



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, May 20, 2026

DATE: April 23, 2026

DISTRICT 1

(26V00024) Phoebe A. and David M. Slingerland request a variance of Chapter 62, Article VI, Brevard County Code as follows; Section 62-2121(e) to allow 0.5 ft. from the required 10 ft. setback from the primary building to the leading edge of the seawall in an RU-1-9 (Single-Family Residential) zoning classification. This request represents the applicants' request to legitimize an existing screen porch to be able to renovate/repair and permit it to be enclosed in the same location. The applicants state the previous approved variance (25V00016) for the rear setback to the principle structure did not include a variance for the setback from the existing seawall. This request equates to a 5% deviation of what the code allows. There is one (1) variance approved to setback requirement from a seawall in the immediate area. There is no code enforcement action 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/engineering plan with a date of March 2026.

Is the request due to a Code Enforcement action? **NO.**

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: Purpose is to Renovate/Repair existing porch room. Principle setback may not be meeting setback requirement of intended use.

Staff response: The previous approved variance (25V00016) for the rear setback to the principle structure did not include a variance for the setback from the existing seawall.

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

Applicant response: The porch needing repairs was long pre-existing and is 10' 2" from the face of the seawall but less than 10' from the back of the wall.

Staff response: From Brevard County aerials it appears the existing rear screen porch has been in the same location for over 16 years. The previous approved variance (25V00016) for the rear setback to the principle structure did not include a variance for the setback from the existing seawall.

(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: No special privileges would be conferred.

Staff response: From Brevard County aerials it appears the existing rear screen porch has been in the same location for over 16 years. The previous approved variance (25V00016) for the rear setback to the principle structure did not include a variance for the setback from the existing seawall.

(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 community is from the 60's and many or most of the homes have enclosed rooms that are non-conforming to current code. Litteral enforcement could reduce our property value

Staff response: From Brevard County aerals it appears the existing rear screen porch has been in the same location for over 16 years. The previous approved variance (25V00016) for the rear setback to the principle structure did not include a variance for the setback from the existing seawall.

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

Applicant response: The variance requested is for the existing footprint of the porch.

Staff response: This is the minimum variance requested/needed to the setback requirement from the existing seawall.

(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 variance would be consistent to the houses in the neighborhood and will improve the drainage and safety of the home and its occupants. No changes would be detrimental to the public or the land and area around the property.

Staff response: From Brevard County aerals it appears the existing rear screen porch has been in the same location for over 16 years. The previous approved variance (25V00016) for the rear setback to the principle structure did not include a variance for the setback from the existing seawall.