



# Town of Belleair

901 Ponce de Leon Blvd.  
Belleair, FL 33756

## Master

**File Number: 17-0088**

<b>File ID:</b> 17-0088	<b>Type:</b> Action Item	<b>Status:</b> Public Hearing
<b>Version:</b> 1	<b>Agenda Section:</b>	<b>In Control:</b> Town Commission
<b>Subject:</b>		<b>File Created:</b> 04/14/2017
<b>Title:</b>		<b>Final Action:</b> 04/18/2017

### Internal Notes:

#### Sponsors:

#### Enactment Date:

**Attachments:** 3 Stonegate application, 3 stonegate original application, Connelly Legal Representation attachment,  
 Sec. 66\_251. \_\_\_Nonconforming\_development.,  
 Sec. 66\_253. \_\_\_Nonconforming\_development.,  
 Sec. 74\_288. \_\_\_Docks\_and\_piers., Sec. 74-82. -  
 Schedule of district regulations., Sec. 74-84. -  
 Schedule of dimensional regulations., Sec. 74-281. -  
 General standards., declarations, Hail letter of  
 objection, Taraszki Notice of Representation, Connelly  
 NTA, Connelly NTA - 3 Stonegate 3-27-17

#### Enactment Number:

### Recommendation:

**Drafter:** mmaxwell@townofbelleair.net

#### Hearing Date:

#### Effective Date:

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Town Commission	04/18/2017	continued				
	<b>Action Text:</b>	Commissioner Wilkinson moved to continue; seconded by Commissioner Shelly.					
	<b>Notes:</b>	JP Murphy-Assistant Town Manager-Provided overview of variance requests; first would allow dock to extend length; second would extend outside center 1/3; Planning and Zoning Board approved first variance relating to length, denied second request regarding location. Mr. Murphy provided staff recommendation and details regarding criteria for granting variance; discussed new exhibits received just prior to meeting; recommending continuance to allow for analysis.					
1	Town Commission	04/18/2017	withdrawn				
	<b>Action Text:</b>	Commissioner Wilkinson withdrew his previous motion; seconded by Commssioner Shelly.					
	<b>Notes:</b>	Joel Tew-Attorney for Applicant-Objects to motion to continue; new documents submitte were from opposition not applicant.					

1 Town Commission 04/18/2017 adopted

**Action Text:** Commissioner Shelly moved to approve request to construct the dock subject to the conditions that our Town Attorney, David Ottinger, just read off; seconded by Deputy Mayor Rettstatt.

**Notes:** Town Clerk swore in those who wished to speak.

Exparte Communications:

Mayor Katica spoke with both applicant and objector; Commissioner Shelly spoke with Town Manager, applicant and objector; Commissioner Wilkinson went to Connelly's house with Town Manager; Commissioner Kurey had discussions with both parties as well with the Town Manager and Assistant Town Manager present; Deputy Mayor Rettstatt spoke with Town Manager and Assistant Town Manager only.

Mr. Tew requested, by reference, all evidence and testimony from Planning and Zoning Board meeting (3/13/17) be incorporated into record, provided printed presentation from Planning and Zoning Board meeting; also provided copy of unity of title and certificate of covenant. Mr. Tew discussed setbacks in relation to proposed dock; uniqueness of property regarding 1/3 rule; variance criteria and related code sections discussed; presented poster boards showing location of dock and historic dredge; applicant willing to accept a conditional variance requiring investigation on dredging ability and shifting location of dock if further dredging possible; commented on debris from roadway project in area. Mr. Tew showed additional aerial photo of proposed dock; commented on dock variance received by neighbor in past and other docks throughout town. Applicant willing to accept condition to shift as far north and east as possible, subject to dredging permit, and monitored by town engineer; applicant willing to reorient boat slip to be as least intrusive as possible to neighbor.

Craig Taraszki-Johnson and Pope, Attorney for John Connelly-Introduced case in opposition to variances; provided surveyor photos for record; commented on riparian rights and methods of calculation being perpendicular to shoreline; discussed Dr. Gibson study and prior case law relating to riparian rights; provided and discussed Nettles and Associates report relating to dredging; reviewed hardships claimed by applicant in justification statement and provided counter arguments. Mr. Taraszki requests denial of variance with respect to center one third set back.

#### **Public comments heard**

John Hail-Resident-Spoke against granting variances.

Michael Adams-Resident-Spoke against granting variances.

Mr. Tew provided rebuttal discussing the following: lot line in relation to house, riparian rights, procedure for obtaining permitting with town and other agencies, ability to obtain dredge permit; willing to accept conditional variances.

Mr. Tew stated his objection to surrebuttal for the record.

Mr. Taraszki commented on setbacks and riparian boundaries.

Mr. Murphy briefly identified new exhibits submitted by applicant prior to meeting.

David Ottinger-Town Attorney-Clarified the following conditions for approval as provided by Mr. Tew; Condition one: request for dredging permit to be made the farthest area northward as possible at least to the middle one third; Condition two: any dock must be built in northern most limit of dredge area; Condition three: if dredge area does not allow dock to be where it is now, it will not be built any farther south than it is depicted now; Condition four: if design can be repositioned or changed to minimize profile of dock and boat, it will be done to full extent that would allow launching of a boat; Mr. Tew is in agreement with all conditions.

**Closed to public comments**

Mayor Katica commented on tides and water level at location.

1 Town Commission 04/18/2017 approved as amended Pass

**Action Text:** Commissioner Shelly amended his motion to be no further south than 41ft; seconded by Deputy Mayor Rettstatt.

(Conditions re-stated for motion)

Condition One: Applicant will undertake to obtain a permit for dredging extending as far northward as possible or at least to the middle one third of applicant's property.

Condition Two: Dock will be located in the northern most limit of the dredge area or as far away from neighboring seawall as possible to permit the launching of a boat.

Condition Three: Regardless of a dredging permit, the dock will not to be located farther south than as applied for which is currently 41ft from Mr. Connelly's seawall.

Condition Four: Final design of the dock will be to the satisfaction of the town that it is positioned in the most favorable way to reduce its profile view from the south.

**Notes:** Discussion ensued regarding newest design and specs submitted prior to meeting; Commissioner Kurey's drawing during exparte communications; conditions of approval clarified.

Mr. Tew confirmed latest submittal is requested design subject to conditions; Mr. Connelly's position has not changed regarding riparian rights; Mr. Ottinger provided comments according to FDEP guidelines and Florida Supreme Court rulings.

Commissioner Kurey requests motion to be amended to include language regarding 41ft distance and for town engineer to be part of the process; Mr. Murphy commented on not having a specific engineer, Town Manager can consult with an engineer of record if needed.

Aye: 4 Mayor Katica, Deputy Mayor Rettstatt, Commissioner Shelly, and  
Commissioner Kurey  
Nay: 1 Commissioner Wilkinson