



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, June 17, 2026
DATE: May 29, 2026

DISTRICT 1

(26V00027) Tanner C. and Jasmine M. Gell request two variances of Chapter 62, Article VI, Brevard County Code as follows; 1.) Section 62-2100.5(b) to allow the total floor area of an existing detached accessory structure to exceed the floor area of the proposed principal structure by 607 sq. ft.; and 2.) Section 62-2100.5(d) to allow an existing detached accessory structure 1,532 sq. ft. over the maximum allowed 925 sq. ft. size limitation (50% of living area of proposed house) permitted for an accessory structure in a GU (General Use) zoning classification. This request represents the applicants' request to legitimize an existing accessory structure that was built before the principal structure (single-family residence) and built without a building permit. The applicant has since been issued a single-family home building permit. The foundation survey received for the single-family home building permit was not approved as it shows the existing accessory structure on the survey without permits. The first request equates to a 32% deviation of what the code allows. The second request equates to a 60% deviation of what the code allows. There are no variances approved to accessory 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 with a revision date of 4/08/2026.

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: The property is a corner lot at a dead end road with unique constraints, including an 18' berm & easements on the east & south property lines. Similar & larger covered area have built on nearby properties under same zoning, making the request consistent with the area. The structure does not obstruct neighboring views.

Staff response: The applicant did not apply for a Building Permit for the accessory structure before applying for the Building Permit for the Single-family home.

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

Applicant response: The request is consistent with existing covered areas on neighboring properties and does not seek anything beyond what is typical in the area.

Staff response: Existing accessory structure on other parcels in the area with the GU zoning cannot exceed 50% of the living area of the principal structure.

(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: The request is consistent with existing covered areas on neighboring properties and does not seek anything beyond what is typical in the area.

Staff response: Existing accessory structures on other parcels in the area with GU zoning cannot be more the 50% of the living area of the principal structure.

(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 structure was built to code with proper engineering and represents a significant expense/investment. It was constructed to protect my assets/equipment from weather & sun. Removal of this would result in extreme financial loss.

Staff response: A building permit has not been applied for the accessory structure with engineered plans.

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

Applicant response: This location is ideal as it allows me to live close to my family and friends on near by street while keeping my assets close by and protected.

Staff response: The two variances applied for are the minimum variances required to legitimize the accessory 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: The structure is consistent with similar covered areas in the nearby area and serves as an asset to the property, enhancing its overall value.

Staff response: Existing accessory structures on other parcels in the area with GU zoning cannot be more the 50% of the living area of the principal structure.