



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, April 15, 2026
DATE: March 4, 2026

DISTRICT 1

(25V00093) Jesse Richard and Myra Parker Bowling (Michelle Bowling) request a variance of Chapter 62, Article VI, Brevard County Code as follows; Section 62-2100.5(d) to allow the size limitation of an existing accessory structure to exceed 50% of the living area of the principal building by 164 sq. ft. in an RRMH-1 (Rural Residential Mobile Home) zoning classification. This request represents the applicants' request to legitimize a 1,350 sq. ft. accessory building (garage). The applicants state that the accessory structure was built by a previous owner and was in this location and configuration when they purchased the property on October 29, 2025. This request equates to a 12% deviation of what the code allows. There are no variances approved to accessory size requirements in the immediate area. There is a code enforcement action (24CE-01742) 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 2/06/2026.

Is the request due to a Code Enforcement action? **YES**

If Yes, indicate case number **24CE-01742**, and

Name of contractor **Curtis Britt**

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: Special conditions and circumstances exist that are unique to the subject property and are not generally applicable to other properties within the same zoning classification. These conditions include [describe physical site constraints such as lot depth, lot configuration, required buffers, easements, drainage features, access limitations, or other restrictions], which substantially limit the buildable area and placement options for accessory structures on the property.

Due to these site constraints, the existing accessory building was placed in a location that does not meet the required rear setback and exceeds the permitted square footage under the current development regulations. In addition, the combined square footage of the accessory buildings on the property exceeds the square footage of the primary residence by approximately 66 square feet.

A literal enforcement of the zoning regulations would result in unnecessary and undue hardship, as compliance would require significant demolition, reduction in size, or relocation of the existing structure(s), which would eliminate any reasonable use or reasonable return of the property under the existing land development regulations.

The requested variances represent the minimum relief necessary to allow reasonable use of the property given the existing conditions. Granting the variances will not be contrary to the public interest, as the accessory building(s) do not negatively impact neighboring properties, public safety, drainage, access, or the character of the surrounding area, and remain consistent with the scale and use of accessory structures within the zoning district.

The hardship is not based on personal, medical, or purely economic circumstances, but arises from the unique physical characteristics of the property and the existing improvements.

Approval of the variances will allow the property to be used in a manner comparable to other properties in the zoning classification while preserving the intent of the zoning ordinance

Staff response: **The accessory structure was built by a previous owner and was in this location and configuration when they purchased the property on October 29, 2025.**

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

Applicant response: The special conditions and circumstances associated with the subject property did not result from the intentional actions of the applicant. The applicant is the current owner and acquired the property with the existing structures and conditions already in place. The nonconforming setback and square footage conditions pre-existed the applicant's ownership and were not created by the applicant.

Upon becoming aware of the nonconformities, the applicant acted in good faith by seeking relief through the appropriate variance process.

Staff response: **The accessory structure was built by a previous owner and was in this location and configuration when they purchased the property on October 29, 2025.**

(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 requested variance will not confer any special privilege upon the applicant that is denied to other lands, buildings, or structures within the same zoning classification. The variance will simply allow the continued use of an existing structure in a manner consistent with other properties in the district that have similar accessory buildings and site constraints.

Approval of the variance will not authorize a use that is otherwise prohibited, nor will it permit development that exceeds the general intent of the zoning regulations. Instead, it will place the subject property in a position comparable to other similarly situated properties, rather than providing any unique or preferential treatment.

Staff response: **The accessory structure was built by a previous owner in 2020 and was in this location and configuration when they purchased the property on October 29, 2025.**

(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: A literal enforcement of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties within the same zoning classification. Strict application of the setback and accessory structure regulations would require substantial removal, reduction, or relocation of existing accessory structures, thereby preventing reasonable use of the property in a manner typical of similarly zoned properties.

Enforcement of the regulations without relief would constitute unnecessary and undue hardship, as the nonconformities are pre-existing conditions and compliance would eliminate any reasonable use or reasonable return of the property under the current development regulations. The requested variances are necessary to allow the subject property to function in a manner comparable to other properties in the zoning district while maintaining the overall intent of the zoning ordinance.

Staff response: **The accessory structure was built by a previous owner in 2020 and was in this location and configuration when they purchased the property on October 29, 2025.**

(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 variances represent the minimum relief necessary to allow reasonable use of the land and existing structures. No greater variance is requested than is required to address the pre-existing setback and square footage nonconformities. Reducing the size of or relocating the existing structure(s) would require substantial demolition or reconstruction and would not result in a more compliant or practical alternative given the site constraints.

Granting the requested variances will allow the continued use of the existing structures while maintaining compliance with all other applicable zoning and building regulations and preserving the intent of the zoning ordinance.

Staff response: **The variance to the accessory size is the minimum variance need to legitimize the 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: Granting the requested variances will be in harmony with the general intent and purpose of this chapter. The variances will allow the continued use of existing accessory structures in a manner consistent with the character and development pattern of the surrounding area while maintaining compliance with all other applicable zoning and building requirements.

Approval of the variances will not be injurious to the area involved nor detrimental to the public welfare. The existing structures do not adversely affect neighboring properties, public safety, traffic, drainage, access, light, or air, and do not alter the permitted use of the property. Granting the variances will preserve neighborhood stability and uphold the overall objectives of the zoning ordinance.

Staff response: **The accessory structure was built in 2020 and has existed in this configuration and location since it was built.**