



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, July 15, 2026
DATE: June 25, 2026

DISTRICT 2

(26V00038) Russell M. Scott, Jr. and Carol A. Scott request three variances of Chapter 62, Article VI, Brevard County Code as follows; 1.) Section 62-2118(d)(5) to allow 44 square feet over the 500 square feet permitted for a dock roof; 2.) Section 62-2118(d)(5) to allow 134 square feet over the 600 square feet total coverage for a dock and roof; and 3.) Section 62-2118(d)(3) to allow 10.4 feet over the 20% waterway width (14.9 ft.) for the projection of a dock in an EU (Estate Use Residential) zoning classification. This request represents the applicant's request to replace the existing dock and boat lift with a roofed dock and boat lift. The applicant states that the existing dock and boat lift were built by previous property owners and they were not aware that the structures were not in compliance with zoning requirements or properly permitted. The applicants also state that the requested variance will allow them to install a roofed dock and boat lift consistent with the neighbors along both sides of the canal. The first request equates to an 8% deviation of what the code allows. The second request equates to a 22% deviation of what the code allows. The third request equates to a 70% deviation of what the code allows. There are no variances approved to the dock roof requirements in the immediate area. There are no variances approved for the total coverage for a dock and roof within the immediate area. 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 date of 04/28/2026.

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: The River Moorings development was based around a community marina with centrally located boat slips; however canal side houses do not have a slip. Canal owners must build docks adjacent to their backyard and share canal access with Indian Bay. The development was not required to comply with the current 20% maximum width projection guidelines, typically using one third.

Staff response: The parcel is a standard canal lot. The shape of the lot does not affect the projection requirement for a dock with a boat lift. All developments must comply with the code requirement that no boat dock, covered boat dock or pier, together with pilings, moored vessel(s) or watercraft, and any waterway encroachment, shall project into a manmade waterway more than 20 percent of the width of the waterway, as depicted on the recorded instrument creating the waterway, or 30 feet from the property line, whichever is less. This was a requirement at the time River Moorings was platted in 1992.

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

Applicant response: The current dock and boat lift were built by the original owners around 1996 and were already in place when we purchased in 2019. Nothing was noted on the survey, deed, title search or the homeowner's association regarding any structures that were not in compliance with county zoning and properly permitted.

Staff response: The applicant is requesting to build a new dock and boat lift larger than what currently exists on this property.

(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: Granting the variance does not confer any special privilege, it merely allows us to install a roofed dock and boat lift that is consistent with the neighbors along both sides of the canal to properly house and protect our recreational boat.

Staff response: Granting this variance will allow the property owner to install a roofed dock and boat lift that exceeds code requirements by allowing 44 square feet over the 500 square feet permitted for a dock roof, and 134 square feet over the 600 square feet total coverage for a dock and roof. There are no variances approved to the dock roof requirements or for the total coverage for a dock and roof within the immediate area.

Granting this variance will also allow the property owner to install a roofed dock and boat lift that extends 10.4 feet over the 20% waterway width (14.9 ft.) for the projection of a dock. There are two variances approved to the dock projection requirement in the immediate area. The first is for a projection of 0.3 feet over the 20% waterway width, and the second is for a 5-foot projection over the 20% waterway width.

(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: Paragraph provisions as currently written are significantly more restrictive than practices in place when the neighborhood was developed. Meeting current projections guidelines would prevent access by a powerboat of moderate length, width and draft depth in the shallow canal and encroach upon mangroves.

Staff response: The applicant is requesting a roofed dock and boat lift 44 square feet over the 500 square feet permitted for a dock roof; 134 square feet over the 600 square feet total coverage for a dock and roof; and projecting 10.4 feet over the 20% waterway width (14.9 ft.).

(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 proposed site plan is the minimum viable option to maintain current use and actually reduces the deck area compared to the existing dock to help offset the needed roof area to protect our boat investment and is consistent with the neighborhood.

Staff response: The requested variance is for a roofed dock and boat lift 44 square feet over the 500 square feet permitted for a dock roof; 134 square feet over the 600 square feet total coverage for a dock and roof; and projecting 10.4 feet over the 20% waterway width (14.9 ft.). This increased size and 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: Specifications of the site plan maintain the established canal centerline navigation lane and do not impose and further restrictions of safe navigation into and out of our neighborhood canal.

Staff response: The requested variances are to allow 44 square feet over the 500 square feet permitted for a dock roof, to allow 134 square feet over the 600 square feet total coverage for a dock and roof, and to allow 10.4 feet over the maximum allowed 14.9 feet projection in a 74.5-foot-wide canal waterway. This increased size and projection into the waterway may obstruct navigation of the canal.