



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, August 19, 2026

DATE: June 30, 2026

DISTRICT 3

(26V00047) Anthony Bastone and Gloria Bocchino request two variances of Chapter 62, Article VI, Brevard County Code as follows; 1.) Section 62-1405(6)(a) to allow 0.3 ft. from the required 7.5 ft. side (west) setback for the principal structure; and 2.) Section 62-1405(6)(a) to allow 7.8 ft. from the required 15 ft. rear setback for the principal structure in a TRC-1 (Single-Family Mobile Home Cooperative) zoning classification. This request represents the applicants' desire to legitimize the location of the existing residence and to construct new additions to the home. The applicants state the existing residence was built in the setbacks before they purchased it. The existing home does not meet the approved side 7.5-foot setback. Barefoot Bay has a blanket variance (V-472) to the front and rear setbacks. The variance (V-472) permits a rear setback of 7.5 feet for the home and attachments. The existing home and proposed additions do not meet the rear setback approved in V-472. A new variance is required to legitimize the existing home and proposed addition. The first request equates to 4% of the required code. The second request equates to 52% 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 06/15/2026.

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: Looking for additions added. Bought house February 2026 and have two small setbacks that were existing. Would like to keep house in line for vinyl siding and clean look.

Staff response: According to the Property Appraiser, the home was built in 1987. Barefoot Bay has a blanket variance (V-472) to the front and rear setbacks which permits a rear setback of 7.5 feet for the home and attachments. The existing home was built encroaching 0.3 feet into the required 7.5-foot side setback, and 0.3 feet into the 7.5-foot rear setback allowed by V-472.

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

Applicant response: No, these setbacks were existing when built in the eighties.

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: Not trying to build anything special, just trying to keep the lines of the home clean and within lines there.

Staff response: The applicant would like to install a new enclosed room. Many homes in Barefoot Bay have enclosed additions and the request does not confer any special privilege to this property. A variance of 0.3 feet to the required 7.5 ft. side setback and a

new variance of 7.8 feet to the required 15-foot rear setback required by the TRC-1 zoning are necessary to legitimize the existing structure and 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: Literal enforcement will still have property setback issues.

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: Yes, this is the minimum variances required.

Staff response: The requested variance to the side setback is the minimum required to legitimize the existing encroachment, and the requested variance to the rear setback is the minimum required to legitimize the existing encroachment and allow the proposed enclosed room.

(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: This house was built in 1987 and hasn't been harmful to anyone.

Staff response: The existing home has been in this location and configuration since 1987. Granting the proposed variance should be in harmony with the general intent of this chapter and should not be injurious to the area involved or detrimental to the public welfare.