



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, May 20, 2026
DATE: April 28, 2026

DISTRICT 1

(26V00026) James O. and Cynthia L. Hoffman request a variance of Chapter 62, Article VI, Brevard County Code as follows; Section 62-1334(4) to allow 0.77 acres from the 2.5 acres required in an AU (Agricultural Residential) zoning classification. This request represents the applicants' request to legitimize the lot size requirements of an existing parcel. The applicants state that a previous owner subdivided the parcel and when they purchased the parcel on 2/28/2008 they didn't know the parcel did not meet the 2.5 acre AU lot size requirement. This request equates to a 31% deviation to what the code allows. There are no variances approved to the lot size requirements 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 and provided by the applicant with a date of 12/16/2025.

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: Your staff identified to me during my attempt to obtain a permit to add a pole barn that my 1.73-acre property does not meet the county's assigned AU zoning designation. Your staff indicated that it was important to show the original property was split out prior to March 1975 to show the "Variance" is not needed. However, my attempts to contact the previous four owners, the title company and the surveying company were not fruitful. Also, the County's Clerk of Courts Land Records Research Dept does not have records back far enough to show when the property was split out.

Staff response: Per the Property Appraiser's site, the parcel was subdivided into its current configuration per the warranty deed recorded in Official Records Book 5395, Page 4068 on November 30, 2004, and does not meet the AU zoning 2.5 acre minimum lot size requirement.

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

Applicant response: My intent when purchasing the property over 10 years ago was to build a future home for me and my wife in our retirement years. My research on the county's websites found no AU zoning restrictions for this and I felt comfortable with following through with the purchase. Therefore, I am now asking the board for a "Variance" so that I can use the property.

Staff response: The applicants purchased the parcel on 2/28/2008 per warranty deed recorded in Official Records Book 5847, Page 2478 and did not know the parcel does not meet the AU zoning 2.5 acre minimum lot size requirement.

(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: I plan to store my tractor, implements and recreational vehicle in the proposed pole barn which are now kept outside on this property. All adjacent properties now have similar structures. The proposed location of my pole barn would be the maximum distance possible from my neighbors with whom I maintain good relations with.

Staff response: Per Brevard County zoning code Section 62-1102, Definitions and rules of construction: Buildings or structures secondary and incidental to agricultural uses include, but are not limited to stables, barns, paddock areas and storage areas. On an AU zoned parcel, Agricultural uses can be permitted without a primary structure (single-family house).

Per Section 62-2117, Recreational vehicles and recreational equipment may be parked, located or stored at developed single-family or multiple-family residential properties (not on vacant properties).

(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: As previously stated, my neighbors already have homes and external buildings similar to the pole barn I hope to add on my property. I have already invested a significant amount of money to buy and improve this property believing that we would be able to use it now and in the future. Now in retirement, I cannot afford to lose the use of this property.

Staff response: Agricultural uses such as a pole barn can be permitted without a primary structure (single-family house) in the AU zoning.

(5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:

Applicant response: My immediate plan is to add a pole barn to the property to store equipment that is now outside and possibly a future home. This is the same use as in the surrounding properties in the area.

Staff response: This request is the minimum variance require to legitimize the parcel for AU zoning size requirement. Agricultural uses such as a pole barn can be permitted without a primary structure (single-family house) in the AU zoning.

(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: My intended addition is a reasonable use of the property for which it was zoned for. It is consistent with the current county zoning rules and the same use as all other properties in the area. Please consider a "Variance" for my use.

Staff response: The parcel does not meet the AU zoning 2.5 acre minimum lot size requirement to be able to use the parcel.