

## **BOATHOUSE RESTAURANT**

**Issue:** Vertical accessibility to the second floor of a restaurant.

**Analysis:** The applicant is requesting a waiver from providing vertical accessibility to the second floor of a two story wood frame building undergoing a \$150,000 alteration. The structure is over 100 years old and structurally would not support the additional of an elevator to the second level. The 3'8" stairwell can accommodate egress needs, but is too narrow to permit installation of a lift. According to the applicant, \$28,000 of the overall budget has been allocated to accessibility features (18 per cent) and the additional expense of an elevator would be disproportionate. The building official's estimate includes the current \$150,000 and does not reflect any work done during the preceding three years. All seating and service on the second floor are duplicated on the accessible first level.

### **Project Progress:**

The project is under construction.

### **Items to be Waived:**

Vertical accessibility to the second floor, as required by Section 553.509, Florida Statutes.

**553.509: Vertical accessibility** - Nothing in sections 553.501-553.513 or the guidelines shall be construed to relieve the owner of any building, structure or facility governed by those sections from the duty to provide vertical accessibility to all levels above and below the occupiable grade level, regardless of whether the guidelines require an elevator to be installed in such building, structure or facility, except for:

- (1) Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks and automobile lubrication and maintenance pits and platforms;
- (2) Unoccupiable spaces, such as rooms, enclosed spaces and storage spaces that are not designed for human occupancy, for public accommodations or for work areas; and
- (3) Occupiable spaces and rooms that are not open to the public and that house no more than five persons, including, but not limited to equipment control rooms and projection booths.

**Waiver Criteria:** There is no specific guidance for a waiver of this requirement in the code. The Commission's current rule, authorized in Section 553.512, Florida Statutes, provides criteria for granting waivers and allows consideration of unnecessary or extreme hardship to the applicant if the specific requirements were imposed.

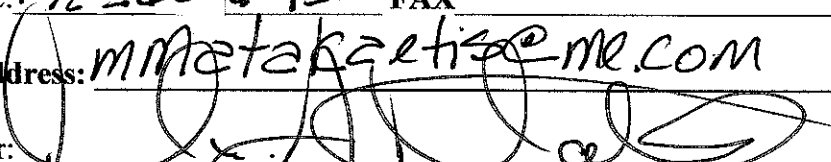
**REQUEST FOR WAIVER FROM ACCESSIBILITY REQUIREMENTS  
OF CHAPTER 553, PART II, FLORIDA STATUTES**

Your application will be reviewed by the Accessibility Advisory Council and its recommendations will be presented to the Florida Building Commission. You will have the opportunity to answer questions and/or make a short presentation, not to exceed 15 minutes, at each meeting. The Commission will consider all information presented and the Council's recommendation before voting on the waiver request.

**1. Name and address of project for which the waiver is requested.**

Name: Boathouse Restaurant  
Address: 49 SW Seminole Street  
Stuart FL 34994

**2. Name of Applicant. If other than the owner, please indicate relationship of applicant to owner and written authorization by owner in space provided:**

Applicant's Name: Joseph P. McCarty  
Applicant's Address: 900 E Osceola Street FL 34994  
Applicant's Telephone: 772 287 4735 FAX: 772 287 4618  
Applicant's E-mail Address: mccarty\_architect@hotmail.com  
Relationship to Owner: Architect <sup>underscore</sup>  
Owner's/Tenant's Name: Michael Metakzeetis  
Owner's Address: 49 SW Seminole Street FL 34994  
Owner's Telephone: 772 260 4723 FAX  
Owner's E-mail Address: mmetakzeetis@me.com  
Signature of Owner: 

**3. Please check one of the following:**

☐ New construction.

FBC 2012-01

Request for Waiver

Rule 61G20-4.001  
effective 4/25/2013

☐ Addition to a building or facility.

☒ Alteration to an existing building or facility.

☐ Historical preservation (addition).

☐ Historical preservation (alteration).

4. **Type of facility.** Please describe the building (square footage, number of floors). Define the use of the building (i.e., restaurant, office, retail, recreation, hotel/motel, etc.)

2 story wood frame building over 100 years old  
First floor is 1830 SF second floor is 1550 SF  
Entire building is to be occupied  
by the Boat House Restaurant

5. **Project Construction Cost** (Provide cost for new construction, the addition, or the alteration):

6. **Project Status:** Please check the phase of construction that best describes your project at the time of this application. Describe status.

☐ Under Design ☒ Under Construction\*

☐ In Plan Review ☐ Completed\*

\* Briefly explain why the request has now been referred to the Commission.

Vertical accessibility to second floor

7. **Requirements requested to be waived.** Please reference the applicable section of Florida law. Only Florida-specific accessibility requirements may be waived. 11-4.10

**Issue**

FBC 2012-01  
Request for Waiver

Rule 61G20-4.001  
effective 4/25/2013

1: 11-4.10 vertical accessibility to  
second floor

Issue

2:

Issue

3:

**8. Reason(s) for Waiver Request:** The Florida Building Commission may grant waivers of Florida-specific accessibility requirements upon a determination of unnecessary, unreasonable or extreme hardship. Please describe how this project meets the following hardship criteria. Explain all that would apply for consideration of granting the waiver.

☒ The hardship is caused by a condition or set of conditions affecting the owner which does not affect owners in general.

see attached

☐ Substantial financial costs will be incurred by the owner if the waiver is denied.

20% disproportionate cost

☐ The owner has made a **diligent investigation** into the costs of compliance with the code, but cannot find an efficient mode of compliance. Provide detailed cost estimates and, where appropriate, photographs. Cost estimates must include bids and quotes.

9. Provide documented cost estimates for each portion of the waiver request and identify any additional supporting data which may affect the cost estimates. For example, for vertical accessibility, the lowest documented cost of an elevator, ramp, lift or other method of providing vertical accessibility should be provided, documented by quotations or bids from at least two vendors or contractors.

a. See attached

b. \_\_\_\_\_

c. \_\_\_\_\_

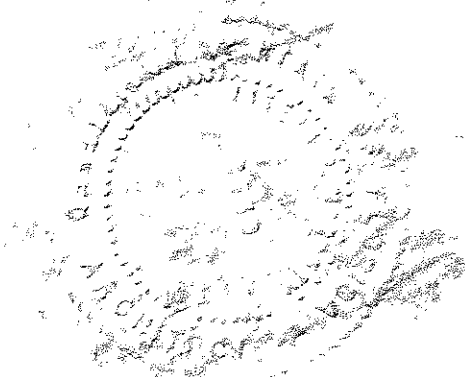
10. **Licensed Design Professional:** Where a licensed design has designed the project, his or her comments **MUST** be included and certified by signature and affixing of his or her professional seal. The comments must include the reason(s) why the waiver is necessary.

Size and age of building 20% disproportionate  
cost, service on both floors (see attached)

Signature Joseph P. McCarty  
Printed Name

Phone number 772 227 4735

(SEAL)



**CERTIFICATION OF APPLICANT:**

I hereby declare that the applicable documents in support of this Request for Waiver are attached for review by the Florida Building Commission and that all statements made in this application are to the best of my knowledge true and correct.

Dated this

29<sup>th</sup> day of April, 2014

Signature

Joseph P. McCarty

Printed Name

I understand that if I falsify, misrepresent, or omit any material information on this document, the Commission may revoke any order and will notify the building official of the permitting jurisdiction.

KNOWINGLY MAKING A FALSE STATEMENT IN WRITING WITH THE INTENT TO MISLEAD A PUBLIC SERVANT IN THE PERFORMANCE OF HIS OFFICIAL DUTY IS A MISDEAMEANOR OF THE SECOND DEGREE PURSUANT TO SECTION 837.06 F.S. AND SECTION 775.083, F.S.

6

**REVIEW AND RECOMMENDATION BY LOCAL BUILDING DEPARTMENT.**

Please state why the issue is being referred to the Florida Building Commission as well as a recommendation for disposition. The Building Official or his or her designee should review the application and indicate that to the best of his or her knowledge, all information stipulated herein is true and accurate. Further, if this project is complete, explain why it is being referred to the Commission. The Building Official or his or her designee should sign a copy of the plans accompanying this application as certification that such plans are the same as those submitted for building department review. Please reference the applicable section of the Accessibility Code.

a. ACCESSIBILITY ACCESS TO SECOND FLOOR STAIRING

b. \_\_\_\_\_

c. \_\_\_\_\_

Has there been any permitted construction activity on this building during the past three years? If so, what was the cost of construction?

☒ Yes ☐ No Cost of Construction Approx \$150,000

Comments/Recommendation NO OBJECTIONS

Jurisdiction CITY OF STUART

Building Official or Designee

Signature

JOSEPH J. HOFFKINS

Printed Name

ICC#5166162-CB BU1466  
Certification Number

772-600-1249  
Telephone/FAX

J.HOFFKINS@CI.STUART.FL.US  
Email Address

Address: 121 SW FLAGLER AV., STUART, FL, 34994

**Joseph P. McCarty, Architect, Inc.**

900 East Osceola Street

Stuart, Florida, 34994

772-287-6735 fax: 772-287-4618

---

DPR Registration Number 9639

**8. Reason(s) for Waiver Request:**

We are converting a small two story building which is over 100 years old into a restaurant. The existing building has a ground floor area of 1830 SF and a second floor of 1550 SF. We have added a covered deck of 517 SF and an open deck of 556 SF.

The original concept of the restaurant was more of a sandwich shop with no fire suppression hood or grease trap. As the restaurant was being constructed, it was decided to expand the kitchen and add a fire-suppression hood and a grease trap. This expanded kitchen consumed more of the ground floor leaving only 39 seats on the interior of the ground floor. Because of this very limited seating, it was decided to lease the second floor of the building to add interior seating.

The stair serving the second floor is 3'-8" wide, serving egress requirements, but not wide enough to provide a chair lift. The limited space of the restaurant would suffer by the room taken up by an elevator and the original 100 year old wood frame structure is not in itself adequate to support the loads associated with an elevator. A shaft would have to be constructed from grade (appx 28" below top of floor joists) to the top of elevator.

The owner of the restaurant did not know that there was Florida Building Code dealing with accessibility and referenced the ADA standards, which stated that an elevator was not required in our situation. 3.404 Alterations: Elevator exemption Department of Justice, 2010 Standards: Title III – 25. He did not realize that an exemption would be required by the State of Florida.

The building is located on the St. Lucie River in downtown Stuart. The new decks mentioned earlier have a panoramic view of the St. Lucie River and the Roosevelt Bridge. This view is more spectacular than the view through the windows of the second floor.

We do not believe that a diner's experience would be compromised by being limited to dining on the ground floor.



## 9. Cost estimates (disproportionate costs)

The ground floor and each of the new decks is served by a ramp for accessibility. The existing ground floor, main entrance is served by an existing concrete ramp. The handrails of this ramp and the adjacent stair serving the main entrance were modified to provide the correct handrails with required extensions at the top and bottom of the ramp and stair as required by Florida Building Code. **Cost of new handrails is \$2000**

A new ramp wooden ramp was constructed to serve the new open deck, which is 14" lower than the main restaurant and covered deck. This ramp is constructed at 1:12 slope and has required handrails and rail extensions. Ramp and handrails are compliant with Florida Building Code. Costs associated. **Cost of new ramp is \$5000**

Two new bathrooms were provided on the ground floor. Each bathroom is compliant with the Florida Building Code. **Cost of accessible bathrooms is \$15,000**

Lever set hardware is provided at all doors. **Cost of lever-set hardware \$1000**

**Total Costs of work toward accessibility \$28,000**

**Overall budget \$150,000**

**Percentage of accessibility costs towards overall budget 18%. This would leave \$2000 for elevator and shaft at 20% accessibility compliance.**

## 10) Licensed Design Professional

The limited size of an old wood frame building make the addition of an elevator impractical from an overall costs standpoint. The loss of seating on both floors do to the footprint of the elevator itself works contrary to adding the second floor due to limited seating. The Boathouse Restaurant sits on the St. Lucie River with panoramic views of the St. Lucie River. The best view is from the decks at the first floor in that they are the most panoramic. The interior views through windows are less panoramic. When I eat at the restaurant, I will want to be on the first floor. I do not believe that limiting access to the first floor would compromise a dining experience.

When the project started there was no intent to occupy the second floor. The original concept was a very simple restaurant with a very simple menu. During the actual permitted construction it was decide to add an ANSO hood in the kitchen and a grease trap. A walk-in cooler was also added to the kitchen. Because of the kitchen expansion a small dining room was consumed by walk-in cooler, ice machine and other kitchen equipment.

The second floor was occupied by other tenants when the project started construction. During construction the second floor was vacated and offered to Michael Matakaetis, the lessee. It was decided to lease the second floor to add additional indoor seating. I mentioned to Michael Matakaetis that there would be a vertical accessibility issue. He went online and looked up ADA requirements, not realizing that there was a separate Florida Accessibility Code. The ADA exempts our situation 36.404 Alterations: Elevator exemption Department of Justice 2010 Standards: Title III – 25.

Mr. Matakaetis also talked with Mary-Katherine Smith about the situation, but misunderstood the requirement of a waiver.

That is how we got this far into the project with not dealing with this issue.

Sincerely,

Joseph P. McCarty





*view from lower deck*





view from upper deck







existing stairwell



view from second floor