

**MINUTES
BOARD OF ADJUSTMENT
CITY OF DELRAY BEACH**

MEETING DATE: January 18, 2024

MEETING PLACE: City Commission Chambers

1. CALL TO ORDER

The meeting was called to order by Alek Hayes, Chair at 5:06 p.m.

2. ROLL CALL

A quorum was present.

Members Present: Alek Hayes, Chair, Richard Kasser, Vice Chair, Seth Mitchell, 2nd Vice Chair, Jesse Schloesser, Aura Ramirez and Brenda Cullinan.

Members Absent: None

Staff Present: William Bennett, Assistant City Attorney; Anthea Gianniotis, Development Services Director; Jennifer Buce, Planner; Julian Gdaniec, Senior Planner and, Diane Miller, Board Secretary.

3. APPROVAL OF AGENDA

Motion to approve the agenda of January 18, 2024, made by Richard Kasser and seconded by Brenda Cullinan.

Motion Carried 6-0

4. MINUTES

None.

5. ADOPTION OF BYLAWS

BOA Bylaws: Adoption of the updated BOA Bylaws, to be approved by the City Commission at an upcoming meeting. The update includes a modification to the time limit required to meet a quorum from 30 minutes to 15 minutes.

Motion to adopt the BOA Bylaws of 2024 made by Jesse Schloesser and seconded by Richard Kasser.

Motion Carried 6-0

6. SWEARING IN OF THE PUBLIC

Alek Hayes read the quasi-judicial rules for the City of Delray Beach and Ms. Miller swore to all who wished to give testimony.

7. COMMENTS FROM THE PUBLIC

None

8. Public Hearing Items

A. 227 Palm Trail (2024-027): Consideration of two variance requests to the Standards of Approval in Land Development Regulations (LDR) Section 7.9.7(C), to allow a finger pier to extend from the seawall 33 feet, three inches, whereas the extension is limited to a maximum of 25 feet; and Section 7.9.11(A), to allow a boatlift in the raised position to extend 38 feet, one inch from the seawall, whereas the extension is limited to a maximum of 20 feet.

Address: 227 Palm Trail

PCN: 12-43-46-16-09-000-0100

Property Owner: Thomas R Speno and Laura Speno

Authorized Agent: Matthew Scott, Esq., Greenspoon Marder,

Jennifer Buce, Planner, entered file 2024-027 into the record.

Exparte Communication

Jesse Schloesser-None

Alek Hayes-None

Richard Kasser-None

Seth Mitchell-None

Aura Ramirez-None

Brenda Cullinan-None

Applicant Presentation

Matthew Scott-Greenspoon Marder

Tyler Chappell-Chappell Group

Staff Presentation

Jennifer Buce, Planner, presented the project by means of a PowerPoint presentation.

Public Comments

Terrance Simmons representing Mr. and Mrs. Cane of 301 Palm Trail. Mr. Simmons spoke asking how the neighbor's property is any different than the Cane's. When the review of the variance request is on a case-by-case basis it tends to look like zoning changes.

Rebuttal/Cross Examination

Matthew Scott said that the concern is the property three homes away from the Speno's. That property has approximately a 40'-50' extension of land out into the waterway. I am not sure what issues they encountered for this dock, nor do I have data regarding the depths of the water around the area. The board is required to review the evidence that is presented here at this meeting. The neighbors have raised issue that everyone has this issue but there is no evidence to that, and it is a generalize statement.

Board Comments

Brenda Cullinan-No Comments

Richard Kasser-To clarify the pier and boat lift are moving. It is shown on the north end but moving to the south at the request of one of the neighbors, is this correct? Mr. Scott responded to say that is correct. Mr. Kasser stated that the property line is not a straight line, so the dimension of the drawing will remain the same. Mr. Scott said that the information is correct.

Alex Hayes asked is the depth a minimum depth for any boat. The boat lifts are designed by the draft need of the boat. Ms. Hayes commented that more and more we are getting these requests and is it because of the changing of the water level or the size of the boat? Mr.Chappell said that the size of the boat configures to the beams of the lift as each boat size has a different draft.

Seth Mitchell asked Mr. Chappell if he could speak about the wake zone and how that plays into the finger pier. Mr. Chappell said that the need for finger pier with this type of wake zone, its more for the orientation of the vessel and getting onto the vessel.

Aura Ramirez stated that there are similar boats of the same size that do not require this type of boat lift. Mr. Scott said that south of this property someone obtained a waiver in 2003 or 2007 extends out 50' but cannot comment on what all others did.

Anthea Gianniotis commented on Mr. Mitchell's question regarding how often this process happens with requesting a variance. The variance is with specific conditions on a specific property and your right to access the waterway, how wide the cannal is, the safety of the vessel and all are case by case.

Mr. Mitchell asked Mr. Simmons if he could specifically state what type of aggrievement your clients would have if this variance was to be granted? Mr. Simmons said that it will be out of character of the neighborhood, but the other neighbors make it work. It is also going to block the downstream view of the property.

Jesse Schloesser asked referencing one of the pictures and the depths of the water near the property, do they all have boat lifts? Mr. Scott could not comment on that.

Brenda Cullinan asked if any of the neighbors have an issue with this boat lift? Mr. Scott

said that he spoke to the neighbors on either side of 227 Palm Train, and they wrote letters of support.

Richard Kasser commented that none of the docks had a boat on the lifts and Mr. Simmons agreed that the time he was at the properties there was not any boats on the lifts.

Alek Hayes confirmed with staff that the 30-foot front setback was measured along Enfield Road and noted that swimming pools require a 10-foot setback in both the rear and interior side yards. Ms. Hayes also mentioned that neighboring properties with similar lot layouts have installed pools without needing a setback. She inquired about the Land Development Regulations regarding tree removal and whether mitigation would be necessary. Staff indicated that an analysis would be required to determine if mitigation is needed.

MOTION to deny the Variance request for 227 Palm Trail (2024-027 VAR-BOA) from LDR Section 7.9.7(C) to allow a finger pier to extend from the seawall 33 feet and three inches whereas 25 feet is permitted.by finding that the request is consistent with the findings set forth in LDR Section 2.4.11(A)(5)(a-f).made by Jesse Schloesser and seconded by Aura Ramirez.

MOTION DENIED 6-0

*Pursuant to LOR Section 2.2.4(0)(8), all decisions of the Board of Adjustment are final. Based on the entire record before it, the Board of Adjustment **DENIED X** the variance solely for the purposes as presented at the meeting. The Board of Adjustment adopts this Order on this 18th day of January 2024.*

MOTION to deny the Variance request for 227 Palm Trail (2024-266 VAR-BOA) Section 7.9.11(A); to allow a boatlift in the raised position to extend 38 feet and one inch from the seawall whereas 20 feet is permitted.by finding that the request is consistent with the findings set forth in LDR Section 2.4.11(A)(5)(a-f) made by Jesse Schloesser and seconded by Aura Ramirez.

MOTION DENIED 6-0

*Pursuant to LOR Section 2.2.4(0)(8), all decisions of the Board of Adjustment are final. Based on the entire record before it, the Board of Adjustment **DENIED X** the variance solely for the purposes as presented at the meeting. The Board of Adjustment adopts this Order on this 18th day of January 2024.*

B. 825 SE 7th Avenue (2024-028): Consideration of a variance request to LDR Section 7.9.11(B), Boat Lifts, to reduce the setback for a jet ski lift with the vessel in its raised position from a minimum of 10 feet to four feet, two inches on the west and zero feet on the east.

Address: 825 SE 7th Avenue

PCN: 12-43-46-21-04-004-0180

Property Owner: Robert M Figliulo Family Gift Trust

Authorized Agent: Akbar Mundal - Boat Lifts and Docks of South Florida

Planner: Julian Gdaniec, Senior Planner; gdaniecj@mydelraybeach.com

Julian Gdaniec, Senior Planner, entered file 2024-028 into the record.

Jesse Schloesser step down knowing the applicant and would be bias.

Exparte Communication

Jesse Schloesser-None

Alek Hayes-None

Richard Kasser-None

Seth Mitchell-None

Aura Ramirez-None

Applicant Presentation

Rob Figliulo-Owner

Staff Presentation

Julian Gdaniec, Senior Planner, presented the project by means of a Microsoft PowerPoint presentation.

Public Comments

Gene Percudani, 710 SE 8th Street-I don't think this is a hardship but a desire of the homeowner.

Robert Sparks, 839 SE 7th Avenue-I have no objections to the dock.

Randall Seller, 708 8th Ct.-No objections to the dock, but what they are presenting is a deck image.

Carlos Cavanagh, 907 SE 75th Avenue-Concerned about the president that this dock will show.

Rebuttal/Cross Examination

Rob Figliulo, 825 SE 7th Avenue-Owner-I am trying to have a dock for the jet skis for my visiting family and to co-exist with my neighbors.

Akbar Mundal, Boat Lifts and Docks of South Florida-Mr. Mundal gave more details regarding the structure and movement of the dock.

Board Comments

Aura Ramirez-Are there other options for platforms:

Julian Gdaniec-I am sure there are other platforms, but at this time I do not have more information.

Seth Mitchell-What is the Army Corp approval with this dock. Mr. Gdaniec explained that the Army Corp of Engineers and the Department of Environmental Protection reviews are required with any structural element that extends into the waterway. Mr. Mitchell asked for set back provisions in the law and riparian rights.

Mr. Bennett explained that these are independent rights and riparian rights do not talk about setbacks. Ms. Gianniotis added and explained that navigating and the use of the open waterway but does not overshadow the placement standards for the structure you are attaching to the land.

Richard Kasser-Has this platform been used someplace else in the City. Mr. Figliulo commented that there was another one that went to the Commission. Ms. Gianniotis said that platform was for a much larger piece of property.

Seth Mitchell-Is the 7000sq.ft dock the minimum for this area. Mr. Figliulo said it depends on the weight of jet skis.

MOTION to deny the Variance request for 825 SE 7th Avenue (2024-028) from to LDR Section 7.9.11(B), Boat Lifts, to reduce the setback for a jet ski lift with the vessel in its raised position from a minimum of 10 feet to four feet, two inches on the west and zero feet on the east, by finding that the request is not consistent with the findings set forth in LDR Section 2.4.11(A)(5)(af) made by Aura Ramirez and seconded by Seth Mitchell.

MOTION DENIED 4-1

Dissenting Richard Kasser

*Pursuant to LOR Section 2.2.4(0)(8), all decisions of the Board of Adjustment are final. Based on the entire record before it, the Board of Adjustment **DENIED X** the variance solely for the purposes as presented at the meeting. The Board of Adjustment adopts this Order on this 18th day of January 2024.*

Jesse Schloesser rejoined the meeting.

9. Reports and Comment

A. City Staff

Next meeting is February 1, 2024.

B. Board Attorney

No Comments

C. Board Members

Seth Mitchell asked regarding the last meeting, the potential for amending the law to allow a motion for a re-hearing or reconsideration before an applicant would go to the Civil Circuit

Court. I would be for that discussion.

Mr. Bennett asked that this request was not for a specific application but thoughts that this appellate process should following City Commission pathway before proceeding to Circuit Court. Mr. Bennett also read from the local rules to be specific to the board for their understanding. Motion for reconsideration should only be used and considered if there is evidence that would have made substantial difference and if the evidence arose after the decision.

10. ADJOURN

There being no further business to come before the Board, the meeting was adjourned at 7:30pm.

The undersigned is the Secretary of the Board of Adjustments and the information provided herein is the Minutes of the meeting of said body for **January 18, 2024**, which were formally adopted and APPROVED by the Board on _____.

ATTEST:

CHAIR



BOARD SECRETARY

NOTE TO READER: If the Minutes you have received are not completed as indicated above, then this means that these are not the official Minutes of the Board of Adjustments. They will become official minutes only after review and approval, which may involve some amendments, additions or deletions.