



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, August 19, 2026

DATE: July 23, 2026

DISTRICT 3

(26V00037) Profeta Family Trust (Chris Profeta) requests a variance of Chapter 62, Article VI, Brevard County Code as follows; Section 62-2118(d)(2) to allow 7 ft. from the required 7.5 ft. side (west) setback extended by straight line into the water in an RU-1-13 (Single-Family Residential) zoning classification. This request represents the applicant's request to legitimize an existing boat dock to apply for a CUP (Conditional Use Permit) for Private Boat Docks Accessory to Adjacent Single-Family Residential Lots. The applicant states the boat dock was built by a previous owner and was in this location and configuration when the applicant purchased the parcel on December 28, 2022. This request equates to a 93% deviation of what the code allows. There is one variance approved to dock setback requirements in the immediate area. There is a code enforcement action (25CE-01767) pending with the Brevard County Planning & Development Department for vegetation planted and posts installed in county right-of-way. If the Board approves this variance, it may want to limit its approval as depicted on the survey with a revision date of 06/08/2026.

Is the request due to a Code Enforcement action? **NO, however there is a code enforcement action (25CE-01767) pending with the Brevard County Planning & Development Department for vegetation planted and posts installed in county right-of-way**

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: N/A

Staff response: Brevard County Zoning code 62-2118(d)(2): *A boat dock, covered boat dock or pier, including pilings, together with moored vessel(s) or watercraft, and any waterway encroachment, shall maintain a clear, navigable zone by extending no closer than seven and one-half feet to the side property line, as projected in a straight line into the waterway.*

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

Applicant response: Correct.

Staff response: The boat dock was built by a previous owner and was in this location and configuration when the applicant purchased the parcel on December 28, 2022.

(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: Correct.

Staff response: There is one variance approved to dock setback requirements in the immediate area. Variance application 13PZ-00075 was approved on September 18, 2013, for 6.5 ft. from the 7.5 ft. (east) side setback required for a dock.

(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: Correct.

Staff response: The dock will need to be brought into compliance before the CUP for Private Boat Docks Accessory to Adjacent Single-Family Residential Lots can be heard by the Planning & Zoning Board and the Board of County Commission.

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

Applicant response: Correct.

Staff response: This is the minimum variance required to legitimize the existing boat dock.

(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: Correct.

Staff response: It appears that the existing boat dock has been in this location and configuration for over 16 years.