



TOWN OF PALM BEACH
Planning, Zoning & Building Department
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PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Memorandum: Town Council Development Review

TO: Mayor and Town Council

FROM: Wayne Bergman, MCP, LEED-AP
Director PZ&B

SUBJECT: ZON-22-004 977 S OCEAN BLVD

MEETING: March 09, 2022

ZON-22-004 977 S OCEAN BLVD—VARIANCES. The applicant, 195 Pheston Associates Palm Beach LLC (Charles Holzer, Manager), has filed an application requesting Town Council review and approval for a variance to construct a new seawall 169'-7" in length directly adjacent but 2'-6" feet eastward of the existing seawall and partially east of the Town of Palm Beach's Bulkhead Line.

Applicant: 195 Pheston Associates Palm Beach LLC (Charles Holzer, Manager)
Professional: Studio SR Architecture + Design
Representative: Maura Ziska

HISTORY

The item was continued at February 06, 2022 Town Council meeting at the request of the applicant.

THE PROJECT:

The applicant has submitted revised plans, entitled "Holzer Residence: SeaWall Variance", as prepared by **Studio SR Architecture + Design**, dated February 28, 2022.

The following is the scope of work for the Project:

- The construction of a bulkhead 27 inches seaward of the existing

The following Special Exceptions, Site Plan review and/or Variances required to complete the project, and shall be reviewed by Town Council:

- **VARIANCE 1:** Section 134-1701 & 62-37: Request for a variance to construct a new seawall 2.5 feet wide and 169.2 feet long, 4 foot east of Town's bulkhead line for a length of 50 feet.

PROJECT DATA:

Zoning District: R-A Estate Residential
Future Land Use: SINGLE-FAMILY
Lot Size: 12,813 SF

SURROUNDING PROPERTIES:

North: One-story 1940 residence
South: Two-story 1950 residence
East: Atlantic Ocean
West: Two-story 1950 residence

VARIANCES CRITERIA SEC. 134-201

The town council may authorize upon appeal such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this chapter will result in unnecessary and undue hardship. In order to authorize any variance from the terms of this chapter, the town council must and shall find the following:

- (1) 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.
- (2) The special conditions and circumstances do not result from the actions of the applicant.
- (3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in this same zoning district.
- (4) Literal interpretation of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
- (5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
- (6) For granting of a variance to sections 134-387 or 134-390 through 134-392, pertaining to the regulation of nonconforming uses, the following additional findings shall be made pertaining to the nonconforming use for which the variance is requested:
 - a. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
 - b. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area and, further, such variance shall:
 1. Be granted only for the continuation of the same hotel or residential use; and
 2. Require the applicant to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.
- (7) The grant of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. In granting any variance, the town council may prescribe appropriate conditions and safeguards in conformity with this chapter. Upon granting a variance the town council may require the landowner to provide a declaration of use agreement which shall be recorded in the public records to ensure continuing compliance with town council imposed conditions of such grants. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

CONSISTENCY WITH THE COMPREHENSIVE PLAN:

A preliminary review of the project indicates that the proposed **application** is **consistent** with the **single family** designation of the Future Land Use Map of the Comprehensive Plan.

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the Town code:

The applicant is requesting the following variance(s):

- VARIANCE 1: Section 134-1701 & 62-37: Request for a variance to construct a new seawall 2.5 feet wide and 169.2 feet long, 4 foot east of Town's bulkhead line for a length of 50 feet.

STAFF ANALYSIS:

The applicant proposes to construct a bulkhead 27 inches seaward of the existing requiring a variance for a new seawall immediately seaward of the existing at a height matching the height of the neighboring southern wall with a retaining wall cap as earth retention for a new ARCOM approved residence. According to the Public Works Department, this will require a DEP Permit and the application has the potential to increase erosion due to such events as wind, rain, and wave actions. There is also the risk with reductions to the natural protection afforded by dunes and sands. The applicant is proposing the new sea wall as physically close to the existing seawall as possible.