



## 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, June 17, 2026  
DATE: May 29, 2026

### DISTRICT 3

**(26V00029) John C. Ferris** requests one variance of Chapter 62, Article VI, Brevard County Code as follows; Section 62-1340(5)(b) to allow 3.2 ft. from the required 7.5 ft. rear setback for an accessory structure in an RU-1-13 (Single-Family Residential) zoning classification. This request represents the applicant's request to legitimize an existing 115 sq. ft. accessory structure (shed). The applicant states that the property abuts a wildlife preserve along the rear of the property and is not affecting any residences or private property. The applicant also states he did not know in the Melbourne Beach area accessory structures require a 7.5 feet setback off the rear property line. This request equates to a 43% deviation of what the code allows. There is one variance approved to the accessory rear setback 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 3/07/2026.

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 shed needs a variance to rear property line which borders wildlife preserve. There are no houses nor private properties at the border. Shed is 15 feet from north and south.

**Staff response: Accessory structures in the RU-1-13 zoning requires a 7.5 feet rear setback. The abutting parcel to the rear is owned by the ST. Johns River Water Management and State of (IITF) District Florida.**

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

Applicant response: Online, it said in general 5 feet from property line. I did not know Mel Beach takes 7.5 feet.

**Staff response: Applicant should have contacted Brevard County Planning & Development Department to confirm the accessory setback requirements for the parcel.**

(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: Many sheds on surrounding properties are close to the wildlife preserve.

**Staff response: Accessory structures in the RU-1-13 zoning requires a 7.5 feet rear setback.**

(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: See #3. Other properties have sheds of less than 7.5 feet from wildlife preserve.

**Staff response: Accessory structures in the RU-1-13 zoning requires a 7.5 feet rear setback.**

(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, I need to have permission to 4.3 feet for platform.

**Staff response: The requested variance is the minimum required to legitimize the rear setback to the accessory structure.**

(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: No homes or private properties are near the rear line. Wildlife preserve goes to Indian River Lagoon.

**Staff response: The abutting parcel to the rear is owned by the ST. Johns River Water Management and State of (ITF) District Florida.**