



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 2

(26V00035) Jeffrey Mathis requests three variances of Chapter 62, Article VI, Brevard County Code as follows; 1.) Section 62-1340(5)(b) to allow 4 ft. from the required 7.5 ft. rear setback for an accessory building; 2.) Section 62-2100.5(d) to allow 695 sq. ft. over the maximum size (799 sq. ft.) for an accessory structure; and 3.) Section 62-2109(c) to allow 2 ft. over the 4 ft. maximum fence height limit in the front setback in an RU-1-13 (Single-Family Residential) zoning classification. This request represents the applicant's request to legitimize the setback and size requirement of a 1,495 sq. ft. accessory building and the height requirement of two fence gates. The applicant states that the existing accessory structure was built by the previous owner and the accessory structure was in this location and configuration when he purchased the property on October 30, 2025. The applicant also states the existing gates, and their support columns were built by the previous owner and were in this location and configuration when he purchased the property. The first request equates to a 53% deviation of what the code allows. The second request equates to an 87% deviation of what the code allows. The third request equates to a 50% deviation of what the code allows. There are no variances approved to accessory size requirements in the immediate area. There is one variance approved to fence height requirement in the front setback requirement in the immediate area. The portion of the 5 ft. Public Utility Easement the accessory structure encroaches into was vacated by the Board of County Commissioners. There are two code enforcement action (25CE-02157 and 26CE-00449) 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 date of 01/23/2026.

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

If Yes, indicate case number **25CE-02157.**

Name of contractor **None listed on code enforce case.**

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 existing garage was built without permit prior to my ownership. Entry gates and columns erected without permits prior ownership.

Staff response: It appears that the accessory structure and the entry gates and columns were built by the previous property owner prior to the current owner/applicant.

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

Applicant response: Yes, structure was built by prior owner and fence gates and columns. Structure to large and to close to property line/gates, columns to tall.

Staff response: It appears that the accessory structure and the entry gates and columns were built by the previous property owner prior to the current owner/applicant.

(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: Existing garage was built out of compliance and gates and columns.

Staff response: Accessory structures are permitted in the parcel's zoning classification with setback and size requirements. Fence gates are also permitted in the parcel's zoning classification with height requirements.

(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 minor deviations caused by others. For denial of variance will cause a hardship to myself of financial damage to tear down.

Staff response: The accessory structure and the entry gates and columns were built by the previous property owner. The accessory structure would need to be modified and reduced in size to meet the accessory size requirements and setback requirement. The gates would need to be moved out of the front setback to meet the fence height requirement.

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

Applicant response: reasonable use of the property can be obtained by granting the variance. If I remove the gates and columns will create life safety issue due to pool.

Staff response: The variances requested are the minimum variances required to legitimize the accessory structure and the entry gates. The entry gates could be move out of the front setback to meet the fence height requirement.

(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 of the variance will be in harmony with the general intent and purpose of the code.

Staff response: The accessory structure and entry gates were in their location and configuration when the applicant purchased the property on October 30, 2025.