



Staff Report

File #: LN-103

Zoning Board of Appeals
Meeting Date: April 15, 2021

VARIANCE - DANIEL O'NEAL

Request:	Variance
P&Z#	20-11000014
Owner:	Daniel O'Neal
Project Location:	1351 W Terra Mar Drive
Folio Number:	4943 06 22 0350
Land Use Designation:	L- Low 1-5 DU/AC
Zoning District:	RS-2 (Single-Family Residence 2)
Agent:	Susan Eagle
Project Planner:	Scott Reale

Summary:

Applicant Landowner is requesting a VARIANCE from the Section 151.03 (C)(4) of the City of Pompano Beach Code of Ordinances, in order to construct a boat lift that extends into the waterway a distance of 26'-7" from the Measurement Reference Line, rather than limit the improvements to a distance of 20 feet in length as permitted by code.

ZONING REGULATIONS

§ 151.03 STRUCTURES IN WATERWAYS.

...
(C) In a canal, river, basin or waterway which is more than 50 feet in width, wharves, finger piers, fixed docks, floating docks, boat lifts (floating or stationary), floating vessel platforms, dolphin, fender or mooring piles, and/or mooring buoys must be constructed or installed pursuant to the following conditions provided that the navigational channel is not encroached upon:

...
(4) Boat davits, elevator lifts, cradle lifts, floating lifts, floating platforms used for the express purpose of storing a watercraft out of the water or any other similar form of boat lifting device may be constructed or installed to extend into any canal, river, basin, or waterway, in a fully raised position, a distance equal to 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 reference line.

LAND USE PATTERNS

Subject property (Zoning / Existing Use): RS-2 | single-family dwelling

Surrounding Properties (Zoning District / Existing Use):

- North: RS-2 | single-family dwelling
- South: RS-2 | single-family dwelling
- East: RS-2 | single-family dwelling
- West: Intracoastal Waterway

PROPERTY INFORMATION

1. The subject property has no code violations. In 2015, a Certificate of Occupancy was issued for a new single-family dwelling (BP #15-9459).
2. The request before the Board is to install a boat lift (17 ft wide) that extends 26'-7" into the waterway rather than a maximum length of 20' as permitted by code.
3. 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.
4. At the March 30, 2021 Marine Advisory Board Meeting, the landowner obtained a recommendation for approval of the requested variance. The recommendation, along with an analysis of the variance review standards, is included in the application backup.

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.

CITY OF POMPANO BEACH AERIAL MAP



1 in = 167 ft

PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES



MARINE ADVISORY BOARD

1201 N.E. 5th Avenue
Pompano Beach, Florida 33060
Memo # 21-01

30 March 2021

TO: Zoning Board of Appeals

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

RE: MAB recommendation of Petition to the Zoning Board of Appeals dated 1 September 2020 Applicant: **1351 Terra Mar Drive, Bridgewater Design & Development LLC. P&Z #20-11000014**

The Petition to the Zoning Board of Appeals requests a Variance to Chapter 151 Beaches and Waterways, specifically §151.03(C)(4)

§151.03(C)(4)

Boat davits, elevator lifts, cradle lifts, floating lifts, floating platforms used for the express purpose of storing a watercraft out of the water or any other similar form of boat lifting device may be constructed or installed to extend into any canal, river, basin, or waterway, in a fully raised position, a distance equal to 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 reference line.

The Petitioners are requesting authorization to install a 30,000lb 10 piling no profile boat lift (17ft wide) extending from the measurement reference line (wet face of the seawall) 26.7ft versus the code of 20ft.

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 extraordinary and exceptional conditions that supports this request for a variance are.

a) Repeat shoaling along the dock as a result of prevailing currents and significant wave action of the area located adjacent to the Intra-Coastal Waterway known as Lettuce Lake (across from Lake Santa Barbera).

b) The wide waterway supports this variance and does not impede or intrude on the neighbors, navigable channel or vessel traffic.

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

The depth at 1351 Terra Mar Drive is an exceptional condition caused by the currents, tides and significant wave action moving sand and silt along the shore and not the result of any actions taken by owners.

(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.

Without the variance being requested, would preclude the landowners from safely operating and mooring their vessel. Approval of the variance will allow the owner to safely dock their vessel out of the water on a lift and help protect it from the significant intercoastal wave action (wake) that occurs due to the property's proximity to the intracoastal waterway.

The Marine Advisory Board is discussing expanding the distances for lifts. A recent survey, of four post lifts found that over 70% of the lifts within a 1-mile radius are not in compliance. This is a result of residents installing these lifts without permits as the current code of 20-feet would preclude them from installing an adequate lift to moor their vessel, however, none of the lifts surveyed extended into the navigable channel. Under the current code, dolphin pilings can be placed out to the navigable channel or up to 40 feet (in wider waterways), however, 4 post lifts can only go out 20-feet.

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

The requested variance would not confer any special privilege upon the landowner. The MAB has recommended several other properties on Lake Santa Barbara to extend their dockage beyond the code requirements and have been granted approval for docks that extend beyond 30 feet from the wet face of the seawall due to constant shoaling, shallow water depth and significant intercoastal wave action (wake) that occurs due to the property's proximity to the intracoastal waterway.

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

The distance of the requested extension (6.7 feet beyond the code of 20 feet) of the boat & lift from the measurement reference line or property line is the absolute minimum distance needed to safely access & operate the lift.

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

Yes, the location of the lift will not create any additional hazards to navigation and will be located over 300-feet from the ICW.

(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 pertains only to the single existing slip on the direct frontage at 1351 W. Terra Mar Drive and does not impact public access or neighborhood improvements; nor will it interfere with navigation, fishing, commerce and other traditional uses of the water. This proposed lift is two houses north of a previous approved variance (1361 Terra Mar Drive) extending 30-feet from the property line and 10-feet beyond the 20-foot limitation.

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

The variance is consistent with the comprehensive plan as it relates solely to the installation of a boat lift (with minimal extension from shore)

MAB Review & Recommendations

Variance Request 1351 Terra Mar Drive, Bridgewater Design & Development LLC.

Date: 30 March 2021

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Based upon the MAB's review and discussion of the above conditions, the MAB recommends approval of the requested variance to §151.03(C)(4) with all attending members voting in favor (P. Cutt, F. Pelly G. Leyes, R. Grissinger, J. Chapman, L Corson.