

MEMORANDUM
MONROE COUNTY BUILDING DEPARTMENT
We strive to be caring, professional, and fair.

To: Monroe County Planning Commission

From: Rick Griffin, C.F.M.
Monroe County Building Official and Floodplain Administrator

Date: December 13, 2022

RE: **Administrative Appeal to the Monroe County Planning Commission of Approval of Revision “F.” – Certification to Dissolve/Deny Stay**



Monroe County Code Section 102-185(d) provides as follows:

(d) *Effect of Filing an Appeal.* The filing of a notice of appeal shall stay all permit activity and any proceedings in furtherance of the action appealed unless the administrative official rendering such decision, determination or interpretation certifies in writing to the Planning Commission and the applicant that a stay poses an imminent peril to life or property, in which case the appeal shall not stay further permit activity and any proceedings. The Planning Commission shall review such certification and grant or deny a stay of the proceedings.

The application for Revision “F.” to the subject permit was received on or about November 30, 2020. It was approved on June 28, 2022.

The scope of work of Revision “F.” to the subject permit is limited.

The scope of work of Revision “F.” to the subject permit encompasses, in pertinent part, the following, per the sets of drawings and plans signed-and-sealed by Carl Schror, P.E.,¹ on October 28, 2020,:

- Revise 1-inch gap between detached pool deck and porch to render pool deck and porch attached;
- Revise 12 x 18-inch concrete beam to 18 x 18-inch concrete beam;
- Revise approximately 16 x 16-inch square concrete pool deck columns to 18-inch in diameter circular concrete pool deck columns that widen as they transition, as they pass grade to a 20-inch in diameter concrete-filled augur shaft.

The verb “stay” or “to stay” is defined as “V. To stop; to put on hold.” Amy Hackney Blackwell, *The Essential Law Dictionary* 471 (2008 ed.).

The stay imposed under Monroe County Code Section 102-185(d) functions as an indefinite suspension of the effectiveness of “*all permit activity*” and “*any proceedings in furtherance of the action² appealed*” until final disposition of this dispute between the appellant – the neighboring owner of a developed, non-homesteaded residential property located next door to the applicants’ property – and the applicants is

¹ License No. 56564.

² I.e., approval of Revision “F.” to the subject permit.

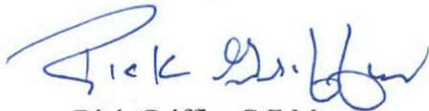
reached, including exhaustion and completion of all available administrative and appellate remedies. The foreseeable roadmap would entail (1) an administrative appeal to the Monroe County Planning Commission, (2) an administrative appeal from the Monroe County Planning Commission to the Florida Division of Administrative Hearings (“DOAH”), (3) an appeal from DOAH to Circuit Court sitting in its appellate capacity, and (4) an appeal or a petition for writ of certiorari from the Circuit Court appellate division to the Third District Court of Appeal (“DCA”).

This schedule would entail well over a year of adversarial administrative proceedings and/or litigation, during which time incomplete work at the site would remain unfinished, and lay fallow in and remain subject to prolonged exposure in local weather and climate elements including but not limited to hurricane and tropical storm season.

If the applicant(s) to Revision “F.” to the subject permit and/or the subject permit voluntarily choose to proceed with development or construction notwithstanding their active and constructive knowledge that such work is enmeshed in litigation and/or adversarial administrative proceedings whose outcomes remain to be conclusively adjudicated to ultimate finality, their voluntary election to do so would be at their own peril and not in reliance upon Monroe County.

Based upon the foregoing, (1) in view of the protracted length of time the foreseeable adversarial administrative proceedings and/or litigation will take between the appellant and the applicant(s), (2) given the imminent unique risk to property presented here, (3) along with the applicant(s) complete and exclusive assumption of any and all risks attendant to any decision of their own to move forward with construction/development at the site despite their knowledge of active and ongoing adversarial administrative proceedings/litigation, I hereby certify that the instant stay poses an imminent peril to property and should therefore be dissolved through a motion approved by the Monroe County Planning Commission denying a stay of permit activity and any proceedings in furtherance of the action appealed of.

Respectfully,



Rick Griffin, C.F.M.
Monroe County Building Official
Monroe County Floodplain Administrator