

ATTACHMENT A - (2544 Harbour Lane) - Revised

**DOCK VARIANCE STANDARDS FOR
LORD APPLICATION FOR VARIANCE**

The Planning Commission may grant variances only upon finding that the request meets the seven standards set forth in Land Development Code Section 82-140. Describe how your request meets each requirement for a variance from:

Sec. 126-875. - Waterward extension.

Docks, boat davits and boat lifts shall not be extended waterward (from the approximate mean high-water line) to a distance greater than is necessary to provide reasonable use of the facility based upon the following standards:

- (1) For properties located on natural bodies of water:
 - a. For properties with lawfully existing, nonconforming seawalls, or alternative shoreline stabilization, no such structure (including mooring pilings) on land having navigable access to state waters (including Clam Bayou and Old Blind Pass) *shall be extended waterward more than 30 feet or 20 percent of the width of the waterway, whichever is less, provided such structures can be located where the water depth is greater than three feet above the bottom surface at mean low water.* [Emphasis added].

Sec. 126-894. Location from lot lines.

Docks, boat davits, boat lifts, and mooring pilings *shall be located to the extent possible, equidistant from the lot lines, as extended into the water, of the lot served by these structures to minimize their visual impact upon adjacent waterfront properties. For docks, boat davits, boat lifts and mooring pilings that are not located equidistant from lots lines, the structures shall be set back a minimum of 1½ feet from the property lines (as extended into the water) for every one foot that the docks, boat davits, boat lifts and mooring pilings extend beyond mean high water into the waterway.* In all cases, whether the structure is located equal distance or meets the setbacks in this section, no dock, boat davits, boat lifts and mooring pilings shall be located closer than 15 feet to any property line as extended into the water. [Emphasis added].

INTRODUCTION

Herbert and Rhonda Lord own the property located at 2544 Harbour Ln, Sanibel, Florida 33957. The rear boundary of this property is fringed with mangroves and fronts Dinken Bayou facing northeast. A single boat lift dock previously served the property for more than twenty years prior to Hurricane Ian. The Lords purchased the property shortly after Hurricane Ian and now seek approval to construct a new dock with two boat lifts to serve the residential property, as the previous dock layout is no longer feasible for the current request. The prior configuration was designed to accommodate a single boat lift which, with current site conditions including decreased water depths, would no longer extend to a water depth more than three feet above the bottom surface at mean low water (-3' MLW) necessary for safe vessel docking and operation. The former access walkway alignment is now also impeded by established shoreline vegetation such that utilizing the previous alignment would require greater disturbance to mangroves than the proposed configuration. The proposed dock configuration consists of a straight four foot (4') wide walkway extending waterward from an existing opening in the mangroves of the shoreline to an angled, partial T-Head terminal platform. The two boat lifts are located on opposite sides of the angled portion of the walkway, with one lift aligned parallel to the partial T-Head on the shoreward side and a second lift positioned along the angled east side of the platform.

LDC §126-875 and §126-876 require that boat lifts be located to provide for boat docking where the appropriate mean low water level is at least three feet above the bottom surface at mean low water (-3' MLW). The distance between the Mean High-Water Line (MHWL) and the -3' MLW Line at this property is greater than is typical for other waterfront parcels on the island due to the curvature of the shore and shallow banks of the natural bayou. As a result, the dock and boat lifts must extend further from the shoreline than is permitted by the LDC to reach the appropriate usable depths as required by the LDC. Accordingly, the Applicant seeks a variance from the 30' extension limitation of LDC §126-875(1)(a) for the dock to extend twenty-three feet, four inches (23'-4") past the 30' limitation to situate the lifts so that both boats when docked are located entirely in water depth of -3' MLW. This placement allows the boat lifts to function without sitting the beams of the lift on the ground, which would increase environmental impacts to the bayou bed. The proposed dock configuration places both boat lifts at a natural indentation of the -3' MLW closest to land in an area that will not require impacts to mangroves and allows the boats ingress and egress through sufficient depths.

LDC §126-894 requires that docks be located equidistant from lot lines (as extended into the water) if possible, and if not, that docks be set back a minimum of 1½ feet from the property lines (as extended into the water) for every one foot that the dock, boat davits, boat lifts and mooring pilings extend beyond mean high water into the waterway. Strict application of the LDC §126-894 setback formula narrows the permissible dock envelope and imposes a constraint not experienced by typical waterfront lots where usable water depths occur closer to shore. In addition, locating the dock equidistant from the lot lines or at the alternative approximate 69'-6" setback from the lot lines would require impacts to the mangroves and severely limit the ingress and egress of the larger vessel at low tide.

The applicant requests a variance from LDC §126-894 allowing the access walkway for the proposed dock and lift configuration to be located approximately thirty-three feet (33') closer to the southeastern property line than otherwise permitted. At this location, the proposed walkway extends from a natural opening in the shoreline vegetation, minimizing disturbance to mangroves and other native vegetation that serve an important role in shoreline stabilization and protection. At this location, the proposed structures remain thirty-six feet, five inches (36'-5") away from the southern property line which complies LDC §126-894 requirement that no dock, boat davits, boat lifts and mooring pilings shall be located closer than 15 feet (15') to any property line as extended into the water.

The purpose of equidistant/alternative setback requirement of LDC §126-894 is to minimize the visual impact of the structures upon adjacent waterfront properties. Location of the dock at the proposed distance from the southern property line reduces visual impact to the adjacent property to the north and will not result in a negative visual impact of the property to the south given the extensive mangrove fringe at the waterward corner of the two properties and that the dock of the southern property extends further into the waterway than the proposed dock.

- 1. A literal enforcement of the particular regulations (waterward extension into the canal per LDC §126-875 and the equidistant and setback requirements of LDC §126-894) would result in undue and unnecessary hardship to a property owner because the particular shape, size, location, or topography of a lot or parcel, or of a structure thereon, would cause practical difficulties that would deprive the owner of reasonable use and enjoyment of said lot or parcel in the same manner as other properties similarly situated:**

Due to the unique shoreline configuration and inadequate water depths present at this property, a literal enforcement of the LDC §126-875 30' waterward extension limitation would prevent construction of the new lifts in water of appropriate depth, depriving the owners of the reasonable use and enjoyment of the parcel in the same manner as other lots in the area. The distance between the MHWL and the -3' MLW varies along this property, such that a literal enforcement of LDC

§126-894 would require the access walkway of the dock to begin at a point where the -3' MLW contour that is even further away from the MHWL than proposed. This would require a greater extension of the dock past the 30' extension limitation in LDC §126-875 than proposed and result in impacts to mangroves and vegetation along the bank. Approval of the proposed dock design allows for reasonable use and enjoyment of the property at an appropriate water depth for two boat lifts while limiting environmental impacts to the mangroves and maintaining shore stabilization.

2. That the special conditions relate to unusual conditions peculiar to the specific lot or parcel or relate to special conditions of the structure involved, and are not generally applicable to other lands or structures similarly situated:

The special conditions relate to the submerged land associated with the property which contain atypical depth contours due to the waterward curvature of the shoreline and shallow banks of the natural bayou. This causes the -3' MLW to exist at an extended distance from the shoreline of the property. The proposed dock location and configuration is shaped by the natural contours of the uplands and waterbody which create site-specific constraints not common to similarly situated properties along the coastline. These property-specific conditions limit the feasible placement and orientation of the dock and lift structures and distinguish the property from other waterfront parcels where the -3' MLW is located closer to shore. Additionally, the mangroves and vegetation across this property line limit areas where a dock can be built with minimal impacts to vegetation.

3. That the special conditions and circumstances do not result from actions taken by the applicant or proposed by the applicant, and are not otherwise self-imposed:

The special conditions and circumstances are attributable solely to the natural configuration of the property and natural bayou in which it exists. These physical characteristics are inherent to the location of the property and the natural system that was in existence long before the applicants purchased the parcel in 2022 and are not the result of the applicants' actions.

4. That the applicant has taken all reasonable steps to mitigate or eliminate the requested variance by the acquisition of adjacent lands or the relocation or redesign of the structure involved:

The property owners own the parcel bordering the subject property to the immediate south; however, ownership of this adjacent parcel does not eliminate the depth issue inherent to the subject property's location on the bayou. The design team evaluated a total of 8 multiple alternative dock configurations, reduced structural dimensions where practicable, and adjusted lift placement to minimize waterward expansion. Alternative relocation or redesign would not achieve compliance with all code requirements while maintaining the required water depth of 3' and minimizing vegetation impact and would increase the square footage over water beyond the 160 square feet permitted in a natural waterway under LDC §126-877(3)(a).

Placement of the dock in one of the mangrove openings further north would hinder ingress and egress of the larger boat due to the shallow water depths along this property. The chosen natural opening represents the most practicable location that allows both boat lifts to extend waterward of the -3' MLW while avoiding unnecessary disturbance to existing mangroves and shoreline vegetation and allowing for successful ingress/egress. With respect to LDC §126-894, although the proposed dock alignment is approximately thirty-three feet (33') outside of the permitted dock envelope between lot lines, the property most directly affected by the proposed variance (2520 Harbour Lane) is already under common ownership.

Construction of the dock and lifts as proposed leaves 36'-5" between the proposed dock and the southeastern property line. Use of the dock at 2520 Harbour Lane will not be impeded or adversely affected. Due to the natural curvature of the shoreline, the dock at 2520 Harbour Lane extends farther waterward than the proposed structure and will retain full access to navigable waters and experience no navigation limitations as a result of the requested variances. Likewise, the extension of the proposed dock will not impede the access or navigation of lot owners across the bayou as the requested extension is still significantly less than 20% of the distance of the waterway at this property.

5. That the development or use of the subject parcel in some other manner than that proposed, in accordance with the applicable requirements, is not feasible:

Due to the natural configuration of the shoreline and underwater contours, development of the property in full compliance with the applicable requirements is not feasible. The proposed configuration is the eighth rendition of possible configurations analyzed and evaluated by the design team. There is no portion of submerged land associated with the property wide enough for a dock and a boat lift past the -3' MLW, but also 30' or less from shore.

The proposed dock walkway is aligned within an existing opening in the mangroves to avoid impacting the mangroves and other native vegetation and to provide for adequate water depths for ingress and egress of the larger boat, which must be entered on the port side. Alternative placements would either require greater waterward extension, increased mangrove impacts, and/or increased square footage over water beyond the 160 square feet permitted by LDC §126-877(3)(a). Placement of the dock walkway in one of the mangrove openings further north would hinder ingress and egress of the larger boat due to the shallow water depths along this property.

6. That the requested variance will not be adverse to the developed neighborhood scheme and will not adversely affect the plan and scheme set forth in this Land Development Code, and will not cause the proposed development to be inconsistent with The Sanibel Plan nor adverse to the health, safety and general welfare of the community:

Use of this parcel for a dock with two lifts as proposed is consistent with the existing developed neighborhood scheme and surrounding waterfront properties, many of which are developed with docks and boat lifts of comparable size and scale. The parcel has historically supported a dock and a boat lift. Permitting the variance that allows the proposed dock and lifts to be constructed will facilitate use of the lot in a manner that is historically compatible with and not adverse to other properties in the neighborhood. 5 surrounding property owners including the two directly adjacent neighbors have submitted letters of support for the variance which are attached as exhibits.

The proposed dock minimizes environmental impact by utilizing an existing shoreline opening and allowing the lifts to be located at the appropriate -3' MLW depth without dredging, consistent with the goals of the Sanibel Plan. Additionally, since the owners of the adjacent property to the southeast are the applicants for this variance, proximity-related impacts are minimized to both immediately adjacent neighbors. By locating the dock closer to property under the same ownership, potential effects on the northern boundary are reduced, with no adverse visual or ingress/egress impacts to the property along the southeastern boundary. The proposed dock will not create navigational limitations for other property owners along or across the bayou and will maintain unobstructed access to navigable waters for adjacent properties.

7. That the variance is granted is the minimum necessary to mitigate the hardship demonstrated:

The requested variances are the minimum needed to extend the dock to an adequate water depth to accommodate the applicants' boats as required by code and to provide for safe and successful ingress and egress of both boats given the shallow water depths present along the property. The proposed dock extends approximately twenty-three feet, four inches (23'-4") beyond the applicable 30' extension limitation and is approximately 33' closer to the southeastern lot line than required which allows the boat lifts to reach the required depth with the shortest extension in a manner that minimizes both impacts to mangroves and the total square footage constructed over water, gives the owners plenty of room to navigate the larger boat successfully through adequate water depths for ingress and egress without encroaching past the northern property line, and without visually impeding adjacent property owners or impeding access along the canal.