



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, March 18, 2026

DATE: February 26, 2026

### DISTRICT 2

**(26V00003) Johnson Family Trust** (Zarah P. Shaw, Jr.) requests seven variances of Chapter 62, Article VI, Brevard County Code as follows; 1.) Section 62-1334(5)(b) to allow 7.1 ft. from the required 15 ft. side (east) setback for an accessory structure; 2.) Section 62-1334(5)(b) to allow 8.5 ft. from the required 15 ft. side (east) setback for an accessory structure; 3.) Section 62-1334(5)(b) to allow 7.7 ft. from the required 15 ft. side (east) setback for an accessory structure; 4.) Section 62-1334(5)(a) to allow 6.4 ft. from the required 25 ft. front setback for an accessory structure; 5.) Section 62-1334(5)(a) to allow 8.4 ft. from the required 25 ft. front setback for an accessory structure; 6.) Section 62-1334(5)(b) to allow an accessory structure to be located forward of the front building line; and 7.) Section 62-1334(5)(b) to allow an accessory structure to be located forward of the front building line in an AU (Agricultural Residential) zoning classification. This request represents the applicants' request to legitimize the accessory structures located on the parcel so the application can split the parcel into two parcels. The applicants state the accessory structures are used for the agricultural use of the parcel and have been in their location and configuration since the 1990's. The first request equates to a 47% deviation of what the code allows. The second request equates to a 57% deviation of what the code allows. The third request equates to a 51% deviation of what the code allows. The fourth request equates to a 26% deviation of what the code allows. The fifth request equates to a 37% deviation of what the code allows. There are no variances to the accessory setback requirements requirement in the immediate area. There is no code enforcement action pending with Brevard County Planning and Development Department. If the Board approves this variance, it may want to limit its approval as depicted on the survey provided by the applicant with a revision 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: The building & structures existed since 1936 as a working tree farm since the 1990's. Accessory structures have been erected to protect farm equipment, each being decades old. An RV cover was erected 5 years ago.

Staff response: **The existing house was built in 1936, and the property has an agricultural use that the accessory structures are being used for.**

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

Applicant response: Buildings have existed for decades, and accessory structures are also decades old & support agriculture equipment, typical with adjoining/other similar properties.

Staff response: **The existing house was built in 1936, and the property has an agricultural use that the accessory structures are used to support.**

(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: None of these request will grant special privilege to the applicant.

Staff response: **The property has an agricultural use that the accessory structures are used to support.**

(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: Simmerly zoned properties enjoy liberally applied leeway in the course of agricultural farming & operations. The structures requested represent a minimum of needs to protect equipment, etc.

Staff response: **The property has an agricultural use that the accessory structures are used to support.**

(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 is the minimum variances required.

Staff response: **These are the minimum variance requested to legitimize the existing structure so the application can split the parcel into two parcels.**

(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 adjacent property has zero issue of concern with the buildings or structures.

Staff response: **The adjacent owner of the parcel to the east has no concerns with the existing buildings or structures.**