

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

**MEETING DATE:** April 7, 2022

**MEETING PLACE:** City Commission Chambers

**1. CALL TO ORDER**

The meeting was called to order by Garland Williams (Chairman) at 5:01 p.m.

**2. ROLL CALL**

A quorum was present.

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

**Member absent:** Alexander Candia

**Staff Present:** Kelly Brandon, Asst. City Attorney, Scott Pape, Principal Planner, Julian Gdaniec, Senior Planner, Rachel Falcone and Diane Miller, Board Secretary.

**3. APPROVAL OF AGENDA**

**Motion** to approve the agenda of April 7, 2022, was made by Robert Cohen and seconded by Carol Fredericks.

**MOTION CARRIED 6-0**

**4. MINUTES**

None

**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**

**A. 2138 SW 12<sup>th</sup> Court (2022-116):** 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

Planner: Jennifer Buce; [buce@mydelraybeach.com](mailto:buce@mydelraybeach.com)

### **Ex parte**

Garland Williams- No

Robert Cohen- No

Scott Clark- No

Alek Hayes- No

Carol Fredericks- No

Vlad Dumitrescu - No

Jennifer Buce, Planner entered file #2022-116 into the record.

### **Applicant Presentation**

Patrick Fitzgerald, Owner of property.

### **Staff Presentation**

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

### **Public Comments**

None

### **Rebuttal/Cross**

None

### **Board Comments**

Robert Cohen asked to get clarification about the 2 parking spaces for a 2-car garage. When I google this, it seems there is only 1 car garage or a carport. Jen Buce explained that back in 1961 family lifestyle was much different and only had one car at this time. So, a 1 car garage and a carport were sufficient. Until an LRD text amendment is completed the board will keep seeing these variances come before you.

Carol Fredericks asks if the applicant could have different driveway material as this could cause a drainage problem. Jen Buce clarified that if the owners did use the gravel for parking, not sure that it would be approved by permitting, and then they would be right back here in front of the board.

Vlad Dumitrescu said that in the future the code needs to be looked at as these problems will continue to come to the board.

Kelly Brandon stated that the only thing the board is deciding is whether they meet the standards for the variance to allow parking in the setback.

**MOTION** the denial of the Variance request for 2138 SW 12th Court (2022-116-VAR-BOA) from LDR Section 4.6.9(C)(2) to allow parking in the front setback by finding that the request is inconsistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5). was made by Carol Fredericks and seconded by Alek Hayes.

**MOTION DENIED 6-0**

*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 denies X the variance solely for the purposes as presented at the meeting. The Board of Adjustment adopts this Order this 7<sup>th</sup> day of April 2022.*

**b. 335 SE 7th Avenue (2022-070)** Consideration of a variance request to allow the boat lift in the raised position to extend more than 20 feet into the waterway from the property line or seawall or bulkhead, whichever is nearer to the waterway. The proposal is to remove a portion of the existing dock running parallel to the property and add a boat lift to the existing dock that extends twenty-nine feet into the waterway in the raised position.

Address: 335 SE 7th Avenue

PCN: 12-43-46-16-C7-000-0030

Agent: Christina Bilenki; cbilenki@dmbblaw.com

Planner: Jennifer Buce; [buce@mydelraybeach.com](mailto:buce@mydelraybeach.com)

**Ex parte**

Scott Clark-His company uses the applicant attorneys.

Robert Cohen- No

Alek Hayes- No

Carol Fredericks- Drove by, received an email from Mr. Costello and spoke with him.

Vlad Dumitrescu-No

Garland Williams-No

Jen Buce, Planner entered file #2022-070 into the record.

**Applicant Presentation**

Christina Bilenki -Dunay, Miskel, and Backman Attorney-Representing the applicant.

**Staff Presentation**

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

**Public Comments**

None

**Rebuttal/Cross**

None

### **Board Comments**

Robert Cohen asked if when the boat was not being used would it be in the water on the finger pier or would it be on a boat lift? Christina Bilenki said that the boat when not being used would be on the boat lift.

Vlad Dumitrescu-Is the boat lift part of the property? Christina Bilenki commented that this can protrude to the highest part of the water. Kelly Brandon added that the City of Delray has regulations on boat docks.

**MOTION** to approve the variance request for 335 SE 7th Avenue (2022-070 VAR-BOA) from LDR Section 7.9.11(A), to allow a boat lift to extend nine feet beyond the 20-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 APPROVED 6-0**

*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 denies the variance solely for the purposes as presented at the meeting. The Board of Adjustment adopts this Order this 7th day of April 2022.*

**c. 1221 Laing Street, Variance (2022-072)** A request to consider the encroachment of a pool into a street side setback area more than is allowable by code.

Address: 1221 Laing Street

PCN: 12-43-46-16-A8-004-0080

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

Planner: Julian Gdaniec, Senior Planner; [gdaniecj@mydelraybeach.com](mailto:gdaniecj@mydelraybeach.com)

### **Ex parte**

Scott Clark-No

Robert Cohen- No

Alek Hayes- No

Carol Fredericks- No

Vlad Dumitrescu-No

Garland Williams-No

**Alex Hayes-STEP DOWN as she worked for Mr. Eliopoulos and familiar with the project.**

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

Kelly Brandon stated to Mr. Weinberg, applicant, and owner that as there is only 5 members on the board because of a conflict we want to give you the opportunity as you do have to have a super majority which is 5 board members, so we extend the courtesy if you would like to proceed.

Mr. Weinberg conferred with Mr. Eliopoulos and chose to proceed.

### **Applicant Presentation**

Max Weinberg-2001 NE 6<sup>th</sup> Avenue-Applicant

**Staff Presentation**

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

**Public Comments**

None

**Rebuttal/Cross**

None

**Board Comments**

Robert Cohen asked if there were setbacks for the wall and Mr. Gdaniec replied that no there is not.

Garland Williams thanked the applicant for a great presentation and that this is a great project.

**MOTION** to move approval of the variance request (2022-072-VAR-BOA) from LDR Section 4.6.15(G)(1) to allow a pool to extend into a street side setback area, maintaining a setback less than the minimum required 10 feet to instead allow a setback of 2'2" for the property located at 1221 Laing Street, 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 Scott Clark.

**MOTION APPROVED 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~~ denies the variance solely for the purposes as presented at the meeting. The Board of Adjustment adopts this Order this 7th day of April 2022.

**Alex Hayes returned to the meeting.**

**D. 219 Palm Trail (2022-115):** Consideration of variance requests from Land Development Regulation (LDR) Section 7.9.7(C) and LDR Section 7.9.11(A), to allow a finger pier to extend 13 feet two inches beyond the 25-foot maximum distance permitted and to allow a boat lift to extend 15 feet beyond the 20-foot maximum distance permitted into the waterway.

Address: 219 Palm Trail

PCN: 12-43-46-16-09-000-0090

Agent: The Chappell Group, INC.: [kathryn@thechappellgroup.com](mailto:kathryn@thechappellgroup.com)

Planner: Rachel Falcone: [FalconeR@mydelraybeach.com](mailto:FalconeR@mydelraybeach.com)

**Ex parte**

Scott Clark-Letter

Robert Cohen- Letter

Alek Hayes- Letter

Carol Fredericks- Letter

Vlad Dumitrescu-Letter  
Garland Williams-Letter  
Alex Hayes-Letter

Rachel Falcone, Planner entered file #2022-115 into the record.

**Applicant Presentation**

Matthew Scott- Dunay, Miskel, and Backman Attorney-Representing the applicant.  
Tyler Chappell-Environmental Consultant  
Kathryn Bongazone-Chappell Group

**Staff Presentation**

Rachel Falcone, Planner presented the project by means of a PowerPoint presentation.

**Public Comments**

Eric Platero-209 Palm Trail-Mr. Platero lives south of the property and submitted photos of the project and the exiting dock. He was approached by the owners to sign a letter approving their changes. Mr. Platero was opposed

Marty Perry-4500 PGA Blvd. Palm Beach Gardens-Representing Mr. Platero.  
Attorney Brandon stated to Mr. Perry that he and Mr. Platero were incorporating their three minutes together. The board made a motion to extend the time for Mr. Perry by Carol Fredericks and seconded by Alek Hayes. **MOTION CARRIED 6-0**

**Rebuttal/Cross**

Staff-None

Applicant-Matthew Scott-Mr. Scott is not litigating with the neighbor just to go over and clarify information.

**Board Comments**

Robert Cohen asked if there was a technical reason to move the dock south? Mr. Chappell commented that moving the dock south was due to renovation of the house.

Carol Fredericks-Can the dock be constructed where it is now? Mr. Chappell replied that with the current configuration, yes, the finger pier and the boat lift anywhere up and down the sea wall, but due to access you want it to the closes point.

Garland Williams-Permits with the Army Corp of Engineers are pending? Mr. Chappell said the sea wall is permitted and pending applications for the finger pier and the boat lift.

Robert Cohen-Concerned and confused regarding the position of the pier and lift.  
Kelly Brandon -With a recommendation to have direction with a date certain so that the applicant can bring back a application with their new drawings. When we continue with directions, we like to give applicant the benefit to make a decision of whether they want continue with direction or a vote.

**MOTION** to continue with direction with a date certain of May 5, 2022. was made by Robert Cohen and seconded by Alex Hayes.

**MOTION APPROVED 6-0**

**8. Reports and Comments**

- A. Staff Comments-Next meeting is May 5, 2022.
- B. Attorney Comments
- C. Board Comments-None

**9. ADJOURN**

There being no further business to come before the Board, the meeting was adjourned at 7:45 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 April 7, 2022, which were formally adopted and **APPROVED** by the Board on JUNE 16, 2022.

**ATTEST:**

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**CHAIR**

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**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.