



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: June 30, 2026

DISTRICT 3

(26V00032) William T. and Joanna B. Cannon (Jason Waugh) request a variance of Chapter 62, Article VI, Brevard County Code as follows; Section 62-2118(d)(3) to allow 1.1 ft. over the maximum allowed 16 ft. projection (20% of waterway width) into a canal for a covered boat dock in an RU-1-13 (Single-Family Residential) zoning classification. This request represents the applicants' request to legitimize an existing dock to final the building permit (25BC14342). The applicant states that the proposed dock and lift were approved on the survey plot plan for the building permit. The applicant also states that the existing seawall was built by a previous owner of the property and is at an angle along the rear property line and not parallel to the rear property line. The applicant states that the existing seawall crated the west portion of the new dock to project out further than the easterly portion of the new dock. This request equates to a 7% deviation of what the code allows. There are two variances approved to the dock projection requirement 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 with a revision date of 03/13/2026.

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: Yes. The new dock was constructed 14' in front of the existing seawall at its furthest point (12' boat slip+ 2' outer walkway.) 12' is the minimum width that we could go that would still allow the current owners to be able to utilize their equipment properly. The seawall, which was built prior to the current owners taking ownership of the property, should have been built on the property line. On the as-built survey, it's showing that the northwest corner of the dock is 17.1' from the property line. This is due to the existing seawall being 3.1' beyond the property line in that area. The existing seawall wasn't built on the property line as it should have been prior to the current homeowner's taking ownership of the property. In addition to that, there are several properties to the East and West that have docks that are built even further out than what was constructed for this project.

Staff response: The existing seawall was built by a previous owner of the property and is at an angle along the rear property line and not parallel to the rear property line. The proposed dock and lift were approved on the survey plot plan for the building permit meeting the projection requirement.

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

Applicant response: Yes. The existing seawall wasn't built on the property line as it should have been prior to the current homeowner's taking ownership of the property. This is a result from the prior owners actions and not the current owners.

Staff response: The existing seawall was built by a previous owner of the property and is at an angle along the rear property line and not parallel to the rear property line.

(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: Yes. If the seawall was built correctly on the property line, the applicant's project would be well within the allowable measurement guidelines. Furthermore, there are several properties to the East and West that have docks that are built even further out than what was constructed for this project.

Staff response: The existing seawall was built by a previous owner of the property and is at an angle along the rear property line and not parallel to the rear property line. There are two variances approved to the dock projection requirement in the immediate area along this canal. One of the approved variances to the dock projection in 2019 was for 3 feet over the 16 feet projection required.

(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: Yes. The applicant would not be able to utilize their equipment properly if they had to construct the new dock with a smaller width for the boat slip. The equipment would not fit, and they also would not be able to access the outer areas of the equipment if the walkway was removed.

Staff response: The applicant states they need a 12 ft. wide minimum slip to utilize their equipment properly.

(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. We are asking for a variance of only 13 inches at the dock's furthest point. This is not 13 inches across the entire property line; it's only at the northwest corner of the newly constructed dock.

Staff response: The applicant states only a portion of the westerly end of the dock is over the 16 feet minimum projection requirement.

(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: Yes. The small area in question that we're asking for will not in any way be detrimental to the public welfare. The 13 inches that we are asking for is almost unnoticeable to the eye when looking at the dock and does not affect the waterway in a negative way at all.

Staff response: The applicant states only a portion of the westerly end of the dock is over the 16 feet minimum projection requirement which should not be detrimental to the public welfare.