

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

**MEETING DATE:** July 18, 2024

**MEETING PLACE:** City Commission Chambers

**1. CALL TO ORDER**

The meeting was called to order by Aleksandra Hayes, Chair at 5:03 p.m.

**2. ROLL CALL**

A quorum was present.

**Members Present:** Alek Hayes, Chair, Richard Kasser, Vice Chair, Brenda Cullinan, Second Vice Chair, John DeLacio; Tiana Morales; Jesse Schloesser, Aura Ramirez

**Members Absent:** None

**Staff Present:** Kelly Brandon, Assistant City Attorney; Amy Alvarez, Assistant Development Services Director, Madison Brown, Development Permit Manager and Diane Miller, Board Secretary.

**3. APPROVAL OF AGENDA**

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

**Motion Carried 7-0**

**4. MINUTES**

Motion to approve the minutes for December 7, 2023, was made by Richard Kasser and was seconded by Jesse Schloesser.

**Motion Carried 7-0**

**5. SWEARING IN OF THE PUBLIC**

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

**6. COMMENTS FROM THE PUBLIC**

None

## **7. PUBLIC HEARING ITEMS**

**A. 227 Palm Trail (2024-131):** Consideration of two variance requests from Section 7.9.7(C) and 7.9.11(A) of the Land Development Regulations (LDR), to allow a finger pier to extend 32.3 feet from the bulkhead into the Intracoastal Waterway, whereas a maximum of 25 feet is allowed, and to allow a boatlift in the raised position to be located 37 feet, one inch from the bulkhead, whereas a maximum of 20 feet is allowed.

NOTE: This item was previously noticed for the June 6, 2024, BOA meeting; the item was continued to a date certain of July 18, 2024.

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, [Matthew.Scott@gmlaw.com](mailto:Matthew.Scott@gmlaw.com)

Planner: Amy Alvarez, Assistant Development Services Director; [alvarez@mydelraybeach.com](mailto:alvarez@mydelraybeach.com)

**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,  
[Matthew.Scott@gmlaw.com](mailto:Matthew.Scott@gmlaw.com)

**Planner:** Amy Alvarez, Assistant Development Services Director.

[alvarez@mydelraybeach.com](mailto:alvarez@mydelraybeach.com)

Amy Alvarez, Assistant Development Services Director, entered project file 2024-131 into the record.

### **Exparte Communication**

Alek Hayes-None

Richard Kasser-None

Brenda Cullinan-None

Tiana Morales-None

Jesse Schloesser-None

Aura Ramirez-Visited property

John DeLacio-Viewed the images of the property on google maps, which was provided from the last meeting.

### **Applicant Presentation**

Matthew Scott, Zoning Attorney, with the Law Firm of Greenspoon Marder LLP.

### **Staff Presentation**

Amy Alvarez, Assistant Development Services Director, presented by means of a PowerPoint presentation.

### **Public Comments**

Darren Simmons – 101 NE 3<sup>rd</sup> Ave, Suite 1500, Fort Lauderdale, Florida 33301, Representative of Robert and Linda Caine. Mr. Simmons wanted to point out that they were at January's meeting, discussing the same variance. Mr. Simmons continued, regarding the variance request, stating he did not like Matthew Scott, Esq saying if the variance was not granted, it could be dangerous for Mr. Scott's client. Mr. Simmons feels it is a boating issue and when operating a boat, care needs to be used.

Robert Caine – 301 Palm Trail, Delray Beach, FL 33483

Mr. Caine describes his neighborhood as a great neighborhood with wonderful neighbors for the last 14 years and counting. He feels everyone should be treated equally and follow the rules, he said that all the neighbors live on the shallow part of the intercoastal. He continued to tell the board that both he and his wife went out on their boat on the Intercoastal to take photos of all the boat ramps along Palm Trail between Atlantic Ave and George Bush Blvd. He continued to point out, according to his photos, that every single person has had no issue with the regulations for their boat to park and use the boat lift and finger pier regulations.

### **Rebuttal/Cross Examination**

Matthew Scott, Esq., made a rebuttal to the statements of concern Mr. Caine had raised. He continued that he feels this is why Variances are in place, for people to seek relief in special situations. Mr. Scott then continued, regarding the photos that were taken by Mr. Caine. Mr. Scott commented that they were self-selected and not evidentiary. He continued by saying that the board should be looking at the documented studies that show the water depths in the area and how they vary.

### **Staff Comments**

Ms. Alvarez noted that the comment on the current consideration for two variances being the same application as what was denied previously is not accurate, as staff reviewed the current application and confirmed that the request was in fact different.

When asked by Alek Hayes, Board Chair, for clarification to the process of a denied variance, Ms. Alvarez explained that there is a time limit, and that a variance cannot come back as the same request as the original variance. She continued that this variance is different than the original variance request presented and decided in the January 18<sup>th</sup>, 2024, meeting.

### **Board Comments**

Richard Kasser requested clarification on the bathymetric surveys provided. Mr. Kasser then questioned whether the owners of the property, prior to purchasing, did their due diligence on the depth of the water and the ability to build a dock, pier, or any improvements that were being discussed. Mr. Scott responded no. He then inquired about the USACOE (Army Corp of Engineers) approval and if there are any safety lights or beacons required to be built on the dock or lift. Mr. Scott replied that the city does not require those lights, and he does not think that was a requirement by USACOE. Mr. Kasser continued with his last question, stating staff had mentioned that the permit from USACOE was approved at a greater dimension than what was being discussed. He asked for confirmation that this was correct. Mr. Scott responded,

yes, the army corps approved the finger pier and boat ramp to go out further than was being discussed. Mr. Kasser then directed his questions to staff regarding page 2 of the staff report, specifically the direction of the pier. Amy commented that it was an error and confirmed the correct direction of the pier. He asked about the correct order of operations regarding USACOE approvals and the City – Ms. Alvarez responded that the city cannot issue a permit without the approval from USACOE as it is their waterway.

Brenda Cullinan asked about the neighbors to both the left and right of the applicant that provided letters. She asked if they spoke directly to the applicant or if they spoke to the Law Firm of Greenspoon Marder LLP.

John DeLacio then asked about the setback of the seawall. Mr. Scott responded that the pier in the diagram was drawn to scale which would indicate that the pier goes out 37 feet.

Jesse Schloesser had a question for Taylor Kowalski, part of the Chappell Group Inc., pertaining to the proposed configuration of the dock and lift. Ms. Kowalski responded that the proposed finger pier in this configuration would allow for safe mooring of vessels with minimal environmental impacts.

Aura Ramirez mentioned concern regarding the difference in the dock length between the last meeting on January 18<sup>th</sup> and the current meeting.

Alek Hayes spoke about the standard size and asked what the point of reference is to understand the size of the vessel for the proposed dock and lift. Mr. Scott replied that the applicant has a 40-foot boat. The representative from the Chappell group stated that a 25-foot boat to a 40-foot boat at that location would need to have 3 to 4 feet of water depth for proper mooring. Ms. Hayes asked then inquired about the location of the neighbors who had submitted letters of approval on this application. Mr. Scott replied that they were the neighbors directly to the left and right of the applicant.

He continued added that the neighbor to the south of the subject obtained for a variance for the same reason.

Richard Kasser asked for confirmation of whether this would be detrimental to the neighborhood or of any great concern. Ms. Alvarez responded that the analysis of the request is based on staff findings.

John DeLacio asked the city attorney if the board could discuss the concerns of the neighbor, Mr. Caine. He then asked about the photos that were provided, inquiring about the docks and if there were any in the setback area. Mr. Caine said that he rented a boat and took pictures of the boat lifts in the area.

Richard Kasser asked Mr. Caine if there was a specific reason for the objection to the variance. Mr. Caine responded that he thinks the neighborhood is harmonious and he is afraid that if this is granted it may set a precedent.



Aura Ramirez mentioned the 3<sup>rd</sup> house to the south of the subject property and the existing pier. Mr. Scott responded that the existing pier in question was constructed around 20 years ago and extends out 40 feet into the waterway.

**MOTION** to approve of the Variance request for 227 Palm Trail (2024-131-VAR-BOA) from LDR Section 7.9.7(C) *to allow a finger pier to extend by 32.2 feet from the bulkhead into the intercoastal Waterway*, 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 John DeLacio and seconded by Brenda Cullinan.

**MOTION APPROVED 7-0**

*Pursuant to LDR 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 **APPROVED X** the variance solely for the purposes as presented at the meeting. The Board of Adjustment adopts this Order on this 18th day of July 2024.*

**MOTION** to approve the Variance request for 227 Palm Trail (2024-131-VAR-BOA) Section 7.9.11(A); *to allow a boatlift in the raised position to extend 37.1 feet from the bulkhead*, 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 John DeLacio and seconded by Brenda Cullinan.

**MOTION APPROVED 7-0**

*Pursuant to LDR 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 **APPROVED X** the variance solely for the purposes as presented at the meeting. The Board of Adjustment adopts this Order on this 18th day of July 2024.*

## **8. REPORTS AND COMMENT**

### **A. City Staff**

Diane Miller is back as our board Secretary. Peter Martinek has now moved to another position within the city. Ms. Alvarez has been filling in for the last year as board liaison as our previous permit manager retired and we now have Madison Brown as the new Permit Manager.

Board appointments will be on the August 5<sup>th</sup> agenda. John DeLacio and Aura Ramirez are on the agenda for reappointment.

Board members have training that is not yet completed. Continue to check your city email for all training information and location.

There is nothing on the agenda for the August 1<sup>st</sup> meeting. The next meeting is September 5<sup>th</sup>, 2024.

### **B. Board Attorney**

None

C. Board Members

None

**9. ADJOURN**

There being no further business to come before the Board, the meeting was adjourned at 6:14pm.

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 18, 2024, which were formally adopted and APPROVED by the Board on \_\_\_\_\_.

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.