



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

BOARD OF ADJUSTMENT STAFF REPORT

384 Captains Walk

Meeting	File No.	Application Type
November 7, 2024	2024-233	Variance
Property Owner & Applicant	Agent	
RTR FL1, LLC	Miskel Backman, LLP	

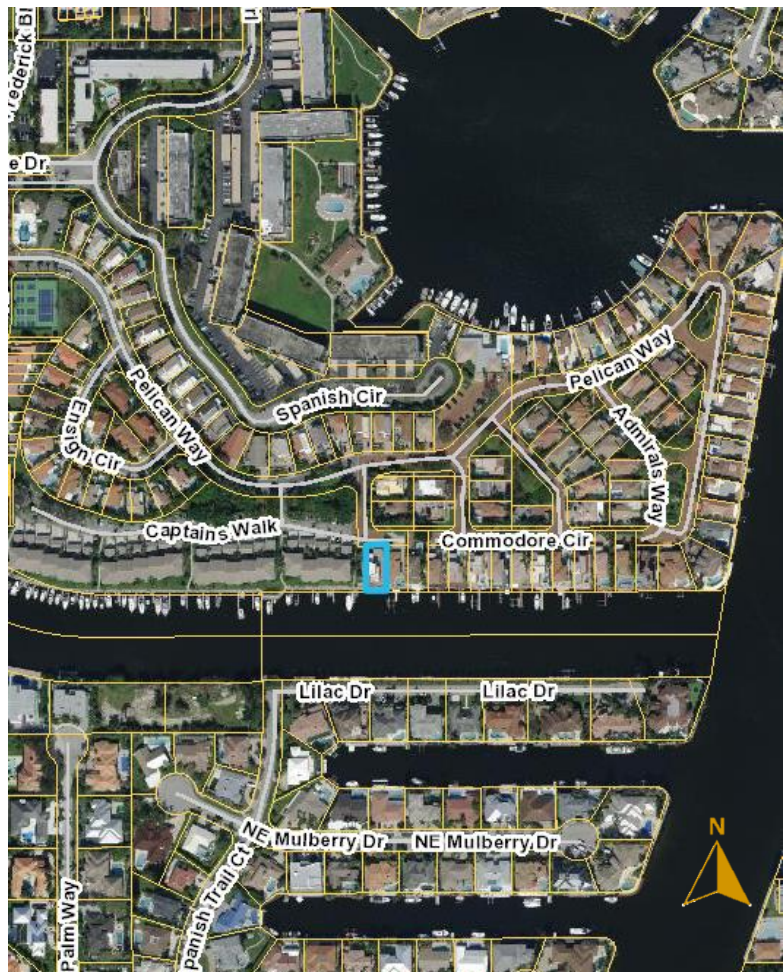
Request

Consideration of three variance requests from LDR Section 7.9.7(C), Standards for approval, to allow a finger pier to extend 28 feet, 7 inches from the south property line into the canal, whereas only 25 feet is allowed; LDR Section 7.9.11(A), Standards for approval, to allow a boat lift to extend 26 feet, 11 inches from the south property line into the canal, whereas only 20 feet is allowed; and LDR Section 7.9.7(C), Standards for approval, to allow five dolphins extending 62 feet measured from the south property line into the canal, whereas only 25 feet is allowed.

General Data

Location: 384 Captain's Walk
PCN: 12-43-46-33-15-000-0050
Property Size: 0.1263 Acres
Land Use Designation: Medium Density (MD)
Zoning District: Planned Residential Development (PRD)
Existing Land Use: Single Family Home
Adjacent Zoning and Uses:

- North, East and West PRD
- South: C-15 Canal



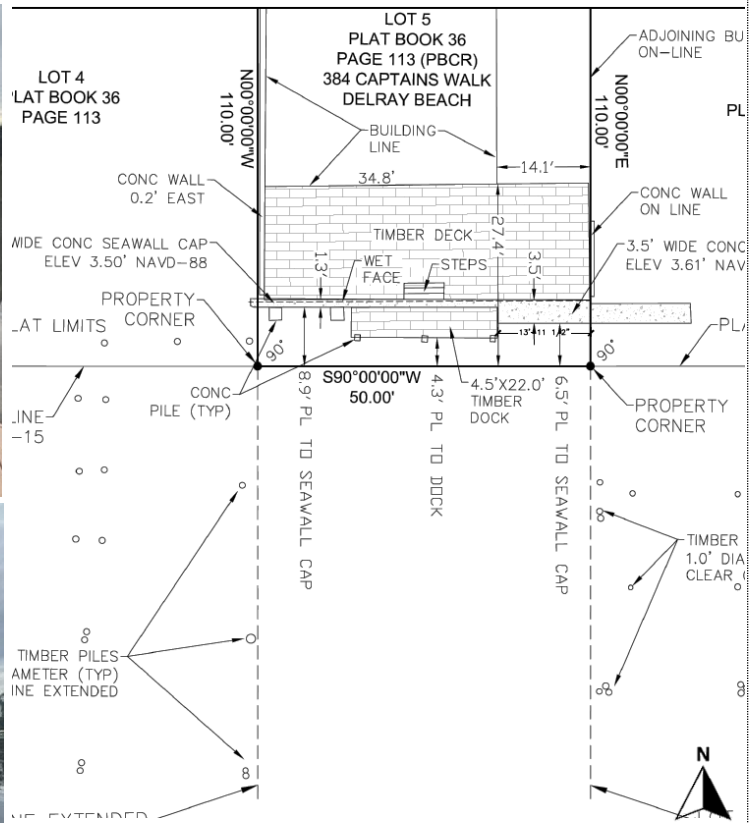
Background

The subject property is located within the Pelican Harbor Neighborhood, on a fully platted lot, platted in 1979 with an existing zero lot line single-family home built in 1981. The property has a zoning designation of Planned Residential Development (PRD). The property is a typical 50 feet by 110 feet wide rectangular lot situated on the C-15 canal waterway.

The rear (south) property line extends out into the canal waterway 8 feet, 9 inches containing an elevated wood deck with steps down to the existing 22 feet long dock projecting 4 feet, 5 inches into the canal. The property owner is proposing to raise the seawall and remove the existing dock to install a new dock parallel to the seawall and install one finger pier, dolphins and one boat lift.

The canal waterway is 210 feet wide and managed by the South Florida Water Management District (SFWMD). There are various existing finger piers, boat lifts and dolphins associated with the neighboring properties located along the canal, a commonly enjoyed amenity for the waterfront properties. The adjacent properties to the east and west have existing timber piles also known as dolphins extending 70 feet into the waterway.

The applicant is stating based on the survey, the water depths at high tide is 4.6 feet with a 2.77-foot differential between high and low tides meaning the water depth at low tide is 2 feet or less. To feasibly utilize the commonly used waterway, the applicant is requesting several variances to Land Development Regulations (LDR) Article 7.9. – Docks, Dolphins, Finger Piers, and Boat lifts.



Request

This application seeks the approval of three variances to install:

1. A finger pier to extend 28 feet, 7 inches from the south property line into the canal, whereas only 25 feet is allowed;
2. A boat lift to extend 26 feet, 11 inches from the south property line into the canal, whereas only 20 feet is allowed; and
3. Five dolphins extending 62 feet measured from the south property line into the canal, whereas only 25 feet is allowed.

The City regulation permits the installation and location of finger piers same as specified for dolphins. Dolphins and finger piers may be installed in conjunction with docking and mooring facilities for waterways greater than 100 feet in width, provided that the maximum distance a dolphin and/or finger pier may be installed is 25 feet from the property line, seawall or bulkhead, whichever is nearer to the waterway. In addition, the code allows the installation of one boat lift provided that the boat lift in a raised position shall not extend any closer to the adjacent property line than 10 feet or the building side setback, whichever is greater and not extend more than 20 feet into the waterway from the property line, seawall or bulkhead, whichever is nearer to the waterway. When reviewing the survey, it is determined that the property line is the nearest to the waterway and shall be the point of measurement for finger piers, dolphins and boat lifts.

LDR Section 7.9.1, Intent

“Permit construction in and upon certain waterways of docks, dolphins, finger piers, and boat lifts which do not cause a hazardous interference with navigation, endanger life or property, or deny the public reasonable visual access to public waterways.”

Dolphins

LDR Section 7.9.7(C), Standards for approval

“Dolphins may be installed in conjunction with docking and mooring facilities subject to the following conditions: for waterways greater than 100 feet in width, the maximum distance a dolphin may be installed up to 25 feet from the extended property line or seawall or bulkhead, with preference whichever is nearer to the waterway. In this specific case, the seawall represents the nearer element.”

A **“dolphin”** is defined as *“a single pile or cluster of closely driven piles used as a fender for a dock or as a mooring or a guide for watercraft, but not used as a channel marker or as a dock piling”*.

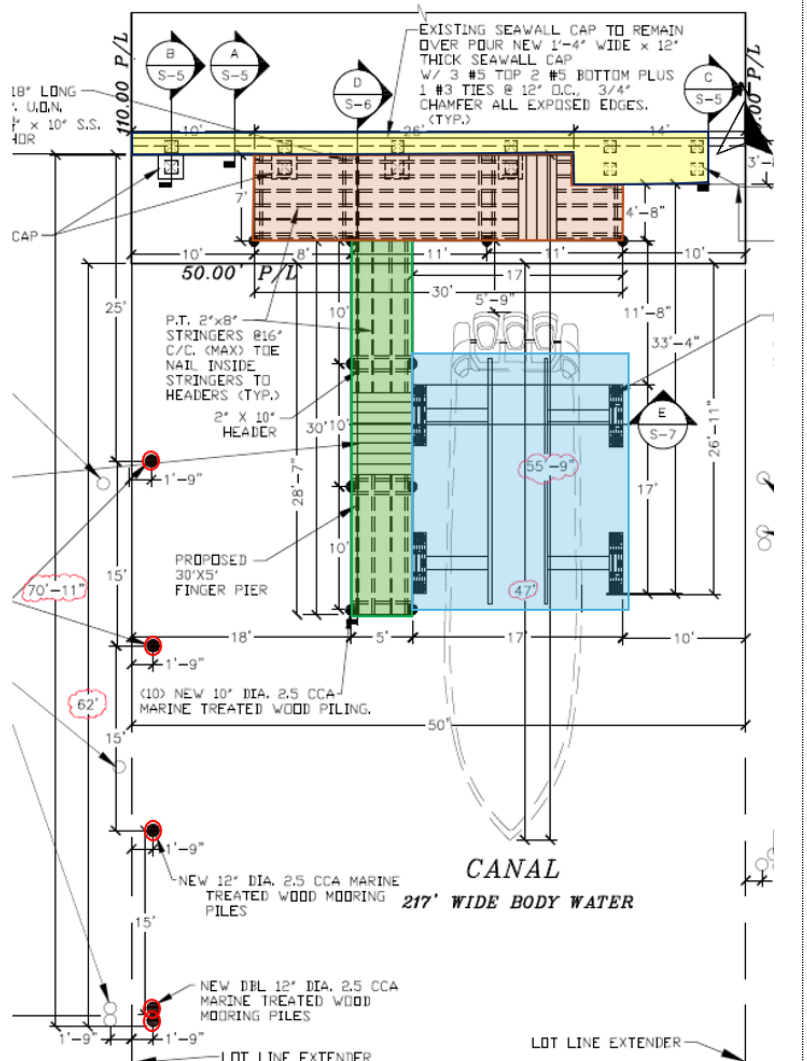
Currently, the site does not consist of any dolphins that are directly utilized by the property owner, however there are existing dolphins from the adjacent properties extending 62 feet into the canal. The applicant is proposing to install 5 dolphins circled in red as shown in the image to the right. The dolphins are proposed along the west side of the property measured from the property line extending 62 feet into the canal.

Finger Pier

LDR Section 7.9.8, Standards for approval

“The conditions for installation and location of finger piers shall be the same as specified for dolphins.”

A **“finger pier”** is defined as *“a structure, not exceeding five feet in width, which projects into the waterway perpendicular to the seawall, bulkhead line, or property*



line and extends more than five feet from the seawall, bulkhead line, or property line.”

The applicant is proposing to install a finger pier indicated in green as shown in the image to the right. The applicant is proposing to extend the 5-foot-wide finger pier 28 feet, 7 inches measured from the property line into the canal. The purpose of the finger pier is to allow passengers to access the boat lift that is usually located beyond the dock to reach the higher mean water line to provide for safe boat mooring and preventing potential beaching and hull damage.

Boat Lifts

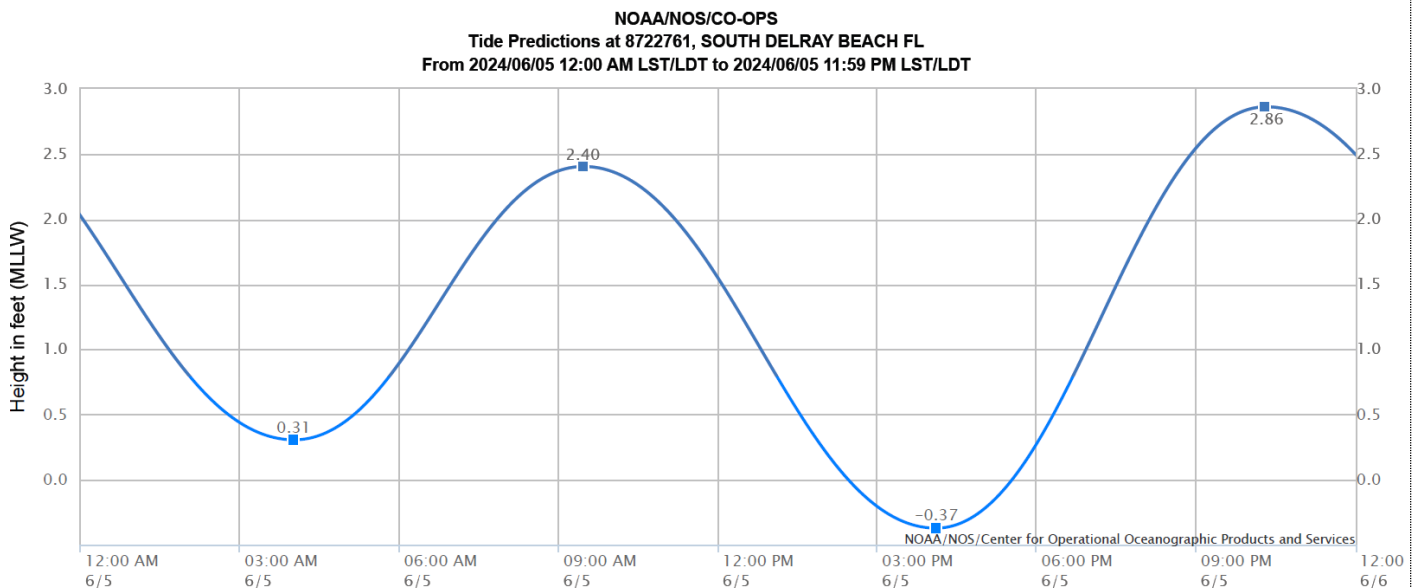
LDR Section 7.9.11(A) and (B), Standards for approval

“The boat lift in a raised position shall not extend more than 20 feet into the waterway from the property line or seawall or bulkhead, whichever is nearer to the waterway. When plot frontage exists along a body of water, only one boat lift is permitted. The boat lift shall be located so that the vessel in its raised position lift shall not extend any closer to the adjacent property line than ten feet or the building side setback, whichever is greater. “

The applicant is proposing to install a boat lift as indicated in blue as shown in the above image. The applicant is proposing to extend the 17 feet long by 17 feet wide boat lift 28 feet, 7 inches from the property line into the canal. The boat lift illustrated is specified as a 40,000 lb elevator boat lift; a larger lift. Additionally, the boat in its raised position will not extend any closer than 10 feet to the side property lines. The subject property is located within the PRD zoning district. The setback regulations for the PRD for a zero-lot line development is 0 feet for the first and second story. Therefore, the ten-foot setback is greater and is applicable.

It's essential to note that the City of Delray Beach requires approval from South Florida Water Management District and any other agencies for such requests prior to building permit issuance.

The applicant's justification (attached) indicates that the proposed dimensions and locations for the finger pier and boat lift are necessary to properly moor a boat primarily given the shallow water depth. A NOAA Tide chart has also been provided which illustrates the high and low tide during the times of day. At high tide, the mean lower low water (MLLW) is 2.86 feet, whereas at low tide is 2.49 feet.



Note: The interval is High/Low, the solid blue line depicts a curve fit between the high and low values and approximates the segments between.
Disclaimer: These data are based upon the latest information available as of the date of your request, and may differ from the published tide tables.

Variance Review and Analysis

Finger Pier

LDR Section 2.1.7(E)(1)(c)(4), Board of Adjustment: Duties, powers, and responsibility

The Board hereby has the authority to grant variances and hear appeals from the following: Docks, Dolphins, Finger Piers, and Boat Lifts, Article 7.9, for single-family or duplex structures.

The requested relief is from Article 7.9 Standards of Approval, Docks, Dolphins, Finger Piers, and Boatlifts.

LDR Section 2.4.11(A), Relief - Variances

A variance is a departure from the dimensional or numeric requirements of these land development regulations where such variance will not be contrary to the public interest and where, owing to the existing conditions peculiar to the property and not the result of the actions of the landowner, a literal enforcement of the regulations would result in unnecessary and undue hardship.

LDR Section 2.4.11(A)(5) (a-f), Variance Findings, the following findings must be made prior to the approval of a variance:

- (a) *That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings subject to the same zoning (The matter of economic hardship shall not constitute a basis for the granting of a variance);*
- (b) *That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning;*
- (c) *That the special conditions and circumstances have not resulted from actions of the applicant;*
- (d) *That granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor nonconforming use, of neighborhood lands, structures, or buildings under the same zoning shall be considered grounds for the issuance of a variance;*
- (e) *That the reasons set forth in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and,*
- (f) *That the granting of the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.*

In review of this application and the supported evidence provided by the applicant in the context of the following criteria listed above, the Board shall consider whether special conditions or circumstances exist that are unique to the property such that the literal interpretation of the regulation would deprive the applicant of a commonly enjoyed right, and if the granting of the variance to allow the finger pier to extend more than 25 feet into the waterway is the minimum required to make reasonable use of the land, that the granting of the variance is not the result of actions of the applicant, is not a special privilege, and does not create a circumstance that is injurious to the rights of the neighbors.

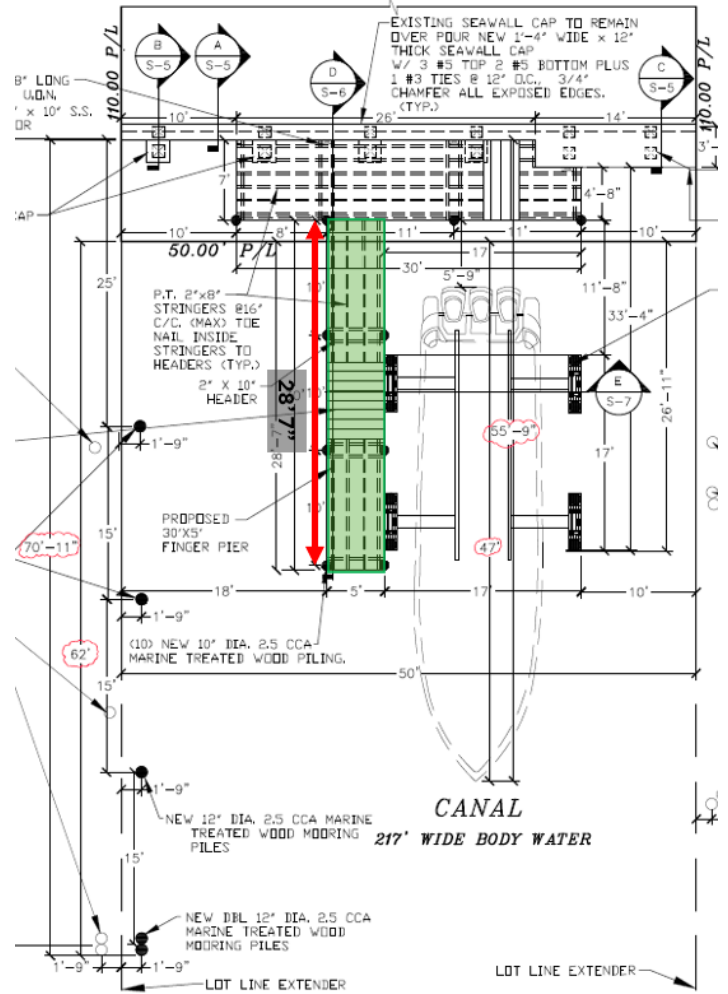
An analysis of the subject area and surrounding properties along the canal was completed. The properties to the east of the subject property have 60-foot wide lot widths fronting the waterway while the properties to the west are condos. A pattern has been established for the mooring of boats that can be viewed in the below aerial. The finger piers are located perpendicular to the seawall projecting out into the waterway with the boat tied to the finger pier or a boat lift attached to the finger pier allowing the docking of the vessel to be easily maneuvered into a perpendicular position rather than parallel to the seawall. This pattern is desirable for all the properties that have 60 feet wide or less frontage to the waterway to allow docking of a boat without interfering neighbors



visual access to the waterway and increasing the capacity to dock a boat for water front properties such as the condos.

The board shall consider the evidence provided by the applicant that the low water depth creates the need to extend further into the canal to allow safe mooring of the vessel. The ability to provide safe docking is not a special privilege and is instead an amenity commonly enjoyed by the surrounding waterfront properties. Furthermore, the intent of the docks and boat lift regulations is to allow construction of watercraft structures within the waterways in consideration of not causing hazardous interference with navigation, endanger life or property, or deny the public reasonable visual access to public waterways.

Given the overall width of the waterway, the granting of the variance will still provide 127 feet of waterway width for the general public to sufficiently navigate within the canal and would not impede the neighbors visual access to the waterway as the finger pier is directly in the middle of the subject property with 18-foot setback on the west side and 27-foot setback on the east side from adjoining properties. The proposed improvements are not anticipated to create any disruptions to safe navigability.



Boat Lift

LDR Section 2.1.7(E)(1)(c)(4), Board of Adjustment: Duties, powers, and responsibility

The Board hereby has the authority to grant variances and hear appeals from the following: Docks, Dolphins, Finger Piers, and Boat Lifts, Article 7.9, for single-family or duplex structures.

The requested relief is from Article 7.9 Standards of Approval, Docks, Dolphins, Finger Piers, and Boatlifts.

LDR Section 2.4.11(A), Relief: Variances

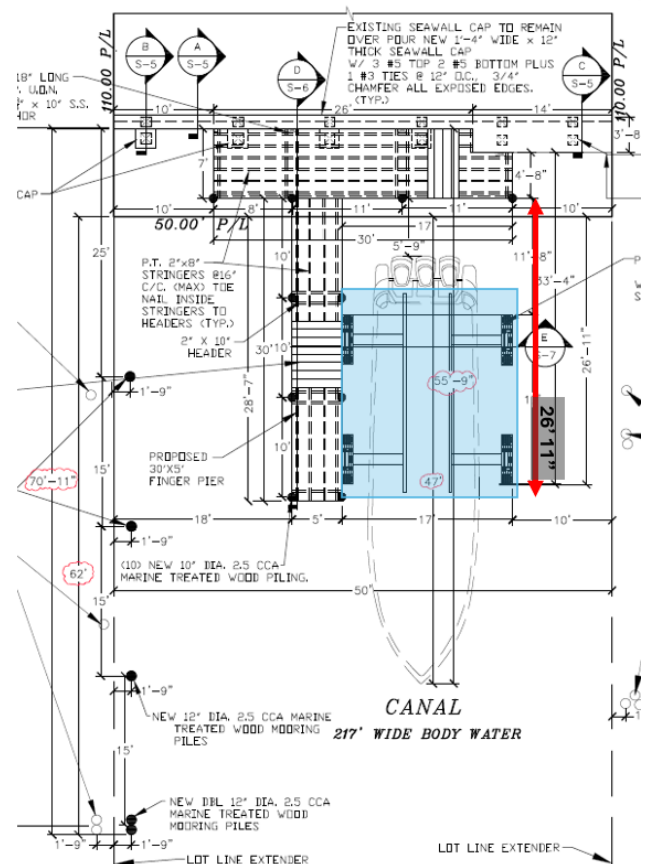
A variance is a departure from the dimensional or numeric requirements of these land development regulations where such variance will not be contrary to the public interest and where, owing to the existing conditions peculiar to the property and not the result of the actions of the landowner, a literal enforcement of the regulations would result in unnecessary and undue hardship.

LDR Section 2.4.11(A)(5) (a-f), Variance Findings, the following findings must be made prior to the approval of a variance:

- (a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings subject to the same zoning (The matter of economic hardship shall not constitute a basis for the granting of a variance);
- (b) That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning;
- (c) That the special conditions and circumstances have not resulted from actions of the applicant;
- (d) That granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor nonconforming use, of neighborhood lands, structures, or buildings under the same zoning shall be considered grounds for the issuance of a variance;
- (e) That the reasons set forth in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and,
- (f) That the granting of the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In review of this application and the supported evidence provided by the applicant in the context of the following criteria listed above, the Board shall consider whether special conditions or circumstances exist that are unique to the property such that the literal interpretation of the regulation would deprive the applicant of a commonly enjoyed right, and if the granting of the variance to allow the boat lift to extend more than 20 feet into the waterway is the minimum required to make reasonable use of the land, that the granting of the variance is not the result of actions of the applicant, is not a special privilege, and does not create a circumstance that is injurious to the rights of the neighbors.

While each request shall be considered on a case by case basis, the Standards of Approval in LDR Section 7.9., Docks, Dolphins, Finger Piers and Boatlifts, variances for such installations have become more commonly requested due to waterfront property owners buying larger



vessels, thereby requiring deeper depth at the low water levels along the Intracoastal waterway and water basins. Given the overall width of the waterway, the granting of the variance is not anticipated to conflict with or be detrimental to the existing neighborhood, as sufficient navigable room within the waterway remains, and the boat lift would not impede on the neighbors utilizing the waterway or the general public.

While the boat lift could be attached to the dock in a parallel location, thereby likely eliminating the need for a variance for the finger pier; however, parallel docks are more commonly utilized in narrower water channels. The need to extend the finger pier further than the LDR allows is to accommodate the boat lift perpendicular to the property to allow for safer mooring of the boat.

Staff has required the applicant to include the illustration of the boat on the plans to confirm that no portion of a vessel in a raised position lift shall encroach beyond the required 10-foot setback.

Dolphin

LDR Section 2.1.7(E)(1)(c)(4), Board of Adjustment: Duties, powers, and responsibility

The Board hereby has the authority to grant variances and hear appeals from the following: Docks, Dolphins, Finger Piers, and Boat Lifts, Article 7.9, for single-family or duplex structures.

The requested relief is from Article 7.9 Standards of Approval, Docks, Dolphins, Finger Piers, and Boatlifts.

LDR Section 2.4.11(A), Relief: Variances

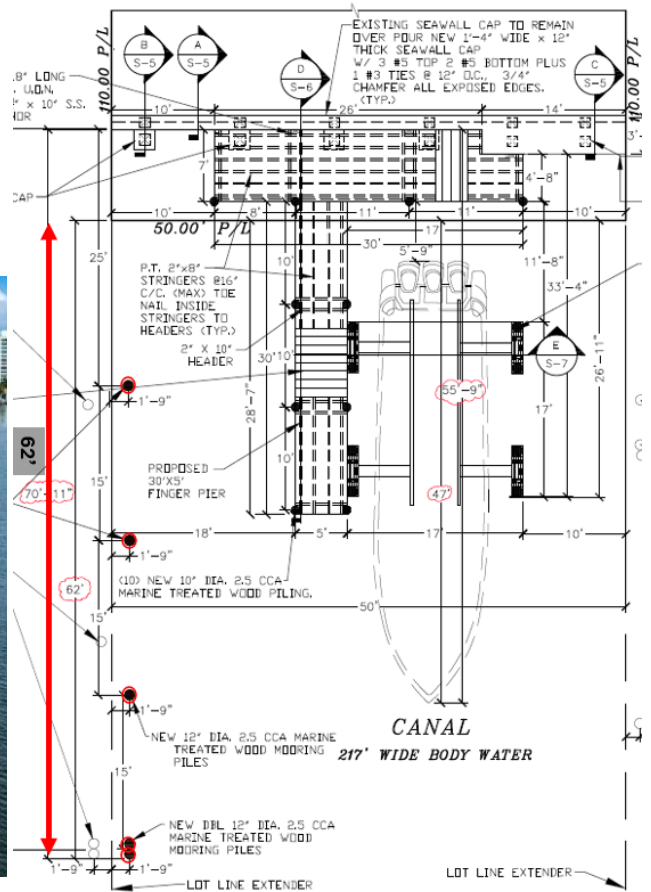
A variance is a departure from the dimensional or numeric requirements of these land development regulations where such variance will not be contrary to the public interest and where, owing to the existing conditions peculiar to the property and not the result of the actions of the landowner, a literal enforcement of the regulations would result in unnecessary and undue hardship.

LDR Section 2.4.11(A)(5) (a-f), Variance Findings, the following findings must be made prior to the approval of a variance:

- (a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings subject to the same zoning (The matter of economic hardship shall not constitute a basis for the granting of a variance);*
- (b) That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning;*
- (c) That the special conditions and circumstances have not resulted from actions of the applicant;*
- (d) That granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor nonconforming use, of neighborhood lands, structures, or buildings under the same zoning shall be considered grounds for the issuance of a variance;*
- (e) That the reasons set forth in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and,*
- (f) That the granting of the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.*

In review of this application and the supported evidence provided by the applicant in the context of the following criteria listed above, the Board shall consider whether special conditions or circumstances exist that are unique to the property such that the literal interpretation of the regulation would deprive the applicant of a commonly enjoyed right, and if the granting of the variance to allow the dolphins to extend more than 25 feet into the waterway is the minimum required to make reasonable use of the land, that the granting of the variance is not the result of actions of the applicant, is not a special privilege, and does not create a circumstance that is injurious to the rights of the neighbors.

Currently, there are existing dolphins on the adjacent property to the west extended 62 feet into the canal waterway. The proposed dolphins will not extend any further out that the existing dolphins by the neighboring property. The purpose of the dolphins is to assist in mooring and securing a vessel via rope to act as a stationary anchor for the vessel rather than drop an anchor into the water.



Optional Board Actions

Finger Pier

- A. Move **approval** of the Variance request for **384 Captains Walk** (2024-233) from LDR Section 7.9.7(C), to allow a finger pier to extend 28 feet, 7 inches from the property line into the C-15 canal, whereas a maximum of 25 feet is allowed, by finding that the request is consistent with the findings set forth in LDR Section 2.4.11(A)(5)(a-f).
- B. Move **denial** of the Variance request for **384 Captains Walk** (2024-233) from LDR Section 7.9.7(C), to allow a finger pier to extend 28 feet, 7 inches from the property line into the C-15 canal, whereas a maximum of 25 feet is allowed, by finding that the request is not consistent with the findings set forth in LDR Section 2.4.11(A)(5)(a-f).
- C. Move to **continue with direction**.

Boat Lift

- A. Move **approval** of the Variance request for **384 Captains Walk** (2024-233) from LDR Section 7.9.11(A), to allow a boatlift in the raised position to be located 26 feet, 11 inches from the property line, whereas a maximum of 20 feet is allowed, by finding that the request is consistent with the findings set forth in LDR Section 2.4.11(A)(5)(a-f),
- B. Move **denial** of the Variance request for **384 Captains Walk** (2024-233) from LDR Section 7.9.11(A), to allow a boatlift in the raised position to be located 26 feet, 11 inches from the property line, whereas a maximum of 20 feet is allowed, by finding that the request is not consistent with the findings set forth in LDR Section 2.4.11(A)(5)(a-f).
- C. Move to **continue with direction**.

Dolphins

- A. Move **approval** of the Variance request for **384 Captains Walk** (2024-233) from LDR Section 7.9.7(C), to allow four dolphins to extend up to 62 feet from the property line into the C-15 canal, whereas a maximum of 25 feet is allowed, by finding that the request is consistent with the findings set forth in LDR Section 2.4.11(A)(5)(a-f).

B. Move **denial** of the Variance request for **384 Captains Walk (2024-233)** from LDR Section 7.9.7(C), to allow four dolphins to extend up to 62 feet from the property line into the C-15 canal, whereas a maximum of 25 feet is allowed, by finding that the request is not consistent with the findings set forth in LDR Section 2.4.11(A)(5)(a-f).

C. Move to **continue with direction**.

Public Notice

Pursuant to **LDR Section 2.6.3(G)**, Notice in accordance with Section 2.6.2 (A), (B), (C), and (D) shall be provided prior to a Public Hearing.

LDR section	Date Posted
2.6.3(G) - Written notice provided to property owners within 500 feet	October 28, 2024
2.6.3(G) - Notice posted on the City's web page at least ten days prior	October 28, 2024
2.6.3(G) - Notice posted at City Hall	October 28, 2024
2.6.3(G) - Placard Notice	October 31, 2024