

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

MEETING DATE: July 7, 2022

MEETING PLACE: City Commission Chambers

1. CALL TO ORDER

The meeting was called to order by Garland Williams (Chairman) at 5:06 p.m.

2. ROLL CALL

A quorum was present.

Members present: Garland Williams (Chairman), Robert Cohen (Vice Chairman), Vlad Dumitrescu (2nd Vice Chairman), Alek Hayes and Carol Fredericks.

Member absent: Alexander Candia, Scott Clark

Staff Present: Kelly Brandon, Asst. City Attorney, Scott Pape, Development Permit Manager, Julian Gdaniec, Senior Planner, Peter Martinek, Administrative Office Coordinator and Diane Miller, Board Secretary.

3. APPROVAL OF AGENDA

Motion to approve the agenda of July 7, 2022, was made by Robert Cohen and seconded by Vlad Dumitrescu.

MOTION CARRIED 5-0

4. MINUTES

Motion to approve minutes for April 7, 2022, was made by Robert Cohen and seconded by Alek Hayes.

MOTION CARRIED 5-0

5. SWEARING IN OF THE PUBLIC

Garland Williams read the quasi-Judicial Rules for the City of Delray Beach and Ms. Miller swore in all who wished to give testimony.

6. COMMENTS FROM THE PUBLIC

None

NOTE: Comments on items that are NOT on the Agenda will be taken immediately prior to Public Hearing Items. Speakers will be limited to 3 minutes.

7. QUASI-JUDICIAL ITEMS

Both 7A & 7B will be presented at the same time.

A. 917 Bucida Road Unit C (2022-152): Consideration of a variance request to allow the finger pier to extend more than the allowed 25 feet into the waterway from the extended property line or seawall or bulkhead, whichever is nearer to the waterway. The proposal is to extend the finger pier an additional ten feet from the existing twenty-five-foot finger pier.

Address: 917 Bucida Road Unit C

PCN: 12-43-46-21-87-000-0030

Owner: Denise and Martin C. Maxwell; maxwellcraig727@gmail.com

Planner: Jennifer Buce; buce@mydelraybeach.com

Consideration of a variance request to allow a car to be parked in the front setback.

Address: 2138 SW 12th Court

PCN: 12-43-46-19-02-002-0130

Owner: Patrick Fitzgerald; fitzgearl@hotmail.com

B. 917 Bucida Road Unit D (2022-153): Consideration of a variance request to allow the finger pier to extend more than 25 feet into the waterway from the extended property line or seawall or bulkhead, whichever is nearer to the waterway. The proposal is to extend the finger pier an additional ten feet from the existing twenty-five-foot finger pier.

Address: 917 Bucida Road Unit D

PCN: 12-43-46-21-87-000-0040

Owner: Jacob and Kathleen Colburn; jacobcolburn2@gmail.com

Planner: Jennifer Buce; buce@mydelraybeach.com

Scott Pape, Development Permit Manager entered file #2022-152 and 2022-153 into the record. Both items were presented at the same time.

Exparte

Garland Williams- Received public comment emails.

Robert Cohen- Received public comment emails.

Alek Hayes- Received public comment emails.

Carol Fredericks- Received public comment emails.

Vlad Dumitrescu - Received public comment emails.

Applicant Presentation

Craig Maxwell-917 Bucida Road, Unit C. Mr. Maxwell is also representing the property owner for Unit D.

Staff Presentation

Scott Pape, Development Permit Manager presented the project by means of a PowerPoint presentation.

Public Comments

Lolly Hansen-1026 Carolina-By extending the pier will limit the public access into the intercoastal. Also extending the pier will cause trash to build up.

Rebuttal/Cross

Mr. Maxwell commented on the trash build up, but anything there is cleaned up.

Board Comments

Garland Williams-Is there a need for the Army Corps of Engineer to approve? Mr. Maxwell that no approval needed but a permit needs to be pulled from the Building Department.

Vlad Dumitrescu-Is there any limit on how big the boat can be? Mr. Maxwell said that the boat size is relative to the size of the pier.

Alex Hayes-Asked what property/resident oppose the project. Mr. Maxwell said that it is far enough away that they do not see the pier. Ms. Hayes also ask staff how we came up with the 25 ft. LDR limit on the piers. Mr. Pape was not clear of the regulations.

Vlad Dumitrescu-Maybe a potential of amending the LDR to increase permissible length of a doc.

Alex Hayes-What is the distance between the dock and the public access. Mr. Maxwell replied that is 5 ft.

Kelly Brandon, Asst. City Attorney read into the record the board orders.

MOTION to approval of the variance request for 917 Bucida Rd Unit C (2022-152 VAR-BOA) from LDR Section 7.9.7(C), to allow a finger pier to extend ten feet beyond the twenty-five-foot maximum distance permitted into the waterway, by finding that the request is consistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5). was made by Robert Cohen and seconded by Alex Hayes.

MOTION CARRIED 5-0

MOTION to approval of the variance request for 917 Bucida Rd Unit D (2022-153 VAR-BOA) from LDR Section 7.9.7(C), to allow a finger pier to extend ten feet beyond the twenty-five-foot maximum distance permitted into the waterway, by finding that the request is consistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5) was made by Robert Cohen and seconded by Alex Hayes.

MOTION CARRIED 5-0

*Pursuant to LDR Section 2.2.4(D)(8), all decisions of the Board of Adjustment are final. Based on the entire record before it, the Board of Adjustment **approves** X the variance solely for the purposes as presented at the meeting. The Board of Adjustment adopts this Order this 7th day of July 2022.*

C. 302 SE 5th Street (2022-186): Consideration of a variance request to allow a pool to encroach two feet five inches into the side interior setback whereas ten feet is required.

Address: 302 SE 5th Street

PCN: 12-43-46-21-01-005-0010

Applicant/Agent: PJB Real Estate LLC; Stuart and Shelby; chuckh@stuartandshelby.com

Planner: Jennifer Buce; buce@mydelraybeach.com

Scott Pape, Development Permit Manager, entered file #2022-186 into the record.

Exparte

Garland Williams- None

Robert Cohen- None

Alek Hayes- None

Carol Fredericks- None

Vlad Dumitrescu - None

Applicant Presentation

Chuck Halberg, 1116 SW 10th Ave, Delray Beach, Florida

Staff Presentation

Scott Pape, Development Permit Manager presented the project by means of a PowerPoint presentation.

Public Comments

Gary Eliopoulos, 1227 Crestwood Drive, Delray Beach, Florida-It was stated that the City wide 10 ft. setback should not apply to all lots, they should consider special circumstances.

Rebuttal/Cross

Churck Halberg, an error by the architect caused the pool to be built in the setback.

Board Comments

Garland Williams-Has there been any communications with the neighbor? Yes, there has been conversations.

Alex Hayes-Has a 46 ft lot width considered a non-conformity. Mr. Pape said that is correct. Ms. Hayes also asked wasn't a variance already received to allow the building.

Mr. Pape said that they received a waiver to build on a lot that was less than 50 ft. wide.

Robert Cohen-Asked for clarification that the front of the house will be on 5th Street. Also, what is the material for pool barrier. Mr. Halbert said it would be chain link.

Kelly Brandon, Asst. City Attorney read into the record the board orders.

MOTION to approval of the Variance request for 302 SE 5th Street (2022-186-VAR-BOA) from LDR Section 4.6.15(G)(1) to allow the swimming pool to encroach into side interior setback by finding that the request is consistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5) made by Robert Cohen and seconded by Alex Hayes.

MOTION CARRIED 5-0

*Pursuant to LDR Section 2.2.4(D)(8), all decisions of the Board of Adjustment are final. Based on the entire record before it, the Board of Adjustment **approves** X the variance solely for the purposes as presented at the meeting. The Board of Adjustment adopts this Order this 7th day of July 2022.*

D. 1227 Crestwood Drive, Variance (2022-173) A request from Land Development Regulation (LDR) Section 4.3.4(K), Development Standards Matrix, to allow a front setback of 25 feet instead of the minimum required 35 feet.

Address: 1227 Crestwood Drive

PCN: 12-43-46-09-35-000-0111

Authorized Agent: Gary P. Eliopoulos, GE Architecture, Inc.; gary@eliarch.com

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

Julian Gdaniec, Senior Planner, entered file #2022-173 into the record.

Exparte

Scott Clark-No

Robert Cohen- No

Alek Hayes- No

Carol Fredericks- No

Vlad Dumitrescu-No

Garland Williams-No

Julian Gdaniec, Senior Planner entered file #2022-072 into the record.

Applicant Presentation

Gary Eliopoulos, GE Architecture, Inc., 1045 E. Atlantic Avenue, Delray Beach, Fl.

Christopher Caywood, 1227 Crestwood Drive, Delray Beach, Fl.

Staff Presentation

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

Public Comments

Kathy Ordonez, 702 N. Ocean Blvd., Delray Beach, Fl.-Supportive of variance, but contractor parking is posing dangerous conditions for residents.

Rebuttal/Cross

Gary Eliopoulos, GE Architecture, Inc. – Asked if there was and public comment/emails. Staff was aware to give copies to the applicant.

Board Comments

Robert Cohen asked when the requirement in the LDR's required the 8 ft. dedication compared to when the owner of the property moved in. Should have the owner known about the 8 ft ROW for the City. Mr. Gdaniec responded that the project was getting formulated, the owners became aware of this ROW.

Kelly Brandon, Asst. City Attorney read into the record the board orders.

MOTION to move approval of the variance requests (2022-173-VAR-BOA) (LDR) Section 4.3.4(K), Development Standards Matrix, to allow a front setback of 25 feet instead of the minimum required 35 feet. for the property located at 1227 Crestwood Drive, by finding that the request is consistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5) made by Carol Fredericks and seconded by Robert Cohen.

MOTION CARRIED 5-0

Pursuant to LDR Section 2.2.4(D)(8), all decisions of the Board of Adjustment are final. Based on the entire record before it, the Board of Adjustment **approves** X the variance solely for the purposes as presented at the meeting. The Board of Adjustment adopts this Order this 7th day of July 2022.

8. Reports and Comments

A. Staff Comments-Next meeting is August 4, 2022.

Vlad Dumitrescu-He questioned the meaning of 2.4.7(A)(5)(a-f)-"minimum variance requirement". Kelly Brandon said this a LDR requirement and to change it would have to be an amendment to the ordinance, but to understand it would be to get the variance as close to as you can.

B. Attorney Comments-None

C. Board Comments-None

9. ADJOURN

There being no further business to come before the Board, the meeting was adjourned at 7:09 PM

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 **July 7, 2022**, 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.