



Planning and Development Department

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

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, June 17, 2026
DATE: May 29, 2026

DISTRICT 2

(25V00090) Lynne H Tara Revocable Trust (Scott Herber) requests a variance of Chapter 62, Article VI, Brevard County Code as follows; Section 62-2118(d)(3) to allow 9 ft. over the maximum allowed 16 ft. projection into a manmade canal by a proposed waterway encroachment in an RU-1-13 (Single-Family Residential) zoning classification. This request represents the applicant's request to attach a boat lift to an existing boat dock. The applicants state that the property is an irregular shape lot and the waters of the canal are too shallow to construct the boat lift any closer to the property. This request equates to a 56% deviation of what the code allows. There are two variances approved to the dock projection requirement in the immediate area. There is a code enforcement action (25CE-01983) 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 02/02/2026.

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

If Yes, indicate case number **25CE-01983**, and

Name of contractor **Darrell's Docks**

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: The property has an irregular lot shape that makes the location of the proposed structure very limited. Because of the irregular lot shape the riparian rights lines narrow in also limiting the location.

Staff response: The parcel is an irregular pie shape lot. The shape of the lot should not affect the projection requirement for a dock with a boat lift.

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

Applicant response: The limiting lot design and narrowing of the riparian rights lines were not caused by the applicant. In addition, there is extensive mangrove and vegetative growth at the property and the adjoining properties requiring mooring to be extended into the canal and not by side entrance. The waters are too shallow near the property.

Staff response: The canal being to shallow near the rear property line along the waterway may limit where a boat lift could be placed to lift a boat.

(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: The applicant is only requesting a distance of 4 additional feet of usage for the over-hang of the supporting I-beams when they are in the down position (not the vessel). The down position is when the boat lift is fully submerged and at the waterline. In the

up position where the lift will be under normal conditions, the overhang will only require an additional 2 feet of distance. In relationship to other properties, it is apparent from aerial interpretation that there are structures in the waterway that appear to extend further than what this applicant is requesting. Thus, it is not creating anything more than what other individuals have. Also, the applicant is entitled to waterfront usage the same as the other owners along the waterway. This request does not provide the applicant with any privileges above the neighboring waterfront owners.

Staff response: The applicant is requesting a dock with a boat lift 9 ft. over the maximum allowed 16 ft. projection for an 80 feet wide canal waterway. There are two variances approved to the dock projection requirement in the immediate area.

(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 owner has opted to go with the minimalistic boatlift that is currently manufactured to minimize infringement into the waterbody. Should this boatlift not be approved it would add additional maintenance costs to the boat due to regular removal from the waterbody for consistent bottom cleaning. The use of a boatlift prevents hull fouling and motor degradation from seawater. Having to keep the boat in the water increases hull fouling and motor damage. Repetitive removal from the waterway is the only way to prevent this and creates additional costs that can be avoided by using a boatlift.

Staff response: The applicant is requesting a dock with a boat lift 9 ft. over the maximum allowed 16 ft. projection for an 80 feet wide canal waterway.

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

Applicant response: This is the minimum possible request to install a safe and stable boatlift that will provide the owner with equal usage as other properties.

Staff response: The requested variance is for 9 ft. over the maximum allowed 16 ft. projection in an 80 feet wide canal waterway. This increased projection might obstruct navigation of the canal.

(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: This request will be in alignment of water rights usage as others in the area. The variance will not interfere or harm anyone else's rights of usage. There will be no detriment to the public.

Staff response: The requested variance is for 9 ft. over the maximum allowed 16 ft. projection in an 80 feet wide canal waterway. This increased projection might obstruct navigation of the canal.