



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: July 23, 2026

DISTRICT 2

(26V00017) Sunny Travels LLC (Bruce A. Moia) requests five variances of Chapter 62, Article VI, Brevard County Code as follows; 1.) Section 62-1372(5)(c)(2) to allow 13.3 ft. from the 20 ft. rear setback for the principal structure; 2.) Section 62-1372(5)(a) to allow 2.6 ft. from the 5 ft. minimum spacing distance for an accessory structure; 3.) Section 62-1372(5)(a) to allow an accessory building to be located in front of the front building line of the principal building; 4.) Section 62-2123(a) to allow a swimming pool 3.6 ft. into the 5 ft. setback to the rear of the front building line of the principal building; and 5.) Section 62-2100.5(d) to allow an accessory structure 266 sq. ft. over the 50% (749 sq. ft.) of the living area of the principal structure in a RU-2-15 (Medium-Density Multiple-Family Residential) zoning classification. This request represents the applicant's request to legitimize an existing single-family residence with a proposed addition; an existing accessory structure (tiki hut); an existing garage accessory structure with covered areas added to it; and an existing swimming pool. The applicant states that the house was built in 1953 and the proposed addition to the house will be in align with the existing building. The applicant also states the detached garage, covered areas, and pool were also constructed not in accordance with current code requirements. The applicant states that the original house, garage, and pool were built by a previous owner and were in these locations when they purchased the property on January 19, 2024. The first request equates to a 67% deviation of what the code allows. The second request equates to a 52% deviation of what the code allows. The fourth request equates to a 72% deviation of what the code allows. The fifth request equates to a 36% deviation of what the code allows. There are no variances approved to the five variances requested 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 house was constructed in 1953. It was constructed within what is now the rear setback. The proposed addition will be in what is now the setback to align with the rear of the existing building. The detached garage, covered areas, and pool were also constructed not in accordance with current code requirements.

The property currently does not meet the min 5' separation requirement from the principle residential structure to the covered patio (tiki hut). The tiki hut was exempt from a building permit since it was constructed by Native Americans. A letter of no permit required was issued from the Building Official.

In order to permit and construct the proposed addition, all non-compliance items will require a variance to make the site compliance with current code.

Staff response: It appears that an addition to the rear of the existing house may have been added by a previous owner encroaching into the rear set back. The existing garage has been expanded with the addition of covered areas after the parcel was purchased by the current owners. The existing pool was built by a previous owner. The tiki hut is an accessory structure which requires a 5 ft. separation distance.

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

Applicant response: As the original house, garage and pool was not constructed by the applicant. In order to make the building addition functional, it must line up with the existing rear wall of the building, which is in what is now the rear setback. It is not known what the required rear setback was when the original house was constructed, but it, along with the other accessory items may have complied at the time of construction. It is now non-conforming due to zoning code adoption or changes.

The Separation Requirement was not known by the owner or the Native American Contractor.

Staff response: It appears that an addition to the rear of the existing house may have been added by a previous owner encroaching into the rear set back. The existing garage was built by a previous owner and has been expanded with addition of covered areas after the parcel was purchased by the current owners. The existing pool was built by a previous owner. The tiki hut is an accessory structure built by Native American Contractor which requires a 5 ft. separation distance.

(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: Setback - From observing the aerial of the area, it appears that many of the properties have buildings within the rear setback and have similar accessory structure non-compliances. Most likely due to the fact that a lot of properties in the area were constructed in the 30's, 40's and 50's.

Structure Separation - It is difficult to determine if other properties in the area have structures that do not meet the 5' separation requirement. From aerial maps and drive by inspection, it appears there may be at least two similar properties that do not meet this requirement, but the actual distances cannot be confirmed without survey information or by trespassing onto private property.

Staff response: The existing structures on the property are permitted with the setbacks, separation distance and size requirements in the RU-2-15 zoning classification.

(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: Setback - Yes, it would deprive the applicant of enjoying a reduced rear building setback and other accessory item non-compliances in which a few of the neighbors on his block currently enjoy.

Structure Separation - It is difficult to determine if other properties in the area have structures that do not meet the 5' separation requirement. From aerial maps and drive by inspection, it appears there may be at least two similar properties that do not meet this requirement, but the actual distances cannot be confirmed without survey information or by trespassing onto private property. But assuming so, it would deprive the applicant of enjoying a reduced structure separation.

Staff response: The existing structures on the property are permitted with the setbacks, separation distance and size requirements in the RU-2-15 zoning classification.

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

Applicant response: Setbacks and distances and areas - Yes, the request is the minimum variance possible to make the existing site no longer a non-conforming site, as well as allow the addition to be in the same location as the existing principle structure.

Structure Separation - Yes, the request is the minimum request to make the current property and a small, proposed building addition compliant with the County code.

Staff response: The requested variances are the minimum variances required to legitimize the existing structures and the proposed addition on the property.

(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 the requests of the setback, distances and areas is non-injurious to the area and will be and remain in harmony with many of the existing properties in the immediate area.

Granting the separation request and allowing the existing improvement to remain, which is already in harmony with the neighborhood since the improvement is a typical covered area that is residential in nature and adds much needed outdoor enjoyment while protecting the users from direct sun.

Staff response: The existing house and pool have been in their configuration and location for years and appear to not be injurious to the area or otherwise detrimental to the public welfare. The existing garage has been in this location for years but has been expanded with the addition of covered areas since the parcel was purchased by the current owners. The tiki hut was built by Native American Contractor after the parcel was purchased by the current owners.