



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, May 20, 2026
DATE: April 30, 2026

DISTRICT 1

(26V00028) Catherine Louise Abernethy Revocable Trust and Joy Ann Malloy (Joan E. Carey) request four variances of Chapter 62, Article VI, Brevard County Code as follows; 1.) Section 62-1403(5)(b) to allow a detached accessory structure forward of the principal structure; 2.) Section 62-1403(5)(b) to allow 3 ft. from the required 10 ft. side setback for an accessory structure; 3.) Section 62-2100.5(1)(a) to allow one additional accessory structure over the two allotted; and 4.) Section 62-1403(5)(b) to allow 1.2 ft. from the required 5 ft. separation distance of an accessory structure and the principal structure in a TR-2 (Single-Family Mobile Home) zoning classification. This request represents the applicant's request to legitimize three existing accessory structures (carport and two sheds). The applicant states that they bought the property 26 years ago and the shed along the south property line was existing and built by a previous owner. The applicant also states they added the carport, and it has existed in this location for 20 years. The second request equates to a 30% deviation of what the code allows. The third request equates to a 50% deviation of what the code allows. The fourth request equates to a 24% deviation of what the code allows. There are two variances approved to accessory setback requirement in the immediate area. There are no variances approved to accessory separation distance requirements or to be located forward of the principal structure 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 2/23/2026.

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: Shed is 7 feet from property line instead of the 10.0. Bought the property 26 years ago with the shed. Added carport 20 years ago.

Staff response: Applicant states the shed along south property line was existing when the parcel was purchased. The applicant also states they added the carport, and it has existed in this location for 20 years. Applicant does not address having three accessory structures located on the parcel. From Brevard County aerial photos it appears that the three accessory structures have been in their existing location and configuration for over 16 years.

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

Applicant response: No.

Staff response: Applicant states the shed along south property line was existing when the parcel was purchased. The applicant also states they added the carport, and it has existed in this location for 20 years. Applicant does not address having three accessory structures located on the parcel. From Brevard County aerial photos it appears that the three accessory structures have been in their existing location and configuration for over 16 years.

(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: No.

Staff response: It appears that other parcels in the immediate area appear to have multiple accessory structures that may not meet accessory setbacks or location

requirements. Applicant does not address having three accessory structures located on the parcel. From Brevard County aerial photos it appears that the three accessory structures have been in their existing location and configuration for over 16 years.

(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: No.

Staff response: Literal enforcement of the code would require the applicant to move the shed and the carport to meet the zoning setback and location requirement and to remove one of the accessory structures.

(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.

Staff response: Yes, these are the minimum variances required to legitimize the three accessory structures on the parcel.

(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.

Staff response: From Brevard County aerial photos it appears that the three accessory structures have been in their existing location and configuration for over 16 years.