



Board of Adjustment

STAFF REPORT

DEVELOPMENT SERVICES DEPARTMENT

100 NW 1ST AVENUE, DELRAY BEACH, FLORIDA 33444

PLANNING & ZONING DIVISION: (561) 243-7040 • BUILDING DIVISION: (561) 243-7200

Board of Adjustment

Meeting: September 1, 2022

File No: 2022-198 VAR-BOA

Application Name: 1033 Waterway Ln

REQUEST

Consideration of a variance request to allow the finger pier and mooring dolphins 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.

General Data:

Owner: Eugene Reilly

Agent: Matthew H. Scott Esq.

Location: 1033 Waterway Lane

PCN: 12-43-46-16-17-000-0060

Property Size: 11,309 SF

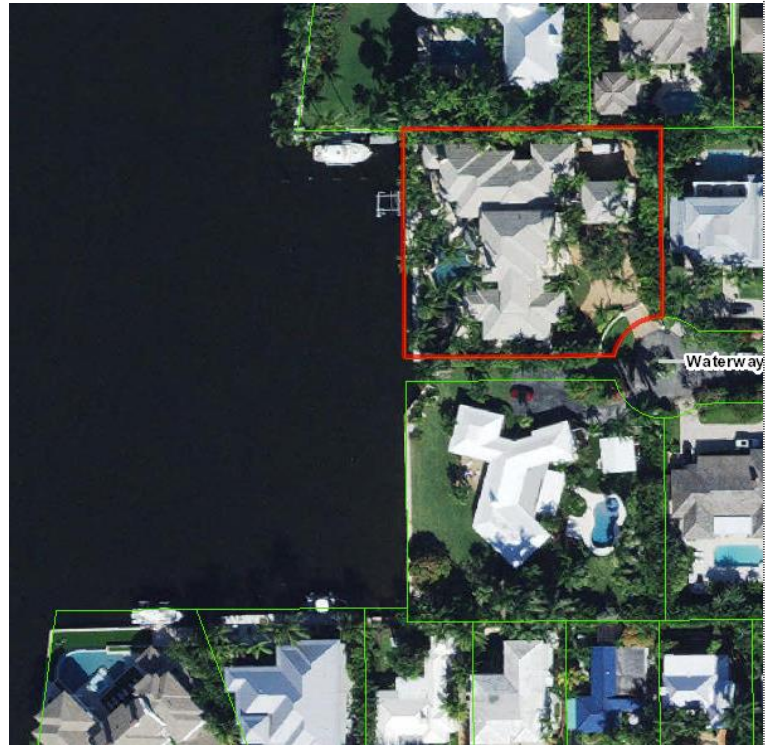
Land Use Designation: LD (Low Density)

Zoning Designation: R1-AAA (Single Family Residential)

Adjacent Zoning:

- R-1-AAA (North)
- Intracoastal Waterway (West)
- R-1-AAA (Single Family Residential) (South)
- R-1-AAA (East)

Existing Land Use: Single Family Home



Optional Board Motions for Action Items:

1. Move to **continue with direction**.
2. Move **approval** of the variance request for **1033 Waterway Lane** (2022-198 VAR-BOA) from LDR Section 7.9.7(C), to allow a finger pier and mooring dolphins to extend forty five feet six inches into the waterway whereas a twenty five foot maximum is permitted, 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 **denial** of the variance request for **1033 Waterway Lane** (2022-198-VAR-BOA) from LDR Section 7.9.7(C), to allow a finger pier and mooring dolphins to extend forty five feet six inches into the waterway whereas a twenty five foot maximum is permitted, 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 consists of Lot 6, Water Way Lane, according to the Plat thereof as recorded in Plat Book 18, Page 100, Public Records of Palm Beach County, Florida.

Project Planner:

Jennifer Buce, Planner
buce@mydelraybeach.com
561-243-7138

Review Dates:

BOA Board:
August 4, 2022

Attachments:

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

The property is located within the Single Family Residential (R-1-AAA) zoning district with a Land Use Map Designation (LUM) of Low Density (MD) and is in the North Beach Overlay District. In 2000, a permit was submitted for a new dock and repairs to the seawall. The dock portion of the permit was not approved as it would interfere with the navigation with the adjacent dock. The repairs to the seawall were completed. Through staff research there is no evidence that a permit exists for the boat lift.

Pursuant to LDR Section 7.9.8 Standards for approval; the conditions for installation and location of finger piers shall be the same as specified for dolphins. **Pursuant to LDR Section 7.9.7(C);** for waterways greater than 100 feet in width, the maximum distance a finger pier may be installed shall be twenty-five feet from the extended property line or seawall or bulkhead, whichever is nearer to the waterway. The depth of the manmade yacht basin is approximately 75 feet, and the waterway is 475 feet.



Variance Analysis:

The subject request is for relief to allow the finger pier and mooring dolphins to extend forty-five feet six inches into the waterway where twenty-five feet is allowed pursuant to **LDR Section 7.9.7(C)**. For waterways greater than 100 feet in width, the maximum distance a dolphin may be installed shall be 25 feet from the extended property line or seawall or bulkhead, whichever is nearer to the waterway. The existing waterway is approximately 475 feet wide. The applicant's justification letter is attached.

Pursuant to **LDR Section 2.2.4(D)(4) and (c)**, the Board of Adjustment has the authority to grant variances and hear appeals from the provisions of the General Development Standards (Article 4.3).



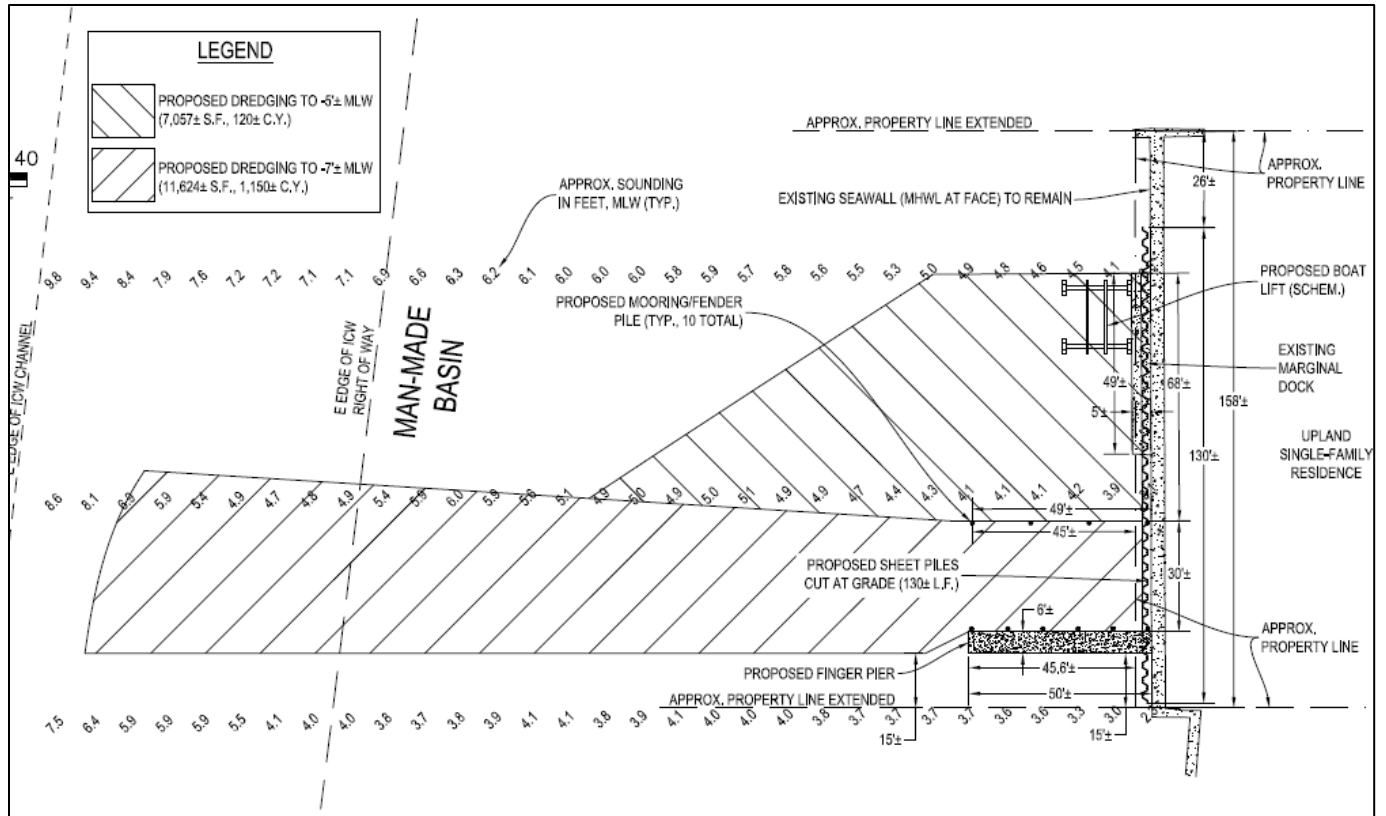
Pursuant to **LDR Section 2.4.7(A)(5)(a) through (f)**, **Variance Findings**, the following findings must be made prior to the approval of a variance:

Pursuant to **LDR Section 7.9.5(B)** Should the Building Official recommend against any request for modification of the standards for approval as set forth herein, the applicant shall have the right to appeal that decision of the Building Official to the Board of Adjustment, by filing a written request to the City Manager within ten days after the decision of the building Official. The Board of Adjustment shall conduct a hearing on the appeal at a regular or special Board of Adjustment meeting and shall render a decision within a reasonable time after the hearing.

- 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).**



The proposal consists of extending the finger pier and mooring dolphins nearly twice the size of the allowed twenty-five-foot extension pursuant to **LDR Section 7.9.7(C)**. The proposed finger pier and mooring dolphins will extend forty-five feet and six inches from the seawall. The waterway extends more than the required 100 feet for a finger pier to measure twenty-five feet in length. The Hydrographic Survey depicted below indicates that the mean low water (MLW) levels adjacent to the seawall are 3 to 4 feet. However, at this certain area of the Intracoastal Waterway, it is in a “wake zone” which allows boats to travel at a high speed through the channel. The man-made Yacht Basin, in which the proposed finger pier and mooring dolphins are located are impacted by the waves created by the passing boats. The additional footage on the finger pier and dolphins will help secure the vessel as it leaves and returns from the Yacht Basin during high wake periods to keep the boat from bouncing and damaging the hull. The survey indicates that there is proposed dredging to help alleviate the wave activity, but the waves could still pose a problem for mooring a boat.





Each variance submitted is to be reviewed and stand on its own. There have been several finger piers, dolphins and boatlifts that have been granted variances by the Board of Adjustments (BOA) along and in the Intracoastal Waterway. The Mean Low Tide appears to be the main concern for larger finger piers and boat lifts for docking vessels along the ICW. However, the said property denotes that proposed dredging could give the boat adequate depth to moor a boat.

- 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,**

The variance request is for a proposed finger pier and mooring dolphins to secure the vessel. The new proposed finger pier will extend forty-five feet and six inches into the yacht basin. The yacht basin extends 75 feet from the seawall to the navigable Intracoastal Waterway. The Hydrographic survey illustrates that a boat could navigate through the waters during MLW with a twenty-five-foot finger pier as the MLW is at three feet from the seawall and dredging is proposed at seven feet deep.



- 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.**

While the variance request does not meet 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 Yacht Basin is setback from the Intracoastal Waterway over 370 feet which is less intrusive to the neighbors along the ICW. Therefore, it can be determined that the proposed finger pier will not be a detriment to the public welfare or impede access to the adjacent properties.

Notice

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	July 22, 2022
2.4.2 (B)(1)(j)(ii) - Notice posted on the City's web page at least ten days prior	July 22, 2022
2.4.2 (B)(1)(j)(iv) - Notice posted at City Hall	July 22, 2022