

Ingrid Allen

Subject: FW: Army Corps of Engineers

From: Ingrid Allen
Sent: Thursday, September 19, 2024 12:16 PM
To: Jeffrey <jeffreyfl@gmail.com>
Cc: Jeff Remas <bco@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; Greg Babij <gregbabij@yahoo.com>; Marshall Labadie <mlabadie@highlandbeach.us>
Subject: RE: Army Corps of Engineers

Jeffrey:

I will include, as part of public comment on the Ordinance, your suggested revision to Section 30-68(g)(6)a. provided below.



Sincerely,
Ingrid Allen
Town Planner

*Town of Highland Beach
3614 S. Ocean Boulevard
Highland Beach FL 33487
(561) 278-4540 Office (option 3)
(561) 278-2606 Fax
www.highlandbeach.us*

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Town of Highland Beach officials and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing. The views expressed in this message may not necessarily reflect those of the Town of Highland Beach.

From: Jeffrey <jeffreyfl@gmail.com>
Sent: Thursday, September 19, 2024 5:35 AM
To: Ingrid Allen <iallen@highlandbeach.us>
Cc: Jeff Remas <bco@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; Greg Babij <gregbabij@yahoo.com>; Marshall Labadie <mlabadie@highlandbeach.us>
Subject: Re: Army Corps of Engineers

Ingrid,
After re-reading the draft ordinance, I now understand that its adoption will address my concerns.

For clarity, I would like to suggest that in Section 6a of the draft, the term “all waterways” is used instead of “waterways regulated by the Army Corps.”

I have no further questions at this time. Once again great job by staff in preparing and presenting the new draft ordinance.

Thank you,
Jeffrey

From: [Ingrid Allen](#)
To: [Lanelda Gaskins](#)
Cc: [Jaclyn Dehart](#)
Subject: FW: Marine Accessory Ordinance
Date: Monday, September 16, 2024 9:48:45 AM
Attachments: [image001.png](#)

Public comment received for item 8A on the 9-17-24 TC agenda (see below).



Sincerely,
Ingrid Allen
Town Planner

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From: Jeffrey <jeffreyfl@gmail.com>
Sent: Sunday, September 15, 2024 12:03 AM
To: Natasha Moore <nmoore@highlandbeach.us>; David Stern <dstern@highlandbeach.us>; Evalyn David <edavid@highlandbeach.us>; Donald Peters <sportsbarn1@aol.com>; Judith Goldberg <jgoldberg@judithgoldberg.com>; Marshall Labadie <mlabadie@highlandbeach.us>
Cc: Craig Hartmann <chartmann@highlandbeach.us>; Glenn Joseph <gjoseph@highlandbeach.us>; Jeff Remas <bco@highlandbeach.us>; Ingrid Allen <iallen@highlandbeach.us>; Pat Roman <proman@highlandbeach.us>; Rick Greenwald <Ragreenwald@bellsouth.net>
Subject: Marine Accessory Ordinance

Mayor, Vice Mayor, Commissioners, Town Manager,

I had the opportunity to watch the proceedings of the April Commission meeting on Marine Accessories, during which key issues were thoughtfully deliberated. I also reviewed our staff's draft ordinance prepared for Tuesday's meeting.

After observing the work of our town's commission and staff for almost two decades, the workflow and execution of this ordinance revision stand out as among the most exceptional I have witnessed.

I was particularly impressed by how our Commission was responsive to public sentiment or the absence of it. I especially appreciated the decision to discard the proposal to reduce side setbacks for Marine Accessories due to the lack of public support. This thoughtful decision reflects your genuine commitment to community collaboration.

I would like to express my sincere gratitude to our town staff, especially Jeff and Ingrid, and to our Commission for their outstanding work. This ordinance revision has undoubtedly been the best example of governance I have witnessed in our town.

I sincerely hope the process used for this ordinance revision will serve as the gold standard for developing and evaluating future ordinances.

Sincerely,
Jeffrey Kleiman
Highland Beach

Town Commission Meeting 09.17.2024 Public Comment

From: [Marshall Labadie](#)
To: [Jaclyn Dehart](#)
Subject: FW: 1096 Bel Lido: Marine Accessory Ordinances Perspective
Date: Tuesday, September 17, 2024 8:18:50 AM
Attachments: [Marine Accessory Ordinance letter to Commission 20240915.pdf](#)
[image001.png](#)

Print for Commission and record



Marshall Labadie, ICMA-CM
Town Manager

Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, FL 33487
(T) 561.278.4548
(F) 561.265.3582

Working to protect our 3 Miles of Paradise

From: Christine Nessen <christine.nessen@gmail.com>
Sent: Monday, September 16, 2024 10:55 PM
To: Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; David Stern <dstern@highlandbeach.us>; Evalyn David <edavid@highlandbeach.us>; Judith Goldberg <jgoldberg@highlandbeach.us>; Don Peters <dpeters@highlandbeach.us>; Craig Hartmann <chartmann@highlandbeach.us>
Cc: Anders Nessen <a_nessen@hotmail.com>
Subject: 1096 Bel Lido: Marine Accessory Ordinances Perspective

Good evening, Commissioners & all,

Hope everyone is doing well. We are 15-year homeowners at 1096 Bel Lido Drive and next door neighbors to the Babijs.

We are also in favor of reconsidering the proposed restrictions on marine accessory ordinances.

Best regards,
Christine & Anders Nessen

Robert and Gloria Spahr
4225 Tranquility Dr.
Highland Beach, Fl 33487
Rspah50@gmail.com
Gastuart@hotmail.com

September 16, 2024

Board of Commissioners
Town of Highland Beach
3614 S. Ocean Blvd
Highland Beach, FL 33487

Dear Commissioners

The Spahr's have lived at 4225 Tranquility since 1991. Our house has evolved from a 2100 sq ft house to a two story 4200 sq ft house and our boats have grown from 26ft to 39ft and now 53ft. Most residences of Highland Beach and in particular Bel Lido Isle have evolved in the same fashion, larger houses with larger boat dock requirements. Our demographics have changed from a mostly retired population to now include a younger demographic of younger active family's. Our marine accessory ordinances need to reflect the new demographic accommodating active families' waterfront needs and desires.

We choose to live on Bel Lido Isle because of the wonderful access to Dockage and the Beach. As the families, houses and boats have grown in size the need for updated dockage setbacks, allowing larger docks, has grown as well. In my particular case my dock is too small, less safe for boarding and less safe for securing the vessel in a storm than it should be.

We agree with Mr. Babij, the proposed revisions are not acceptable and too restrictive. We attended the public meetings to discuss revisions and I recall only a couple residents on the North end of town that were not in favor of a less restrictive marine accessory and set back ordinances. Take notice that the Spahr's are in favor significantly reducing the side setbacks to 8 feet.

Robert and Gloria Spahr
4225 Tranquility Dr.
Highland Beach, Fl 33487
Rspah50@gmail.com
Gastuart@hotmail.com

At a very minimum, I strongly urge you to revisit the marine accessory ordinance issue with the planning board and seek their opinion on the revised ordinance in front of you at the next Commission meeting, as it has substantially changed from what the planning board previously reviewed and made recommendations on.

I would also encourage you to host an open discussion at a future Commission meeting on this Topic.

Thank you for your service and consideration of my position requesting less restrictive marine accessory regulations.

Sincerely

A handwritten signature in cursive script that reads "Robert A. Spahr".

Robert and Gloria Spahr

Town Commission Meeting 09.17.2024 Public Comment

From: [Marshall Labadie](#)
To: [Jaelyn Dehart](#)
Subject: FW: Marine Accessory Regulations
Date: Tuesday, September 17, 2024 8:19:42 AM
Attachments: [image001.png](#)

Please print for Commission and record



Marshall Labadie, ICMA-CM
Town Manager

Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, FL 33487
(T) 561.278.4548
(F) 561.265.3582

Working to protect our 3 Miles of Paradise

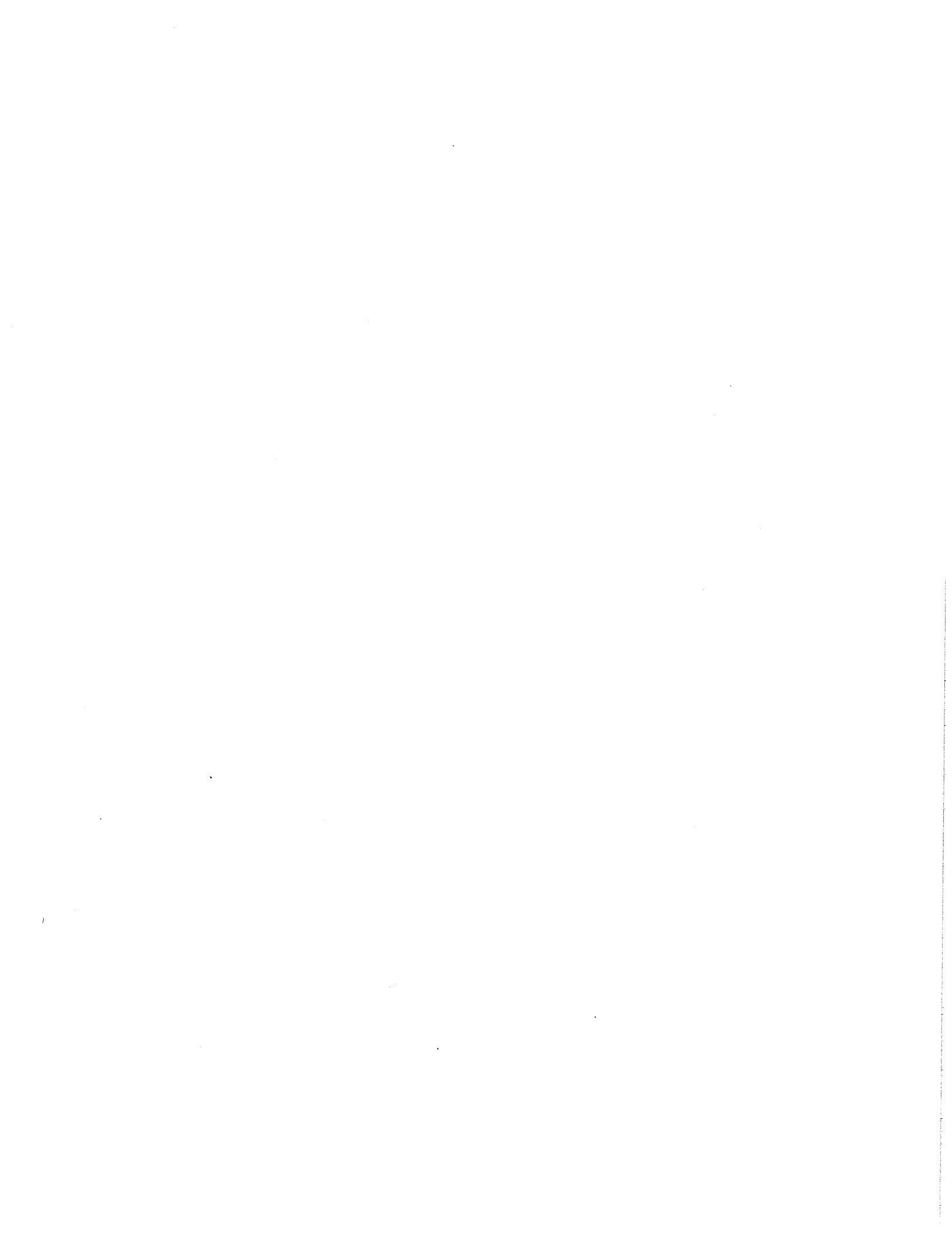
From: Mark Kabbes <mkabbes@seakay.us>
Sent: Monday, September 16, 2024 11:31 PM
To: Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; Evalyn David <edavid@highlandbeach.us>; Judith Goldberg <jgoldberg@highlandbeach.us>; David Stern <dstern@highlandbeach.us>; Don Peters <dpeters@highlandbeach.us>
Subject: Marine Accessory Regulations

Highland Beach Commissioners:

I was disappointed to hear that the commission is considering even more restrictive set backs for boats in our town. I felt 15' was too restrictive but still workable, the proposed new ordinances would severely limit people's options and enjoyment of their waterfront property. I believe that you would find an overwhelming majority of residents of single family homes with intercoastal or canal access would agree. Restricting peoples access and enjoyment to their own backyards is not going to be popular with waterfront residents. Please reconsider following the restrictions neighboring towns have adopted.

Sincerely,

Mark Kabbes
1001 Bel Air



Greg Babij
1092 Bel Lido Drive
Highland Beach, FL 33487

September 15, 2024

Board of Commissioners
Town of Highland Beach
3614 S. Ocean Blvd.
Highland Beach, FL 33487

Dear Commissioners:

For those of you unfamiliar, I am a waterfront resident of Highland Beach, and the former Vice Mayor of Highland Beach that worked for a year with the building department and the outside marine consultant on proposing changes to the town's marine accessory ordinances.

I received a copy of your proposed revisions to be discussed at the next Commission meeting and I am thoroughly disappointed. The proposed ordinance details are generally more restrictive rather than less restrictive, are very different than what was recommended by your planning board, and are far from what was proposed to the Commission after our initial working group concluded.

Many if not most of the younger residents (under age 65) live on the water because they have a desire to actively utilize it, not simply sit and observe it. They desire an active lifestyle that includes boats, paddle boards, jet skis and the best thing for the environment is to keep all of them out of the water when not in use.

While a number of waterfront residents have found the proposed ordinance frightening, I won't go through every component, and instead provide just a few examples to illustrate how sideways this has gone.

Side Setbacks:

At a recent Commission meeting, Mayor Moore commented that she hasn't heard any requests to decrease side setbacks. Please take this letter as notice that there are a significant number of waterfront residents that would in fact like to see a substantial decrease of side setbacks. A decrease of side setbacks is what was proposed by the original working group, and the following single family and multi-family waterfront residents desire less rather than more restrictive marine accessory rules including a decrease from the 25 ft side setbacks to something that is similar to the surrounding towns (ranging from as low as zero to a maximum of 15 ft).

Greg Stuart / Alisa Musa – 4403 Intracoastal Drive
Marthin DeBeer – 4307 Intracoastal Drive
Alan Goldstein – 4403 Intracoastal Drive
Sara Regnier – 1083 Bel Lido Drive
Roger Brown – (2 Properties) 4314 Tranquility Drive & 4315 Tranquility Drive

Mark Kabbes – 1001 Bel Air Drive
Eric Bernier – 4205 Intracoastal Drive
Robert Spahr – 4314 Tranquility Drive
Michael Duggan – 4314 Tranquility Drive
Eric & Brenda Berch – (2 lots combined) 4425 Tranquility Drive
Jeff Kleiman – 4321 Intracoastal Drive & 1084 Bel Lido Drive
Greg Babij – 1092 Bel Lido Drive

This is by no means an exhaustive list – simply a partial list to illustrate that there are a significant number of residences that would like the Commission to relax the marine accessory ordinances, to something that match the surrounding towns and certainly not make them any more restrictive.

Floating Vessel Platforms, Boat Lift Elevations & Basins:

You should be embracing this desire to preserve and protect the marine ecosystem, and not try to hamper it. Getting watercraft out of the water and on to a boat lift, floating vessel platform, seapen or other device is a very positive impact on the environment. This is the very stance that the State of Florida has taken, hence their ordinances that are designed to encourage the use of these items, along with minimal restrictions on property setbacks in some cases like floating vessel platforms.

Your only concern should be ensuring any marine accessory doesn't impede the ability to navigate the waterway, and there are already rules in place for that. Additionally, according to one of the marine attorneys I recently spoke to, the state law cannot be superseded by more restrictive rules from the local municipality. You should not in any way even consider any ordinances that are more restrictive than the state, especially when many of your waterfront residents are asking for the opposite (see above list).

Surrounding town regulations on floating vessel platforms, perpendicular docking and basins are all being successfully implemented and are fair to those on both sides of the issue. You should be embracing what is working well around us, as that is what many of your residents are asking for.

In terms of maximum height of boat keels, you should be in favor of allowing them to be lifted as high as the current maximum height of a seawall. If you do believe in rising tides, you should want boat owners to be able to lift them up to a level where they can be confident that they won't float off of the lift in a storm surge. If you are raising the allowable height of the seawall, allow lifting apparatus heights to increase accordingly.

Conclusion:

At a very minimum, I strongly urge you to revisit the marine accessory ordinance issue with the planning board and seek their opinion on the revised ordinance in front of you at the next Commission meeting, as it has substantially changed from what the planning board previously reviewed and made recommendations on.

I would also encourage you to host an open discussion at a future Commission meeting on this topic with me as a presenter if you are so inclined.

As always, I am available to speak to any commissioner or the commission as a body if you would like to investigate this matter further.

Regards,
Greg



Town Commission Meeting 09.17.2024 Public Comment

From: [Marshall Labadie](#)
To: [Jaclyn Dehart](#)
Subject: FW: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances (Thus far 24 property owners are in support of making the marine accessory rules less restrictive)
Date: Tuesday, September 17, 2024 8:19:15 AM
Attachments: [Marine Accessory Ordinance letter to Commission 20240915.pdf](#)
[image001.png](#)

Please print for Commission and record



Marshall Labadie, ICMA-CM
Town Manager

Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, FL 33487
(T) 561.278.4548
(F) 561.265.3582

Working to protect our 3 Miles of Paradise

From: greg4hb@yahoo.com <greg4hb@yahoo.com>
Sent: Monday, September 16, 2024 11:01 PM
To: Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; David Stern <dstern@highlandbeach.us>; Evalyn David <edavid@highlandbeach.us>; Judith Goldberg <jgoldberg@highlandbeach.us>; Don Peters <dpeters@highlandbeach.us>; Craig Hartmann <chartmann@highlandbeach.us>
Cc: Greg Babij <greg4hb@yahoo.com>; David Axelrod <daxelrod@gmail.com>; Jeffrey (via Google Docs) <jeffreyfl@gmail.com>; mdebeer@brightplan.com; Allan Goldstein <agoldstein@amgresources.com>; Eric.Berch@svcfinc.com; Brenda Berch <berchb827@gmail.com>; Christine Nessen <christine.nessen@gmail.com>; Robert Spahr <rspah50@gmail.com>; Roger Brown <roger3265@aol.com>; Greg Stuart <gstuart@frminc.com>; dwillens65@gmail.com
Subject: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances (Thus far 24 property owners are in support of making the marine accessory rules less restrictive)

Dear Commissioners,

Apparently the content of my letter has made its way around the waterfront residents. As of tonight I have heard from owners of 24 waterfront properties that are strongly in support of making the town's marine ordinances wholly LESS restrictive. There is strong support for what was originally proposed by me after the marine accessory ordinance working group and even greater support for matching the least restrictive ordinances of surrounding towns for each of the various accessories such as docks, boat lifts, floating vessel platforms, perpendicular piers and boat limits.

I would expect you will be hearing a lot more from this group of residents soon.

Regards,
Greg

----- Forwarded Message -----

From: greg4hb@yahoo.com <greg4hb@yahoo.com>

To: Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>;
dstern@highlandbeach.us <dstern@highlandbeach.us>; edavid@highlandbeach.us
<edavid@highlandbeach.us>; jgoldberg@highlandbeach.us <jgoldberg@highlandbeach.us>;
dpeters@highlandbeach.us <dpeters@highlandbeach.us>; Craig Hartmann
<chartmann@highlandbeach.us>

Cc: Greg Babij <greg4hb@yahoo.com>; dzaxelrod@gmail.com <dzaxelrod@gmail.com>

Sent: Sunday, September 15, 2024 at 09:15:45 PM EDT

Subject: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances

Marshall,

Can you please share my attached letter with all of the Commissioners and the Planning Board? I don't have all of their emails

Thanks,
Greg

January 4, 2023



COMMENT SHEET

David Willens

2362 South Ocean Blvd

dwillens65@gmail.com

NAME

ADDRESS

EMAIL ADDRESS

1. Maximum height for Accessory Marine Facilities (AMF) at Base Flood Elevation (BFE) plus 7 feet.

I support the proposed change.

2. Exempt personal watercraft (PWC) lifts from the requirement that "in no case shall the lift be higher than the superstructure of the boat when lifted" OR remove requirement.

I support the proposed change.

3. Maximum seawall cap width of 3 feet; maximum 8-foot width for seawall cap plus dock.

I support the proposed change.

4. Encroachment of AMFs and seawalls into water at 25 feet or 25% of waterway width, whichever is less (measured from the shortest distance adjacent to property line).

I support the proposed change, except that for properties located directly on the Intracoastal waterway, such encroachment distance should be allowed to a greater extent if and as approved and permitted by the Federal Army Corps of Engineers.

5. 10 foot side setback for all zoning districts. For lots less than 100 feet in width, setback is 10% of width; however, setback cannot be less than 5 feet.

I emphatically support the proposed change. The foremost reason residents buy navigable waterfront properties is marine access/usage, including boating at their home. The current SFR code 25' setback is grossly inconsistent with and much more restrictive than every other local town: ex. Deerfield Beach-5 ft; Gulfstream-5 ft; Boca Raton and Delray-10ft. The code makes absolutely no sense when a SFR with 70' frontage can have a 40' dock vs a SFR with 80' only permits a 30' dock?

6. Require a ladder for every 50 feet of dock.

I think one ladder for every 100 feet of water frontage is sufficient and makes better sense conceptually and from a safety perspective to measure by water frontage rather than dock length.

7. Maximum seawall height.

I would propose to allow seawalls up to a maximum height equal to the then current base flood elevation.

Additional Comments:

~~The dock set back issue is the big issue in my opinion. I live directly on the intracoastal and my property frontage is 80 ft. limiting me to a 30 ft dock. The IC is extremely busy and there are no wake restrictions. Accordingly, without a longer dock and associated dock separating a water break design, it is impracticable to dock a boat at my home or even board or access a boat at most times due to boat traffic. A longer dock and water break (as the code amendment is proposed I would be entitled to a 64' dock) would allow a reasonable size vessel to dock within the protected area including to utilize a lift during busy TC use benefiting from reduced wave action at the lift. In fact, I have already obtained Army Corps of Engineers and DEP approval for same but the town Code prohibits my construction permit. This grossly unreasonable restrictive code therefore deprives me of the right to use my property for boating that any reasonable person would expect and materially reduces the value of my property.~~

If you prefer, you can email your comment sheet to iallen@highlandbeach.us
THANK YOU FOR YOUR INPUT...

Town Commission Meeting 09.17.2024 Public Comment

From: [Marshall Labadie](#)
To: [Jaclyn Dehart](#)
Subject: FW: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances (Thus far 24 property owners are in support of making the marine accessory rules less restrictive)
Date: Tuesday, September 17, 2024 8:21:24 AM
Attachments: [Town of Highland Beach - COMMENT SHEET PUBLIC INPUT MEETINGS. David Willens 2362 S Ocean Blvd 1-23-24.pdf](#)
[image001.png](#)

Please print for Commission and record...



Marshall Labadie, ICMA-CM
Town Manager

Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, FL 33487
(T) 561.278.4548
(F) 561.265.3582

Working to protect our 3 Miles of Paradise

From: David Willens <dwillens65@gmail.com>
Sent: Tuesday, September 17, 2024 8:09 AM
To: greg4hb@yahoo.com; Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; David Stern <dstern@highlandbeach.us>; Evalyn David <edavid@highlandbeach.us>; Judith Goldberg <jgoldberg@highlandbeach.us>; Don Peters <dpeters@highlandbeach.us>; Craig Hartmann <chartmann@highlandbeach.us>
Cc: Greg Babij <greg4hb@yahoo.com>; David Axelrod <daxelrod@gmail.com>; Jeffrey (via Google Docs) <jeffreyfl@gmail.com>; mdebeer@brightplan.com; Allan Goldstein <agoldstein@amgresources.com>; Eric.Berch@svcfinc.com; Brenda Berch <berchb827@gmail.com>; Christine Nessen <christine.nessen@gmail.com>; Robert Spahr <rspah50@gmail.com>; Roger Brown <roger3265@aol.com>; Greg Stuart <gstuart@frminc.com>
Subject: Re: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances (Thus far 24 property owners are in support of making the marine accessory rules less restrictive)

Dear Commissioners,

I emphatically agree with and support the position advocated by Mr. Babij in his exhaustive efforts to date as well as his letter recently circulated and provided to the Commission respecting the proposed Code changes relating to accessory marine structures and the failure of the Commission to duly consider, respond to and respect the clearly expressed input and wishes of its constituent property owners in the Town of Highland Beach, including my own.

The Commission's review of the applicable Code provisions for accessory marine facilities has been ongoing now for nearly four years without any action to date, which is way too long to begin

with. The Commission's staff undertook a professional, thorough evaluation of the Code provisions and with direction of the Commission engaged an independent marine consultant to provide an independent professional evaluation of the affected waterways and related code provisions. Both did an excellent job in this regard. And, both the Commission's staff and its independent marine consultant provided the Commission detailed recommendations and proposed Code amendments to address the ostensibly overly restrictive and antiquated provisions governing accessory marine structures that do not fairly address the current development, conditions, sea water levels, technology, watercraft or comparable provisions commonly established by other South Florida communities. And yet, after this exhaustive and grossly delayed process, the Commission is still not listening to the professional recommendations advanced by its independent marine consultant, nor the Commission's own staff, nor the emphatic wishes of the Town residents who actually reside on the waterfront. For clarity, most of we residents, who each spent millions of dollars for our beautiful residences situated on deep, navigable waterfront here in Highland Beach, acquired these homes to avail ourselves of their deepwater access and use of the beautiful waterways and ocean for boating and other water activities. Our properties have by far the most property value and it is our taxes that support this town. The overly restrictive Code provisions for accessory marine facilities likely compromise such values and certainly the desirability of our waterfront properties.

Specific to my own concern is Section 30-68(g)(6)(d)(1)) of the Highland Beach Municipal Code which provides for grossly restrictive (excessive) side yard set-backs for docks at single family residences compared to every nearby community surveyed by my attorneys in their review of other similar local municipalities. Both the Commission staff and the marine consultant advocated significant reductions to these setbacks consistent with Mr. Babij recommendations, specifically recommending a reduction in the side yard set-backs to be 10% of a property's waterfront width. With all due respect, Mayor Moore's statement that I understand was made at a recent Commission meeting (referenced by Mr. Babij) that "she has never heard requests to decrease the side yard set backs" clearly affirms she has not read the record including prior feedback from residents. (For example, see attached my own public comment sheet provided to Commission at one of the relevant public hearings in 2022).

The failure of the Commission to undertake the proposed Code amendment without responding to the side yard set-back concerns (and any other unaddressed issues) of the waterfront property owners and the express recommendations of Commission staff and the Town' Commission's independent marine consultant feels dismissive, arbitrary and capricious.

Accordingly, I sincerely hope the Commission reconsiders its proposed Code amendment to respond to such expressed concerns and recommendations.

Respectfully,

David Willens, Esq,

David A. Willens

President, Willens Family Office

dwillens65@gmail.com

(561) 866-2757

From: greg4hb@yahoo.com <greg4hb@yahoo.com>

Date: Monday, September 16, 2024 at 11:01 PM

To: Marshall Labadie <mlabadie@highlandbeach.us>, Natasha Moore <nmoore@highlandbeach.us>, dstern@highlandbeach.us <dstern@highlandbeach.us>, edavid@highlandbeach.us <edavid@highlandbeach.us>, jgoldberg@highlandbeach.us <jgoldberg@highlandbeach.us>, dpeters@highlandbeach.us <dpeters@highlandbeach.us>, chartmann@highlandbeach.us <chartmann@highlandbeach.us>

Cc: Greg Babij <greg4hb@yahoo.com>, David Axelrod <dzaxelrod@gmail.com>, Jeffrey (via Google Docs) <jeffreyfl@gmail.com>, mdebeer@brightplan.com <mdebeer@brightplan.com>, Allan Goldstein <agoldstein@amgresources.com>, Eric.Berch@svcfinc.com <Eric.Berch@svcfinc.com>, Brenda Berch <berchb827@gmail.com>, Christine Nessen <christine.nessen@gmail.com>, Robert Spahr <rspah50@gmail.com>, Roger Brown <roger3265@aol.com>, Greg Stuart <gstuart@frminc.com>, dwillens65@gmail.com <dwillens65@gmail.com>

Subject: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances (Thus far 24 property owners are in support of making the marine accessory rules less restrictive)

Dear Commissioners,

Apparently the content of my letter has made its way around the waterfront residents. As of tonight I have heard from owners of 24 waterfront properties that are strongly in support of making the town's marine ordinances wholly LESS restrictive. There is strong support for what was originally proposed by me after the marine accessory ordinance working group and even greater support for matching the least restrictive ordinances of surrounding towns for each of the various accessories such as docks, boat lifts, floating vessel platforms, perpendicular piers and boat limits.

I would expect you will be hearing a lot more from this group of residents soon.

Regards,
Greg

----- Forwarded Message -----

From: greg4hb@yahoo.com <greg4hb@yahoo.com>

To: Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; dstern@highlandbeach.us <dstern@highlandbeach.us>; edavid@highlandbeach.us <edavid@highlandbeach.us>; jgoldberg@highlandbeach.us <jgoldberg@highlandbeach.us>; dpeters@highlandbeach.us <dpeters@highlandbeach.us>; Craig Hartmann <chartmann@highlandbeach.us>

Cc: Greg Babij <greg4hb@yahoo.com>; dzaxelrod@gmail.com <dzaxelrod@gmail.com>

Sent: Sunday, September 15, 2024 at 09:15:45 PM EDT

Subject: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances

Marshall,

Can you please share my attached letter with all of the Commissioners and the Planning Board? I don't have all of their emails

Thanks,
Greg

From: [Town of Highland Beach via Municode Portal](#)
To: [Public Comments](#)
Subject: Highland Beach Public Comment Submission
Date: Monday, September 16, 2024 3:51:23 PM

Submitted on Monday, September 16, 2024 - 3:51pm

Submitted by anonymous user: 74.124.47.10

Submitted values are:

Contact Information

Name Maureen Garrett

Email Address maureengarrett@sbcglobal.net

Telephone 7132543675

Meeting Date Tue, 09/17/2024

Meeting Type Town Commission

Public Comments

An email has been sent to Ms. DeHart and Ms. Gaskins attaching letters of concern for proposals to setbacks, perpendicular property line waterward with seawall rather than the current law to follow the upward property line (legally any change is a governmental taking of property), floating vessel platform violations pursuant to 403.318 including non-compliant applications, more than one dock per property owner, and combined depth of docks/platforms more than 5 feet waterward.

It is requested that the Commission please consider all issues, especially the corner lots that are effected by any/all of these proposed changes and incorporate all letters of concern.

The results of this submission may be viewed at:

<https://highlandbeach-fl.municodemeetings.com/node/2411/submission/771>

Town Commission Meeting 09.17.2024 PUBLIC COMMENT FOR ITEM 8.A

From: maureengarrett@sbcglobal.net
To: [Public Comments](#); [Lanelda Gaskins](#); [Jaclyn Dehart](#)
Cc: maureengarrett@sbcglobal.net; tarrag@aol.com
Subject: FW: 4307 Intracoastal Drive (Floating Vessel Platform)
Date: Monday, September 16, 2024 10:35:53 AM
Attachments: [Garrett reply ltr to Highland Beach 9.15.24.pdf](#)
[Exh A Memo \(1979\) re Amendment.pdf](#)
[Exh B Amendment.pdf](#)
[Exh C Bel Lido Pres ltr to Mayor \(1980\).pdf](#)
[Garrett Ltr to Highland Beach 7.15.24.pdf](#)
[Rubin Response Letter \(Floating Vessel Platform\).pdf](#)

Ms. DeHart

Per our conversation, please present this email with the attached Garrett letters and exhibits to the Commission for discussion at tomorrow's Town Commission Meeting.

If you would be so kind to confirm receipt of this email.

Thank you.

From: maureengarrett@sbcglobal.net <maureengarrett@sbcglobal.net>
Sent: Sunday, September 15, 2024 6:23 PM
To: 'Len Rubin' <len@torcivialaw.com>; 'Jeff Remas' <bco@highlandbeach.us>; 'Ingrid Allen' <iallen@highlandbeach.us>; 'Marshall Labadie' <mlabadie@highlandbeach.us>; aosowsky@highlandbeach.us; GRAS.TROY@flsenate.gov; Southeast.District@floridadep.gov
Cc: tarrag@aol.com; maureengarrett@sbcglobal.net
Subject: 4307 Intracoastal Drive (Floating Vessel Platform)

All

Attached please find the Garrett's reply letter along with exhibits A, B and C concerning issues as to 4307 Intracoastal Drive (Floating Vessel Platform).

For completeness, copies of Garrett's original letter dated 7/15/2024 and Attorney Rubin's response dated 8/19/2024 are attached.

We appreciate prompt attention to this matter by all Governmental Agencies.

Please contact either myself or my parents to arrange an inspection of the property and/or discuss these issues.

Eugene and Maureen home phone is 561-274-8769
Eugene's email is tarrag@aol.com
Maureen Garrett, daughter, phone number is 713-254-3675

Please confirm receipt. Thank you.

From: Len Rubin <len@torcivialaw.com>

Sent: Monday, August 19, 2024 2:35 PM

To: maureengarrett@sbcglobal.net; tarrag@aol.com

Cc: Jeff Remas <bco@highlandbeach.us>; Ingrid Allen <iallen@highlandbeach.us>; Marshall Labadie <mlabadie@highlandbeach.us>

Subject: 4307 Intracoastal Drive (Floating Vessel Platform)

Attached please find correspondence of same date.

Len Rubin
Town Attorney

Leonard G. Rubin, Esquire
Board Certified City County and Local
Government Attorney

**TORCIVIA, DONLON,
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From: maureengarrett@sbcglobal.net maureengarrett@sbcglobal.net

Sent: Monday, July 15, 2024 10:13 PM

To: aosowsky@highlandbeach.us; bco@highlandbeach.us; iallen@highlandbeach.us

Cc: maureengarrett@sbcglobal.net; tarrag@aol.com

Subject: 4703 Intercoastal Drive, Highland Beach, FL 33487 property line and dock/floating vessel platform violations

Highland Beach Building Department personnel:

Per my conversation last week with Ms. Allen, I am the daughter to Eugene and Maureen Garrett at 1070 Bel Lido Drive in Highland Beach. As we discussed, the attached letter was prepared to assert several objections, issues and violations related to the dock/platform and seawall located at 4703 Intercoastal Drive, owned by Marthin De Beer.

Please contact either myself or my parents to arrange an inspection of the property and/or discuss these issues.

My phone number is 713-254-3675
Eugene and Maureen home phone is 561-274-8769
Eugene's email is tarrag@aol.com

Please confirm receipt. Thank you.

EUGENE GARRETT
MAUREEN GARRETT

1070 BEL LIDO DRIVE
HIGHLAND BEACH, FL. 33487

September 15, 2024

VIA EMAIL ONLY

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Building Official, Jeff Remas
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Code Compliance Officer, Adam Osowsky
aosowsky@highlandbeach.us
Marshall Labadie, Town Manager
mlabadie@highlandbeach.us
3614 S Ocean Blvd.
Highland Beach, FL 33487

Department of Environmental Protection
Southeast Branch
Southeast.District@floridadep.gov
3301 Gun Club Rd
MSC 7210-1
West Palm Beach, FL 33406

Re: 4703 Intercoastal Drive, Highland Beach, FL 33487 property line and dock/floating vessel platform violations

To All named individuals:

This letter is in reply to attorney Len Rubin's August 19th, 2024 letter in response to Garrett's letter dated July 15, 2024, herein incorporated by reference, presenting thirteen (13) issues and concerns related to violations of Highland Beach Town Ordinance, State of Florida statutes, property line violations, navigational hazards and illegal taking of property.

If any other Highland Beach Town Ordinance or state statute is relied upon in support or opposition to the various issues and concerns of the Garretts, please advise. Otherwise, the Garrett issues and concerns are supported by the following:

1. Florida Administrative Code 18-21.003 - Definitions
2. Florida Administrative Code 62-330-051 - Exempt Activities
3. Florida Administrative Code 62-330-427 - General Permit for Docks, Piers and Associated Structures
4. Florida Administrative Code 62-330.428 - General Permit for Floating Vessel Platforms and Floating Boat Lifts
5. Florida Statute Section 403.813 - Permits issued at district centers; exceptions
6. Highland Beach Zoning Code 30-67 - Uses permitted, special exception, and prohibited uses;
7. Highland Beach Zoning Code 30-68(g) - Supplemental district regulations, Accessory marine facilities; and
8. Florida Public Land and Property Code, Chapter 253

Mr. Rubin's response on behalf of the Town of Highland Beach fails to address multiple issues/concerns and furthermore, fails to enforce and recognize ordinances and state statutes under Town authority. Garrett's thirteen (13) issues and concerns are still at issue and are supplemented with this reply.

1. DE BEER'S FLOATING VESSEL PLATFORM IS NOT PERMITTED UNDER STATUTE, ORDINANCES AND LAWS OF FLORIDA

For all reasons stated by the Garretts, De Beer is not eligible for an exemption and is subject to consequence as to the filing of his application.

- a. De Beer already has an existing permitted dock (aka "stone concrete on seawall");
- b. De Beer is prohibited from adding a second structure violating the "one dock" law;
- c. De Beer is prohibited from violating the property line of neighbors;
- d. De Beer is in violation of setback laws;
- e. De Beer's floating vessel platform creates a navigation hazard to neighbors; and
- f. De Beer's structure (permitted dock aka "stone concrete on seawall" plus a floating vessel platform) extends in violation beyond 5 feet waterward

Based on the multiple violations, the De Beer floating vessel platform should be removed immediately.

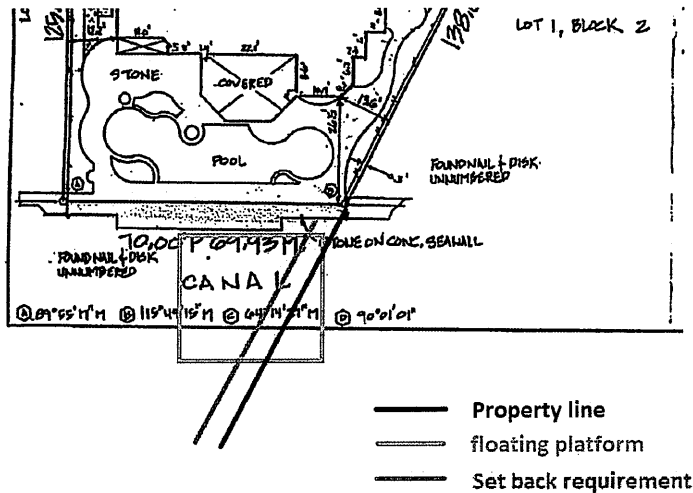
2. NONCOMPLIANCE STILL EXISTS AFTER DEADLINE TO CURE VIOLATION EXPIRES

While it appears from Mr. Rubin's letter that only one (1) violation will be enforced, specifically as to the size of De Beer's floating vessel platform for compliance of a 500 square feet limit, the De Beer's continue to be in violation after attempting to cure the defect.

To date, it appears that De Beer has made a modification to the floating vessel platform after receiving a violation notice from the Town Compliance Officer. However, De Beer simply removed a center portion/row of the platform's squares/rectangles, possibly reducing the size but making no adjustment to the northern edge of the platform which remains in violation of the property line setback and is still over the Garrett's waterward property line.

In addition, De Beer's floating vessel platform is now not centered on the De Beer's property but rather is northward leaning. De Beer simply shortened the platform from the center, reconnecting and generously giving himself larger ramp access on the southern side of the property line.

For illustration purposes, the floating vessel platform (in blue) is now positioned northward towards Garrett's property, attached waterward to an existing dock, extending beyond the setback requirement and crosses over the Garrett's waterward property line.



Mr. Rubin acknowledges authority in his response by stating “the Town Code merely regulates the placement of accessory marine structures”. Well, De Beer is in violation of the northward leaning placement of the floating vessel platform. Based on the Town’s legal representative representation, Garrett requests that immediate action take place to issue the removal of De Beer’s floating vessel platform

De Beer continues to also be in violation with storing coolers, surfboards, storage bins and other random items on the platform. This is a clear violation as previously mentioned in the July 15, 2024 letter referencing 403.813(1)(s)(1), however, not addressed in Rubin’s letter or the Town’s recent violation notice to De Beer.

3. THE FLOATING VESSEL PLATFORM EXEMPTION UNDER 403.813 WAS ONLY ENACTED IN JULY 2023 AND TOWN OF HIGHLAND BEACH AS AUTHORITY TO ENFORCE

The Floating Vessel Platform Exemption Application aka CS/CS/HB 847 was passed by the House on April 26, 2023 and by the Senate on May , 2023 with the Governor’s approval on May 25, 2023 with an effective date of July 1, 2023.

The Town of Highland Beach has not made any ordinance amendments/changes and/or issued permitting requirements for floating vessel platforms since the enactment of this statute (1 year ago). The Town of Highland Beach has chosen to rely on the state statute exemption requirements and not charge a fee or permit. This decision, however, does not relieve the Town from enforcing violations as provided per authority to enforce in the Zoning and Building Ordinance provisions and more specifically authorization under Chapter 253 of the Public Land and Property Code directly mentioned in 62-330.428 (3)(e) - **General Permit for Floating Vessel Platforms and Floating Boat Lifts.**

(3) The platforms and lifts:

(e) Shall not be added to structures or located in areas where boat mooring is specifically prohibited under a permit issued under either Chapter 403, or Part IV of Chapter 373, F.S., or an authorization under Chapter 253 or 258, F.S.; and,

Chapter 253 give the Town authority to enforce, specifically

253.127 Enforcement.—The Board of Trustees of the Internal Improvement Trust Fund, the board of county commissioners or governing body of any municipality, or any aggrieved person, shall have the power to enforce the provisions of this law by appropriate suit in equity.

History.—s. 7, ch. 57-362; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106.

253.128 Enforcement; board or agency under special law.—In any county where the Legislature by special law or general law with local application has heretofore or hereafter transferred or delegated to any county board or agency other than the board of county commissioners or the governing body of any municipality powers and duties over the establishment of bulkhead line or lines, dredging permits, fill permits, seawall construction or any other powers of a like nature such agency shall have jurisdiction under this law in lieu of the board of county commissioners or the governing body of any municipality as the case may be.

History.—s. 8, ch. 57-362.

Thus, authority to enforce 62-330 and 403.813 is mandated to the Town of Highland Beach and any other governing body. If the Town of Highland Beach refused to enforce violations, the Garretts request that the Florida Department of Environmental Protection, the U.S. Coast Guard, Representatives of the State Senator office and House of Representatives and any other enforcer of the State Statutes take action to issue violations committed by De Beer per their application for exemptions of a floating vessel platform.

4. DEFINITIONS

Webster's Dictionary defines the noun "Dock" as "a place (such as a wharf or platform) for the loading or unloading of materials" and/or "a usually wooden pier used as a landing place or moorage for boats.

Interesting that the very definition includes the word "platform" which is the forefront of Garrett's concerns and issues related to De Beer's violations.

The terms "dock" or "floating vessel platform" are not specifically defined in any Florida Statute per se. However, there are several pertinent Codes, Florida case law and other Town Ordinances that consistently describe and incorporate such as "structures."

The Florida Administrative Code (FAC) is the official version of administrative rules of Florida. Section 18-21.003, defines the terms "Dock", "Marginal dock" and "Private residential single-family dock or pier" as follows:

(22) "Dock" means a fixed or floating structure, including access walkways, terminal platforms, catwalks, mooring pilings, lifts, davits and other associated water-dependent structures, used for mooring and accessing vessels.

(36) "Marginal dock" means a dock placed adjacent to and parallel with and no more than 10 feet waterward from the shoreline or seawall, bulkhead or revetment.

(51) “Private residential single-family dock or pier” means a dock or pier used for private recreational or leisure purposes that is located on a single-family riparian parcel or that is shared by two adjacent single-family riparian owners if located on their common riparian rights line.

Of note, as a child I was told never to use a term to define the same term. Ironically, the Florida Legislature above in these definitions has used the term “dock” to describe the very item which we seek an identification of. It’s clearly circular but perhaps because it is so simple we are complicating the issue.

As part of the exemption application signed by De Beer, Florida Administrative Code (FAC) 62-330-051(5), states that this entire section must be in compliance with 403.813(1)(s), F.S, specifically FAC 62-330-051(5)(f) subjects floating vessel platforms to comply. This FAC section also uses the term “associated structures” providing any dock and associated structure shall be the sole dock as measured along the shoreline.....one exempt dock allowed per parcel or lot.”

FAC 62-330.428 - **General Permit for Floating Vessel Platforms and Floating Boat Lifts** states that such structures are authorized ONLY if built in accordance with Section 403.813(1). Authorization under this section, similarly, provides restrictions as to a size limit, used solely for purposes of storing a vessel, shall not be added to structures and shall not extend more than 25 percent into the width of the waterway. See 62-330-428(3)(b), (d) and (e).

As mentioned, “dock” or “floating platform” is not defined within any Florida Statute, as it relates or uses the term in 403.813. However, several other statutes and codes incorporate the same definition and identify the type of “structure” inclusive of the description of a floating dock, floating vessel platform and floating lift. It is obvious, there is a consistent legislative intent for using the word “structure” when referring to any floating device among these statutes and codes.

Other Florida Statute statutes use the same language, specifically 192.001 defines “Floating structure” means a floating barge-like entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term “floating structure” includes, but is not limited to, each entity used as a residence, place of business, office, hotel or motel, restaurant or lounge, clubhouse, meeting facility, storage or parking facility, mining platform, dredge, dragline, or similar facility or entity represented as such. Floating structures are expressly excluded from the definition of the term “vessel” provided in s. 327.02. Incidental movement upon water shall not, in and of itself, preclude an entity from classification as a floating structure. A floating structure is expressly included as a type of tangible personal property.

Florida Statute 327.02 defines

(10) “Floating structure” means a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term “floating structure” includes, but is not limited to, each entity used as a residence, place of business or office with public access, hotel or motel, restaurant or lounge, clubhouse, meeting facility, storage or parking facility, mining platform, dredge,

dragline, or similar facility or entity represented as such. Floating structures are expressly excluded from the definition of the term "vessel" provided in this section. Incidental movement upon water or resting partially or entirely on the bottom shall not, in and of itself, preclude an entity from classification as a floating structure.

Other pertinent definitions include:

(39) "Vessel" is synonymous with boat as referenced in s. 1(b), Art. VII of the State Constitution and includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Seawall is defined under 373.403

(17) "Seawall" means a manmade wall or encroachment, except riprap, which is made to break the force of waves and to protect the shore from erosion.

There are other Florida Ordinances that aid in the description and use of term structure, dock, and platform. There are several Florida Ordinances but to display one for example:

Edgewater Florida Ordinance defines:

Dock means any permanently fixed or floating structure extending from the upland into the water, capable of use for vessel mooring and other water-dependent recreational activities. The term "dock" also includes any floating structure, boat lift or mooring piling, detached from the land, capable of use for mooring vessels or for other water-dependent recreational activities. The term "dock" also includes any area adjacent to the dock designated for mooring purposes when a mooring feature, including but not limited to a piling or buoy anchored to the lake bottom, is utilized to moor a vessel of any type. This term excludes any vessel that is not permanently docked, moored, or anchored.

See

https://library.municode.com/fl/edgewood/codes/code_of_ordinances?nodeId=PTIICOR_CHI4BODOWA

See other town ordinances at <https://library.municode.com/fl>

5. NO CONFLICT EXISTS BETWEEN FLORIDA STATE STATUTE AND TOWN ORDINANCES TO JUSTIFY TOWN OFFICIALS THE REFUSAL TO ISSUE VIOLATIONS

a. "One Dock" Rule

The statement in Mr. Rubin's letter that "Neither the Town Code nor Section 403.813, Florida Statutes, prohibits installation of a floating vessel platform where a permitted docket already exists", is unfounded. This statement by Rubin is the exact opposite of what the statutes dictate. See 403.813(1)(s)(2) with the following excerpts:

- (1) A permit is not required..... for activities associated with the following types of projects; however, except as otherwise provided in this subsection,.....
 - (s) The construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, provided that such structures:

2. Are wholly contained within a boat slip previously permitted under ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt under this subsection or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure;

De Beer has an existing “original” dock on the property (labeled as “stone on concrete seawall” on De Beer survey). In fact, for years, De Beer parked his 75 ft boat on this existing dock. It cannot be clearer, the existing “original” dock aka “stone on concrete seawall” serves as a defined boat slip and docking structure and is attached to the bulkhead of the De Beer property. Thus, De Beer does not have an exempt “original” dock and he cannot be approved to have a second dock, lift, platform, or structure abutted onto the existing “original” dock on his property.

To further support the violation of having more than one dock, there are other references to the requirement that there must be “no other dock structure” which is repeated four (4) times just in paragraph 5, see 408.813(1)(s)(5) with the following excerpts:

1. “with the exception of those structures attached to a bulkhead on a parcel of land where there is no docking structure”,
2. “Local governments may require either permitting or one-time registration of floating vessel platforms to be attached to a bulkhead on a parcel of land where there is no other docking structure as necessary to ensure compliance with local ordinances, codes, or regulations.
3.and to ensure proper installation, maintenance, and precautionary or evacuation action following a tropical storm or hurricane watch of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.
4. and to ensure proper installation and maintenance of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.

Consistent with the “no other dock” rule, Florida Statute 62-330-427 blatantly restricts one dock per parcel of land. Excerpt states:

62-330.427 General Permit for Docks, Piers and Associated Structures.

(2) This general permit shall be subject to the following specific conditions:

(e) This general permit shall not authorize the construction or extension of more than one dock or pier per parcel of land or individual lot. For the purposes of this general permit, multi-family living complexes shall be treated as one parcel of property regardless of the legal division of ownership or control of the associated property;

Highland Beach Ordinance 30-68(g)(6) and (h)(6) read together are consistent with both 403.813 and 62-330-427. Ordinances are to be followed. Town Officials have the obligation and authority to enforce them. There is no inconsistency and there is no limited authority for Highland Beach not to enforce the “one dock” rule.

De Beer should be issued a notice to remove the floating vessel platform for violation of the “one dock” rule.

b. No structure shall extend 5 feet waterward

Floating docks and platforms are addressed in the Town Ordinance and are subject to the mandatory rule that docks shall not extend into any waterway more than 5 feet. See Sec 30-68(g) and (h).

Sec. 30-68. - Supplemental district regulations.

(g) *Accessory marine facilities:*

(4) *Boats and setbacks.* When moored, any portion of a boat shall not extend beyond any property line, as extended waterward.

(6) *Installation.* Accessory marine facilities shall comply with the installation standards listed below:

- a. In waterways not regulated by the U.S. Army Corps of Engineers, docks and mooring structures shall not extend into any waterway more than five (5) feet.

Sec 30-68 (h) addresses that this Ordinance applies to floating docks/platforms as stated in the following:

30-68(h)(6) *Floating docks.* Floating docks are permitted, subject to conformance with all zoning code requirements herein and compliance with all applicable building codes.

De Beer’s combined docks and platforms extend more than 5 feet and are in violation of the Town’s Ordinance. De Beer should be issued a notice to remove the floating vessel platform for violation of the 5 feet waterward rule.

c. Setbacks from property line

The Town ordinance is clear-as-day, in black and white, and no state statute conflicts with setback guidelines.

Town Ordinance **30-68 (g)(4)** clearly states:

(4) Boats and setbacks. When moored, any portion of a boat shall not extend beyond any property line, as extended waterward.

Town Ordinance **30-68 (g)(6)(c)** clearly states:

(g)(6) Installation. Marine Facilities shall comply with the installation standards listed below

- c. Measurement of the width or length of a dock, as applicable, shall be made from the property line

If the definition of “marine facilities” needs to be addressed than the Ordinance provides that in 30-68(g)(1) Accessory marine Facilities:

- (1) Accessory use. Accessory marine facilities, including docks, piers, launching facilities and lifting and mooring devices are permitted as an accessory use in all residential zoning districts

In addition, Webster’s dictionary defines “mooring” as a permanent structure to which a seaborne vessel (such as a boat or ship) may be secured.

There we see the word “structure” again as a consistent and uniform applicable reference to a floating device, platform or dock.

Garrett requests the enforcement of the setback for waterward structural devices/platforms/structures for property line violations by De Beer.

De Beer should be issued a notice to remove the floating vessel platform for violation of the “setback” rule.

d. Mandatory language

Words such as “shall” and “all” used in both 30-68(g) and (h) are mandatory and specifically address every activity, scenario and type of structure regarding boating/docks/mooring/associated structures that are applicable for the Town of Highland Beach to enforce additional violations to De Beer.

It is outrageously unjustified that the legal team and the building enforcement team of the Town of Highland Beach hold the position that they lack authority to enforce its own Town Ordinance and state statutes.

As an alternative, the Garretts request that the Florida Department of Environmental Protection, the U.S. Coast Guard, Representatives of the State Senator office and House of Representatives and any enforcer of the State Statute(s) take action to issue violations committed by De Beer per their application for exemptions for a floating vessel platform.

e. Not subject to more stringent permitting requirements

Section 403.813(s)(5) discusses that a qualified exemption may not be subject to more stringent permitting requirements.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund and, with the exception of those structures attached to a bulkhead on a parcel of land where there is no docking structure, may not be subject to any more stringent permitting requirements, registration requirements, or other regulation by any local government. Local governments may require either permitting or one-time registration of floating vessel platforms to be attached to a bulkhead on a parcel of land where there is no other docking structure as necessary to ensure compliance with local ordinances, codes, or regulations. Local governments

may require either permitting or one-time registration of all other floating vessel platforms as necessary to ensure compliance with the exemption criteria in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria in this section or address subjects other than subjects addressed by the exemption criteria in this section; and to ensure proper installation, maintenance, and precautionary or evacuation action following a tropical storm or hurricane watch of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure. The exemption provided in this paragraph shall be in addition to the exemption provided in paragraph (b). The department shall adopt a general permit by rule for the construction, installation, operation, or maintenance of those floating vessel platforms or floating boat lifts that do not qualify for the exemption provided in this paragraph but do not cause significant adverse impacts to occur individually or cumulatively. The issuance of such general permit shall also constitute permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund. Local governments may not impose a more stringent regulation, permitting requirement, registration requirement, or other regulation covered by such general permit. Local governments may require either permitting or one-time registration of floating vessel platforms as necessary to ensure compliance with the general permit in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning that are no more stringent than the general permit in this section; and to ensure proper installation and maintenance of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.

First De Beer is not a qualified applicant under the statute. He already has a dock – a dock that is attached to a bulkhead, the floating vessel platform adds a second structure in violation of the “one dock rule”, the structure is too large and positioned northward leaning to Garrett’s property, the two structures (dock plus floating vessel platform) cumulatively extend waterway beyond 5 feet, the structure is in violation of the setback ordinance and the structure is over the Garrett’s property line.

As Mr. Rubin contends “the Town has limited authority” and does not regulate for accessory marine structures or floating vessel platforms but the Florida statutes expressly give the Town authority as long as there are no more stringent permitting requirements. Thus, Garrett requests the Town and legal counsel readdress the 13 issues/concerns along with this supplement for a full and complete issuance of multiple violations to De Beer.

6. DE BEER AND THE TOWN MANAGEMENT FAILED TO OBTAIN U.S. COAST GUARD APPROVAL THAT THAT FLOATING VESSEL IS NOT A HAZARD

The U.S. COAST GUARD would be the proper authoritative body to address any navigational hazard of the De Beer’s floating vessel platform restrictions to the ingress/egress of the Garrett’s property for navigational purposes, as well as the floating vessel platform encroachment of property lines and riparian rights.

According to Town Ordinance 30-68 (g)(1)(c), Accessory Marine facilities shall not be a hazard to navigation.

De Beer did not obtain U.S. Coast Guard or any other governing hazardous navigation authority to determine the challenges with regards to the floating vessel's size, location placement, prevention of ingress and egress for surrounding properties/neighbors or property line violations.

The Town of Highland Beach and any other governmental authority is also under an obligation to prevent navigational hazards to residents and property owners. By failing to request the U.S. Coast Guard to survey for navigational hazards before permitting is unconscionable.

7. RELIANCE ON ANY ANTICIPATED FUTURE CHANGES OR PROPOSALS TO AMEND THE TOWN ORDINANCE IS PREMATURE AND NOT A DEFENSE TO NON-COMPLIANCE

The Town Ordinances as written have been approved and the enforcement of violations is mandatory. Any statements or reliance on anticipated future changes, proposals or amendments to the Town Ordinances are premature and not a defense to non-compliance of the current Ordinances. The Town Officials are entrusted with the duty to enforce such Ordinances in a prompt and efficient manner.

If the Town of Highland Beach or any governing agency "grandfathers" any individual, specifically De Beer, through an amendment to the Town Ordinance, the Garretts take the position that an illegal taking by government with regards to their property has occurred.

Thus, Garrett objects to any anticipated future changes and/or proposed amendments to Town Ordinances that negatively affect their property rights.

The Garretts request all violations of state statutes, codes and Ordinances to be strictly enforced and in an immediate timely frame.

8. ENVIRONMENTAL RESOURCE PERMITS (ERP)

According to 403.813, the Environmental Resource Permits (ERP) qualifies as an exemption only if the floating vessel platforms:

"Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners."

This one paragraph in the statute sums up the blatant violations of De Beer on more than one level....navigational hazard, infringement upon riparian rights of the adjacent property owner's and their property line.

Garrett requests that the governing authority of the ERP, immediately conduct an investigation into the violations of De Beer.

9. FEES NOT MANDATORY BUT ENFORCEMENT BY TOWN IS

Florida statute addresses the local government's prerogative to charge a fee for permitting or one-time registration as to floating vessel platforms.

Statute 403.813 gives authority to local government by stating:
Additionally, local governments may require either permitting or one-time registration of all other floating vessel platforms as necessary to ensure compliance with the exemption criteria in s. 403.813, F.S., and to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria in s. 403.813, F.S., or address subjects other than subjects addressed by the exemption criteria in this s. 403.813, F.S.

However, whether local government charges a fee or not is not an underlying factor as to the local government's authority and does not relieve the Town of Highland Beach from ensuring compliance with this state exemption criteria.

As it stands, the application and permitting appears to be a money maker for the state and/or potentially for the town with no intention of taking action against violators.

The Garrett's insist that the Town of Highland Beach pursue all avenues to address the noncompliance by De Beer under Florida Statute 403.813 and any other pertinent rules, statutes and ordinances.

10. DE BEER SHOULD PROVIDE HIS EXEMPTION IS VALID, NOT INSIST GARRETT'S DISPROVE HIS EXEMPTION

De Beer should have to prove his exemption is worthy of approval, otherwise, face violations for his obnoxious disregard for the laws.

To date, De Beer faces no consequences for his violations while, Garrett, the innocent and affected property owner, suffers from the enjoyment of their property and has spent numerous hours researching, writing letters and consulting with various authoritative bodies to provide the legal basis of De Beer's violations and the reasons why limited actions are being taken.

Garrett requests the authoritative governmental agencies to take immediate action to investigate and issue multiple violations to De Beer.

11. HISTORY

The developers and founders of this town had a vision and with that vision they had an ideology that this beautiful waterfront town would remain an attraction and a benefit to all residents who are afforded the waterfront views.

In fact, Bel Lido was originally known as "Delray by the Sea" as seen in this March 1955 plat. That plat was vastly different from the plat we know today, established and replated in October 1957.

These two plats are shown side by side to applaud and give tribute to the early settlers of Highland Beach. Their vision to replat Bel Lido so that EVERY property owner would have waterfront property is commended. The replating gave interior lots access that was not originally platted. The developers knew then how valuable the waterfront view and access to water for recreational purposes would enrich the lives of those in this town for years and decades ahead of them.

The attached exhibits including A) Memo from Town Manger to Town Commission regarding zoning changes dated December 12, 1979 referencing B) Amendment to the Town of Highland Beach Zoning Code, Chapter 30, Section 5 and C) letter from Bel Lido Association President to Mayor Horton dated January 1980 outlines the history of the town's setbacks and the Bel Lido Property Owner Association's opposition to any changes to the 25 feet setback, especially as they affect the corner lots in the Bel Lido community. This letter addresses the same concerns over 40 years ago that the Garretts (and other corner lot owners in Bel Lido) face with the setback requirements, dock restriction and ingress/egress to their property.

Since 1979, there have been no changes to the 25 feet setback and a dock remains limited to 5 feet extended waterward.

Again, De Beer has an existing dock and now a second structure, the floating vessel platform, which is prohibited and combined is an extension beyond the 5 feet waterward limitation.

Thus, these Town Ordinances are not new. They have been in the books for years (actually decades). For the Town Officials to claim they have no authority to regulate is beyond comprehensible.

We therefore request the Town Compliance Officer, Town management and zoning committee, U.S. Coast Guard, Environmental Protection Agencies, Legislative representatives and any government agency with authority to enforce statutory violations to re-evaluate the application for various exemptions and permits related to the De Beer's floating vessel platform as well as the existing original dock, dock and seawall setback requirements, concrete seawall and gate over property line, upland and waterward property line for noncompliance based on supplemental concerns/issues asserted in this letter and incorporating the previous 13 issues concerns in the letter dated July 15, 2024.

Please feel free to contact us with any questions.

Respectfully,

Eugene and Maureen Garrett

cc: *[Handwritten name]*

Legend:--dashes mean deletions
underlining means proposed wording by Planning Commission
()parenthesis means wording suggested by Building Official and/or Town Manager

December 12, 1979

MEMO TO: Town Commission

FROM: Town Manager

Subject: Zoning Changes

The following are proposed changes to the Zoning Code, Chapter 30, recommended by the Planning Commission, the Building Official and the Town Manager. Prior to this memo, you have received a Letter of Transmittal from the Planning Commission which listed their recommendations as a result of their Public Hearing held on October 10, 1979. (Memo dated October 22 1979)

Section 4.1 (c) Page 30-5 Special exception uses Ess-
~~essential public-service-structures-and-others-as-permitted-by~~
this ordinance. None. *le*

ok Section 4.1 (d) Page 30-5 Site plan review requirements.
Not required. (Fran and I recommend that this section stay the same--there should be no site plan review for single family homes)

ok Section 4.1 (e) (9) Page 30-5 Maximum building height.
~~Thirty-five (35)~~ Thirty (30) feet above mean finished grade at building perimeter.

ok Section 4.1 (e) (11) Page 30-6 Parking. Two (2) parking spaces for each dwelling unit. Parking can be included as part of the first floor area;

d Section 5.3 (b) Page 30-22 Planning Commission recom-
mends deletion of entire paragraph because it is already cov-
ered in Section 5.12 (a), page 30-32.

?
Section 5.3 (c) Page 30-22 Reletter to 5.3 (b) Pools
and pool decks. Swimming pools without pool decks may be per-
mitted within ten (10) feet from edge of pool to rear or side
lot line. Swimming pools with pool decks may be permitted
within eight (8) feet from outside edge of pool deck to rear
or side lot line. The area of transition in elevation between
the pool-deck elevation and the elevation of the adjoining
property line shall be either a smooth grade sodded and main-
tained as lawn or landscaped so as to hide all structure from
views from adjoining property; (Fran to further advise you.)

k Section 5.3 (d) to become 5.3 (c) Spacing. No separate acces-
sory building structure shall be located within five (5) feet of
any other building structure; (Fran advises that the difference
between a building and a structure is a structure could be a
covered patio, a gazebo, a slat house, a garage or a pool struc-
ture, etc. A building has a roof, walls, a foundation and us-
ually is habitable.)

l Section 5.3 (e) Page 30-22 ^{RECOMMENDATION} Reletter to 5.3 (d) (Fran
suggests revising the twenty-five (25) feet from the property
line for length of a dock to five (5) feet from property lines.
~~My recommendation to use twelve (12) feet from each property
line which is the side yard setback for the dwelling.~~ Fran
further suggests that notices to property owners by the peti-
tioner be only to those within three-hundred (300) feet instead
of one thousand (1,000) feet of the property in question.)

if Section 5.9 (a) Page 30-24 General. Off-street parking
facilities shall be provided as required by this ordinance. For
the purposes of this ordinance, an off-street parking space shall
consist of a space adequate with minimum dimensions of twenty (20)
feet in length by ten (10) feet in width for parking a standard
size automobile with room for opening doors on both sides, to-
gether with properly related access to a public street and twen-
ty (20) feet backing space between rows of cars for maneuvering
room. Required off-street parking areas for three (3) or more
automobiles shall have individual spaces marked and shall be so
designed, maintained, and regulated that except in the case of
lots in RS districts not abutting SR AIA no parking or maneuver-
ing incidental to parking shall be on any public street or walk,
and so that any automobile may be parked and unparked without

ES8
—

AMENDMENT OF THE TOWN OF HIGHLAND BEACH ZONING CODE,
CHAPTER 30, SECTION 5

History

In December of 1979, the Town of Highland Beach Planning Commission and the Building Official recommended "revising the twenty-five (25) feet from the property line for location of a dock to five (5) feet from property lines." The then Town Manager recommended using "twelve (12) feet from each property line which is the side yard setback for the dwelling."

In January of 1980, the then president of The Bel Lido Property Owner's Association, Inc., wrote the then Mayor of Highland Beach and stated that "the Association [was] completely opposed to any reduction being made in the 25ft. setback" for docks. The president further stated:

The reason for our opposition is because there are a number of corner lots in the "Island" section of the Bel Lido sub-division which have minimal water frontage incapable of accommodating a dock structure and boats operating therefrom without serious interference and hazards with respect to the next door properties. Such minimal frontage consists usually of two wall set at right angles to each other with a combined length of 40ft or less."

He continued to state:

As a result of having such a short sea wall, the Town, with the full support of the majority of sub-division residents, has consistently over the years forbidden owners of these corner lots to construct docks, based on the following grounds:

The rationale for the 25ft. setback has not changed, namely that to allow docks nearer than this (a) would result in unacceptable navigational interference and safety risks.

~~navigation interference and safety risks~~
with neighboring property owners; (b) would
endanger life or property; or (c) would deny
the public reasonable visual access to public
waterways."

Chapter 30, Section 5, Zoning Code

As a result of the foregoing, the Town of Highland Beach enacted the present wording of section 5 of Chapter 30 of the Zoning Code. Section 5(d)(1), in pertinent part, reads:

No [uncovered noncommercial dock] shall extend into any waterway more than five (5) feet . . . in RS zoning districts, the side setback shall be twenty-five (25) feet, except for those lots with a rear lot line (water line) between fifty (50) and seventy (70) feet measured in a continuous straight line where the side setback shall be fifteen feet.

Section 5(d)(2), in pertinent part, reads:

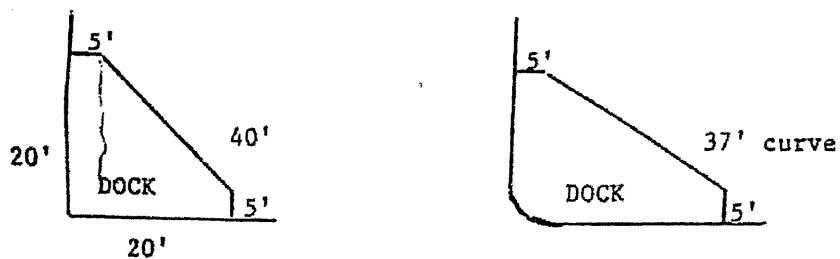
For those lots in RS zoning districts with less than fifty (50) feet abutting the water, the town commission may grant a special exception . . . for the erection of lifting devices or other means of securing boats (but not a dock structure)

Amendment

We must decide what side setback we want to be considered for the proposed amendment. The choices seem to be 5 feet, 8 feet, 10 feet, or 12 feet. Those side setbacks would allow the following docks:

<u>Set back</u>	<u>40 ft. rear line</u>	<u>37 ft. rear line</u>
12 feet	16 foot dock	13 foot dock
10 feet	20 foot dock	17 foot dock
8 feet	24 foot dock	21 foot dock
5 feet	30 foot dock	27 foot dock

We must also consider that a resulting dock may extend into the waterway more than the five (5) feet allowed by the present section. That is because we probably want a dock to be shaped like a right triangle so a boat can dock parallel to the side opposite the right angle, for example:



Procedure

First, I suggest that we contact the U.S. Coast Guard (or the local Auxiliary) to determine if a dock "would result in unacceptable navigational interference and safety risks with neighboring property owners" or "would endanger life or property."

Second, I suggest that we contact our immediate next door neighbors and ask for approval of the proposed amendment.

Third, I suggest that we contact those neighbors who live within 1,000 feet of our properties and ask for approval of the proposed amendment.

Fourth, I suggest that we contact the Bel Lido Property Owners' Association and ask for approval of the proposed amendment.

Fifth, I suggest that we contact the city officials that live in Bel Lido and ask for approval and assistance to obtain the proposed amendment.

Lido Property Owner's Association, Inc.

47 2nd Street
Highland Beach, Fla.

4301 SOUTH OCEAN BLVD.

HIGHLAND BEACH, FLORIDA 33444

January 8, 1970

The Hon. Louis Y. Horton, Mayor
Town of Highland Beach
3614 South Ocean Blvd.
Highland Beach, Fla. 33431

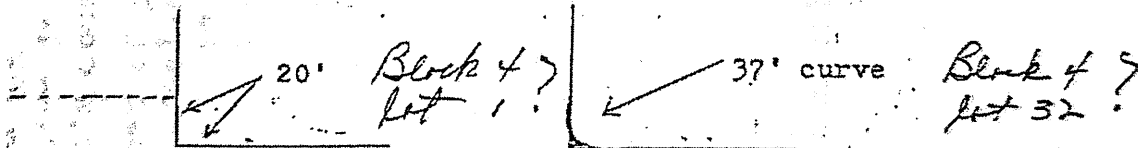
*was not received
recommender*

Dear Mayor Horton:

At a meeting of the Board of Directors of the Bel Lido Property Owners Association held yesterday, a great deal of opposition was voiced to recent suggestions made by the Town Manager and the Building Official that the side setbacks of dock structures be reduced. In Ch. 30 Sec. 5.3(e) this setback is currently 25ft but we understand that setbacks as low as 12ft, and even 5ft have been recommended as possible future amendments to the Zoning Law to be given consideration by the Planning Commission.

A motion was made and seconded that I should write a letter to inform the Town Commission that the Association is completely opposed to any reduction being made in the 25ft. setback. All ten members of the Board were present at this meeting and the motion passed unanimously. The Board is authorized in the by-laws to speak for the entire membership.

The reason for our opposition is because there are a number of corner lots in the "island" section of the Bel Lido sub-division which have minimal water frontage incapable of accommodating a dock structure and boats operating therefrom without serious interference and hazard with respect to the next door properties. Such minimal frontage consists usually of two walls set at right angles to each other with a combined length of 40ft or less. In some cases the angle has straight sides and in others it is curved. The following sketch illustrates the two types:



As a result of having such a short sea wall, the Town, with the full support of the majority of sub-division residents, has consistently over the years forbidden owners of these corner lots to construct docks, based on the following grounds:

They would be in violation of the zoning ordinance requiring a setback of 25ft from the next door property. This requirement incidentally has existed since Ordinance #150 was passed in August 1969.

The rationale for the 25ft. setback has not changed, namely that to allow docks nearer than this (a) would result in unacceptable navigational interference and safety risks with neighboring property owners; (b) would endanger life or property; or (c) would deny the public reasonable visual access to public waterways.

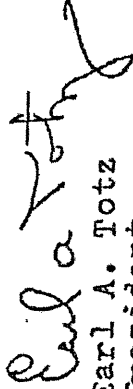
Since the Planning Commission has made no study or recommendation regarding a reduction in the dock setback line, it would seem appropriate that any such controversial amendment proposal would, as is customary, require to be

red back to the Planning Commission for public hearings on the subject
re any action is taken by the Town Commission. This would be in accord
ch procedures laid down in Chapter 163, Part II FS and Chapter 30,
section 12 of the Town's Code of Ordinances.

There have been a number of instances where real estate agents anxious to
conclude a sale for themselves and their clients have attempted to twist
the law this way and that to serve their own financial gain without regard
to the welfare or safety of the public and we are not at all in sympathy
with such tactics.

We would respectfully request that this whole question be referred back to
the Planning Commission for review.

Sincerely,


Earl A. Totz
President

cc All Commissioners
Chairman, Planning Commission

**EUGENE GARRETT
MAUREEN GARRETT**

1070 BEL LIDO DRIVE
HIGHLAND BEACH, FL. 33487

July 15, 2024

VIA EMAIL

Town Planner, Ingrid Allen
iallen@highlandbeach.us
Building Official, Jeff Remas
bco@highlandbeach.us
Code Compliance Officer, Adam Osowsky
aosowsky@highlandbeach.us
3614 S Ocean Blvd.
Highland Beach, FL 33487

Re: 4703 Intercoastal Drive, Highland Beach, FL 33487 property line and dock/floating vessel platform violations

To Highland Beach personnel, planning and management committee:

An application for an exemption to construct and install a residential floating vessel platform has been approved by the Town of Highland Beach and/or other governmental agencies at the address of 4703 Intercoastal Drive, Highland Beach, FL 33487, owned by Marthin De Beer.

For purposes of this letter,

- a. "Applicant" or "De Beer" refers to Marthin De Beer, owner and resident of 4703 Intercoastal Drive, Highland Beach, FL 33487
- b. "the application" or "application for exemption" refers to the Town of Highland Beach Residential Floating Vessel Platform/Floating Boat Lift Exemption Certification Application submitted by Marthin De Beer for the property at 4703 Intercoastal Drive, Highland Beach, FL 33487
- c. "the subject property" refers to 4703 Intercoastal Drive, Highland Beach, FL 33487
- d. "the neighbor's property", "neighboring property" or "Garretts' property" refers generally to an adjacent property or more specifically to 1070 Bel Lido Drive, Highland Beach, FL 33487 owned by Eugene and Maureen Garrett
- e. "the survey" refers or references the exhibit attached to the application for exemption
- f. "lake" and "water" used interchangeably, refers to the body of water behind the 1070 Bel Lido Drive and 4703 Intercoastal Drive
- g. "waterward" is defined as the direction of water or property line extended over water
- h. "upland" is defined as land or the dry area above sea level or land above water

This letter is to assert various objections to the application as an unauthorized and unconstitutional taking of the Garretts' property by the owner of the subject property and his attempts to entice the Town of Highland Beach and other governmental agencies to collude in the approval of his exemption requests.

A list of the objections asserted are as followed and are discussed in detail throughout this letter:

1. **THE APPLICATION, SPECIFICALLY PARAGRAPHS 1 THROUGH 4, ARE INCOMPLETE, MISLEADING AND VAGUE**
2. **APPLICANT HAS AN EXISTING DOCK**
3. **STATUTES DO NOT PERMIT MORE THAN ONE DOCK/PLATFORM PER SINGLE-FAMILY HOME**
4. **FLOATING DOCK/PLATFORM IS OVER THE PROPERTY LINE AND OVER THE SETBACK REQUIREMENTS**
5. **ANGLED PROPERTY LINES EXTEND WATERWARD TO ALLOW FOR INGRESS AND EGRESS ACCESS TO A CORNER LOT**
6. **THE EXTENSION OF A FLOATING DOCK/PLATFORM AT THE SUBJECT PROPERTY IS A VIOLATION OF RIPARIAN RIGHTS**
7. **DE BEER'S SEAWALL LENGTH IS 70 FEET**
8. **SEAWALL LENGTH DICTATES A MANDATORY 25 FEET SETBACK**
9. **DEPTH OF DOCK/PLATFORM EXCEEDS 5 FEET INTO WATERWAY**
10. **DE BEER IS IN VIOLATION OF THE SOLE PURPOSE OF A FLOATING**
11. **"STONE CONCRETE ON SEAWALL" AND SEAWALL FENCE ENCROACH ON GARRETTS' PROPERTY**
12. **UNCONSTITUTIONAL TAKING AND CONDEMNATION BY THE TOWN OF HIGHLAND BEACH AND/OR GOVERNING AGENCIES TO ALLOW EXEMPTIONS ON THE SUBJECT PROPERTY; and**
13. **VIOLATIONS ARE DEVALUING PROPERTY VALUE**

The discussion as to each objection with supporting authority, arguments and/or evidence follows:

1. **THE APPLICATION, SPECIFICALLY PARAGRAPHS 1 THROUGH 4, ARE INCOMPLETE, MISLEADING AND VAGUE**

In Paragraphs 1 of the application when asked to describe in general terms the proposed floating vessel platform and/or boat lift, the answer is vaguely "JetDock Brand. PVC Cubes and Stainless-Steel Hardware" and is silent on any construction methods. The application is also non-responsive to any of the other questions, paragraphs 2 through 4, including the location, dimensions, or a scaled drawing with details.

Hence the objection is that there are no references to size of the platform required by the application (including height, length, depth or weight), no diagram acknowledging the waterward property line, no acknowledgment of the effects on the neighboring property and no setback allocations indicated, The application does not fully provide enough information for the governing agency to allow or approve an exemption.

De Beer under oath asserts that the requested floating vessel platform qualifies as an exemption pursuant to 62-330-051(5)(f) FAC and complies with Section 403.813(1)(s), Florida Statutes. These statutes are inserted for your convenience.

62-330.051 Exempt Activities.

The activities meeting the limitations and restrictions below are exempt from permitting. However, if located in, on, or over state-owned submerged lands, they are subject to a separate authorization under Chapters 253 and 258, F.S., as applicable.

(5) Dock, Pier, Boat Ramp and Other Boating-related Work

(f) The construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts in accordance with section 403.813(1)(s), F.S.

403.813 Permits issued at district centers; exceptions.—

(1) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, and a local government may not require a person claiming this exception to provide further department verification, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, this subsection does not relieve an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or a water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(s) The construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, provided that such structures:

1. Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use;

2. Are wholly contained within a boat slip previously permitted under ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt under this subsection or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure;

3. Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners, as defined in s. 253.141;

4. Are constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where seagrasses are least dense adjacent to the dock or bulkhead; and

5. Are not constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or other form of authorization issued by a local government.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund and, with the exception of those structures attached to a bulkhead on a parcel of land where there is no docking structure, may not be subject to any more stringent permitting requirements, registration requirements, or other regulation by any local government. Local governments may require either permitting or one-time registration of floating vessel platforms to be attached to a bulkhead on a parcel of land where there is no other docking structure as necessary to ensure compliance with local ordinances, codes, or regulations. Local governments may require either permitting or one-time registration of all other floating vessel platforms as necessary to ensure compliance with the exemption criteria in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria in this section or address subjects other than subjects addressed by the exemption criteria in this section; and to ensure proper installation, maintenance, and precautionary or evacuation action following a tropical storm or hurricane

watch of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure. The exemption provided in this paragraph shall be in addition to the exemption provided in paragraph (b). The department shall adopt a general permit by rule for the construction, installation, operation, or maintenance of those floating vessel platforms or floating boat lifts that do not qualify for the exemption provided in this paragraph but do not cause significant adverse impacts to occur individually or cumulatively. The issuance of such general permit shall also constitute permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund. Local governments may not impose a more stringent regulation, permitting requirement, registration requirement, or other regulation covered by such general permit. Local governments may require either permitting or one-time registration of floating vessel platforms as necessary to ensure compliance with the general permit in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning that are no more stringent than the general permit in this section; and to ensure proper installation and maintenance of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.

De Beer provides no information in the application per 403-813 (5)(s)(2), whether the structure is wholly contained within a (*his*) boat slip or does not exceed a combined total of 500 square feet or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt...or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure.”

Whether this property issue is Outstanding Florida Water or not, no measurements have been submitted with the application, no property lines have been discussed, no setbacks are considered, no explanation as to the method of attaching the platform has been provided per the requirement that the proposed floating platform is to be attached to a bulkhead on a parcel of land and no reference to the fact that De Beer already has an existing dock on the property have been provided in the application.

Without a complete application as to depth of the dock, De Beer’s application is in violation of Code 68(g)(6)(a): docks and mooring structures shall not extend into any waterway more than five (5) feet. This topic is discussed in paragraph 9 below.

Any exception requested by De Beer for a floating platform on the subject property absolutely causes significant adverse impacts to occur individually or cumulatively to the neighbor and other lake/waterfront property owners.

For these reasons, the application for exemption on its face is incomplete, misleading, and vague.

2. APPLICANT HAS AN EXISTING DOCK

The Applicant has an existing dock on the property and seeks to request an exemption for an additional dock that will layer onto the original dock, ultimately extending waterward, into the open water behind the subject and Garretts lot.

Applicant’s survey indicates “stone on concrete seawall.” The survey fails to give the dimensions of the “stone on concrete seawall” because this is a fully functioning dock with

bulkheads and pilings/piers constructed in the lake/water. Clearly the survey map shows a protruding section off the property seawall over the lake/water. Town permits for the original dock construction and a visual inspection of the “stone on concrete seawall” reveal the dock portion to include dredged pilings/piers and the basic mooring devices. Bottom line, there is a dock on the subject property and later in this letter we address the violations with regards to the original dock setbacks.

In fact, De Beer has docked his approximate 75 foot boat on his property for many years. It was not until the Town of Highland Beach Compliance Department enforced and determined non-compliance of a town ordinance that his boat was too big for the property and crossed the setback property line of the neighbors on both of his property lines. As a result, De Beer removed his boat, subject to periodic stints of parking the boat at the subject property to load/unload for voyages.

Per the Town of Highland Beach satellite mapping link at <https://highlandbeach.us/241/Maps>, De Beer’s boat is shown clearing docked and secured by cleats behind the subject property. Also visible is the boat’s bow extending across the neighboring property line and blocking the lake/water view of the Garretts corner lot.



De Beer cannot dispute that a current dock exists and he has submitted an application for a second dock/platform on the subject property. Hence, his application is in violation of the statutory requirements for a dock/platform and is not supported factually.

3. STATUTES DO NOT PERMIT MORE THAN ONE DOCK/PLATFORM PER SINGLE-FAMILY HOME

An exemption for a floating dock/platform, does not permit the applicant to attach a floating vessel platform onto an existing dock pursuant to **62-330.427**.

62-330.427 General Permit for Docks, Piers and Associated Structures.

(2) This general permit shall be subject to the following specific conditions:

(e) This general permit shall not authorize the construction or extension of more than one dock or pier per parcel of land or individual lot. For the purposes of this general permit, multi-family living complexes shall be treated as one parcel of property regardless of the legal division of ownership or control of the associated property;

De Beer attempts to confuse the permitting committee by claiming he does not have an existing dock. The owner prior to De Beer's purchasing of the subject property, installed the "stone on concrete seawall," as recorded in county and town records, and serves as proof of existing dock construction.

De Beer also fails to provide information in his application that the dock will be layered, extending waterward, out beyond the existing dock into the lake/water, like a towered "wedding cake." Not only is there one dock per home rule, but statutes and town ordinances limit the width and depth to 5 feet into the waterway. If De Beer is permitted to layer dock upon dock/platform, what prevents him from adding a 3rd dock/platform, a 4th dock/platform, and so on. See Ordinance Sec. 30-68 (6)(c), inserted below.

Thus, the exemption request is in violation as to one dock/platform per home, the waterward depth of 5 feet maximum, and the layering extension of the dock/platform into the lake/water.

4. FLOATING DOCK/PLATFORM IS OVER THE PROPERTY LINE AND OVER THE SETBACK REQUIREMENTS

In the same survey, the property line between the subject property and the Garretts' property is at an angle (facing inward toward the subject property on a waterward path). The degree of angle waterward on the seawall is approximately 63 degrees on the applicant's property side and approximately 37 degrees on the Garretts' side, noted on both the survey and Garretts' original sketch of survey dated 9/23/1987. The waterward property line is not perpendicular to the seawall as applicant wants to believe. While discussing the shared property line between De Beer and Garrett, the survey notes that the fence is -0.3 feet (equivalent to 3.6 inches) onto the Garretts' property, which the Garretts has never conveyed and disputes any adverse possession claims of this property.

The requested exemption for a second dock/platform is limited to the shoreline (aka seawall) and subject to perimeters within De Beer's property line with setback requirements (25 feet from the side property lines if property at seawall is 70 feet or over and reduced to 15 feet from the side property line if property at seawall is less than 70 feet). See Ordinance Sec. 30-68 (6)(d)(1), inserted below.

Thus, the dock/platform exemption request is in violation by being over the waterward property line and in violation of the setback requirements.

5. ANGLED PROPERTY LINES EXTEND WATERWARD TO ALLOW FOR INGRESS AND EGRESS ACCESS TO A CORNER LOT

The Garretts lot is situated at a corner (not unique as there are other corner lots in Highland Beach, FL, specifically Bel Lido). The waterward property line at an intentionally designed angle allows for ingress and egress access to the corner lot. The Garretts' survey, recorded in the property records, indicates a 20 foot property line along each of the two seawalls creating a 90

degree seawall. Without the shared property lines extending waterward, out into the center of the lake/water, at the same angle as positioned upland (63 degrees to 37 degrees), the corner lot would be blocked out, when the two adjacent properties intersect 20 feet from the seawall on each side. Said a different way, an intersecting line perpendicular off the seawall would box in and prevent the corner lot owner from ingress and egress access.

For visual purposes only, the image is from Garretts' survey, showing 20 feet seawall dimensions at the 90 degree corner. The enhanced orange lines demonstrate how a "perpendicular property line" off the seawall prevents the corner lot from having ingress and egress access to their property.

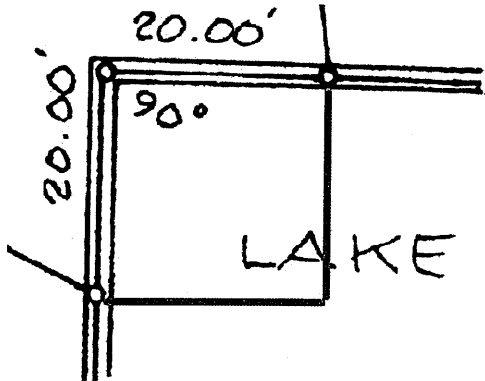


Image is for illustrating purposes only, not to scale or angle degree.

The solution is provided by state statutes, town ordinances and riparian right laws that protect a corner property owner situated like this, by affording the corner lot a "proportionate right" to access their property from the center of the lake/water and the landowner's intent to enjoy the waterfront view. Thus, property laws uphold that the property lines are extended waterward in a manner such as the inserted illustration portrays, not necessarily along the upland property direction, but rather towards the center of the lake/body of water.

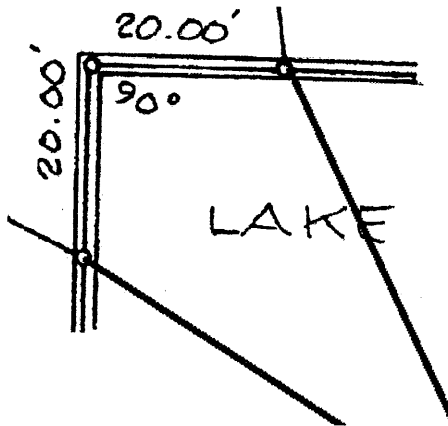


Image is for illustrating purposes only, not to scale or angle degree.

Thus, due to the Garretts' waterward property line, ingress and egress access requirement and riparian rights, the applicant's exemption request is in violation of state and town rules and property regulations.

6. THE EXTENSION OF A FLOATING DOCK/PLATFORM AT THE SUBJECT PROPERTY IS A VIOLATION OF RIPARIAN RIGHTS

Riparian rights in Florida (and other states) are those rights enjoyed by real property owners whose upland property extends to the normal high-water line on navigable waters. In other words, a property owner's land must immediately abut a body of water. Per Sec. 253.141 Florida Statutes, riparian rights include rights of ingress, egress, boating, bathing, fishing, and such others as defined by law. Additionally, in Florida, the right of an upland owner to an unobstructed view of adjoining waters has been recognized as a riparian right. *Hayes v. Bowman*, 91 So.2d 795 (Fla. 1957) ("An upland owner must in all cases be permitted a direct, unobstructed view... If the exercise of these rights is prevented, the upland owner is entitled to relief.").

Florida courts have further recognized over the years that the views associated with these properties are of value. The Florida Supreme Court held the following, "In many cases, doubtless, the riparian rights incident to ownership of the land were the principal if not the sole inducement leading to its purchase by one and the reason for the price paid by the seller." *Thiesen v. Gulf, F. & A. Ry. Co.*, 78 So. 491 (Fla. 1917). As the Supreme Court points out, and which is obvious to anyone living in Florida, a waterfront property's value is dependent on these riparian rights. If the view of a waterfront property were to be obstructed, it would follow that the property's value would diminish.

It is not uncommon for homeowners to seek to enforce their riparian rights when neighboring property owners along a body of water attempt to build docks extending off their property. This scenario gives rise to the question of whether the neighbor's new dock can obstruct their neighbor's waterfront view. The answer is most often no, the dock cannot obstruct the direct waterfront view of an adjacent property owner.

There is a case in Florida where a court found in favor of the dock owner who was obstructing the view of the waterfront property owner with riparian rights. However, what separates that case from similar scenarios as described above is that, in that specific case, the structure was already in place for years prior to the waterfront property owner purchasing the property. The court held that the property owner was aware of the issue upon purchasing and could not enforce his right to an unobstructed view years after purchasing the property. *City of Eustis v. Firster*, 113 So.2d 260, 261 (Fla 2nd DCA 1959).

The neighboring property value is diminished with each inch, foot, yard that the subject property layers a deck upon another deck, extending into the center of the lake/water and minimizing the view of the neighboring property, a violation of riparian rights.

It is important to understand there may be a difference from the waterward path of the upland property line compared to the riparian right line. The riparian right laws define and trump upward property lines to avoid obstruction suffered by a corner lot and are discussed later in this letter.

For visual purposes only we use the upward property line in the inserted image to show the "stone on concrete seawall" with the original dock and the second dock/platform extension. The red line is the setback at 15 feet (which is in violation of 25 feet for properties 70 feet or more), the blue square is the dock platform per the exemption request (not to scale) and the green line represents the property line (63 degrees/37 degrees) on its waterward path from the upland property angle into the lake/water.

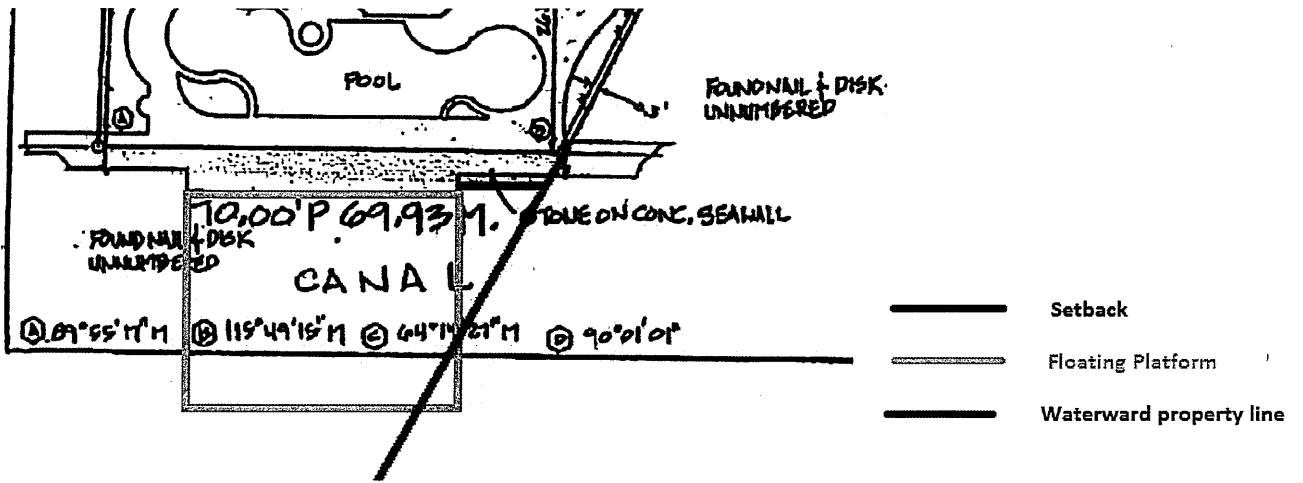


Image is for illustration purposes only, not to scale, angle degree, size, or placement of dock/platform.

The upland boundary in the direction of a waterward path is typically used but there is also the premises that the lake/water body must be equitably apportioned as if the waterfront owners were standing on the shore looking out over the body of water. The riparian right applicable to the square/rectangular lake, such as in this case, uses the method of a center point of the lake to determine apportionment to each property owner. As an illustration, the next inserted exhibit shows the actual lake/water at issue with the riparian view lines drawn. All lines meet at a focal point in the middle of the lake/water.

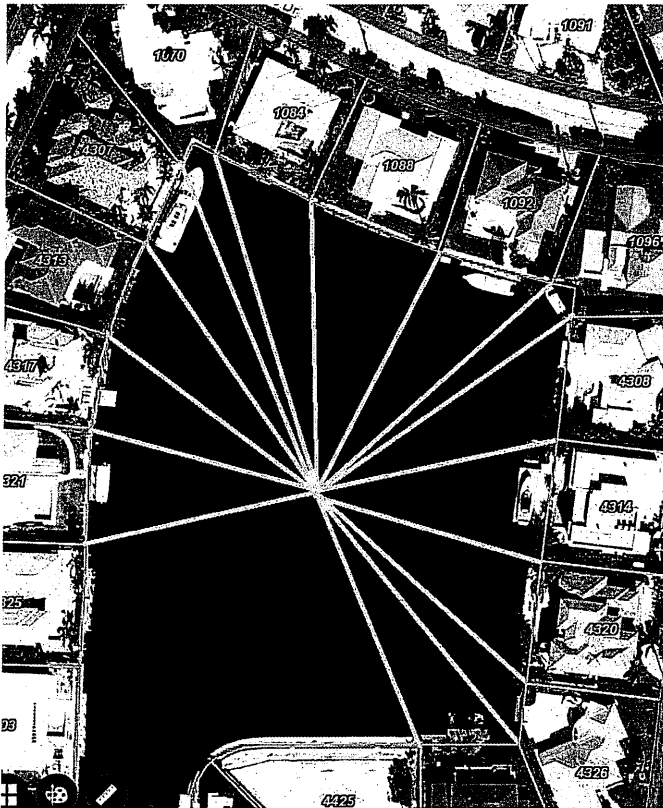


Image is for illustrating purposes only, not to scale, angle degree, size, or placement of riparian lines of view.

Note in this illustration other lots in the Bel Lido community on the same lake/water are considerate of their adjacent property owners. There is no other property owner that blocks their adjacent property riparian rights, per the illustrated map. Ironically, it appears that some homeowners in Bel Lido have actually gone above and beyond to adjust their docks, platforms, lifts and boats to intentionally avoid the violation of another's riparian rights. It is unfortunate that De Beer has not afforded the Garretts this same courtesy.

7. DE BEER'S SEAWALL LENGTH IS 70 FEET

As previously mentioned, a prior owner of the subject property filed an application for the original dock and that application is incorporated by reference to support the objections to the application for a floating dock/platform, a second dock on the property. Despite the Town of Highland Beach authorizing the permit for that original dock aka "stone on concrete seawall" submitted by the prior owner, there remains a violation as to the setback on both sides of the original dock.

First, the Garretts gave no permission or authorization, no conveyance and disputes any adverse possession claims for the setback violation as to the "stone on concrete seawall and original dock.

The town plat and De Beer's survey indicate the seawall measurement of 70 feet. It does not go un-noticed that De Beer's survey provides a favorable notation of 69.93M on the seawall. However, legally a plat map provides an indisputable legal description of the property. Plat maps can indicate a need for a survey if there is any question about a structure or feature of a neighboring property extending past its boundaries, known as an encroachment.

Off the seawall topic but another issue to address in the De Beer's survey, it notes an encroachment over the neighboring property by -0.3 feet (equivalent to 3.6 inches) along the upland property line. Again, the Garretts convey no right to this encroachment and dispute all adverse possession claims.

Back to differences of a plat vs. survey, generally, a survey shows the boundaries of a single lot, only. For any change to take place, a boundary adjustment plat involves making a survey of both properties which mutually share a boundary line. A survey of both properties provides the full picture and completeness of the entirety of a plat for determination of the property lines. To date, no boundary adjustment plat has been prepared or recorded in the property records and no survey of shared boundary lines has been conducted by any property owner or the governmental agency. Thus, a single survey cannot change the property line.

Via public access to the Highland Beach satellite map at <https://highlandbeach.us/241/Maps>, the measurement tool indicates the De Beer's seawall from end to end is 70 feet. See the inserted photo exhibiting the measurement from point to point (property line to property line), represented by the green spot with white dot at each point along the seawall.

In the Highland Beach satellite map the property lines/boundaries are reflected by the yellow lines.

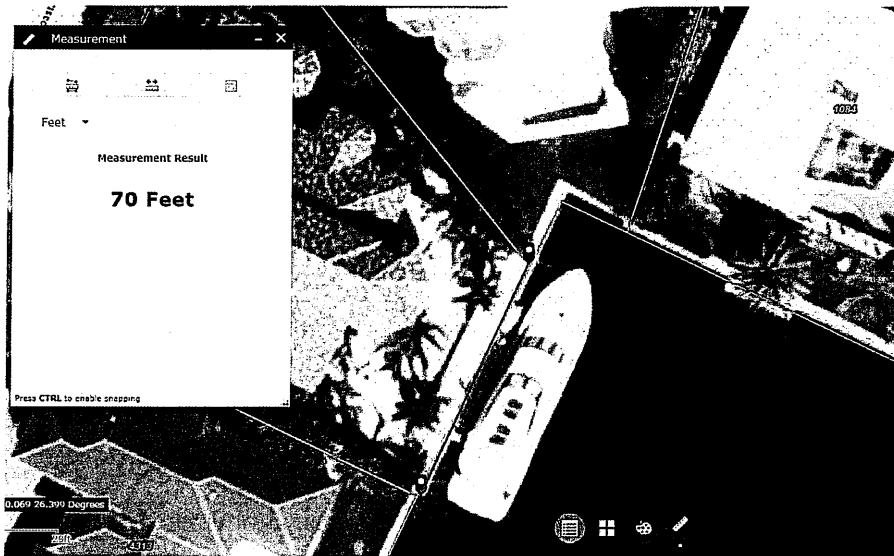
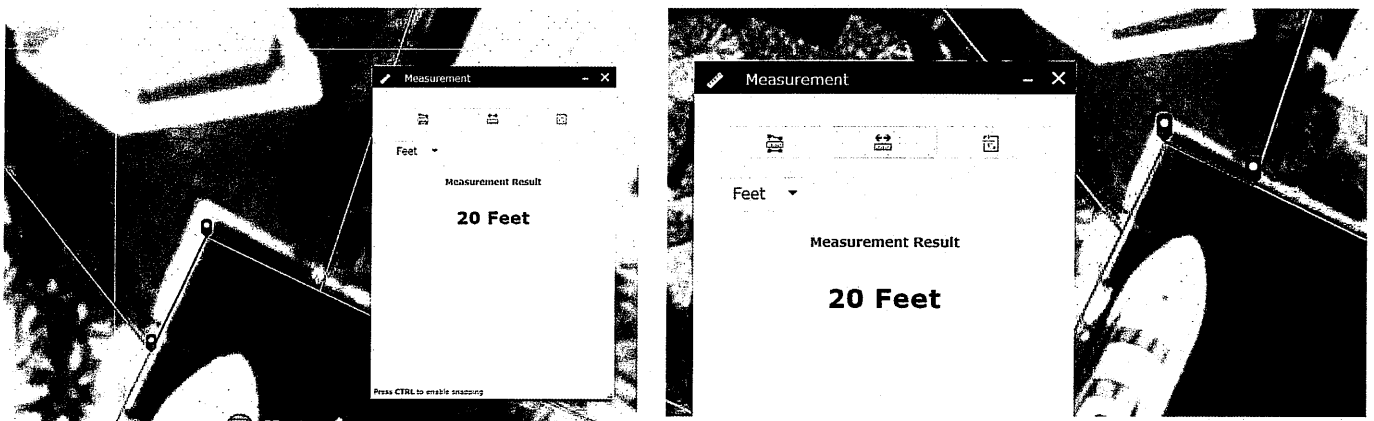


Image is for illustration purposes only

The corner lot seawall is plotted as 20 feet on one side and 20 feet on the other side. We see that consistently reflected on the Highland Beach satellite map measuring tool, with images below, represented by the green spot with white dot at each point along the seawall for each respective side, creating a 90 degree seawall.



Images measure 20 feet on the side by De Beer's property and 20 feet on the opposing adjacent property.

For additional confirmation, picture inserted below, the measurement from the corner property line point to the furthest property line point of the subject property, is 90 feet. It's now simple math: we know the neighbor's seawall from the corner property line to the shared property line is 20 feet (see 1070 Bel Lido plat/survey recorded in County property records), thus you take the 90 feet minus 20 feet and it results in the subject property seawall to be 70 feet.

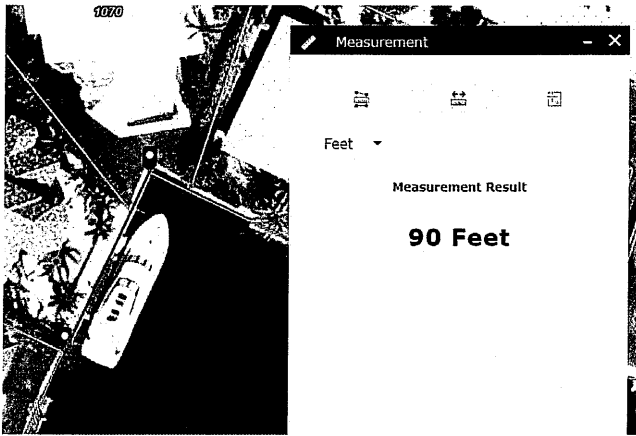


Image is for illustration purposes only, totaling 20 feet of the Garrett seawall plus 70 feet of the De Beer's seawall

It is clear from the plat, surveys and online satellite measuring tools, the De Beer's seawall is 70 feet.

8. SEAWALL LENGTH DICTATES A MANDATORY 25 FEET SETBACK

Currently the "stone on concrete seawall" extends from one end of the seawall to the other, crossing over the Garretts' property line and evidenced in the De Beer's survey with an overage of -0.3 feet (equivalent to 3.6 inches). Meanwhile, the existing dock, also illustrated in the survey, is in violation of the setback when the seawall measures at 70 feet. The Ordinance states if 70 feet or more, the setback requirement is 25 feet from the side property line. See Highland Beach Zoning Code Chapter 30, sections 68 with excerpt provided:

Sec. 30-68. - Supplemental district regulations.

(g) *Accessory marine facilities:*

(4) *Boats and setbacks.* When moored, any portion of a boat shall not extend beyond any property line, as extended waterward.

(6) *Installation.* Accessory marine facilities shall comply with the installation standards listed below:

a. In waterways not regulated by the U.S. Army Corps of Engineers, docks and mooring structures shall not extend into any waterway more than five (5) feet.

b. In waterways regulated by the U.S. Army Corps of Engineers, docks and mooring structures may extend to that distance allowed by said agency.

c. Measurement of the width or length of a dock, as applicable, shall be made from the property line.

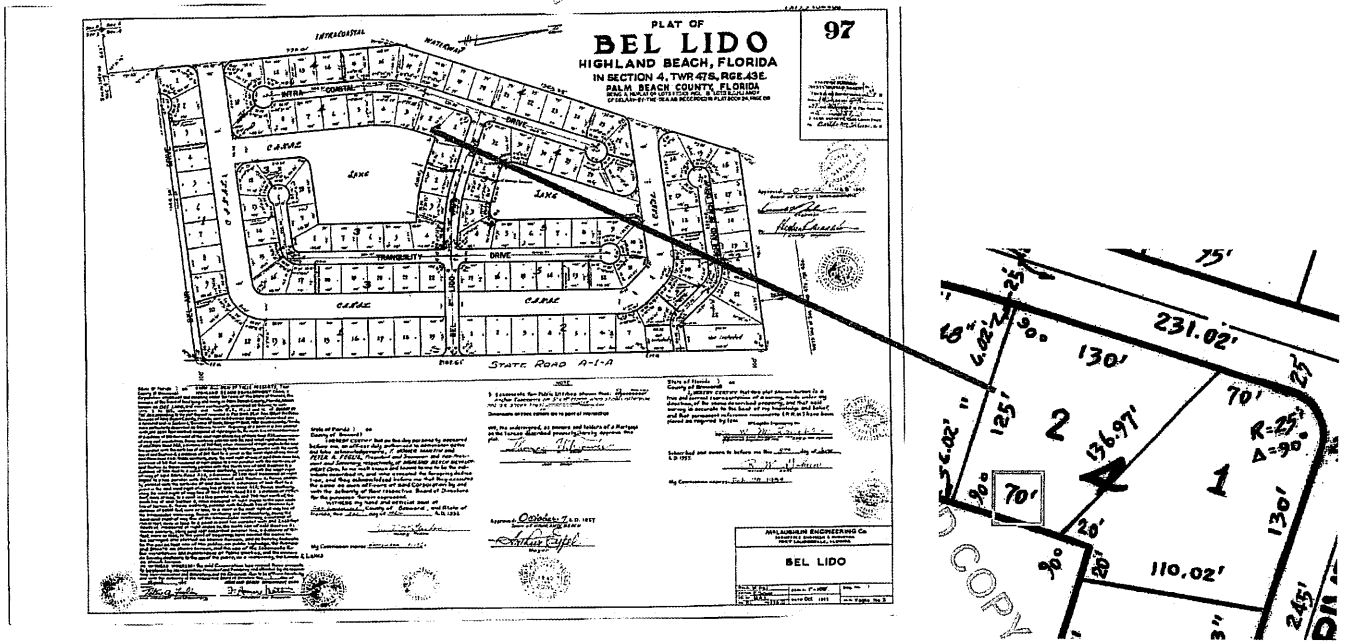
d. Marine facilities shall comply with the side yard setbacks listed below.

1. *Single-family zoning districts:* Twenty-five (25) feet; provided, however, the side yard setback shall be fifteen (15) feet for any single-family lot with a lot width of fifty (50) feet or more but less than seventy (70) feet. For those lots with less than fifty (50) feet abutting the water, the planning board may grant a special exception for the installation of a seawall mounted davit type lifting device (but not a dock structure) after being satisfied as to the protection of neighboring property and no infringement of standard navigation practices.

A strict reading and interpretation of the statutes above is a 25 feet setback is mandatory unless the property seawall measures less than 70 feet. De Beer's survey would like us to believe

that his property is 69.93M, however, De Beer cannot change the plat by obtaining an independent self-initiating survey. As stated above, a survey of both properties together is required to make an adjustment to the plat. This also means that the Town of Highland Beach cannot change the plat in a hearing or any other administrative proceeding without a survey of both properties which mutually share a boundary line.

Below is an official copy of the plat book 25, page 97 for Bel Lido with a second image of the zoomed in portion for the subject property and the Garretts' corner lot. The seawall measurement for De Beer is 70 feet. It is not less than 70 feet; it is 70 feet!



Official plat book 25, page 97 for Bel Lido with zoom on De Beer's property, highlighting 70 feet seawall measurement.

We've established the recorded measurement of 70 feet along the De Beer's waterfront seawall per the plat, confirmed with a notation on his survey, which triggers the mandatory 25 feet setback on the De Beer's property.

Over prior objections by the Garretts, the Town of Highland Beach permitted an unauthorized taking of their property when the Town permitted the "stone on concrete seawall" and existing dock to have a 15 feet setback. This exemption from the 25 feet setback unequivocally allowed for dock construction closer to Garretts' property and further restricts ingress and egress, as well as the enjoyment of the lake/water view. The Garretts have never and do not convey nor relinquish their statutory right under the provisions for the 25 feet setback requirements for De Beer's original dock and "stone on concrete seawall."

Not only does the original dock aka "stone on concrete seawall" completely disregards the ordinance setback requirement of 25 feet from the side property lines, measured according to Code section 30-68(6)(c) but the approximate 75 feet boat when moored to the original dock, extends over the neighbor's property line in violation of Code 30-68(g)(4).

On this issue, De Beer has a 70 feet seawall which by statute is a mandatory 25 feet setback. Anything short of 25 feet is a blatant and conscious indifference to Garretts' corner lot ingress and

egress, their future request for a dock, boatlift, or floating platform and the simple and most valuable reason is their view of the lake/water.

9. DEPTH OF DOCK/PLATFORM EXCEEDS 5 FEET INTO WATERWAY

De Beer's dock and platform separately and most certainly the layering of platform on top of dock violates Code 30-68(g)(6)(a): docks and mooring structures shall not extend into any waterway more than five (5) feet.

The fact that De Beer failed to include the depth of the dock and platform in his application is a red flag and the Town of Highland Beach should not have authorized a permit without investigating.

We object that the depth exceeds the allowable 5 feet into the waterway.

10. DE BEER IS IN VIOLATION OF THE SOLE PURPOSE OF A FLOATING DOCK

According to 403.813(1)(s)(1), floating vessel platforms or floating boat lifts, provide that such structure floats at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use.

The sole purpose to support a vessel does not mean to use the platform as a storage landing for items related to boating and mooring, like De Beers has done with coolers, surfboards, storage bins and other random items on the platform.

De Beer violates the statute's sole purpose of a floating dock.

11. "STONE CONCRETE ON SEAWALL" AND SEAWALL FENCE ENCROACH ON GARRETT'S PROPERTY

Not to repeat what has already been stated above but the entire De Beer's seawall is covered with a stone concrete. At the angled upland property line (63 degree/37 degree), the concrete on the seawall encroaches across Garretts' property line, in the shape of a triangle at an undetermined size, due to the perpendicular placed gate/fence on the seawall. The fence/gate is also in violation and encroaching over the property line.

Property lines are clear per the metes and bounds dividing two lots at the angle of which they are established upland. Property lines cannot be changed without a conveyance, a taking from government and/or determination of adverse possession. Once again, the Garretts' never have and do not convey this encroachment or any other encroachment and disputes all adverse possession claims related to the fence, gate, and seawall overage.

12. UNCONSTITUTIONAL TAKING AND CONDEMNATION BY THE TOWN OF HIGHLAND BEACH AND/OR GOVERNING AGENCIES TO ALLOW EXEMPTIONS ON THE SUBJECT PROPERTY

Finally, the Garretts allege that the permitting department of the Town of Highland Beach and any or all county government have and continue to collude with De Beer for an unconstitutional taking or condemnation of the Garretts' property rights.

13. VIOLATIONS ARE DEVALUING PROPERTY VALUE

De Beer's actions along with the Town of Highland Beach and any other government's collusion by granting multiple permits and exemptions is devaluing the Garretts' property and resale value. Future buyers are on notice of various encroachments to the fence line, gate and "stone concrete on seawall, the violation of the 25 feet setback for the original dock on a lot that is 70 feet long, the violation of a second dock/platform layered on top of the original dock protruding into the lake/water over 5 feet, the violation of the waterward property line with an extended dock/platform, lack of ingress and egress, and an obstruction of the riparian view at the corner lot, 1070 Bel Lido Drive.

All of the violations egregiously devalue the Garretts' property value and enjoyment of coastal views.

SUMMARY

It is repeatedly documented throughout various parts to the Highland Beach zoning code, state statutes and state laws emphasizing the following:

- location of docks, docked boats, and relation to side setbacks shall be established by the waterward extension of property lines.
- docking and related accessory marine facilities:
 - will not reasonably deny or otherwise limit the ability of abutting or adjacent property owners to construct accessory marine facilities;
 - will not reasonably deny or otherwise limit the normal ability of abutting or adjacent property owners to moor, maneuver, use or otherwise move a boat; and
 - will not deny reasonable visual access of abutting property owners to public waterways.

In summary, various statutes, town ordinances and state laws support the following:

- only one dock is allowed
- the exemption for a platform to layer onto an existing dock is not permitted
- the exemption request unreasonably interferes with riparian rights of the corner lot
- the plat indicates the seawall measurement on the subject property is 70 feet.
- Ordinance states a seawall of 70 feet is subject to a 25 feet setback
- the exemption request for a dock/platform as constructed is over the corner lot's waterward property line
- the "stone on concrete seawall" and seawall gate encroach on Garrett's property
- the existing dock is over the setback requirement of 25 feet from the side property line
- the dock/platform extends beyond 5 feet into the water
- storing personal items on a platform is not allowed as the sole purpose is to support a vessel out of the water
- blocking the ingress and egress of a corner lot's water access is not allowed
- blocking the riparian rights for a property's coastal view is not allowed; and
- a taking of another's property through collusion with government entities is unconstitutional

The governing authority and enforcer of the Town of Highland Beach Ordinances has to put a stop to De Beer's continued attempts and successes in violating the Garretts ownership and riparian rights. The Town of Highland Beach management committee is entrusted with the

unbiased obligation to enforce laws to protect all residents in Highland Beach. Unilaterally permitting exemptions that are clearly causing the Garretts to suffer is an act of unconstitutional condemnation.

De Beer's actions and the Town's collusion granting multiple permits and exemptions is devaluing the Garretts' property and resale value. Future buyers will be on notice of various encroachments to the fence line, gate and "stone concrete on seawall", violation of the 25 feet original dock setback, violation of a second dock layered on top of the original dock protruding into the lake/water, violation of the Garretts' waterward property line with an extended dock/platform and an obstructed riparian view.

De Beer is also causing emotional abuse toward the Garretts. We have owned this property since 1972. It is our dream home and a valuable asset to our two children. We are in our mid/late 80s and are being harassed by De Beer's actions and the multiple exemptions given by the Town's planning and management committee.

We therefore request the Town Enforcer, management committee and any government agency to re-evaluate the application for various exemptions and permits related to the De Beer's floating dock/platform request as well as the original dock, seawall setback, concrete seawall and gate overage, upland and waterward property line for non-compliance based on all reasons asserted in this letter.

Please feel free to contact us with any questions.

Respectfully,

Eugene and Maureen Garrett

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GODDEAU & RUBIN, P.A.**

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CITY COUNTY AND LOCAL GOVERNMENT ATTORNEY

Jennifer H.R. Hunecke
Susan M. Garrett
Elizabeth V. Lenihan*
Ruth A. Holmes
Ben Saver
Tanya M. Earley
Daniel Harrell, Of Counsel

August 19, 2024

Via first class and electronic mail (maureengarrett@sbcglobal.net and tarrag@aol.com)

Eugene and Maureen Garrett
1070 Bel Lido Drive
Highland Beach, FL 33487

Re: Town of Highland Beach/4307 Intracoastal Drive (Floating Vessel Platform)

Dear Mr. and Mrs. Garrett:

I am in receipt of your letter dated July 15, 2024, wherein you raise various concerns regarding the adjacent property located at 4307 Intracoastal Drive, specifically the size and placement of the floating vessel platform.

Pursuant to Section 403.813, Florida Statutes, the Town has limited regulatory authority over floating vessel platforms and generally relies on the "self-certification" of the property owner. However, because the floating vessel platform is associated with a dock with no defined boat slip, the size is limited to 500 square feet. The floating vessel platform at issue is over 880 square feet; consequently, the Town will initiate an enforcement action against the adjacent property owner. Neither the Town Code nor Section 403.813, Florida Statutes, prohibits installation of floating vessel platform where a permitted dock already exists.

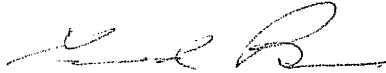
Please be advised, however, that the Town Code does not currently regulate setbacks for these types of accessory marine structures. As Town Staff has already informed you, the Town is currently considering numerous revisions to the Code requirements for accessory marine structures and will recommend that such regulations include a requirement that floating vessel platforms comply with the applicable side setback requirements. A proposed Ordinance will be presented to the Town Commission for its review and consideration.

Eugene and Maureen Garrett
August 19, 2024
Page 2

The Town recognizes that under Florida common law, the ownership of waterfront property generally conveys certain riparian (or littoral) rights, including, but not limited to, the right of ingress and egress and the construction of docks for boating. However, the Town Code merely regulates the placement of accessory marine structures and does not allocate riparian rights between or among adjacent property owners where extended side property lines conflict. The allocation of riparian rights is a civil matter that may require a judicial determination or declaration.

Should you have any additional questions relative to the foregoing, please do not hesitate to contact me.

Sincerely yours,



Leonard G. Rubin
Town Attorney

cc: Marshall Labadie, Town Manager
Jeff Remas, Town Building Official
Ingrid Allen, Town Planner

Town Commission Meeting 09.17.2024 Public Comment

From: [Marshall Labadie](#)
To: [Jaclyn Dehart](#)
Subject: FW: Side Setbacks - current is 25ft along waterfrontage - should it be reduced?
Date: Tuesday, September 17, 2024 11:37:54 AM
Attachments: [Wiener Response Feb 23 2023.pdf](#)
[Babji Marine Accessory Ordinance letter to Commission 20240915.pdf](#)
[image001.png](#)

This one too...thanks



Marshall Labadie, ICMA-CM
Town Manager

Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, FL 33487
(T) 561.278.4548
(F) 561.265.3582

Working to protect our 3 Miles of Paradise

From: Natasha Moore <nmoore@highlandbeach.us>
Sent: Tuesday, September 17, 2024 11:30 AM
To: Marshall Labadie <mlabadie@highlandbeach.us>
Subject: Fw: Side Setbacks - current is 25ft along waterfrontage - should it be reduced?

FYI...

From: Jonathan Wiener <jwiener@me.com>
Sent: Tuesday, September 17, 2024 11:19 AM
To: Natasha Moore <nmoore@highlandbeach.us>
Cc: Mayde <berkshireflgirl@gmail.com>
Subject: Re: Side Setbacks - current is 25ft along waterfrontage - should it be reduced?

Thanks for your email.

Under the current rules, if an owner with 100 ft of water frontage wants a 50 foot dock and lift, they can have it. As you know, the beauty of Bel Lido has always been that we are not wall to wall living and have water views with the beach access. If an owner wants a variance, they can apply and the neighbors can get involved.

My wife and I do not wish to see any rules changed regarding setbacks. We understand that with rising water levels, that rules may need to change regarding seawall heights, etc.

Best Regards,

Mayde and Jonathan Wiener
4409 Intracoastal Drive

On Sep 17, 2024, at 10:34 AM, Natasha Moore <nmoore@highlandbeach.us>
wrote:

Good morning, Dr. Wiener.

The Town of Highland Beach is considering ordinance changes to accessory marine facilities. Back in February 2023, you indicated you were not in favor of reducing the current 25ft setbacks (see your response attached).

Attached is a letter from Greg Babij stating he is in favor of reduced setbacks. The Town of Highland Beach Planning Board is recommending no side setback for docks town wide and a minimum 10-foot side setback for all other accessory marine facilities town wide.

I know it's been a long time since this has been discussed. However, I'm trying to get an idea of what is the consensus among residents regarding the setbacks.

Has your opinion changed regarding setbacks? Or, is your opinion the same as what it was in February 2023?

Thank you for your consideration,

Natasha Moore
Mayor, Town of Highland Beach
561-352-6932



COMMENT SHEET

Jonathan Wiener, 4409 Intra Coastal Drive, Twier@me.com
 NAME ADDRESS EMAIL ADDRESS

1. Maximum height for Accessory Marine Facilities (AMF) at Base Flood Elevation (BFE) plus 7 feet.

Shed be 10 feet (water is rising)
 & at least 6 feet for new construction
 Boat lifts should only be allowed on Intra Coastal

2. Exempt personal watercraft (PWC) lifts from the requirement that "in no case shall the lift be higher than the superstructure of the boat when lifted" OR remove requirement.

No

They
 Block
 Views

3. Maximum seawall cap width of 3 feet; maximum 8-foot width for seawall cap plus dock.

Fine

4. Encroachment of AMFs and seawalls into water at 25 feet or 25% of waterway width, whichever is less (measured from the shortest distance adjacent to property line).

25 feet is way too much
encroachment on canals

5. 10 foot side setback for all zoning districts. For lots less than 100 feet in width, setback is 10% of width; however, setback cannot be less than 5 feet.

25 feet should remain in effect
No one should encroach on neighbor
without permission

6. Require a ladder for every 50 feet of dock.

Agree

7. Maximum seawall height.

10 feet

Additional Comments:

Jon Wiene
4409 Industrial Drive

If you prefer, you can email your comment sheet to allen@highlandbeach.us

THANK YOU FOR YOUR INPUT...

Town Commission Meeting 09.17.2024 Public Comment

From: [Marshall Labadie](#)
To: [Jaclyn Dehart](#)
Subject: FW: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances
Date: Tuesday, September 17, 2024 11:57:39 AM
Attachments: [Marine Accesory Letter to Commission 091624.pdf](#)
[image001.png](#)

This one as well....



Marshall Labadie, ICMA-CM
Town Manager

Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, FL 33487
(T) 561.278.4548
(F) 561.265.3582

Working to protect our 3 Miles of Paradise

From: Marthin De Beer <mdebeer@brightplan.com>
Sent: Tuesday, September 17, 2024 11:41 AM
To: greg4hb@yahoo.com; Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; David Stern <dstern@highlandbeach.us>; Evalyn David <edavid@highlandbeach.us>; Judith Goldberg <jgoldberg@highlandbeach.us>; Don Peters <dpeters@highlandbeach.us>; Craig Hartmann <chartmann@highlandbeach.us>
Cc: Greg Babij <greg4hb@yahoo.com>; David Axelrod <dzaxelrod@gmail.com>; Jeffrey (via Google Docs) <jeffreyfl@gmail.com>; Marthin De Beer <mdebeer@brightplan.com>; Allan Goldstein <agoldstein@amgresources.com>; Eric Brenda Berch <Eric.Berch@svcfinc.com>; Brenda Berch <berchb827@gmail.com>; Christine Nessen <christine.nessen@gmail.com>; Robert Spahr <rspah50@gmail.com>; Roger Brown <roger3265@aol.com>; Greg Stuart <gstuart@frminc.com>; dwillens65@gmail.com
Subject: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances

Dear Commissioners,

We fully support the views in Mr. Babij letter you received as this issue became known over the past 24 hours. Please find attached our letter and views re this matter attached.

Sincerely

Marthin De Beer
Founder & CEO
408-656-5171

BrightPlan



mdebeer@brightplan.com

www.brightplan.com

MARTHIN AND KARIN DE BEER

4307 Intracoastal Dr, Highland Beach | 408-656-5171 | mdebeer@brightplan.com

September 17, 2024

Board of Commissioners
Town of Highland Beach
3614 S. Ocean Blvd
Highland Beach, FL 33487

Dear Board of Commissioners:

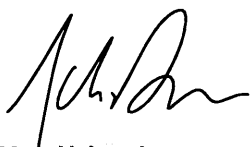
We have been boaters for more than 30 years on the west and east coasts and moved to Highland Beach in 2019 for the local boating we so enjoy here. We whole heartedly agree with Mr. Babij and others who reached out to us expressing significant concerns over the proposed changes. The result of these proposed changes will impede boaters ability to properly secure vessels for storms, thereby increasing liability for all residents, further contribute to rising insurance rates and cause an adverse impact on property values in Highland Beach.

We provided input to the town on the work Mr. Babji did a couple of years ago in favor of less restrictive marine accessory and set back ordinances and to better conform with the communities around us.

I strongly urge you to revisit the marine accessory ordinance issue with the planning board and seek their opinion, as it has substantially changed from the planning board's previously reviewed recommendations. If there is any doubt about the position of the larger boating community in Highland Beach, I would implore you to host an open discussion at a future Commission meeting on this topic.

Thank you for your service and consideration of our position requesting less restrictive marine accessory regulations.

Sincerely,



Marthin de Beer

Town Commission Meeting 09.17.2024 Public Comment

From: [Marshall Labadie](#)
To: [Jaelyn Dehart](#)
Subject: FW: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances (Thus far 24 property owners are in support of making the marine accessory rules less restrictive)
Date: Tuesday, September 17, 2024 11:58:13 AM
Attachments: [image001.png](#)

And this one....



Marshall Labadie, ICMA-CM
Town Manager

Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, FL 33487
(T) 561.278.4548
(F) 561.265.3582

Working to protect our 3 Miles of Paradise

From: Brenda Berch <berchb827@gmail.com>
Sent: Tuesday, September 17, 2024 11:48 AM
To: greg4hb@yahoo.com
Cc: Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; David Stern <dstern@highlandbeach.us>; Evalyn David <edavid@highlandbeach.us>; Judith Goldberg <jgoldberg@highlandbeach.us>; Don Peters <dpeters@highlandbeach.us>; Craig Hartmann <chartmann@highlandbeach.us>; David Axelrod <daxelrod@gmail.com>; Jeffrey (via Google Docs) <jeffreyfl@gmail.com>; mdebeer@brightplan.com; Allan Goldstein <agoldstein@amgresources.com>; Eric.Berch@svcfm.com; Christine Nessen <christine.nessen@gmail.com>; Robert Spahr <rspah50@gmail.com>; Roger Brown <roger3265@aol.com>; Greg Stuart <gstuart@frminc.com>; dwillens65@gmail.com
Subject: Re: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances (Thus far 24 property owners are in support of making the marine accessory rules less restrictive)

Dear Commissioners,

Please accept this email in full support of Mr. Babji's letter below.

We are some what surprised that this issue has only come to our attention within the last 24 hours and were not given enough time to share our views prior to the commissioners meeting to pass the new ordinances today.

Sincerely,
Eric and Brenda Berch

Sent from my iPhone

On Sep 16, 2024, at 11:01 PM, greg4hb@yahoo.com wrote:

Dear Commissioners,

Apparently the content of my letter has made its way around the waterfront residents. As of tonight I have heard from owners of 24 waterfront properties that are strongly in support of making the town's marine ordinances wholly LESS restrictive. There is strong support for what was originally proposed by me after the marine accessory ordinance working group and even greater support for matching the least restrictive ordinances of surrounding towns for each of the various accessories such as docks, boat lifts, floating vessel platforms, perpendicular piers and boat limits.

I would expect you will be hearing a lot more from this group of residents soon.

Regards,
Greg

----- Forwarded Message -----

From: greg4hb@yahoo.com <greg4hb@yahoo.com>

To: Marshall Labadie <mlabadie@highlandbeach.us>; Natasha Moore <nmoore@highlandbeach.us>; dstern@highlandbeach.us <dstern@highlandbeach.us>; edavid@highlandbeach.us <edavid@highlandbeach.us>; jgoldberg@highlandbeach.us <jgoldberg@highlandbeach.us>; dpeters@highlandbeach.us <dpeters@highlandbeach.us>; Craig Hartmann <chartmann@highlandbeach.us>

Cc: Greg Babij <greg4hb@yahoo.com>; dzaxelrod@gmail.com <dzaxelrod@gmail.com>

Sent: Sunday, September 15, 2024 at 09:15:45 PM EDT

Subject: Letter to the Town Commission and the Planning Board regarding marine accessory ordinances

Marshall,

Can you please share my attached letter with all of the Commissioners and the Planning Board? I don't have all of their emails

Thanks,
Greg

<Marine Accessory Ordinance letter to Commission 20240915.pdf>