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**Eugene Reilly
1033 Waterway Lane
Finger Pier & Dolphin Variance Justification Statement
Dated June 8, 2022**

Eugene Reilly (“Applicant”) is the owner of a 0.63 acre parcel with an address of 1033 Waterway Lane, in the City of Delray Beach (“Property”). Located on the west side of Waterway Lane, the Property backs up to a particularly wide portion of the Intracoastal Waterway where boat wakes are permitted. The Property is located within the R-1-AA zoning district, with a land use designation of LD (Low Density 0-5 du/acre) on the City’s Future Land Use Map. The Property is developed with a single-family home. Applicant would like to construct a new finger pier and three new mooring piles to allow for safe mooring of a large marine vessel. However, the Property backs up to a submerged area outside of the Intracoastal Waterway “right of way” which is in fact a man-made basin and effectively catches large wake/wave activity from boats passing by. This unique condition renders it exceptionally difficult to operate a large boat in this space without constructing a sufficiently long finger pier. Accordingly, Applicant is requesting variances to allow for the proposed finger pier and dolphins to extend 45 feet 6 inches from the property line into the waterway where the Code only permits such structures to extend 25 feet from the property line. See attached plans and aerials depicting the proposed marine structures. Specifically, variances are being sought from Section 7.9.7(C) of the City Code.

Section 2.4.7(A)(5) of the City Code sets forth the criteria for variance requests. As explained in detail below, this application with the attached plans, surveys, report, and justification statement satisfy the criteria for the requested variances. Each of these criteria are listed below in bold, with Applicant’s response provided under each:

- 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).**

Special conditions and circumstances exist which are peculiar to the Property that are not generally applicable to other properties within the same zoning district. The Property is located within an alcove of the Intracoastal Waterway. Additionally, this alcove area is not in a no wake zone, allowing boats to travel at higher speeds. These higher speeds coupled with the alcove area create waves that get larger as they approach the property line, particularly during busy boating times. These waves create a safety concern for docking a large boat within 25’ from the property line. Allowing the finger pier to extend

45'6" into the Intracoastal Waterway will allow the Applicant to safely navigate and dock a boat at the proposed finger pier and dolphins. See attached Report regarding the nautical conditions adjacent to Applicant's Property.

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

Literal interpretation of the Code in this instance would deprive the Applicant of rights that are commonly enjoyed by other property owners within the same zoning district. As stated above, constructing a finger pier and dolphins in accordance with the Code requirements would not allow the Applicant the ability to safely navigate and dock a large boat at the finger pier. This is due to the Property being located within an alcove area and high boat speed area. Not granting the variance requests would deprive the Applicant of the ability to safely navigate a boat to and from his property, a right that adjacent neighbors and other surrounding properties within the same zoning district have and enjoy.

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

The special and unique conditions associated with the Property are not attributable to the actions of the Applicant. The variance request to allow the finger pier to extend 45'6" into the Intracoastal Waterway is created by the existing conditions in the Waterway, with the Property being located within an alcove area and in a high speed area. These are not conditions created by the actions of the Applicant. In point of fact, the length of the proposed marine structures was suggested specifically by Applicant's technical consultants to ensure safe navigation in this space.

- 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.**

Granting the variance will not confer any special privilege to the Applicant that is denied to other property owners in the same zoning district. The right to safely navigate and dock a boat is one that is commonly enjoyed by other property owners within the same zoning district and surrounding area. It is important to note other properties in this area have similarly sized finger piers, no doubt arising from the wakes and waves created by passing boaters.

- 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.**

The variance requested is the minimum necessary for the Applicant to make reasonable use of the Property. Allowing the finger pier and dolphins to extend 45'6" toward the Intracoastal Waterway rather than 25' is the minimum needed to allow for safe navigation and mooring of a large vessel. This is due to the large waves created by the existing conditions of the Property being located within an alcove area where wakes are permitted. These conditions necessitate a request for the minimum variance needed to make possible the reasonable use of the Property. It is important to note the proposed marine structures are proposed in a submerged area which is a man-made basin and are over 150' feet from the actual Intracoastal Waterway right-of-way.

- 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.**

Granting the variance request will not be detrimental to the public welfare or injurious to the property or improvements within the same district or the surrounding neighborhood. The request will allow for the Applicant to enjoy the same rights commonly enjoyed by other property owners in the same district and surrounding neighborhood with a design that will allow a boat to safely navigate into and out of the finger pier. In addition to creating conditions for safe boating activities, the proposal will have a positive effect on property values. Moreover, the fact that there are multiple other finger piers in the area measuring approximately 50 feet in length suggests the instant application would be harmonious with the neighborhood rather than injurious in any way. As such, the variance is in harmony with the general purpose and intent of the regulations and will not be injurious or otherwise detrimental to the neighborhood or public welfare.

Respectfully submitted,



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