



Planning and Development Department

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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 1

(26V00031) Wade L. Ulrich requests a variance of Chapter 62, Article VI, Brevard County Code as follows; Section 62-1331(5)(b) to allow 5 ft. from the required 15 ft. side (north) setback for an accessory structure in a GU (General Use) zoning classification. This request represents the applicants' request to build an 840 sq. ft. accessory structure (metal frame structure). The applicant states that the property has a unique layout due to the positioning and of location of the existing residence relative to the north property line. The applicant also states that having the accessory structure meet the required 15 ft. setback will result in a 6.5 ft. separation between the residence and the accessory structure is not functionally viable and creates issues related to drainage, water intrusion, maintenance access, and long-term structural integrity. This request equates to a 33% deviation to what the code allows. There are no variances approved to the accessory setback 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 and provided by the applicant with a revision date of 06/29/2026.

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 subject property has a unique layout due to the positioning of the existing residence relative to the north property line. The available buildable area is constrained such that compliance with the required setback results in impractical spacing between structures. These conditions are specific to this property and are not common to other similarly zoned parcels.

Staff response: Accessory structures in the GU zoning classification do not have a separation distance requirement between structures. The proposed accessory structure could be located to meet the 15 feet zoning setback requirement.

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

Applicant response: The hardship is not the result of any action taken by the applicant. The location of the existing residence predates this request and creates the current constraint on placement of additional structures.

Staff response: The proposed accessory structure could be located to meet the 15 feet zoning setback requirement.

(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: Granting this variance will not confer any special privilege, as it simply allows reasonable use of the property consistent the other properties in the same zoning classification that can accommodate accessory structures without similar constraints.

Staff response: Accessory structures in the GU zoning classification do not have a separation distance requirement between structures. The proposed accessory structure could be located to meet the 15 foot zoning setback requirement.

(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: Literal enforcement of the setback requirement would deprive the applicant of the ability to reasonably construct and use an accessory structure on the property. The resulting 6.5-inch separation between structures is not functionally viable and creates issues related to drainage, water intrusion, maintenance access, and long-term structural integrity.

Staff response: Moving the proposed accessory structure to the south to meet the 15 foot zoning setback requirement will result in a separation distance of 6.5 feet from the house. It is unknown if moving the accessory structure to the require setback would create issues related to drainage, water intrusion, maintenance access, and long-term structural integrity. Per the survey provided, the proposed accessory structure is a metal frame structure which appears to be built on a concrete slab.

(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 requested 5-foot reduction is the minimum necessary to allow safe and reasonable placement of the structure while maintaining adequate separation from the existing residence.

Staff response: Accessory structures in the GU zoning classification do not have a separation distance requirement between structures. The proposed accessory structure could be located to meet the 15 foot zoning setback 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 the variance will be consistent with the intent of the zoning regulations and will not be detrimental to the surrounding area. The structure is for personal use, will be similar in character to other accessory structures in the area, and will not negatively impact neighboring properties.

Staff response: The variance request is not consistent with the intent of the zoning regulations. There are no other variances approved to the accessory setback requirements in the immediate area.