

From: [Pete Gemmill](#)
To: [Jones, Jennifer](#)
Subject: variance request for Anthony V DiLella
Date: Monday, February 6, 2023 4:08:14 PM

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February 6, 2023

re: Anthony V. and Kathleen E. DiLella variance request (23V00003)

To whom it may concern,

We received the notice for variance request for our neighbors, Tony and Kathleen DiLella. Hope emailing is okay, our printer is inop, so I was unable to mail at this time and realize there is a timing issue.

We met Tony and his family shortly after they moved to Bayshore Dr. and I play golf with Tony weekly. He has always talked about putting in a seawall, dock and having a boat someday. Over the last 6-9 months

he has lamented over how to not disturb the neighbors ability to launch and return their boat to their lift, while he was designing his dock and lift. I believe he has come up with a good and viable solution to

make this work and keep the great neighborhood harmony that we have today. We have no problem with this variance and hope that you can approve his request.

Sincerely,

Peter Gemmill
1721 Bayshore Dr
Cocoa Beach, FL 32931
704-968-8882

Karen Bense
1712 Bay Shore Drive
Cocoa Beach, FL 32931

February 6, 2023

To Whom It May Concern,

I wish to submit my objection to variance notice 23V00003 for the following reason:

Quite simply, I have already had to attend one of these meetings to successfully object to a boat lift/dock that was constructed by my neighbor (1718 Bay Shore Drive) who applied for a variance after the project was completed and subsequently had to rebuild this dock.

Now, I see we have another waterway variance notice posted around the corner and while I do not understand the technicalities of what is being requested, I do know there are already building codes in place that specify what can and cannot be constructed in these canals.

It is my opinion that property owners should respect the codes and their neighbors by abiding by the regulations. Any exception or variance to the codes only opens the door for someone else to seek additional variations in the future.

Also, we used to see many manatees in our canals, however with every new seawall that is built in our community, we lose the vegetation that has attracted manatees to congregate in these canals for decades.

Thank you,

A handwritten signature in black ink that reads "Karen Bense". The signature is written in a cursive, flowing style.

Karen Bense

Tony & Kathleen DiLella
1742 Bay Shore Dr
Cocoa Beach, FL 32931

February 8, 2023

To Whom It May Concern:

We would like to respond to the objection letter submitted by Karen Bense of 1712 Bay Shore Dr. in regards to variance request 23V00003, DiLella. We have written Ms. Bense a personal letter with details and invited her to see the backyard so that she can better understand what we are seeking as she starts her letter with saying that she does “not understand the technicalities.”

Ms. Bense also references a recent variance request that encroached onto her extended property lines in which a builder finished the project and then asked for the variance. We want to be clear that we have not started on any dock work on our property. I also want to point out that we are not crossing any property lines or even the side setbacks. We are only asking to extend the limited distance 2.5’ of our dock to allow for a better design of our dock that allows everyone to have better water access.

The other request within the variance is something that the county asked us to include on a detached garage that was built with the house in the 60’s. I honestly don’t know exactly why this is needed since it’s on our sketch <https://www.bcpao.us/building/drawings/2519528> and in the satellite pictures as far back as 2007, but we want to be fully compliant. Below are Satellite screen shots of the detached garage from 2022 and 2007. We will also have someone attest that it has been there since the 60’s.

Ironically, you can see just how much land has been lost in that time.

Please let us know if you would like more information regarding this objection.

Kind Regards,

Tony and Kathleen DiLella



Open map in new window

MapView

EagleView

03/18/2007 < 1 of 6 > Mar 2007

Account: 2519528

count: 2519528

Instructions Di

10:29

MapView

EagleView

03/17/2022 < 1 of 11 > Latest

Account: 2519528

BCPAO

MISSION VISION PRIVACY

ACCESSIBILITY DISCLAIMER

Quick Links

bcpao.us

February 1, 2023

Gwyn and Anne O'Kane
1732 Bay Shore Drive
Cocoa Beach, FL 32931
321 799 4023
cestlavieusa@gmail.com

Re. Variance Notice 23V00003

To Whom It May Concern:

Please allow us to start by stating we have no objection to anyone building into the waterways if they stay within the requirements of the Brevard County building codes and the restrictions set forth in the Snug Harbor Plat <https://www.bcpao.us/docs/plat/2519529>. Our understanding of the details within the Plat is that they were included to help ensure our waterways are protected, navigable, and harmoniously shared by all residents of our neighborhood.

Now we will present our objections:

Request 1.

The width of the waterway in the East Fork is 60ft as recorded on the Plat. A 20% projection into the waterway is 12ft. This 12ft restriction was highlighted 3 times by the Brevard Zoning Department on the original permit application # 22BC07496. It was repeated as a Deficiency on 04/21/2022, 06/17/2022, and 06/29/2022. A screenshot from the Brevard County website showing these Deficiencies is attached. We have no idea where the figure of 15.52ft came from that is noted on the Variance Notice, but if an additional 2.48ft were granted based on this figure for a total of an 18ft projection into the waterway this would mean a 50% variance is being requested from the 12 ft restriction permitted.

Request 2.

It is important to note per the Plat Addenda 4 (copy enclosed). Lots fronting on the circular area of the East Fork will "run to the water's edge on a straight line between the shoreline lot maker and the center of said circular areas with use of Riparian Rights as limited by the restrictive covenants". I do not believe any consideration has been given to this restriction in the request for a 2ft variance from the required 7.5ft (already more than a 26% variance). Without knowing the width of the proposed structure or the angle at which it will project, it is impossible to calculate what impact any proposed structure will have on these property lines or the navigability within the circle. At the time of writing this letter, a seawall is being constructed on the property and we do not understand how this request can possibly be considered without more specific details and drawings showing exactly what is being proposed for a permit to build this boat dock and accessory structure.


There is very little room in this section of the canal to navigate as it is, and now we have the owner directly on the other side of us (1722 Bay Shore Drive) also building a seawall with plans to build a boat lift. Please understand, any variance given in this instance will severely hinder our ability to load our boat and could potentially make it impossible to load the boat because of the approach and how shallow the water is in the East Fork. Plus, once you add a few more feet for the boat and engine overhang to the 18ft projection, we might be looking at an encroachment into the waterway of more than 21+ ft. Furthermore, we have no understanding of the proposed width for the structure. Most importantly, any variance granted may set a precedent that could be leveraged for more waterway construction projects in the future.

Clearly, this is another example of a contractor that is not willing to accept the restrictions highlighted by the County Permitting Department and is endeavoring to find another path to get approval to sell and build a significantly larger structure than what can possibly be accommodated within this already tight space.

Finally, when we purchased our property more than 20 years ago and applied for a boat lift permit, it was clearly communicated to us at the time that we could not put any kind of significant structure into the waterway because of the restrictions. It was for this reason, and for the consideration of our neighbors, that we installed an elevator-style lift that did not require adding any additional pilings into the waterway as it simply bolted onto our existing dock. We would love to have been able to install a boat lift with a walkway on both sides that extended out into the water to improve accessibility to our boat and not obscure our view as we have done with the boat sitting alongside our dock. The bottom line is, the outcome of each of these projects on either side of us, may require us to also seek a variance to rebuild our boat lift out into the waterway so that we may load and unload our boat.

Sincerely,

Gwyn and Anne O'Kane



Anne O'Kane



Gwyn O'Kane.

Building 22BC07496:
RES Marine Construction
Record Status: Awaiting Client Feedback

Record Info ▾

Payments ▾

Conditions 2

Custom Component



NOTICE condition added on 04/21/2022
Condition: As Built Survey Severity: Notice
Total Conditions: 2 (Notice: 1, Required: 1)

[View Condition](#)

Processing Status

A check mark indicates the task is complete, not approved. Click the expand button (triangle) next to the task name to view details, then plus sign to see comments if applicable. Do not reply to deficiency comments until all reviews are completed.

- ▶ Intake / Distribution
- ✓ ▶ Building Review
- ✓ ▶ Natural Resources Review
- ✓ ▶ Public Works Review
- ✓ ✓ Zoning Review

Marked as Deficiency on 04/21/2022

Comment: Proposed dock cannot project more than 12 feet into the waterway, measured from the Ordinary High Water Line. (Per Plat: East Fork section of the canal is 60 feet wide.) Per the Plat Notes: Addenda: 2. Any dock to be constructed must be located in the center of the lot's Riparian Area, and as further specified in restrictive covenants.

Marked as Deficiency on 06/17/2022

Comment: Second Request - Comments not addressed: Proposed dock cannot project more than 12 feet into the waterway, measured from the Ordinary High Water Line. (Per Plat: East Fork section of the canal is 60 feet wide.) Per the Plat Notes: Addenda: 2. Any dock to be constructed must be located in the center of the lot's Riparian Area, and as further specified in restrictive covenants.

Marked as Deficiency on 06/29/2022

Comment: Spoke to contractor. No changes at this time, deficiency comment remains. Proposed dock cannot project more than 12 feet into the waterway, measured from the Ordinary High Water Line. (Per Plat: East Fork section of the canal is 60 feet wide.)

Additional Information:

Telephone Number

321-350-8264

LEGEND:-

DATE:- July 17, 1956

SCALE:- 1" = 100'

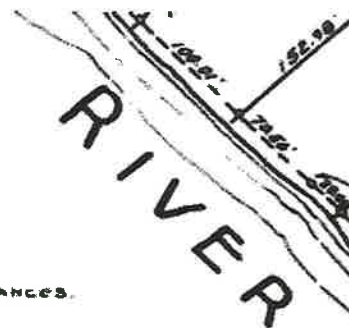
⊙ = Concrete Permanent Reference Monument

○ = IRON MARKER

→ INDICATES COURSE LOT LINE IS TO FOLLOW FROM SHORELINE LOT MARKER TO WATER'S EDGE.

— INDICATES BLOCK LIMITS

ALL POSTAGES SHOWN ON CURVES ARE ARC DISTANCES.

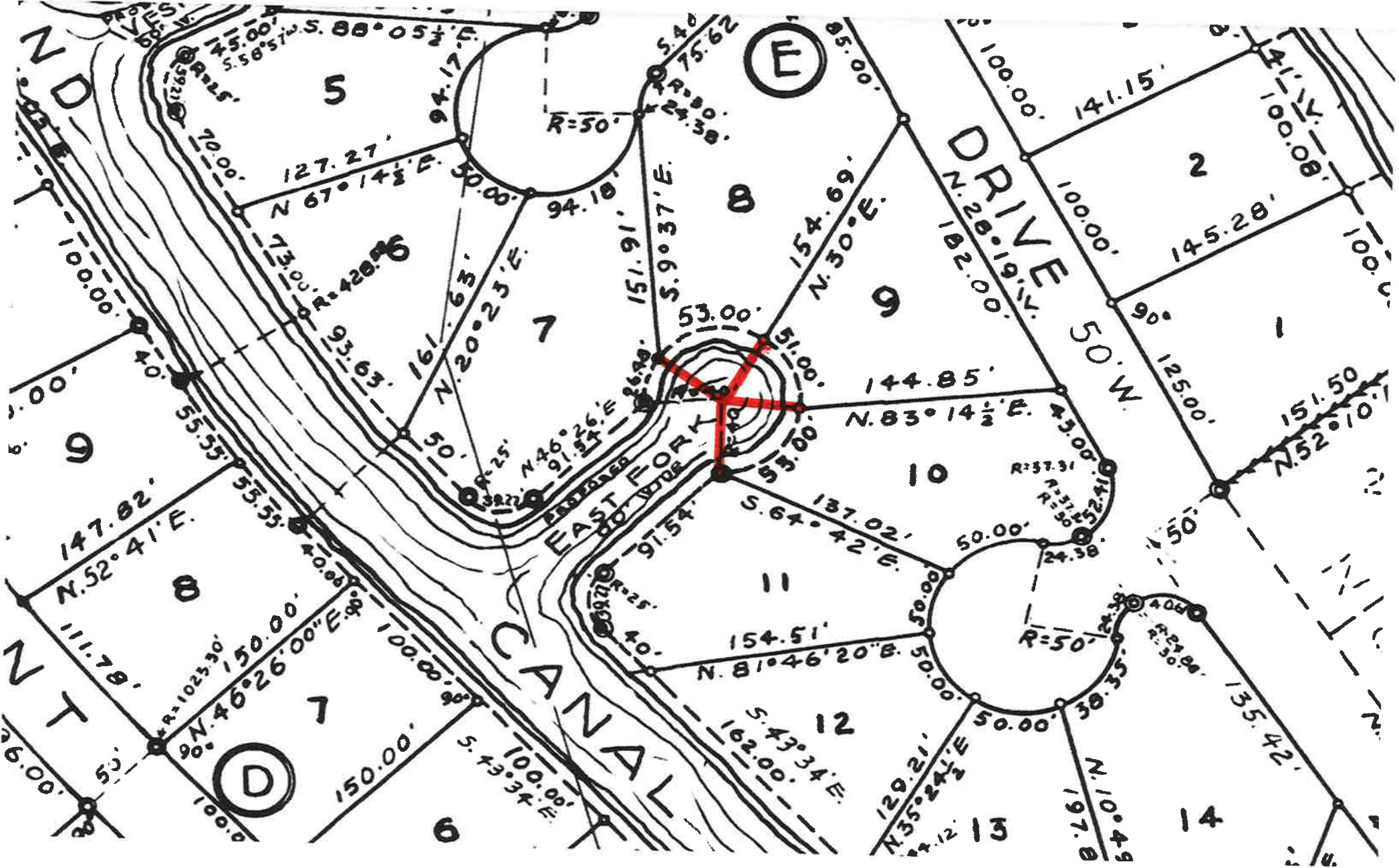


ADDENDA:

All WATERFRONT LOTS as hereon shown, including those on Grand Canal, East Fork and West Fork are subject to the following restrictions, to wit:

1. Riparian Rights are subject to the restrictive covenants as recorded in the office of the Circuit Clerk of Brevard County, Florida and as referred to in Deeds of Conveyance.
2. Any dock to be constructed must be located in the center of the lot's Riparian Area, and as further specified in restrictive covenants.
3. All lot lines are to extend or retract on their respective courses to the water's edge, irrespective of water level, EXCEPTING that where lot lines converge (as in the case of Lot 1, Block 8, and Lot 9 Block A.) the direction that lot line will follow to water's edge from shoreline Lot Marker is indicated on plat thus → and specified in legend.
4. Lots fronting on circular areas of Grand Canal, East Fork, and West Fork will run to the water's edge on a straight line between the shoreline Lot marker and the center of said circular areas with use of Riparian Rights as limited by restrictive covenants.

All right of ingress and egress within the areas designated as Grand Canal, South Canal, East Fork, West Fork and Lake Timucua is denied to the Public. Such rights are hereby reserved to all Lot Owners in this subdivision, their heirs and assigns forever.



— Lot Lines per Addendum Item 4.

Tony & Kathleen DiLella
1742 Bay Shore Drive
Cocoa Beach, FL 32931

Re: Variance Notice 23V00003

To Whom It May Concern:

This letter serves as a response to the objection letter regarding our Variance Request 23V00003, submitted by Gwen and Anne O'Kane of 1732 Bay Shore Drive, Cocoa Beach, FL 32931. Because we have been in communication with the O'Kanes regarding these plans since early 2021, their objection and reasons provided were quite surprising to see. For twenty years, the O'Kanes have enjoyed the only seawall and lift with a boat on the East Fork Canal (see pic #1). However, within the last three years, the remaining four homes on the canal have new owners, which has led to improvements as homeowners create their slice of heaven, much as the O'Kanes have. Now, new homeowners on each side of the O'Kanes are building seawalls and lifts for their homes within their respective property lines, which must be very difficult for the O'Kanes (see pic #2). To come up with the best possible solution, we have talked to all of the homeowners on the canal, especially the O'Kanes. Since we've moved in, we've watched the O'Kanes launch and dock their boat several times to understand their process and have even enjoyed a day on the boat with them, which gave us great insight so that we keep that in mind throughout the process as we designed our dock/lift.

I'd also like to address the statement that this is an example of a contractor "not willing to accept the restrictions highlighted by the County Permitting Department..." The sole reason for this request is to accommodate the O'Kanes and their ability to use their lift (See Pic #4). While other options available to us that obey all restrictions, they would be severely detrimental to the O'Kanes' use of their lift. As homeowners, we are the only ones making the decisions on design approval and scope, not the contractor.

In the final objection point, the O'Kanes present a proposed solution. They state that there were restrictions based on their property lines when they purchased their home which are still there today. They further state that they would like to have a boat lift with walkways on each side. However, their current property does not allow for such construction, so we agree with their point and their suggestion that they also seek a variance. We would support such a request and would have no objection. This solution would allow for all 3 homes in the circle to have the best access to the water (see pic #3)

It is difficult for us to understand how our variance request could negatively affect the O'Kanes and feel this is the best solution for all homeowners on the East Fork Canal. We have been considerate neighbors, redesigning our project to accommodate the use of their lift, delaying it for 8 months already and at an extra cost of over \$5,000. We truly believe the design we have put forward for consideration is the only option that allows us to enjoy the rights and privileges that we expected when purchasing our home and still allows the O'Kanes to use their lift. We

ask that you approve the 2.48' variance on our dock. Please see the pictures below for further reference as well as the before and after pictures of new seawall, pics #5 and #6.

Sincerely,

Tony and Kathleen DiLella



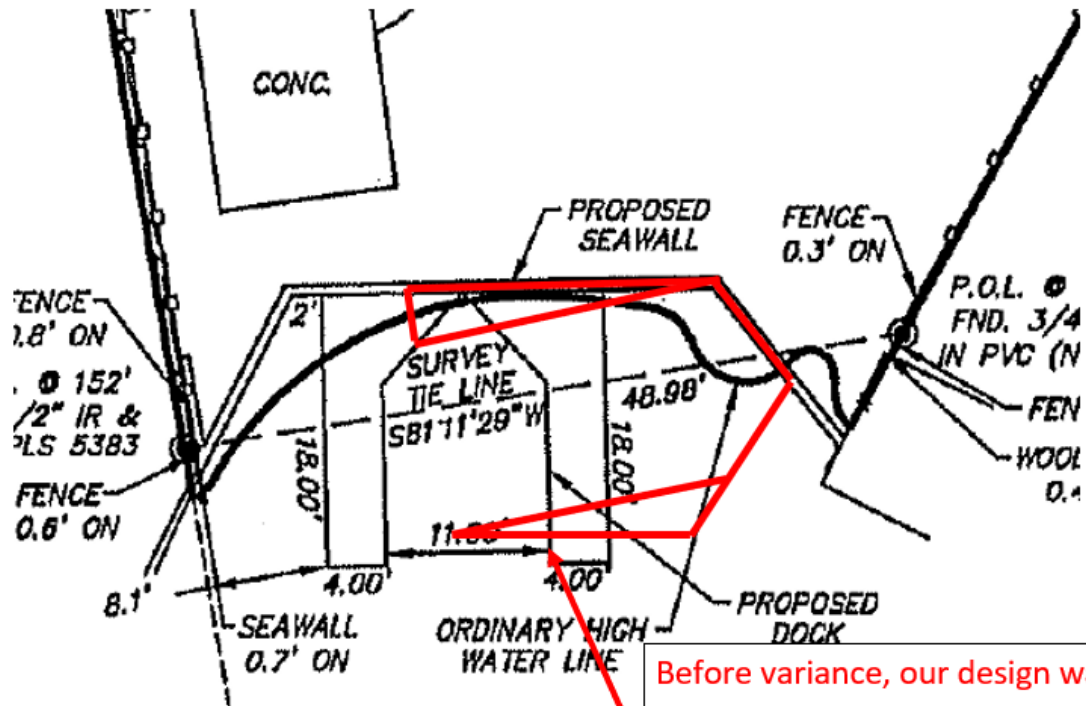
Pic #1- Overhead Satellite from 3/17/22



Pic #2- Drone photo from 2/13/23



Pic #3- example of what it would look like if we all pulled in straight



Option 2

Before variance, our design was more parallel to the long leg of the seawall. We are asking for the variance because this design will block neighbor's boat launching. This design is approvable.

Pic #4- other option within setbacks



Pic #5 "Before" taken after 2nd 2022 hurricane.

From: [Marge Jones](#)
To: [Jones, Jennifer](#)
Subject: DiLella Variance
Date: Thursday, February 9, 2023 4:30:11 PM

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Margaret and Edward Jones
1718 Bay Shore Dr, Cocoa Beach, FL 32931

To whom it may concern:

We have reviewed the drawings and notes regarding the variance requested by our neighbors at 1742 Bay Shore Drive. We understand the limitations previously set in this area, and we are flexible enough to see that each individual request should be decided on its own merits and not just be denied for the sake of past or future requests that may or may not be asked by other homeowners.

We have no objections to this variance request.

The small adjustment to the area will not impede any of the three potential boat owners from accessing the canal from their property. We believe that approving this variance will give access in a safe and simple manner.

Sincerely
Margaret and Edward Jones

From: [william.mackenzie](#)
To: [Jones, Jennifer](#)
Subject: Variance 23V00003
Date: Saturday, February 11, 2023 1:21:28 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

To whom it may concern,

I'm writing in regards to variance notice 23V00003.

My home has been in my family since the 50's and I remember coming as a child. After my parents retired and moved down, my mom's pet project was the sign at the front of South Snug Harbor. After my parents passed, I moved in and met the DiLella's in 2021. One day I noticed that Mr. DiLella was working on the front sign and I told him that it was my mom's pet project, but had been neglected for a few years. He replied that we're a community and I'm sure that everyone will enjoy coming home to a clean front sign. I'd also like to point out that the structure in the rear of the property included in variance notice has been there since the 60's and could be seen from the street in its same format as I see today.

Lastly, Mr. DiLella has talked to me about making sure that he didn't disturb the great community harmony that we have now as he began planning his seawall and dock and the many meetings he had with the county, both at the county offices and on property. It looks like there's a solution with a small variance to allow everyone in the area to enjoy the water and hope you can approve the dock variance.

Thank you for your consideration,

William R MacKenzie
1761 Bayshore Dr
Cocoa Beach FL 32931

February 10th, 2023

Mr. & Mrs. Mark Ewald
1771 Bay Shore Dr.
Cocoa Beach, FL 32931

Dear Ms. Jones,

We have been contacted by Brevard County Planning and Development regarding the variance request at 1742 Bay Shore Drive. Since the DiLellas have moved into Snug Harbor they have been nothing but friendly and courteous neighbors. They have been a great addition to our slice of heaven here in Cocoa Beach. They have opened their home and their hearts to our neighborhood. This portion of Snug Harbor has enjoyed harmonious relationships with neighbors. We've enjoyed boating excursions, football parties, college and high school graduations, and even a wedding together, to name a few. Kathleen and Tony have taken ownership of the Snug Harbor entrance sign and, at their own expense, have decorated it and maintained it. They are willing to lend a hand on short notice and never expect anything in return. Even though they have only lived here since 2020, they are the type of people that you hope and pray for as neighbors.

This week, we took the time to walk the property with the DiLellas to personally see the scope of their project and they shared their plans with us. After viewing the current work in place, we cannot see any reason as to why this variance should not be approved. The DiLellas have gone to great expense, care, and consideration to allow all to enjoy the water. Rules and codes are written to protect the majority, however, there are certain instances where such rules and codes could penalize others. It seems that exceptions like these are why the variance process exists. The approval of this variance will help ease some of the congestion and maintain the ability of all to use and enjoy the water in that tight area! Thank you.

Regards,

Wally Cuthbert
Dagoberto R.

From: [Melissa Byron](#)
To: [Jones, Jennifer](#)
Cc: [Candy Charpentier](#)
Subject: (23V00003) Anthony and Kathleen DiLella variance request
Date: Monday, February 13, 2023 5:02:07 PM

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I own the property across from the DiLella's and I fully support their variance. Their request is reasonable. Their variance is to benefit our neighbor to our north. The dock from this neighbor is non-conforming but grandfathered in. This non-conforming structure makes it a challenge not only for the DiLella's but also for me. But the DiLella's have been wonderful to work through these challenges. Looking at their plans it is apparent that they are being good neighbors to request a variance at their own expense to accommodate the non-conforming structure. In order to be part of the Oyster Project managed by the Brevard Zoo you must have a dock to attach the Oyster matts and granting this variance will allow the DiLella's to continue to support this program. Again I request this board to support this variance application and vote yes .

Thank you.

Best regards,
Melissa Huey Byron