, or private docks constructed after July 6, 1981, other than in the manner described herein shall be deemed to be nonconforming to this article. The commission shall be empowered to require the immediate ceasing and removal of such nonconforming construction upon notice in writing to the constructing party and adjacent landowner and, in the event of noncompliance with such notice, the commission shall be herewith empowered to make immediate application to the county circuit court for a temporary restraining order, temporary and permanent injunction and mandatory injunction to stop such nonconforming construction and to require the removal of such nonconforming structures already constructed in contravention to this article.
- (b) Attorneys' fees, costs and damages occasioned by construction or by action of the landowner at whose direction such construction was undertaken or continued shall be recoverable by the municipality in such litigation in such sums as are awarded by the county circuit court or by any other court having jurisdiction thereof, shall become a lien upon the land of the landowner causing such nonconforming use to be constructed, maintained or not removed after timely notice. (Ord. No. 99-81-2, § 9, 7-6-81)

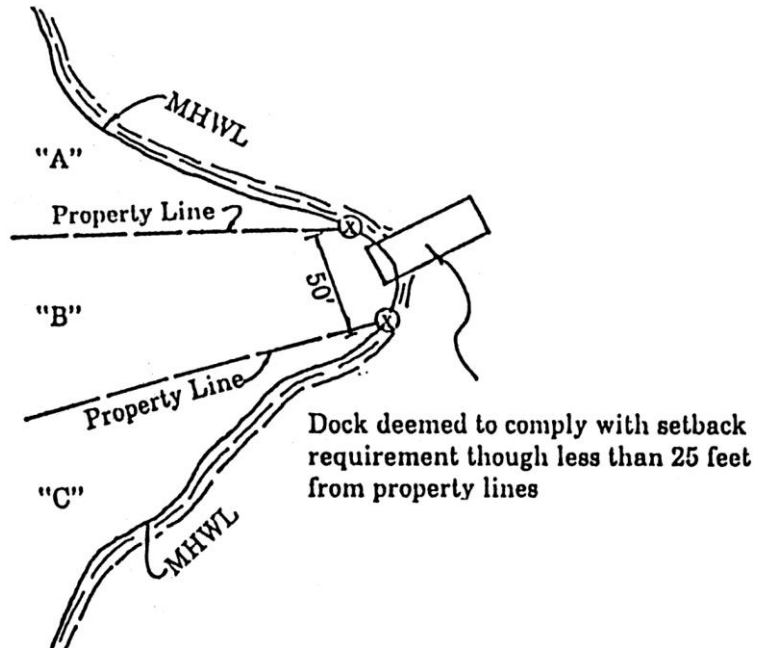
VILLAGE OF TEQUESTA

Sec. 76-20. - Dock and pier length, width and configuration.

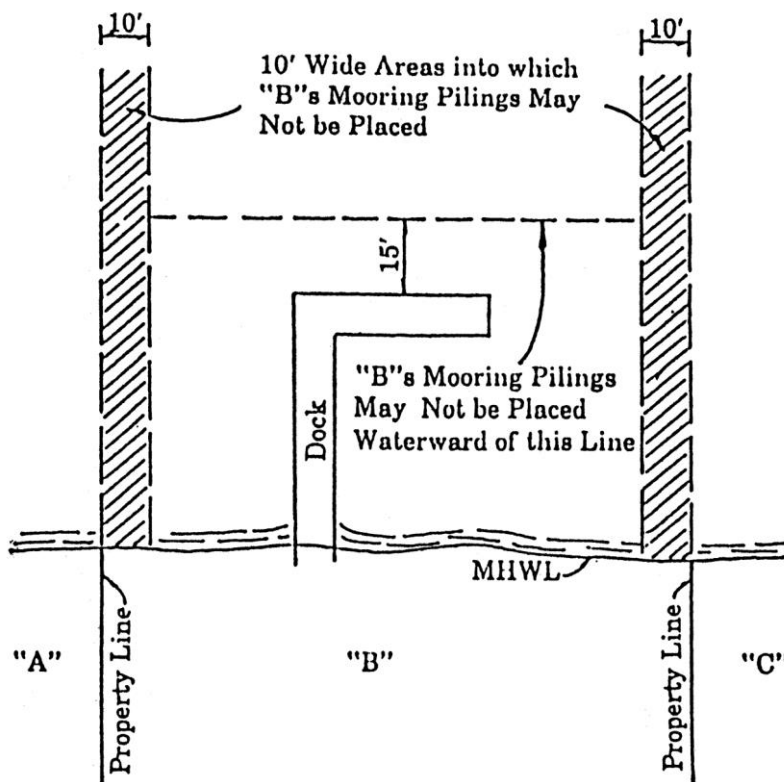
- (a) No dock or pier shall be constructed which extends waterward from the mean highwater line in excess of the least of the following distances:
- (1) **Seventy-five feet;**
 - (2) Ten percent of the waterway width; or
 - (3) The distance from the point at which the dock or pier intersects the mean highwater line measured in a straight line to the nearest point on the three-foot mean low-water line; provided, however, the foregoing limitations shall not prohibit a dock which does not extend waterward from the mean high-water line in excess of six feet.
- (b) No dock or pier area shall be constructed with a maximum width in excess of six feet.
- (c) No dock or pier shall be located less than 25 feet from the waterward extension of the property line of any adjoining riparian property owner.



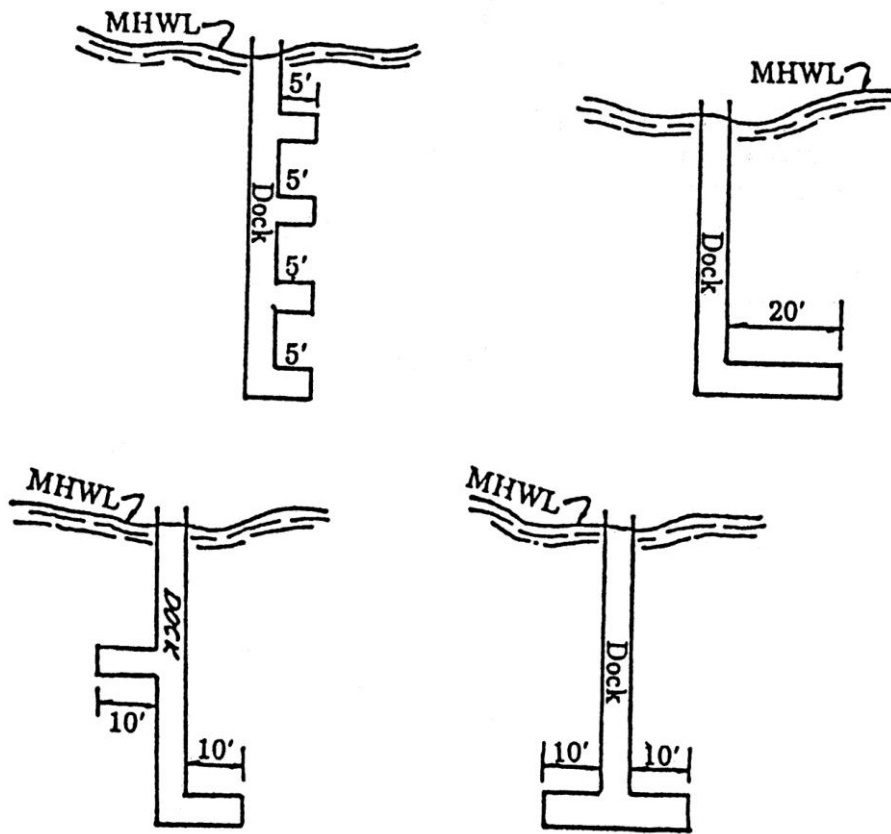
- (d) Any dock or pier shall be deemed to comply with this section if the waterward end of the centerline of the dock or pier is equidistant from the nearest points at which the property lines of adjoining property owners intersect the mean high-water line.



- (e) Mooring or dolphin pilings may not be located within ten feet of the waterward extension of the property line of any adjoining riparian property owners, or more than 15 feet waterward of a line perpendicular to and passing through the waterward end-point of the centerline of any dock used with the same riparian property. If more than one dock is in use with the same property, the end-point of the dock extending furthest from the mean high-water line shall be used.



- (f) All sections or areas of any dock or pier which intersect at any angle with the main portion of a dock or pier extending from the shoreline may not exceed a total combined length of 20 feet.



- (g) The total area of all docks and piers located on any riparian parcel shall not exceed 500 square feet for the first 150 linear feet of that parcel shoreline. The total area of all such docks and piers may thereafter be increased by 250 square feet for each additional linear 50 feet of that parcel shoreline.
- (h) Mooring devices such as boat lifts, davits and whips shall not be considered in computing the required length, width and configuration of docks or piers regulated by this division. Neither shall the reconstruction, alteration or new construction of mooring devices such as boat lifts, davits and whips be considered as structural alterations for purposes of determining whether or not such reconstruction, alteration or new construction is an extension of a nonconforming use. However, this exemption shall not apply to structural alterations which affect the length, width and configuration of a dock or pier, exclusive of the alteration of any mooring device affixed or accessory thereto. (Ord. No. 7-12, § 1, 6-14-2012)

PALM BEACH GARDENS

(40) Marina, commercial and residential docks.

- a. Marinas are permitted as major conditional uses in certain residential and nonresidential districts, and may be approved as an element of a planned development. Any uses associated with marinas, such as fueling, repairs and maintenance, retail sales, hauling and storing, and yacht club facilities may be permitted within certain districts, as provided below.
 1. In residential districts, fueling may be allowed as an ancillary use if approved as a major conditional use.
 2. In CG-1, CG-2, PUD and PCD zoning districts, accessory uses may include fueling, repairs and maintenance, retail sales outdoor display and storage of boats, hauling and storage, and yacht club facilities.
 3. In CG-1, CG-2, PUD, and PCD zoning districts, accessory uses may include marinas offering permanent, seasonal, or transient live aboard accommodations. Marinas offering such accommodations shall provide hookup service to approved onshore potable water sources and wastewater treatment systems, if approved as part of a major conditional use.
- b. Prior to operation of marina fueling facilities, the owner or developer shall submit to the city a copy of the applicable State of Florida license, permit, or approval of the following:
 1. To operate such facilities; and
 2. Contingency plan or plans to manage and respond to pollutant discharges, spills, or other accidents. The plan shall describe the methods of fuel storage, personnel training, methods to be used to dispense fuel, and all the procedures, methods, materials, and emergency response contractors to be used if a spill occurs. The plan shall be approved by the city fire chief prior to issuance of a building permit to construct the facilities.
- c. Marinas shall prepare hurricane plans which describe measures to be taken to minimize damage to marina sites, neighboring properties, and the environment. This hurricane plan shall be submitted to the growth management department, and must be reviewed and approved by the city fire chief.
- d. All marinas shall comply with the requirements listed below.
 1. All marinas must make available sewer pump-out service capable of servicing or accepting boats inhabited overnight or boats which require pump-out service.
 2. If marina fueling facilities are developed, all measures consistent with federal, state, county, or city requirements shall be taken to prevent contamination of area waters from spillage or storage tank leakage.
- e. All applications for development order approval to establish a marina shall be accompanied by a market study indicating the need, market area, and user profile of the marina. The study shall include projected costs and revenues proving the economic feasibility of the marina.

- f. All new and expanded marinas shall demonstrate compliance with state water quality standards by implementing and maintaining a water quality monitoring program approved by the state department of environmental protection.
- g. Minimum standards. The dimensional standards established herein may be waived in bodies of water where other agencies also have jurisdiction, and the permitting regulations of those agencies allow greater maximum projections into the waterway. However, standards for boathouses may not be waived.
 - 1. Commercial marinas shall also meet all applicable state and federal regulations for installation and operation of marinas.
 - 2. Docks or boathouses shall not extend into the water more than 50 feet from the high-water shoreline or ten percent of the waterway width, whichever is less.
 - 3. Docks or private moorings within or adjacent to any canal located totally within a residential area shall not exceed the more than the greater of a width of five feet or ten percent of the canal width.
 - 4. Docks shall not be constructed with a width in excess of ten feet.
 - 5. Docks, mooring pilings, davits, dolphins, or other mooring facility shall not extend beyond the side setback required for the zoning district within which the property is located.
 - 6. Any "T" or "L" projection for a dock shall have a maximum length of 20 feet, and shall not extend beyond the side yard setback required for the zoning district within which the property is located.
 - 7. Mooring pilings may be located 15 feet beyond a dock, provided that the total projection of the dock and the pilings from the high-water line does not exceed the lesser of 65 feet or ten percent of the waterway width.
 - 8. Not more than one dock or mooring per lot shall be permitted in a residential district, except in an approved PUD or PCD.
 - 9. Boathouses as accessory or principal uses are prohibited when located on an upland area.
- h. The standards listed below shall apply to all boat and trailer sales.
 - 1. All parking areas for display and sale of boats and trailers shall be paved with asphalt, cement, or other non-dusting surface acceptable to the city engineer. Parking lots shall be constructed and maintained to prevent any surface water accumulation.
 - 2. All boats and trailers shall meet the setback requirements of the zoning district in which located.
 - 3. Boats and trailers for display and sale shall maintain the setbacks established for structures in the zoning district in which located.
 - 4. The standards established in subsections g.1. through g.3 as provided in this standard shall apply to existing or proposed boat and trailer sales lots.
 - 5. All boat or trailer sales lots shall be screened in accordance with section 78-313.
 - 6. Within 120 days following annexation, any boat and trailer sales shall comply with these requirements.
- i. The city shall not issue a building permit to allow construction of a marina or a dock located in a residential or nonresidential zoning district unless all required approvals, permits, or other authorizations have been issued by all federal, state, regional, or other agencies possessing jurisdiction over such structures.

JUPITER

Sec. 27-2626. - Private dock regulations.

- (a) Individual private docks, for the exclusive use of an adjacent residential unit, are permitted as an accessory use in all residential districts. The mooring of commercial vessels is prohibited in all residential districts. A single private dock for the exclusive use of a commercial building may be permitted as an accessory structure in all commercial districts provided the dock serves only the occupants of the commercial building. A dock that has more than two boat mooring spaces shall be considered a marina.
- (b) In addition to the regulations set forth within the district in which the use is located, the following minimum regulations shall apply:
 - (1) No dock, boat mooring space, or mooring pilings shall be built out into a natural waterway by more than 50 feet from the mean high water line; nor shall any dock, boat mooring space, or mooring pilings exceed 20 percent of the natural waterway width, whichever is less. The above regulation may be waived by the planning and zoning director for docks, boat mooring spaces, or mooring pilings to be located in bodies of water in which other agencies also have regulatory jurisdiction and have permitting conditions which allow projections into the natural waterway that are greater than the above maximums, provided that the greater extension does not adversely impact navigation, safety, environmental resource protection, or other similar concerns. In order to qualify for the issuance of a building permit for a dock, boat mooring spaces, or mooring pilings, the applicant must submit with the application a signed and sealed survey showing the location of the proposed improvements. The survey must not be more than six months older than the date of the application for a permit, must accurately depict that the single-family lot or duplex lot, which is the subject of the permit application, extends to the mean high water line, or must reflect that the landowner has riparian rights attached to the uplands for which each landowner holds title.
 - (2) Docks which are located on or upon any manmade surface waters (i.e., lakes, retention ponds, or canals), boundaries of such manmade surface waters being totally within a residential area, shall not project more than five feet or ten percent of the width of the waterway, whichever is greater nor extend nearer than the side setback required for the district within which the property is located. In manmade surface waters, boat mooring spaces may project up to 25 percent of the width of the waterway. In order to qualify for the issuance of a building permit for a dock, boat mooring spaces, or mooring pilings, the applicant must submit with the application a signed and sealed survey showing the location of the proposed improvements. The survey must not be more than six months older than the date of the application for a permit, must accurately depict that each single-family lot or duplex lot extends to the mean high water line which is the subject of the permit application or must reflect that the landowner has riparian rights attached to the uplands for which each landowner holds title.
 - (3) Shared private docks may be permitted on two contiguous, single-family, or duplex lots located on either a natural waterway, or a manmade surface water, provided that the single-family lot landowners, and the duplex lot landowners, submit a legally sufficient mutual dock

maintenance and cross access easement agreement, that is in a form which is legally sufficient to the town attorney and which is approved for consistency with these regulations by pertinent town staff. The mutual dock maintenance and cross access easement agreement shall be recorded in Palm Beach County, Florida at the sole expense of the applicant, and the applicant shall provide the town with a certified copy of the recorded instrument. In order to qualify for the issuance of a building permit for a shared dock, each landowner of a single-family lot and each landowner of a duplex lot who are proposing to share a private dock, must have ownership rights to the property which extends to the mean high water line, or must have legally documentable riparian rights that are attached to the uplands for which each participating landowner holds title. The shared private dock shall be considered the one dock allowed for each lot. No additional docks shall be permitted.

- (4) Dock access walkway shall not exceed four feet in width.
- (5) In natural waterways, the terminal platform or marginal dock shall have a maximum area of 200 square feet. If the dock is constructed over known sea grass beds, the terminal platform or marginal dock shall have a maximum area of 160 square feet. In manmade canals, marginal docks may exceed 200 square feet, provided they meet the required side setbacks and do not adversely impact or encroach upon natural resources.
- (6) No dock, boat lift mooring space, mooring piling, davit, other mooring facility, or floating structure (i.e., dock, walkway, floating vessel platform, etc.) shall be located nearer to the side lot line than the side setback required for the district within which the property is located as measured from a line that extends out from the side property lines into the waterway or canal. Except for boats moored in the inside corner of a canal, boats may be moored without a setback to the extensions of a property's side property line, but no part of the boat shall overhang the vertical plane created by a side property line's extension into the waterway or canal. Boats moored in the inside corner of a canal shall meet the same setbacks as a dock-related structure.
 - a. Where the extension of the side property lines converge within a waterway, the director of planning and zoning may grant a waiver or reduction to the required setback for docks, boatlifts, or boat mooring spaces to ensure that a property owner has reasonable access to a navigable channel. The director's approval of a waiver may be permitted provided all of the following are met:
 1. Other jurisdictional agencies having permitted the proposed dock, boat mooring space, mooring piling, davit, other mooring facility, or floating structure with reduced setbacks, based on using alternative methods of calculations for setbacks;
 2. Documentation is provided to the department that written notification was sent to the affected neighboring property owners making them aware of the setback waiver.
 - b. In order to qualify for a building permit for a dock, boat mooring spaces, or mooring pilings, the applicant shall submit with the building permit application:
 1. A signed and sealed survey, not more than six months older than the date of the application for a permit, indicating; the location of the proposed improvements; the location of the mean high water line; and shall reflect that the landowner has riparian rights attached to the uplands for which the landowner holds title.

2. A copy of a permit from the Florida Department of Environmental Protection, U.S. Army Corps of Engineers, or South Florida Water Management District.
- (7) The side setback for docks on natural waterways and manmade surface waters may be waived by the planning and zoning director, where two contiguous single-family or duplex lots, which qualify under the provisions of this Code, are permitted to share one dock (See subsection (b)(3) of this section) and its associated mooring spaces, boat lift, and pilings. The above setback waiver may apply to docks, mooring spaces, boat lifts, and pilings which are associated with each individual portion of the shared dock under the specific use of each single-family or duplex lot. All other setback requirements for the district that are not related to the location of the dock still apply.
 - (8) Any T or L terminal platform shall have a maximum length of 20 feet and shall not project into the side setback required for the district within which the property is located. A U-shaped terminal platform may be allowed for shared docks. The U-shaped terminal platform shall also be limited to a maximum length of 20 feet.
 - (9) No more than one dock per lot shall be permitted in an Residential, Single-Family District (R-1) or Residential, Single-Family-Duplex District (R-2), except in an approved Large-Scale Planned Unit Development District (PUD). No dock shall be permitted with more than two boat mooring spaces. One boat lift plus one personal watercraft lift shall be allowed per dock in an Residential, Single-Family District (R-1) or Residential, Single-Family-Duplex District (R-2). The personal watercraft lift shall have no more than a 3,000 lb. lift capacity, and shall be limited to two mooring pilings. In lieu of two personal watercrafts, a property owner may store one small boat on the personal watercraft lift, provided the boat does not have a permanent rigid canopy structure (i.e., T-top, tower, or shade structure) extending above the boat's gunwale. A small boat that is stored on the personal watercraft lift, shall retract, lower, or remove any shade structures. Two personal watercrafts may be stored on one personal watercraft lift at one boat mooring space. If two contiguous, single-family and/or duplex lots, that qualify under the provisions of subsection (b)(3) of this section, share one permitted dock and its associated mooring spaces, boat lift, and pilings, each individual property owner may be permitted to have one boat lift and one personal watercraft lift on the portion of the dock that benefits each individual lot owner.
 - (10) Except for rectangular shaped, T-shaped and L-shaped docks, and shared docks approved with U-shaped terminal platforms, no other configuration shall be allowed, unless another configuration is approved by the director of planning and zoning as being beneficial for navigation, safety, or environmental resources protection.
 - (11) Docks, boat lifts and personal watercraft lifts in canals shall be parallel to the bulkhead in order to promote parallel mooring. The director of the planning and zoning department may permit another configuration provided it is determined that the configuration would be beneficial for navigation, safety, environmental resources protection, or views.
 - (12) If there is documentation of known sea grass beds that would be directly impacted by the construction of the dock, the following regulations shall be applied. Height of pier shall be a minimum of five feet above MHW as measured from the top of surface of the decking.

Material used to construct the walkway surface shall be no wider than eight inches and shall be spaced a minimum of one-half inch apart.

- (13) Nighttime reflectors shall be affixed to any dock, mooring piling, or davit and elevator structures extending more than five feet into any waterway. Three reflective devices shall be installed above the established mean high water line on each side of all of the mooring pilings. The intent is to provide three devices facing both directions of the waterway.
- (14) Covered boat lifts and docks are not permitted. Boat lifts shall not be modified (i.e., installation of decking, planking, etc.) to serve any other use than for the purpose of elevating a boat or vessel out of the water. There shall be no mooring of any vessel on the waterward side of a boat mooring space.
- (15) At all times, the minimum centerline channel width of 50 percent of the waterway width must remain unobstructed. Where the 50 percent cannot be met, alternative solutions may be approved by the director of planning and zoning provided a 15-foot channel is maintained. Alternative solutions shall be evaluated based on the proximity of adjacent, existing and future marine facilities, the proximity of natural ecosystems and resources, and the navigability of a waterway in order to provide adequate setbacks that are equitable to adjacent properties.
- (16) A four-foot dock walkway is allowed to pass through the rear setback area in order to connect with a deck, patio or sidewalk.
- (17) The re-decking of any portion of a private dock, even if it is in the same configuration and in the same location of an existing, permitted dock, shall require a building permit.

SETBACK GUIDANCE FOR STRUCTURES ALONG CERTAIN FEDERAL CHANNELS

FREQUENTLY ASKED QUESTIONS



AUGUST 2013

1. What is the setback guidance?

The setback guidance was established to provide the criteria by which structures proposed to be constructed along the federal channels are evaluated, to allow for the safe navigation and periodic maintenance of those federal channels. The complete setback guidance document may be found on our website at www.saj.usace.army.mil; click on Missions, then Regulatory, then Items of Interest.

2. What waterways does the setback guidance apply to, and what is the concern regarding structures along these waterways?

The waterways to which the setback guidance applies include the federal channels on the Atlantic Intracoastal Waterway (from the Florida state line to the St. Johns River), Intracoastal Waterway (east coast of Florida from the St. Johns River to Miami), the Intracoastal Waterway (west coast of Florida from the Caloosahatchee River to the Anclote River) and the Okeechobee Waterway (W.P. Franklin Lock west to Punta Rassa and from the St. Lucie Lock east to the Intracoastal Waterway). The U.S. Army Corps of Engineers is responsible under the Rivers and Harbors Act of 1899 to maintain the nation's navigable waterways. Structures along these waterways, including docks, can hinder navigation and the Corps' ability to operate and maintain the federal channel.

3. How do structures on private property affect the Corps' ability to maintain the federal channel?

As a property owner, it's important for you to enjoy the benefits that come with your waterfront property, including access, aesthetics and property value. It's also important for the Corps to maintain a safe waterway in an efficient and cost-effective manner in support of commerce, national defense and recreation.

We must provide minimum operational clearance for a growing number of faster, longer and wider vessels using the waterway. Multiplying fixed shoreline structures (including docks, dock pilings, bulkheads, rock revetments, boatlifts and moored vessels), together with channel shoaling, have created potentially dangerous situations. Smaller, recreational watercraft that once used the outer boundaries of the channel have been forced into the main channel, where they must share space with much larger and slower moving vessels. This problem is magnified in congested areas such as bridge crossings and channel bends. Though the revisions to the setback criteria are relatively minor, they are necessary to ensure that we keep pace with changing conditions on these busy public waterways that are so important to all.

4. What changes have been made to the 1998 setback criteria?

The revisions to the 1998 guidance are relatively minor. The updated guidance clarifies how the criteria is applied to existing structures – docks as well as riprap, submerged bulkheads and wave breaks – all of which can hinder navigation and the government's ability to operate and maintain the federal channel. Under the new guidance, there are width restrictions for those structures that may be located less than 62.5 feet from the near design edge of the channel. Additionally, the minimum setback has been revised from three times the federal channel project depth to three times the project depth plus two feet, to compensate for the accuracy requirement of plus or minus one foot for the X&Y coordinate surveys.

5. What authorizations are required to construct a structure along the waterway?

In accordance with the Rivers and Harbors Act of 1899,

SETBACK GUIDANCE FOR STRUCTURES ALONG CERTAIN FEDERAL CHANNELS

each structure must receive a Department of the Army permit, issued by the Corps. A Consent to Easement is also required if the structure is located within the federal easement adjacent to the channel. All structures must meet the setback criteria designed to keep obstructions as far from the federal channel as is practicable.

6. What is the process and cost for acquiring a permit?

Any new, replacement or modified structure along the federal channels covered by the setback guidance requires a Department of the Army permit and possibly a Consent to Easement. Once a complete application, including drawings, is submitted, the Corps will review the application and process it on a first-come, first-served basis. The maximum cost for a Department of the Army permit is \$100; however, the actual fee will depend upon the type of permit required. The Consent to Easement typically costs \$300.

7. My dock was built before the previous setback variance was established. How does the criteria apply to me?

Existing, currently serviceable structures that were previously authorized by the Corps may be repaired, provided they do not exceed the authorized distance from the channel. If an existing structure is destroyed by an act of nature, or if an applicant proposes to modify an existing structure, a new permit application will be required which will be reviewed under the revised setback guidance.

8. I am not sure if my structure extends beyond the setback limits. Who should I contact to quest information on the position of my structure relative to the channel?

Hiring a land surveyor who is professionally registered within the state of Florida is a good way to ensure that you receive accurate data regarding the location of your structure relative to the channel. This data should then be submitted to the Corps for verification of the distance between your structure and the channel.

9. Who should I contact if I have questions regarding the status of a permit for my structure?

If you have a question as to whether you have or require a federal permit for your structure, you may contact our Regulatory Division at 904-232-1177. If you wish to determine the status of Consent to Easement on your property, you may contact our Real Estate Division at 904-232-3872. For questions regarding the technique used by the Corps to verify the distance of the structure from the channel, you may contact our Navigation Section at 904-232-2258.

10. I recently bought a home in the area, what do I need to do to ensure that I am in compliance with the permitting requirements?

If possible, check with the previous owner to determine if they had received federal authorization for the structure or dock. If you are unable to do so, you may contact our Regulatory Division at 904-232-1177 and provide information about the previous owner and location so that we may query our database.

11. If I do not bring my dock into compliance with the federal guidelines, what will happen?

The Corps will take all appropriate steps to ensure the maximum safety for all users of the federal navigation channel. This could include legal action and the removal of your structure/dock at your expense.

12. I am planning on selling my home. Can I transfer my permit to the new owner?

A copy of a Transfer of Permit notice was included with your permit. Please work with the buyer to complete the appropriate page and submit it to our Regulatory Division for processing. You should receive a notice indicating that your request for transfer has been successfully processed. If you have lost your transfer form, you may call the Regulatory Division at 904-232-1177 for a replacement.

FOR MORE INFORMATION



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