



BOARD OF COUNTY COMMISSIONERS

Inter-Office Memo

TO: Board of Adjustment Members
FROM: Paul Body, Senior Planner
Thru: Trina Gilliam, Planning & Zoning Manager
SUBJECT: Variance Staff Comments for Wednesday, April 15, 2026
DATE: March 4, 2026

DISTRICT 4

(26V00014) Vincent D. and Mary E. Pinto request three variances of Chapter 62, Article VI, Brevard County Code as follows; 1.) Section 62-2018(d)(2) to allow 7.5 ft. from the 7.5 ft. side (west) setback required for a boat dock; 2.) Section 62-2018(d)(2) to allow 7.5 ft. from the 7.5 ft. side (east) setback required for a boat dock; and 3.) Section 62-2118(d)(5) to allow 300 sq. ft. over the 400 sq. ft. deck/dock area permitted in an RU-1-11 (Single-Family Residential) zoning classification. This request represents the applicants' request to legitimize an existing boat dock to permit repair the dock. The applicants state that the dock was built in 1967 and has been in this location and configuration since it was built. The applicants also state that they were told that they did not need a building permit for the dock but could not extend the dock more than 20% of the width of the 100 feet wide canal. The first request equates to a 100% deviation of what the code allows. The second request equates to a 100% deviation of what the code allows. The third request equates to a 75% deviation of what the code allows. There are no variances approved to accessory size requirements in the immediate area. There is a code enforcement action (25CE-01465) pending with the Brevard County Planning & Development Department. If the Board approves this variance, it may want to limit its approval as depicted on the survey with a revision date of 11/14/2025.

Is the request due to a Code Enforcement action? **YES.**

If Yes, indicate case number **25CE-01465**, and

Name of contractor: **Joseph Templeton, Dock Perfect**

Prerequisites to granting of variance:

A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to authorize any variance from the terms of this chapter, the Board of Adjustment shall find all of the following factors to exist:

(1) That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the applicable zoning classification:

Applicant response: 1967 was told we did not need a permit, but that I could not extend the dock more than 20% of the canal 100 feet wide and that the dock was built in 1967.

Staff response: **Brevard County zoning code has had setbacks for docks to meet the accessory setback requirement for the zoning classification of a parcel since 1965.**

(2) That the special conditions and circumstances do not result from the actions of the applicant:

Applicant response: We were told we could build the dock if it wasn't over 20 feet out.

Staff response: **The 20% projection for the 100 feet wide canal is 20 feet.**

(3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings or structures in the identical zoning classification:

Applicant response: Variance will not be give any special privilege since the dock has been there since 1967.

Staff response: **Applicant states the dock was built in 1967 and the dock has been in this location and configuration since it was built.**

(4) That literal enforcement of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant:

Applicant response: The dock has been here since 1967 and would have to be modified to meet today's code.

Staff response: **Applicant states the dock was built in 1967 and the dock has been in this location and configuration since it was built. Brevard County zoning code has had setbacks for docks to meet the accessory setback requirement for the zoning classification of a parcel since 1965.**

(5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:

Applicant response: Yes, this is the minimum variance requested.

Staff response: **The variances requested are the minimum variances required to legitimize the existing dock to repair it.**

(6) That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

Applicant response: The dock has been here since 1967 and has not caused any problems and has not had any complaints.

Staff response: **Applicant states the dock was built in 1967 and the dock has been in this location and configuration since it was built. There is a Code Enforcement action case, number 25CE-01465, for a dilapidated dock.**