



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 3, 2026

DISTRICT 3

(26V00036) Daniel and Sarah Dutton (Troy Douglas) request two variances of Chapter 62, Article VI, Brevard County Code as follows; 1.) Section 62-1405(6)(a) to allow 10.2 ft. from the 20 ft. front setback for the principal structure; and 2.) Section 62-1405(6)(a) to allow 0.1 ft. from the required 7.5 ft. side (north) setback for the principal structure in a TRC-1 (Single-Family Mobile Home Cooperative) zoning classification. This request represents the applicants' desire to repair storm damage by constructing a new aluminum carport addition via a building permit (26BC19680). The applicants state the existing residence was built in the setback over 35 years ago. All of Barefoot Bay has a blanket variance (V-472) to the front and rear setbacks. The variance (V-472) permits a front setback of 10 feet for the home and attachments. The new aluminum carport does not meet the approved front variance (V-472) and requires a new variance to legitimize improvements. The first request equates to 0.51% of the required code. The second request equates to 0.01% of the required code. There is no code enforcement action pending with the Brevard County Planning and Development Department. If the Board wishes to approve these variances, it may wish to limit its approval to the location depicted on the survey provided by the applicant dated 10/13/2025.

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 structure was built in the setback 35+ years ago.

Staff response: According to the Property Appraiser, the home was built in 1989. Barefoot Bay has a blanket variance (V-472) to the front and rear setbacks which permits a front setback of 10 feet for the home and attachments. The existing home was built encroaching 0.2 feet into the required 10-foot front setback allowed by the variance, and 0.1 feet into the required 7.5 foot side setback.

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

Applicant response: The special conditions are not from actions of the applicant.

Staff response: The applicant did not create the setback encroachments.

(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: The granting of the variance will not confer any special privilege.

Staff response: To repair storm damage, the applicant would like to install a new aluminum carport. Due to the location of the existing home, the carport will not meet the approved variance (V-472) which allows a setback of 10 feet. A new variance to the 20-foot front setback required by the TRC-1 zoning and a variance of 0.1 feet to the required 7.5 foot side setback are necessary to allow the proposed improvements.

(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 enforcement of this would deprive us of making storm repairs and not be in compliance of HOA rules.

Staff response: Literal enforcement of this chapter would require the applicant to relocate the existing home to meet the setbacks.

(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 requested 10.2-foot variance would be the minimum to bring this property into compliance and be able to obtain a building permit for storm repairs.

Staff response: The requested variance to the front setback is the minimum required to allow the new aluminum carport, and the requested variance to the side setback is the minimum required to legitimize the encroachment into the side setback.

(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: The granting of this variance would not be injurious to the area or detrimental to public welfare.

Staff response: The existing home has been in this location and configuration since 1989 and previously included a carport similarly situated to what is now proposed.