



Staff Report

File #: LN-435

Zoning Board of Appeals
Meeting Date: April 20, 2023

VARIANCE - VINCENZO COSTANZA

Request:	Variance
P&Z#	23-11000002
Owner:	Vincenzo Costanza
Project Location:	777 S Federal Highway
Folio Number:	494306BB0400
Land Use Designation:	MH- MEDIUM HIGH 16-25 DU/AC
Zoning District:	Multiple-Family Residence 30 (RM-30)
Agent:	David Nutter
Project Planner:	Scott Reale

Summary:

The Applicant Landowner is requesting a VARIANCE from the following Section 151.03 (G)(1) of the City of Pompano Beach Code of Ordinances, in order to construct a dock that extends up to 14' into a waterway rather than a maximum of 8' from the measurement reference line as per code.

The subject property is located within the Island Club Condominium complex, along the west side of S Federal Highway, between SE 7th Street and SE 9th Street, on the north end of the C-14 canal.

ZONING REGULATIONS

§ 151.03 STRUCTURES IN WATERWAYS.

...

(G) In a canal, river, basin, or waterway which is more than 50 feet in width, mooring structures or any other marine structures must be constructed or installed pursuant to the following conditions.

(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.

PROPERTY INFORMATION AND STAFF ANALYSIS

1. The applicant is requesting to replace their dock in its original footprint of slips #1 and #2 on the eastern edge of the property, primarily due to very shallow water depth.
2. Chapter 151, Beaches and Waterways, restricts the dock extensions into a canal a distance of 10% of the

width of the canal, or a maximum of eight feet, whichever is less. A building permit was submitted and approved to comply with these code requirements (BP #22-5522); however, during initial construction it quickly became evident there would be very little water at the edge of the dock, effectively rendering it useless to moor a vessel.

3. The applicant is requesting a variance to encroach an additional 5'-8" beyond what the code allows in order to have a viable, functioning dock.
4. The replacement of the dock in its proposed configuration was already approved by both Broward County (Environmental Permitting Division) and the South Florida Water Management District. It bears repeating that the request is simply to replace and rebuild the dock back to its original footprint. Most of the other docks at the rear of the property have the same width as what the applicant is proposing.
5. Pursuant to §151.09(B)(1) property owners seeking relief from the standards in Chapter 151: Beaches and Waterways, must first go before the Marine Advisory Board (MAB) for its review and recommendations. This meeting took place on February 28, 2023. The MAB recommended approval of the variance, and their recommendation memo is included in the backup of this report.

LAND USE PATTERNS

Subject property (Zoning / Existing Use):

- RM-30 | Island Club Three Condo

Surrounding Properties (Zoning District / Existing Use):

- North: RM-30 | Island Club Four Condo
- South: RM-30 | Waterford Point Condo
- East: M-1 | Marine Max (boat repair and service)
- West: RM-30 | Island Club One Condo

VARIANCE REVIEW STANDARDS

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;
- b) The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner;
- 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;
- d) The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.
- e) The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure;
- f) The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit;
- 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; and
- h) The Variance is consistent with the comprehensive plan.

Staff Conditions:

Should the Board determine that the applicant has provided competent substantial evidence to satisfy the eight Variance review standards, staff recommends the Board include the following conditions as a part of the Order:

1. Obtain all necessary governmental permits and approvals including building and zoning compliance permits.
2. Substantial compliance to the plans submitted with this application.



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

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 Variance #23-11000002 Applicant, Vincenzo Costanza 777 S Federal Highway, #203-C Island Club Three Condo Unit 203 Bldg C Per CDO BK/PG 5128/13

DATE: 29 March 2023

The Petition to the Zoning Board of Appeals requests a Variance to Chapter 151 Beaches and Waterways, specifically §151.03(G)(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."

The Petitioners are requesting authorization to extend up to 14'.

STANDARDS:

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.

There is not a typical seawall at this and all the properties at this development. Rather there is rip-rap which is essentially boulders holding back the upland property. There are shallow waters at the edge of the dock. At the edge of the proposed dock in its existing footprint, the water depth is sufficient. Dredging to create increased depth is not a feasible solution, since there is no bulkhead/seawall. Between the natural embankment and the wave actions from navigational traffic, any new depth from dredging would be lost, and Broward County no longer allows repeated maintenance dredging.

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

The lack of water depth and the rip rap is not due nor the result of actions of the landowner. The depth of water is a naturally occurring condition, outside of the owner's action or control.

MAB Review & Recommendations

Variance Request of: Vincenzo Costanza 777 S Federal Highway, #203-C
Island Club Three Condo Unit 203 Bldg C Per CDO BK/PG 5128/13

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(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.

The strict application of the Code to this dock prohibits the mooring of vessels.

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

A variance for the increase dock width would not confer any special privilege on this owner that is not enjoyed or utilized by other dock owners at this site or other properties that have the same or larger dock width.

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

The distance requested here is the minimum necessary to restore the replacement dock to the footprint of the existing dock and maintain the usage of the dock as it has been, and also to match the other existing dock at this property.

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

The request in this application is in harmony with the general purpose, intent and spirit of the Code, which is to allow a property owner to install or replace a mooring structure to such a degree or extent as to make or keep it usable for its intended purpose, which in this case is the mooring of a vessel.

(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.

Neither the granting of the variance nor the wider replaced dock, would not adversely affect the health or safety of persons residing or working on the neighborhood, nor be injurious to properties or improvements in the neighborhood, or otherwise be detrimental to the public welfare. Granting of the variance would allow the owner to replace his dock at its existing width and to continue to use it as he has been.

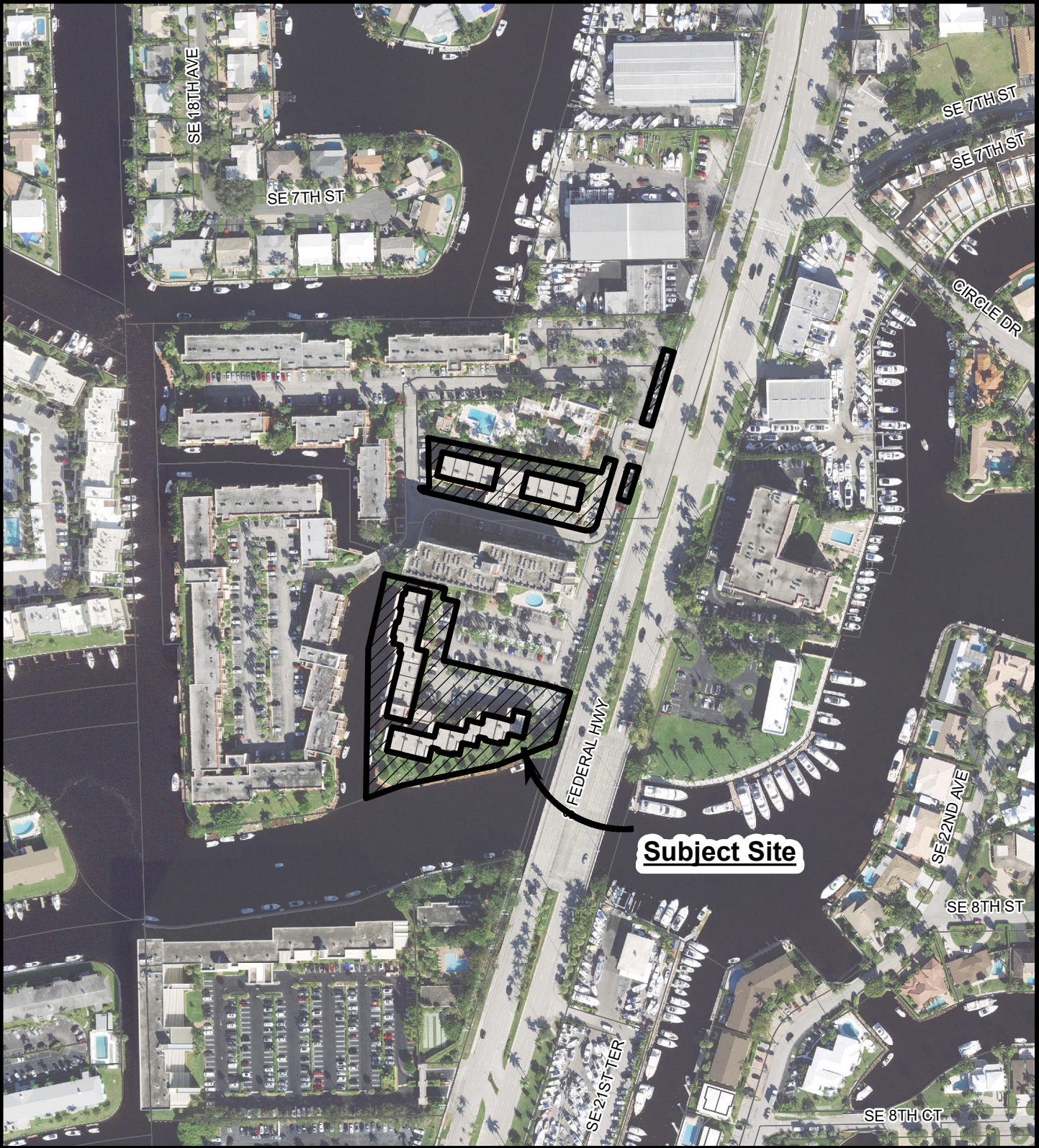
(h) The Variance is consistent with the comprehensive plan.

The granting of the variance will be consistent with the comprehensive plan of this property, the neighborhood and other properties.

The MAB recommends consideration be granted without extenuating circumstances.

Based upon the MAB's review and discussion of the above conditions, the MAB recommends approval of the requested variance to §151.03(G)(1)

CITY OF POMPANO BEACH
OFFICIAL AERIAL MAP



1 in = 250 ft

777 S FEDERAL HWY

PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES