



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, May 20, 2026

DATE: April 8, 2026

DISTRICT 4

(26V00021) Donald and Lisa Jasensky requests two variances of Chapter 62, Article VI, Brevard County Code as follows; 1.) Section 62-1338(5)(b) to allow an accessory structure to be located forward of the principal structure's front building line; and 2.) Section 62-1338(5)(b) to allow a variance of 12 feet from the required 15-foot side (west) setback for an accessory structure in an RR-1 (Rural Residential) zoning classification. This application represents the applicants' request to replace an accessory structure (shed) that is located forward of the front line of the primary structure and does not meet the side setback requirement. The applicants state that an existing shed was built by a previous owner and was in this location when they purchased the property on May 27, 2025. The applicants also state that they plan to replace the shed with a 624 square-foot garage in the same location. The applicants state that the location of the existing shed is the only place on the property that a garage of suitable size for their needs can be placed. The second request equates to an 80% deviation of what the code allows. There are no code enforcement actions 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 February 4, 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: This is the only one place on the property to build my workshop. It is in the same spot as the existing shed. I want to build in the same spot a larger workshop.

Staff response: The property is a 1.2-acre flag lot with a stem of approximately 450 feet connecting to Harlock Road. It appears that the proposed accessory structure could be moved northerly on the parcel to meet the 15 feet side setback requirement, but it would still be located in front of the principal structure.

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

Applicant response: There are no circumstances resulting from my actions.

Staff response: The applicants state that the shed was built by a previous owner and has been in the current location since before they purchased the property on May 27, 2025. The applicants are proposing to replace the shed with a larger garage to serve as a workshop in the same location as the shed. Aerial imagery indicates the shed has been in the current location for more than 10 years. It appears that the proposed accessory structure could be moved northerly on the parcel to meet the 15 feet side setback requirement, but it would still be located in front 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: I understand that no special privilege will be granted by this variance.

Staff response: It appears that the proposed accessory structure could be moved northerly on the parcel to meet the 15 feet side setback requirement, but it would still be located in front 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: I want to return to flying. I can afford an ultralight airplane. I need a place to maintain it. Without the workshop, I will not be able to fly.

Staff response: The applicants state that the proposed workshop can only be placed on the property in the same location as the existing shed, and that the workshop needs to be big enough to store and maintain ultralight aircraft. The applicants have not applied for a building permit for the workshop. It appears that the proposed accessory structure could be moved northerly on the parcel to meet the 15 feet side setback requirement, but it would still be located in front of the principal structure.

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

Applicant response: The building will be the minimum variance based on the property and the house.

Staff response: The applicants state that the existing shed is not large enough for their needs, and the proposed garage will be the minimum variance to make their use possible. The applicant has not applied for a building permit for the accessory structure. It appears that the proposed accessory structure could be moved northerly on the parcel to meet the 15 feet side setback requirement, but it would still be located in front of the principal 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 location of the workshop will involve the least impact on the land. There is already a building footprint. No trees will be removed.

Staff response: The location encroaches on the side setback from the property line to the west, which coincides with the rear property line of the adjacent parcel. The applicant states that the location of the existing shed is the only place on the property that the proposed workshop can be placed. It appears that the proposed accessory structure could be moved northerly on the parcel to meet the 15 feet side setback requirement, but it would still be located in front of the principal structure.