

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

MEETING DATE: November 7, 2024

MEETING PLACE: City Commission Chambers

1. CALL TO ORDER

The meeting was called to order by William Bennett, Assistant City Attorney, at 5:01p.m.

2. ROLL CALL

A quorum was present.

Members Present: Richard Kasser, John DeLacio, Brenda Cullinan, Jesse Schloesser, Mark Ronald, Alek Hayes

Members Absent: Tiana Morales

Staff Present: William Bennett, Assistant City Attorney; Madison Brown, Development Permit Manager, Alexia Howald, Senior Planner and Diane Miller, Board Secretary.

3. APPROVAL OF AGENDA

Approval of the agenda will become Item 3.

Election of Officers will become Item 4.

Motion to approve the amended agenda of November 7, 2024, made by Richard Kasser and seconded by Brenda Cullinan.

Motion Carried 6-0

4. ELECTION OF OFFICERS

William Bennett announced that the next item on the agenda will be Election of Officers and announced the process of electing officers.

Motion made by Alek Hayes to nominate Richard Kasser as Chair and Seconded by John DeLacio

Motion Carried 6-0

Motion made by Richard Kasser to nominate John DeLacio as Vice Chair and Seconded by Brenda Cullinan

Motion Carried 6-0

Motion made by Richard Kasser to nominate Brenda Cullinan as 2nd Vice Chair and
Seconded by John DeLacio

Motion Carried 6-0

5. MINUTES

None

6. SWEARING IN OF THE PUBLIC

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

7. COMMENTS FROM THE PUBLIC

None

8. PUBLIC HEARING ITEMS

A. 384 Captains Walk (2024-233): Consideration of three variance requests from Land Development Regulations (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.

Address: 384 Captains Walk

PCN: 12-43-46-33-15-000-0050

Property Owner: RTRI FL1, LLC

Authorized Agent: David F. Milledge, Miskel Backman, LLP;

dmilledge@miskelbackman.com

Planner: Alexia Howald, Senior Planner; howalda@mydelraybeach.com

Alexia Howald, Senior Planner, entered project file 2024-233 into the record.

Exparte Communication

None

Applicant Presentation

Christina Bilenki, Miskel Backman, LLP cbilenki@miskelbackman.com

Staff Presentation

Alexia Howald, Senior Planner; HowaldA@mydelraybeach.com

Public Comments

Michael Isemam - resident of Delray Beach, west of 384 Captains Walk.

Mr. Isemam said that he must pass by the pilings and that he is concerned that there will not be any limitation on the size of the vessel that will be able to dock there. He continued by saying there is a rumor that there will be a 65-foot boat proposed.

Rebuttal/Cross Examination

None

Staff Comments

Alexia Howald did not have a rebuttal, but she said that she wanted to state that there are more requests coming in for these kinds of things. Staff had requested that there be an illustration of the boat on the diagram for the reason that there is a required 10-foot separation to be maintained from the property line to the boat lift.

Christina Bilenki then spoke in agreement with Ms. Howald, by stating that the illustration of the boat is of the largest boat possible that would fit in the lift.

Board Comments

Jesse Schloesser commented that he feels that there was clarity with the regulations regarding the boat impeding out further than is allowed.

Ms. Howald responded that it is within the boat lift section, there is a 10-foot separation or a side setback allowance for a building in a zoning district. She continued by saying in this case this is a zero-lot line development. With a zero-lot line it is either zero or 10 feet, or whatever the plan had at the time, therefore, the requirement is 10 feet or greater.

John DeLacio then asked if the setback applies to all boundaries or only the side.

Ms. Howald responded that it is only the side.

Jesse Schloesser continued by asking if there was not a dock or a lift currently on the property would it stop a 100-foot boat from docking.

John DeLacio asked Mr. Bennett, if there is any city code that addresses boat size or how boats are docked, adding or does the city limits end at the waterway. Mr. Bennett responded he doesn't think there is a specific land development regulation that prohibits or limits the size of the boat from an extension outwards to the canal perspective.

Mr. DeLacio then continued by saying that he is an engineer but does not know the center of mass of a boat. He then said that based on where the lift is positioned, he failed to see a boat that would fit in the lift at that position and asked how the minimum dimension was decided. Ms. Bilenki said that the dimensions came from engineers that are experts in building docks. She continued by saying a boat lift needs sufficient space to not have conflicts with the sea walls and the dock. They deemed it appropriate based on their experience. Mr. DeLacio concluded by saying that he does not feel the board should set a limit on a boat and that it should be held to the water district.

Brenda Cullinan then asked Ms. Bilenki if there were any neighbors that had any issues with this possibly going in. Ms. Bilenki responded that she had spoken with the neighbors immediately east of the applicant.

Mark Ronald then commented that he is an engineer and had worked for a company that works on boats for the military. He said that he has some knowledge in this category. He said that he was assuming the reason there was not a dock or lift there before the purchaser bought the house three years ago was because of the limitations to the water. Mr. Ronald continued; he feels that the purchaser was aware of the limitations at the time of the purchase. He feels that the LDR is there for that reason. He said he understood the reason for the dolphins going out, but he said he does not understand the lift going from 20 feet on the lift to 26 feet 11 inches, unless someone had a boat in mind that will not fit on a 20-foot lift. Mr. Ronald then referred to the images provided and said it does not seem that there are many boat lifts or piers that are extending out that far.

Ms. Bilenki commented that she is not exactly certain to why the lift is positioned in this instance, if needed she would be happy to bring the engineer to the next meeting. She said that regarding the finger pier, she does know that it does have to go slightly past the boatlift which is to ensure people can walk along it and to safely moor the boat. Mr. DeLacio then spoke about the distance in the setback of the neighbor's property and how it is important when talking about special conditions and circumstances.

Richard Kasser then spoke in continuation to Mr. DeLacio and remarked that the property immediately east and going down there are multiple lifts that extend 40 feet from the property line, the one next door is a 40-foot extension.

Mr. Kasser then continued by asking if there has been a submission for the South Florida Water Management District Permit. Ms. Bilenki answered by saying that she believes that it has been submitted and in the process.

Mr. Kasser then asked about the boat shown in the illustration if it was similar to the owner's.

Ms. Bilenki responded that the boat in the illustration is the largest boat that will fit on the 40,000lb boat lift.

Mr. Kasser then asked Mr. Bennett if the board had a limitation on the boat passing the dolphins, how that would be enforced as this would be a permit condition. Mr. Bennett responded that the LDR states that if there is a violation of the variance it would be deemed a violation of existing ordinances and is punishable under section 1.44.

Mr. Kasser then asked if the applicant would be ok with the type of restriction. Ms. Bilenki responded that she does not think that would be an issue.

Mr. Ronald then asked for clarification about the neighbors that were noticed and wanted to know if there was a response from any of them. Staff confirmed there was no response from the neighbors.

At this time another resident asked if they could comment on the project. Mr. Bennett informed the board that to open for public comment again, it will be open for rebuttal and cross for both parties and would open back up for board discussions.

Natasha Lee, a resident of the neighborhood informed the board member who was inquiring about the purchase date that it was in April or May of this year. She then continued to ask if what is being shown in the illustration is the largest possible boat, then why does the dolphin have to extend so far out. Ms. Bilenki responded to Ms. Lee by saying the dolphins are pilings that are being proposed at 62 feet and would be installed next to pilings that already exist.

MOTION to approve the Variance request for 384 Captains Walk (2024-233): Consideration of the variance request from Land Development Regulations (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. made by Alek Hayes and seconded by Brenda Cullinan.

MOTION APPROVED 7-0

*Pursuant to LDR Section 7.9.7 (C), all decisions of the Board of Adjustment are final. Based on the entire record before it, the Board of Adjustment **APPROVED X** the variance solely for the purposes as presented at the meeting. The Board of Adjustment adopts this Order on this 7th day of November 2024.*

MOTION to approve the Variance request for 384 Captains Walk (2024-233 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. made by Alek Hayes and seconded by John DeLacio.

MOTION APPROVED 7-0

*Pursuant to LDR Section 7.9.11(A), all decisions of the Board of Adjustment are final. Based on the entire record before it, the Board of Adjustment **APPROVED X** the variance solely for the purposes as presented at the meeting. The Board of Adjustment adopts this Order on this 7th day of November 2024.*

MOTION to approve of the Variance request for 384 Captains Walk (2024-233): Consideration of the variance request from Land Development Regulations 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. made by Alek Hayes and seconded by Brenda Cullinan.

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9. REPORTS AND COMMENT

A. City Staff- Madison Brown asked Mark Ronald if he received the email for his board training and if he had any questions. Ms. Brown let the board know that they all have received a 2025 Board of Adjustment Meeting Schedule for 2025. Ms. Brown mentioned to the board members that June 6th meeting on the sheet is incorrect, and the correct date should be June 5th.

The next meeting date is December 5th 2024.

B. Board Attorney- William Bennett reminded board members that forms, and training must be completed, and reminders will be sent to the city email addresses. He had an additional reminder that ethics do need to be renewed annually and any questions please contact Ms. Miller or the clerk's office.

C. Board Members Mark Ronald asked regarding variances, if the vote to certain questions on the board order is a no, can the variance still be granted. Mr. Bennett explained that at a quasi-judicial hearing, there must be evidence to support the findings and in the LDR it says especially there must be five members of the board that vote for the variance to be granted.

10. ADJOURN

There being no further business to come before the Board, the meeting was adjourned at 6:20pm.

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 November 7, 2024, which were formally adopted and APPROVED by the Board on March 6, 2025

ATTEST:



CHAIR



BOARD SECRETARY

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