



MARINE ADVISORY BOARD
1201 N.E. 5th Avenue
Pompano Beach, Florida 33060

Date: 20 February 2023

TO: Zoning Board of Appeals

FROM: Marine Advisory Board (MAB), City of Pompano Beach

RE: MAB review and evaluation of Petition to the Zoning Board of Appeals dated 11 July 2023.
Applicant: Pompano Real Estate Investment – Joseph Accardi, 855 S Federal Hwy Pompano Beach, FL 33062

The Petition to the Zoning Board of Appeals requests a Variance to Chapter 151 Beaches and Waterways, to build a structure that will extend into the waterway 66' encroaching into the navigational channel. Specifics are as follows:

855 South Federal Highway

Proposed Structure	Chapter 151	Code Of Ordinances	Variance
50' Finger Pier From MRL	151.03(G)(2)	(2) Fixed finger piers and floating finger piers may be constructed or erected to extend into any canal, river, basin, or waterway a distance of 20% of the width of the canal, river, basin, or waterway or a distance of 20 feet, whichever is less, as measured from the measurement reference line. A finger pier (floating or stationary) shall not be constructed to a width greater than four feet. The distance between finger piers shall not be less than 25 feet.	30'
Finger Pier Width 5'	151.03(G)(2)	(2) Fixed finger piers and floating finger piers may be constructed or erected to extend into any canal, river, basin, or waterway a distance of 20% of the width of the canal, river, basin, or waterway or a distance of 20 feet, whichever is less, as measured from the measurement reference line. A finger pier (floating or stationary) shall not be constructed to a width greater than four feet. The distance between finger piers shall not be less than 25 feet.	1'
25' X 5' T dock at the end of the pier 55' from MRL	151.03(G)(1)	(1) Fixed vessel docks, floating docks or wharves may be constructed or installed to extend into any canal, river, basin, or waterway a distance of 10% of the width of the canal, river, basin, or waterway or a distance of eight feet whichever is less, as measured from the measurement reference line.	47' (50'+5'-8')
Boat Lift 66' From MRL	151.03(G)(4)	4) Vessel davits, elevator lifts, cradle lifts, floating lifts, floating vessel platforms, personal watercraft/ jet ski platform used for the express purpose of storing a watercraft out of the water or any other similar form of vessel lifting device may be constructed or installed to extend into any canal, river, basin, or waterway, in a fully raised position, a distance up to 28 feet, as measured from the measurement reference line subject to the provisions of subsection (B) and (C) above.	38' (50'+5'+11' = 66) (66'-28')

155.01(B) MEASUREMENT REFERENCE LINE. The measurement standard utilized for the purpose of measuring the distance for mooring structures, tidal flood barriers, rip-rap and all other similar structures in waterways. When the recorded property line is seaward of the wet face of the original tidal flood barrier or rip-rap, the wet face of the original tidal flood barrier or rip-rap is to be utilized as the measurement reference line. When the property line is landward of the original tidal flood barrier or rip-rap greater than one foot, the measurement reference line is the wet face of the original tidal flood barrier. In all other instances, including when the property line will become landward of a new or proposed tidal flood barrier or rip-rap, the measurement reference line is the recorded property line.

Pursuant to §151.09(B)(1) Any such application for variance must first be submitted to the MAB for its review and recommendations. The following constitutes a review of the Petition by the MAB in accordance with §155.2420.D Variance Review Standards.

Summary:

1. The proposed project extends into the navigational channel as defined in 91.10(D)(1).

*(1) In canals or waterways adjacent to single-family, multi-family and commercial zoned lots where the property is improved and has been issued a Certificate of Occupancy for single-family, multi-family and commercial use or in canals or waterways adjacent to property which has been improved and issued a Certificate of Occupancy for single family, multifamily and commercial use, docking of vessels or watercraft shall be permitted, provided that no vessel or watercraft shall be docked in any canal or waterway in such a manner as to have any part of the vessel or watercraft extended within five feet of an extended side boundary lot line **or encroach into the “navigational channel.”***

- **A variance cannot be granted for items under chapter 91.10.**

2. Although the applicant’s representative states the project is within the property lines that extend into the waterway, per 151.01(B) Measurement Reference Line, measurements for structures are to be taken from the shoreline.

*Measurement Reference Line. The measurement standard utilized for the purpose of measuring the distance for mooring structures, tidal flood barriers, rip-rap and all other similar structures in waterways. **When the recorded property line is seaward of the wet face of the original tidal flood barrier or rip-rap, the wet face of the original tidal flood barrier or rip-rap is to be utilized as the measurement reference line.** When the property line is landward of the original tidal flood barrier or rip-rap greater than one foot, the measurement reference line is the wet face of the original tidal flood barrier. In all other instances, including when the property line will become landward of a new or proposed tidal flood barrier or rip-rap, the measurement reference line is the recorded property line.*

3. The applicant’s representative stated in the narrative: “This applicant shoreline has receded over the years. The water in this area is extremely shallow making it impossible for the applicant to effectively use the property as intended.”
“The water in this area is extremely shallow making it impossible for the applicant to effectively use the property as intended.”

- **As per the Application for Variance, if shallow water is the reason for the variance, a Bathometric Survey is required. A bathometric survey was not presented.**

A Variance application shall be approved only on a finding that there is competent substantial evidence in the record that all of the following standards are met.

(a) There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity.

Applicant asserted variance needed due to inadequate water depth. Bathymetric survey requested but not provided. MAB member investigated site via vessel and confirmed that

MAB Review & Recommendations

Page 4

at MLW adequate water depth appears to be available. Survey conducted by City ~ 6 years ago appears to indicate adequate water depth.

(b) The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner.

Unconsolidated shoreline at project site has not been stabilized; however, site erosion does not appear to have contributed to sufficient available bathymetry.

(c) Because of the extraordinary and exceptional conditions referred to in paragraph a., above, the application of this Code to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship.

There appears to be sufficient water depth within 40 ft of the shoreline, which is the area authorized for structures by Ch. 151 City Code.

(d) The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.

Issuance of this variance would not be consistent with the provisions of the City Code and do not appear to meet the requirements for granting a variance by the City Code.

(e) The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure.

It appears that there is sufficient water depth within the area authorized by Code for a dock and slip; therefore, the variance requested is not warranted.

(f) The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit.

The variance requested is not consistent with the City code

(g) The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare.

The variance requested would be a navigable hazard and is not consistent with the intent of the City Code.

(h) The Variance is consistent with the comprehensive plan.

The comprehensive plan does not take into consideration projects of this nature.

The MAB has found the following items to be missing from the Zoning Board of Appeals Application submitted to the MAB for review and recommendations.

Bathymetric Survey

Based upon the MAB's review and discussion of the above conditions, the MAB does not recommend of the requested variance.

Distance
145 ft

145'

Nav. Channel = 45% or 65.25'
Distance To The Nav. Channel = 40'



