

**MINUTES — DECEMBER 17, 2019
CITY OF INDIAN ROCKS BEACH
BOARD OF ADJUSTMENTS AND APPEALS**

The Regular Meeting of the Indian Rocks Beach Board of Adjustments and Appeals was held on **TUESDAY, DECEMBER 17, 2019**, at 7:00 p.m., in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

1. **CALL TO ORDER.** Chair Alvarez called the meeting to order at 7:00 p.m.

2. **ROLL CALL:**

PRESENT: Chair Rick Alvarez, Vice Chair Stewart DeVore, Board Member Waldemar H. Clark, Jr., and Board Member Jim Labadie.

ABSENT: Board Member David Watt.

OTHERS PRESENT: Planning Consultant Hetty C. Harmon, AICP, City Attorney Randy Mora, and City Clerk Deanne B. O'Reilly, MMC.

VACANT POSITIONS: 1st Alternate Board Member and 2nd Alternate Board Member.

(To provide continuity for research, items are listed in agenda order although not necessarily discussed in that order.)

3. **APPROVAL OF MINUTES: November 19, 2019**

MOTION MADE BY VICE CHAIR DEVORE, SECONDED BY MEMBER LABADIE, TO APPROVE THE NOVEMBER 19, 2019 BOARD OF ADJUSTMENTS AND APPEALS MINUTES AS SUBMITTED. UNANIMOUS APPROVAL BY ACCLAMATION.

4. **BOA CASE NO. 2019-10 — 528-20th AVENUE**

Owner/Applicant: Pedersen, Alan
Pedersen, Nancy

Representative: Waterline Construction

Subject Location: 528-20th Avenue

Legal Description: Indian Beach Re-Revised 15th Addition, Lot 30 & rip rts

Parcel #: 06-30-15-42300-000-0300

Variance Request: An after-the fact variance request from Sec. 94-89 of 8 inches above the allowed dock height and for 6 inches above the allowed piling height for the dock and pilings that were constructed on the property.

[BEGINNING OF STAFFING REPORT]

SUBJECT: BOA CASE NO. 2019-10: Variance request from Sec. 94-89 of 8 inches above the allowed dock height and for 6 inches above the allowed piling height for the dock and pilings that were constructed on property located at 528-20th Avenue, Indian Rocks Beach, Florida, and legally described as Lot 30, Fifteenth Addition to Re-Revised Map of Indian Beach. Parcel #06-30-15-42300-000-0300.

OWNER (PREVIOUS): JYOTI1LIFE, LLC
PROPERTY LOCATION: 528-20th Avenue
ZONING: S- Single Family

DIRECTION	EXISTING USE	ZONING CATEGORY
North	Residential	S
East	Intracoastal	N/A
South	Residential	S
West	Residential	S

BACKGROUND:

Mr. and Mrs. Pedersen are requesting a variance for the dock and boat lift that were installed in 2014. At the time the dock was installed 8 inches above the seawall to avoid being damaged from the wake from boaters. The code requires the dock to be no higher than the seawall. As a result of the increased dock height, the boat lift pilings were installed at 7 feet inches, which is 6 inches higher than the allowable height of 7 feet above the seawall. The project obtained a permit, but was red tagged and did not receive final inspection by the City.

The previous owner was in the process of selling the house when the title company realized there was an open permit for the electrical for the boat lift, a red tag for the dock and piling heights and did not receive final inspection. The Pedersens recently purchased the property are requesting the variance for the dock that was installed in 2014.

Sec. 2-52. Variances.

(a) Generally; criteria for granting variances from the terms of subpart B.

(1) The Board of Adjustments and Appeals shall make recommendations on and the City Commission shall decide variance applications will not be contrary to the public interest,

where, owing to special conditions, a literal enforcement of the provisions of subpart B will result in unnecessary and undue hardship. In order to recommend or decide any variance from the terms of subpart B, the Board or the City Commission shall consider each of the following.

- a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

The property is located in a no wake zone of the Intracoastal and the previous dock was damaged due to the heavy action.

- b. The special conditions and circumstances do not result from the actions of the applicant.

The applicant did not create any special conditions or circumstances.

- c. Granting the variance will not confer on the applicant any special privilege that is denied by subpart B to other lands, structures or buildings in the same zoning district.

Granting the variance would not confer special privileges to the applicant, it would allow for the dock and boat lift to remain as constructed.

- d. Literal interpretation of the provisions of subpart B would deprive other properties in the same zoning district under the terms of subpart B and would work unnecessary and undue hardship upon the applicant.

The approval of this variance request would not deprive other owners of use and enjoyment of their properties.

- e. The variance granted is the minimum variance that will make possible the reasonable use of the land, structure or building.

This is the minimum variance to allow the owner to retain the dock and boat lift as constructed.

- f. The granting of the variance will be in harmony with the general intent and purpose of subpart B, and such variance will not be injurious to the area involved or be otherwise detrimental to the public welfare.

Granting the variance will be in harmony with the general intent and purpose of subpart B.

PUBLIC NOTIFICATION: A public meeting notice was mailed by First Class Mail to the property owners within 150 feet in any direction of the subject property and posted on the property on December 2, 2019, per Code Section 2-149.

- A letter of support was received from Edmond DiRuzza, 526-20th Avenue.

STAFF RECOMMENDATION: Based on the variance review criteria of Sec. 2-152, staff recommends approval of the request.

[END OF STAFFING REPORT]

City Attorney Mora stated this is a quasi-judicial proceeding.

City Attorney Mora inquired of the Members if any of them had any ex-parte communications with the applicant, with all Members responding in the negative.

City Attorney Mora inquired of the Board Members if any of them had done a site visit for the limited purpose of evaluating this case, with all Members responding in the negative.

All persons planning to give testimony during the quasi-judicial proceeding were duly sworn in by the City Attorney.

City Attorney Mora read the Agenda Item by title only.

Planning Consultant Harmon reviewed the Staffing Report and stated the applicants are requesting a variance for a dock and boat lift that were installed in 2014. At the time the dock was installed, it was installed 8 inches above the seawall to avoid being damaged from the wake from boaters, which makes the boat lift pilings 6 inches higher than the allowable height of 7 feet above the seawall. A permit was issued for the dock, but no electrical permit was issued. During final inspection, it was realized the dock was 8 inches higher than allowed and no electrical permit was issued, so the Building Inspector red tagged the project.

Planning Consultant Harmon stated the previous owner was in the process of selling the house when the title company realized there was an open permit for the electrical for the boat lift, a red tag for the dock and piling heights and did not receive final inspection for the failed electrical inspection. The Pedersens recently purchased the property are requesting the variance for the dock that was installed in 2014.

Planning Consultant Harmon made a PowerPoint Presentation depicting aerial views of the property, dock photographs looking north, south, and east, and aerial photographs showing proximity of the property and the wave/wake action from boat traffic.

Planning Consultant Harmon stated the marine construction contractor suggested raising the dock, so that it would not get so beat up by the wave action caused by boat traffic.

Harley Farmer, Waterline Construction, 4408 N. Grady Avenue, Tampa, stated the dock was built higher up because of the wave action since the property is closer to the channel as shown in the aerials. He stated the docks in that area are not outside the navigable channel, it is because the channel is so close to the actual homes in this part of the Intracoastal Waterway.

Planning Consultant Harmon inquired if an electrical permit has been pulled, with Mr. Farmer replying he is not sure about that and he would have to look into the electrical portion of it. They are just the marine contractor, and are not licensed to do electrical work.

Julie Folden, Coastal Properties, 1201 Gulf Boulevard, stated she was the realtor involved with the listing side. She stated in order to abide by the City Code, it would cost \$18,000 to rectify the problem. She stated the docks in that area do get a beating because of the wave action, and the water seems to be rising in that area. She stated abutting neighbors have agreed to the variance.

Ms. Folden stated seawalls are being built higher because of rising sea levels and maybe dock heights is something the City should consider looking at.

Vice Chair DeVore stated anything the City can do to mitigate damage caused by rising waters to structures in general is a good thing and should be considered. He does appreciate Ms. Folden's words regarding rising waters and it is something the City should take into consideration moving forward.

MOTION MADE BY MEMBER LABADIE, SECONDED BY VICE CHAIR DEVORE, TO RECOMMEND TO THE CITY COMMISSION APPROVAL OF BOA CASE NO. 2019-10, A VARIANCE REQUEST FROM SEC. 94-89 OF 8 INCHES ABOVE THE ALLOWED DOCK HEIGHT AND FOR 6 INCHES ABOVE THE ALLOWED PILING HEIGHT FOR THE DOCK AND PILINGS THAT WERE CONSTRUCTED ON PROPERTY LOCATED AT 528-20TH AVENUE, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS LOT 30, FIFTEENTH ADDITION TO RE-REVISED MAP OF INDIAN BEACH.

ROLL CALL VOTE:

AYES: LABADIE, DEVORE, ALVAREZ.

NAYS: CLARK.

ABSENT: WATT

MOTION CARRIED 3 TO 1.

5. OTHER BUSINESS.

City Clerk O'Reilly advised there will be no January 2020 Board of Adjustments and Appeals Meeting.

6. ADJOURNMENT.

MOTION MADE BY MEMBER CLARK, SECONDED BY MEMBER DEVORE, TO ADJOURN THE MEETING AT 7:13 P.M. UNANIMOUS APPROVAL.

February 18, 2020
Date Approved

Rick Alvarez, Chair

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