



CITY OF DELRAY BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

100 N.W. 1ST AVENUE • DELRAY BEACH • FLORIDA 33444 • (561) 243-7040



BOARD OF ADJUSTMENT STAFF REPORT

Meeting: April 7, 2022

File No.: 2022-115- VAR-BOA

Application Name: 219 Palm Trail – Variances

REQUEST

Consideration of variance requests for 219 Palm Trail to allow a finger pier and a boat lift to extend beyond the maximum distance permitted from the property line to the waterway, pursuant to LDR Section 2.4.7(A)

General Data:

Applicant/Agent: The Chappell Group, Inc.

Location: 219 Palm Trail

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

Property Size: 0.4116 Acres

LUM: LD (Low Density)

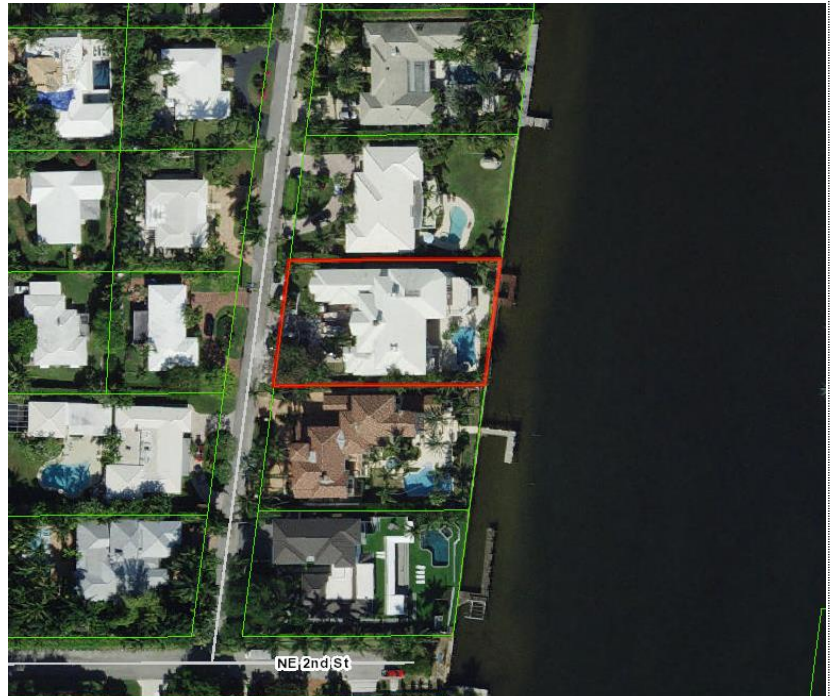
Zoning: R-1-AA (Single Family Residential)

Adjacent Zoning:

- R-1-AA (North)
- R-1-AA (South)
- Intra Coastal Waterway (East)
- R1-AA (West)

Existing Land Use: Single Family Home

Proposed Land Use: No Change



OPTIONAL BOARD MOTIONS:

1. Move to **continue with direction**.
2. Move to **approve** the variance requests for 219 Palm Trail (2022-115-VAR-BOA) from 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, by finding that the request is consistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5).
3. Move to **deny** the variance requests for 219 Palm Trail (2022-115-VAR-BOA) from 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 past the 20 foot maximum distance permitted into the waterway, by finding that the request is inconsistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5).

BACKGROUND:

The property is a 0.4116-acre lot located on the intracoastal waterway between NE 2nd Street and NE 3rd Street on Palm Trail. The lot consists of Lot 9, Plat of Runnymede subdivision, according to the Plat thereof, as recorded in Plat Book 23, page 71, of the Public Records of Palm Beach County, Florida. The subject property, 219 Palm Trail, is zoned Single-Family Residential zoning district (R-1-AA) with a Land Use Designation (LUM) of Low Density Residential (LD).

Project Planner:

Rachel Falcone, Planner; FalconeR@mydelraybeach.com
561-243-7000 ext. 6052

Review Dates:

BOA Board:
April 7, 2022

Attachments:

1. Site Plans
2. Justification Narrative
3. Hydrographic Survey
4. Pictures



Based on the survey submitted, dated January 31, 2022, the lot contains an existing dock located along the northeastern property line. According to City records, a permit was approved in 2002 by the Building Division for the installation of an approximately 15 feet by 26 feet dock. The existing dock will be removed to accommodate a new dock; finger pier; and boat lift on the subject property. The property owner intends to construct a 63-foot-long dock running parallel the property line; a 38 feet 2 inches finger pier; and 12 feet by 16 feet elevator boat lift. The proposed dock meets the requirements set forth in the LDRs; however, the property owner is seeking relief for the proposed finger pier and boat lift which will extend beyond the maximum distance permitted set forth in Article 7.9 in the LDRs.

- Pursuant to LDR Section 7.9.7(C), for waterways greater than 100 feet in width, the maximum distance a dolphin (finger pier) may be installed shall be 25 feet from the extended property line or seawall or bulkhead, whichever is nearer to the waterway.
- Pursuant to LDR Section 7.9.11(A), the boat lift in a raised position shall not extend more than 20 feet into the waterway from the property line or seawall or bulkhead, whichever is nearer to the waterway.

The finger pier is proposed to extend 13 feet two inches beyond the 25 foot maximum distance permitted pursuant to LDR Section 7.9.7(C), resulting in a 38 feet 2 inch total distance from the property line. Additionally, the boat lift is proposed to extend 15 feet beyond the 20 foot maximum distance permitted pursuant to LDR Section 7.9.11(A), resulting in a 35 feet total distance from the property line.

VARIANCE ANALYSIS:

Pursuant to **LDR Section 2.2.4(D)(4)(a), Duties, Powers, and Responsibilities**, the Board hereby has the authority to grant variances and hear appeals from the Base district development standards, Section 4.3.4, unless otherwise stated. The request is 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 past the 25 foot maximum distance permitted and to allow a boat lift to extend 15 feet past the 20 foot maximum distance permitted into the waterway.

Pursuant to **LDR Section 2.4.7(A)(5)(a) through (f), Variances: Findings**, the following findings must be made prior to the approval of a variance:

- a) ***That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings subject to the same zoning (The matter of economic hardship shall not constitute a basis for the granting of a variance).***

Staff Analysis: The request includes the encroachment beyond the allowable distance into the waterway for a finger pier and a boat lift. The proposed finger pier will extend 38 feet two inches into the waterway where only 25 feet is allowed pursuant to LDR Sec. 7.9.7(C). Additionally, the proposal includes a boat lift which will be an accessory to the finger pier. The proposed boat lift will extend 35 feet into the waterway where only 20 feet is allowed pursuant to LDR Sec. 7.9.11(A). The Hydrographic Survey (depicted in the photo on the right) provided for the property identifies contour lines of the mean low water (MLW) levels which are measured at low tide. The area within the proposed finger pier and boat lift is identified at a two feet MLW level. The water depth levels along the seawall at the subject property does not provide sufficient depths for a larger vessel to safely dock within a boat lift. Due to the proposed lift extending beyond the maximum distance of 20 feet into the waterway; the proposed finger pier requires an extension to properly house the boat lift for the subject property.



- b) ***That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning.***

Staff Analysis: The requirements for LDR Sec. 7.9.7(C) and LDR Sec. 7.9.11(A) are applied city wide. The Hydrographic survey demonstrates that the mean low water (MLW) levels are extremely low during low tide. The maximum distance allowed to construct a finger pier and boat lift does not allow sufficient depths to navigate a larger vessel onto a boat lift. The low water levels remain



at two feet MLW approximately 40 feet into the Intracoastal Waterway from the seawall during low tide, which can result in difficulties navigating a boat safely. Therefore, the literal interpretation of the regulations may deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning regulations.

c) That the special conditions and circumstances have not resulted from actions of the applicant.

Staff Analysis: The property owner purchased the property with an existing dock which is located in an extremely low water level area adjacent to the seawall. The Hydrographic survey demonstrates a mean low water (MLW) level of two feet during low tide which extends approximately 40 feet from the existing seawall. Therefore, special conditions and circumstances have not resulted from actions of the applicant.

d) That granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor nonconforming use, of neighborhood lands, structures, or buildings under the same zoning shall be considered grounds for the issuance of a variance.

Staff Analysis: The subject property is located along the Intracoastal Waterway which allows the construction of docks, finger piers, dolphins, boat lifts, etc. Additionally, pursuant to Florida State Statue 253 Section 141, "riparian rights are those incident to land bordering upon navigable waters. They are rights of ingress, egress, boating, bathing, and fishing." The area of riparian rights for the subject property contains mean low water (MLW) levels of one foot to seven feet. The proposed finger pier and boat lift are within the riparian rights for the subject property and is located within the MLW level area of two feet. Therefore, granting the variance will not confer onto the applicant any special privilege.

e) That the reasons set forth in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and,

Staff Analysis: The proposed finger pier and boat lift extends beyond the maximum allowed distance into the waterway. The mean low water (MLW) levels adjacent to the seawall is one to two feet at low tide, which does not allow for sufficient docking of a vessel. The proposed boat lift extends 15 feet beyond the allowed 20-foot distance into the waterway resulting in a total distance of 35 feet from the seawall. Additionally, the proposed finger pier extends 13 feet two inches past the allowed 25-foot distance into the waterway resulting in a total distance of 38 feet two inches from the seawall. The finger pier must extend further to accommodate for the boat lift. It can be determined that the variance requests are the minimum variances necessary for the use of the land given the current conditions of the Intracoastal Waterway.

f) That the granting of the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Staff Analysis: While the variance requests are not in harmony with the general purpose and intent of the existing regulations, granting it would not be injurious to the neighborhood, or otherwise detrimental to the public welfare. The Intracoastal Waterway, which is adjacent to the subject property, is approximately 294.5 feet wide. Although the proposed boat lift and finger pier will extend beyond the maximum allowed distance allowed into the waterway, there will still be an abundance of area within the waterway to navigate a vessel. Therefore, given the location of the property on the Intracoastal, it can be determined that the proposed finger pier and boat lift will not be a detriment to the public welfare or impede access to the adjacent properties.

PUBLIC NOTICES:

Pursuant to LDR Section 2.4.2 (B)(1)(f), the City shall provide notice of the public hearing in accordance with Section 2.4.2(B)(1)(j) (i), (ii), and (iv) for variances before the Board of Adjustment.

LDR section	Date Posted
2.4.2 (B)(1)(j)(i) – Written notice provided to property owners within 500 feet	March 28, 2022
2.4.2 (B)(1)(j)(ii) – Notice posted on the City's web page at least ten days prior	March 28, 2022
2.4.2 (B)(1)(j)(iv) – Notice posted at City Hall	March 28, 2022