



# Board of Adjustment

## STAFF REPORT

### DEVELOPMENT SERVICES DEPARTMENT

100 NW 1<sup>ST</sup> AVENUE, DELRAY BEACH, FLORIDA 33444

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

#### Board of Adjustment

Meeting: November 3, 2022

File No.: 2022-255 VAR-BOA

Application Name: Snyder Residence

#### Item Before the Board

Variance request to allow the dock to extend beyond 25 feet from the property for a total of 28 feet and six inches and the boatlift to extend more than 20 feet into the waterway for a total of 32 feet and 10 inches.

#### General Data:

**Applicant/Agent:** CJs Bicycles & Investments, LLC and Christina Bilenki Esq.

**Location:** 1715 Del Haven Drive C

**PCN:** 12-43-46-21-36-000-0030

**Property Size:** 2,867 square feet (Unit C)

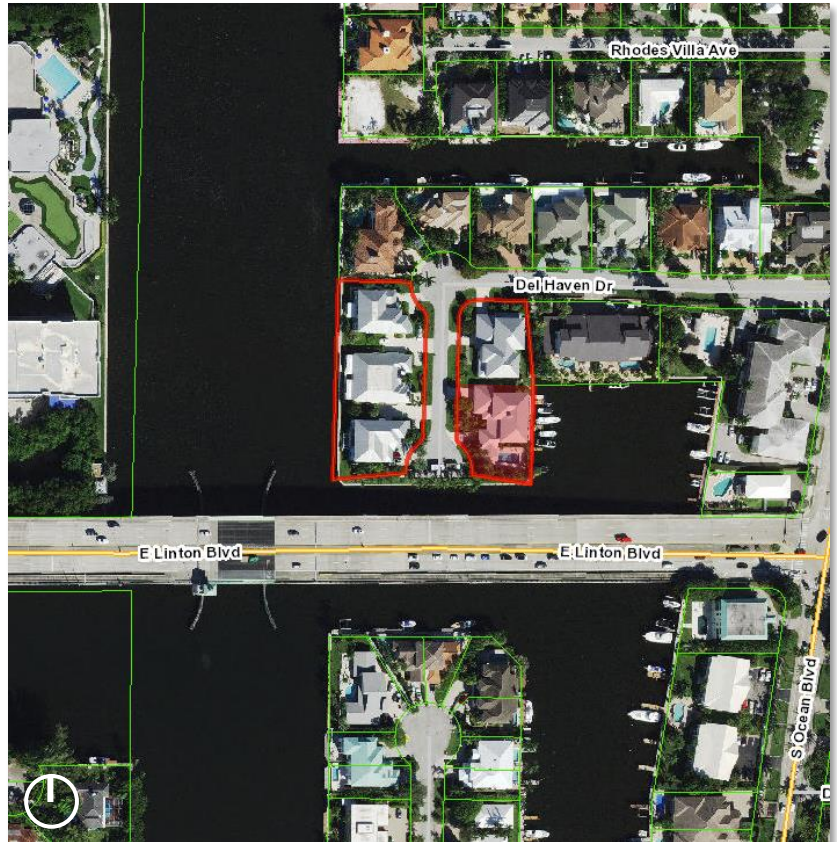
**LUM:** LD (Low Density)

**Zoning:** RL (Multiple Family Residential - Low Density)

#### Adjacent Zoning:

- R-1-AA (North)
- Intra Coastal Waterway (West)
- Intra Coastal Waterway / RL (South)
- RM / Intra Coastal Waterway (East)

**Existing Land Use:** Condominium



#### Optional Board Motions for Action Items:

1. Move to **continue with direction**.
2. Move **approval** of the variance request for **Snyder Residence** (2022-255 VAR-BOA) from LDR Section 7.9.7(C), to allow the dock to extend beyond 25 feet from the property for a total of 28 feet and six inches, and LDR Section 7.9.11(A), to allow the boatlift to extend more than 20 feet into the waterway for a total of 32 feet and 10 inches, 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 **Snyder Residence** (2022-255 VAR-BOA) from LDR Section 7.9.7(C), to allow the dock to extend beyond 25 feet from the property for a total of 28 feet and six inches, and LDR Section 7.9.11(A), to allow the boatlift to extend more than 20 feet into the waterway for a total of 32 feet and 10 inches, by finding that the request is inconsistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5).

#### Project Planner:

Susana Rodrigues, Planner  
[rodrigues@mydelraybeach.com](mailto:rodrigues@mydelraybeach.com)  
561-243-6052

#### Review Dates:

BOA Board:  
November 3, 2022

#### Attachments:

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

**Background:**

The property consists of Lot 32, according to the map or plat thereof, as recorded in Plat Book 25, page 148, of the Public Records of Palm Beach County, Florida.

The existing 2,867 square foot condominium, constructed in 1987, consists of four docks. On March 8, 2022, a building permit was denied for the approval of a boatlift and an extension of an existing dock.

**Variance Analysis:**

The subject request is for relief to allow the dock to extend 28 feet and six inches into the waterway where 25 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*; and to allow the boatlift to extend 32 feet and 10 inches into the waterway where 20 feet is allowed 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 applicant's justification letter is attached.

Pursuant to **LDR Section 2.2.4(D)(4)(a) 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:

- 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 replacing and extending the existing dock and adding a boat lift to the extended portion of the dock. As a result of the proposed addition of the boat lift, it will extend 32 feet and 10 inches into the cove within the Intracoastal Waterway where only 20 feet is allowed pursuant to LDR Section 7.9.11(A), *a boatlift in a raised position shall not extend more than twenty feet into the waterway from the property line or bulkhead, whichever is nearer to the waterway*. In addition, LDR Section 7.9.11(B) states the boatlift shall not extend any closer than ten feet to the adjacent properties. The proposed boatlift is 15 feet from each adjacent property. The existing dock adjacent to the proposed boat lift extends 15 feet and four inches into the cove, and is proposed to extend 28 feet and six inches where only 25 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 Hydrographic Survey identifies that mean low water (MLW) adjacent to the end of the existing dock is at 2.7 feet. The proposed boatlift at MLW is at 3.5 feet; therefore, if the boat lift were to be placed any closer to the property line, the Applicant would not be able to safely navigate and dock the boat and would beach the boat, causing significant damage. The boat cannot be positioned parallel to the property line due to the additional docks positioned adjacent to the property owned by others in the condominium.

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

The requirements for LDR Section 7.9.7(C) and 7.9.11(A) are applied city wide. The Hydrographic survey demonstrates that the MLW is low during low tide. Due to the MLW and the fact that the boat cannot be placed parallel to the property line as seen in other surrounding properties, the applicant would not be able to have a boat lift that will allow the safe docking of a boat.

- 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 a direct result of the Applicant. The Applicant purchased the property in 2018 with the dock and is proposing to replace and extend the existing dock and add the boatlift.

- 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.**



Each variance submitted is to be reviewed and stand on its own. The City of Delray Beach has many properties fronting the Intracoastal Waterway and many of those properties have more than 100 feet of waterway. Pursuant to Florida State Statute 253 Section 141, *riparian rights are those incident to land bordering upon navigable waters. They are rights of ingress, egress, boating, bathing, and fishing and such others as may be or have been defined by law.* The applicant is proposing the extension of the boat dock and boat lift for the right to safely navigate and dock 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 proposal is to replace and extend the existing dock allowing for a boat lift that would extend 32 feet and 10 inches into the waterway to allow the safe operation to and from the dock and boat lift. The applicant has demonstrated through the Hydrographic survey that the water depth is too shallow moving closer to the property for the boat lift to operate correctly and safely.

- 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 proposed boat lift will not extend further into the Intracoastal Waterway than the existing structures, thereby creating no additional impacts to surrounding parcels and will not interfere with the existing ingress, egress, and navigation of other boats in the intracoastal waterway.

Pursuant to **LDR Section 7.9.4(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.*

#### 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	September 26, 2022
2.4.2 (B)(1)(j)(ii) - Notice posted on the City's web page at least ten days prior	September 26, 2022
2.4.2 (B)(1)(j)(iv) - Notice posted at City Hall	September 26, 2022