



MARINE ADVISORY BOARD

1201 N.E. 5th Avenue
Pompano Beach, Florida 33060
Memo # 2021-01

Date: 5 October 2021

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 # P&Z #21-11000014 dated 13th July 2021 Applicant: City Of Pompano Beach

The Petition to the Zoning Board of Appeals requests a Variance to Chapter 151 Beaches and Waterways as outlined below.

1. **Relief from 151.01 to install 5 boat exclusion buoys at various locations, extending seaward approximately 153' from the property or measurement reference line; and relief from 151.03(D) to encroach into the 5' setback on the south side.**

Coordinates:

- 1)26.260119° -80.083776°
- 2)26.260077° -80.083631°
- 3)26.260034° -80.083486°
- 4)26.260163° -80.083431°
- 5)26.260290° -80.083377°

151.01 The intent of this chapter is to permit construction in, over and upon the waterways within the city of fixed docks, floating docks, floating vessel platforms, wharves, finger piers, boat lifting devices (floating or stationary), dolphin, fender or mooring piles, mooring buoys, and other related structures, which do not interfere with navigation, endanger life or property, or deny the public reasonable access to public waterways. **Structures not similar in nature to those listed herein shall be prohibited.**

151.03 (D) No fixed docks, floating docks, wharves, finger piers, boat lifts (floating or stationary), mooring devices, dolphin, mooring or fender piles, mooring buoys **or other similar structures may be erected or installed within five feet of an extended side property line** or cause a watercraft to extend within five feet of an extended side property line unless the following conditions have been met prior to any permit being issued pursuant to the terms of this section:

2. **Relief from 151.01 to install 6 - 20' X 15' X 8' mangrove planters approximately from the measurement reference/property line.**

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3. **Relief from 151.03(C)(2) to install a 8'X14' parallel dock with guard rails off the existing perpendicular finger pier beginning approximately 16' from the measurement reference/property line, extending a total of approximately 24' from the measurement reference/property line versus the code provision under 151.03(C)(2) of 8'.**

151.03(C)(2) Fixed boat 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 recorded property line or measurement reference line.

4. **Relief from 151.03(B)(3) to install a second parallel finger pier within 5' of the existing perpendicular dock versus the code distance of not less than 25'.**

151.03(B)(3) 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 recorded property line or measurement property 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.**

5. **Relief from 151.03(B)(3) to install a 62' Finger Pier from the proposed parallel dock extending seaward from the measurement reference/property line a total of approximately 86' versus the code provision under 151.03(B)(3) of 20' with a varying width of 5' and 18.8' versus the code provision under 151.03(B)(3) of a width of 4'.**

This entails:

- 28'X 5' access ramp (with guard rails) from the new parallel dock
- 34'X16' floating finger pier with a width of 16' with a side 21'X 2.8' swim platform bringing the total width to 20'.

151.03(B)(3) 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 recorded property line or measurement property 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.

*** All structures will comply with ADA standards.**

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.

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; ***The immediate area adjacent to the existing pier and dock/seawall has protected seagrass and cannot be disturbed per FWC.***

- b. The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner; ***The seagrass is naturally occurring and must be protected. The seagrass also shifts with tidal current, thus does not remain constant in any given area but is rather ubiquitous in this general area.***
- c. Because of the extraordinary and exceptional conditions referred to in paragraph a., above, the application of the 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; ***If this variance is not approved, there is no alternate location to construct an accessible route to the snorkel area to observe/record/learn about reef protection, marine habitat sea life, and the sensitivities of the ocean.***
- d. The variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated. ***Because this project is for public purpose, anyone who wishes to visit this underwater marine park will be afforded the opportunity, thus approval of this variance will benefit everyone, including the environment.***
- e. The extent of variance is the minimum necessary to allow a reasonable use of the land or structure; ***Approval of this variance will allow the construction of a pier, gangway and swim/snorkel platform to facilitate park patrons access to the water without disturbing seagrass and other marine habitat, which this project promotes as part of the artificial reef and other elements.***
- f. The variance is in harmony with the general purpose and intent of the Code and preserves its spirit; ***The request is in harmony with the general purpose and intent of the 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; ***This request will 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. A condition of this proposed underwater marine park requires the installation of (5) exclusionary buoy's delineating the underwater park area, which excludes boating. Consequently, in January 2021 City Commission approved to designate this area as swimming only and thereby amended the Code of***

Ordinances to include the following language: Amending Code of Ordinances Chapter 91, “Boats and Water Recreation”- Establishing New Section 91.16, “Hillsboro Inlet Park; Public Swim Area”.

- h.*** The variance is consistent with the comprehensive plan. ***This request is consistent with the comprehensive plan, Policy 01.06.05 – Promote the acquisition, retention and management of unique natural areas in the City to preserve their environmental, recreational and other public benefits.***

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.

X Completed Application

N/A Owners Certificate (City form)

N/A Application Fee

X Written Narrative – Letterhead dated, authors signature (Items a-h above)

N/A See drawings Current Survey. Survey must be recent and must show all improvements on the property and legal description.

X Legal description of property.

X Connectional site plan demonstrating requested Variance/Special Exception/ or Temporary Use

X (Optional) Documents photographs and other evidence

N/A Submerged land lease, if existing, complete with all addendums

N/A Letter of explanation from Code Enforcement

X Immediate neighbors letters/comments about Variance (if applicable)

The MAB recommends consideration be granted for the following extenuating circumstances.

None

Based upon the MAB’s review and discussion of the above conditions, the MAB recommends approval of the requested variances.