



**DUNAY
MISKEL
BACKMAN** LLP

Gary Dunay
Bonnie Miskel
Scott Backman
Eric Coffman

Hope Calhoun
Dwayne Dickerson
Ele Zachariades
Matthew H. Scott

Christina Bilenki
Lauren G. Odom
Nicole Jaeger
Rachael Bond Palmer

**Sean Snyder
1715 Del Haven Dr. C
Dock & Boatlift Variance Narrative**

Sean Snyder (“Applicant”) is the owner of the property with an address of 1715 Del Haven Dr. C, in the City of Delray Beach (“Property”). Located on the west side of S Ocean Blvd., the Property backs up to the Intracoastal Waterway. The Property is located within the RL (multi-family residential) 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 condominium and 4 existing timber-docks oriented toward the east, without disrupting access to the intercoastal waterways. The Applicant is proposing to extend the second dock from the northeast corner of the Property and add a boat lift to the extended dock. As a result, the proposed boat lift will extend thirty-two feet and ten inches (32’-10”) into the cove within the intercoastal waterways. The orientation of the dock and proposed improvements will not affect access within the Intracoastal Waterway as they are located within a cove surrounded by the condominium community and not along a portion of the Intracoastal waterway that is commonly navigated by boaters.

In order to construct the extended dock and boat lift, Applicant is requesting a variance from Section 7.9.7(C) to allow the dock to extend beyond twenty five feet (25’) from the property for a total of twenty eight feet and six inches (28’-6”). The Applicant is also requesting a variance from Section 7.9.11(A) to allow the boatlift to extend more than twenty feet (20’) into the waterway, for a total of thirty two feet and ten inches (32’-10”). 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, study, and justification 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 existing dock on the Property extends fifteen feet and four inches (15’-4”) into the cove within the Intracoastal Waterway. Applicant is proposing to replace and extend the existing dock and add a boat lift to the extended portion of the dock. Due to the configuration of the dock and existing conditions of the condominium with other neighboring docks oriented in the

same eastward orientation, the boat and boat lift cannot be located parallel to the property line, as would be permitted on other parcels. Rather, the boat lift must position the boat in the same eastward position, perpendicular to the property line. In doing so, the boat lift must extend further into the waterway. The Property is also unique, as it is not located adjacent to the main, navigable waterway, but in a cove where the only boat traffic experienced is of the handful of neighbors also docking their boats. As such, unlike in certain canals or along the main portion of the Intracoastal Waterway where extension into the waterway may otherwise impact the navigable space, the location of the proposed boat lift within the cove will not affect the navigation of other boats. Rather, the resulting boat lift added adjacent to the existing dock will result in a total extension of thirty two feet and ten inches (32'-10") into the cove within the Intracoastal Waterway and has been determined to be the minimum of what is required to allow the Applicant to safely navigate a boat onto the proposed boat lift. There are additional special circumstances that are peculiar to the Property, as this particular area of the Intracoastal becomes shallow closer to the wall near the property line and does not provide the needed depth for safe operation and use of the boat lift. As part of this application, Petitioner has provided a Hydrographic Survey that demonstrates the mean low water (MLW) levels adjacent to the Property. As such, placing the boatlift any closer to the property line would not allow the Applicant the depths needed to safely navigate and dock a boat and would beach the boat, causing significant damage. Considering the foregoing, the Property's unique and peculiar circumstances necessitate the variance request for the length the boat lift will extend out into the Intracoastal Waterway.

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, utilizing only the existing yet code compliant dock without an extension and constructing a boat lift in accordance with the Code requirements would not allow the Applicant the ability to safely navigate a boat into the boatlift, as demonstrated through the hydrographic survey included with this application. This is due to the shallow depths of the water nearer to the wall and property line. Further, the boat cannot be positioned parallel to the property line as with most other parcels, given this is a condominium with additional docks positioned adjacent to the property line which are owned by others and cannot be repositioned or removed. Not granting the variance request would deprive the Applicant of the ability to have a boat lift that will allow the safe docking of a boat, 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 requests are to allow for the dock to extend twenty eight feet and 6 inches (28'-6") and to allow the boatlift to extend thirty two feet and 10 inches (32'-10") into the Intracoastal Waterway (consistent with the existing structures) and are created by the existing conditions in the Waterway, with the waters being too shallow for the safe operation of the boat lift closer to the property line and the inability to position a boat lift parallel to the property line, similar to other parcels and boat lifts located within the Intracoastal Waterway. This is not a condition created by the 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.**

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.

- 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 dock to extend twenty eight feet and six inches (28'-6") and allowing the boatlift to extend thirty two feet and ten inches (32'-10") out into the Intracoastal Waterway, rather than 25' for the dock and rather than 20' for the boat lift is the minimum needed to allow the safe operation to and from the dock and boat lift. The water depth is too shallow moving closer to the property for the boat lift to operate correctly and safely, as demonstrated through the hydrographic survey. This design creates a request for the minimum variance needed to make possible the reasonable use of the Property.

- 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 boat lift. In addition to creating conditions for safe boating activities, the proposal will have a positive effect on property values. Further, the proposed boat lift will not extend further into the Intracoastal Waterway than the existing structures, thereby creating no additional impacts to surrounding parcels. 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.