



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 1

(26V00005) Shawn Matthew Hasibar (Ernie Hardy) requests two variances of Chapter 62, Article VI, Brevard County Code as follows; 1.) Section 62-1331(4) to allow 103.59 ft. from the required 300 ft. lot width; and 2.) Section 62-1331(4) to allow 2.1 acres of the required 5-acre lot size in a GU (General Use) zoning classification. This request represents the applicant's request to legitimize the lot size requirements of an existing parcel. The applicant states the property was subdivided into this configuration per Survey Book 2, page 60 in August 1960. When the parcel was subdivided the GU zoning required a minimum lot size of 150 feet of width and depth and one acre in size. The applicant also states when the parcel was subdivided it did not meet the 150 feet lot width requirement for the GU zoning classification. On May 20, 1975, the GU lot size requirements were revised to a minimum 300 feet lot width and depth and 5 acre minimum lot size. The applicant states the parcel was in this size and configuration when he purchased the parcel on May 1, 2025. The first request equates to a 44% deviation to what the code allows. The second request equates to a 42% deviation to what the code allows. There is one variance approved to the lot width requirement 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 date of 12/12/2025.

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 parcel has been impacted over time by public roadway dedications, utility, drainage and zoning related determinations over time that has reduced the useable acreage of the property.

Staff response: **When the parcel was subdivided per Survey Book 2, Page 60 it did not meet the 150 feet lot width requirement for the GU zoning classification to be classified as a Nonconforming Lot of Record today.**

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

Applicant response: The homeowner bought the property relying on the good faith of the properties zoning designation and recorded information presented at the time of purchase and not create, initiate or contribute to any nonconforming or variance issues that now exist.

Staff response: **When the parcel was subdivided per Survey Book 2, Page 60 it did not meet the 150 feet lot width requirement for the GU zoning classification to be classified as a Nonconforming Lot of Record today.**

(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 the requested variance will not confer any special privilege, rather simply allow the subject property to develop in a manner comparable to the other residential parcels ensuring equitable treatment consistent with Brevard County Land Development code.

Staff response: **There are other surrounding parcels that are developed with a single-family residence with the GU zoning that do not meet the lot size requirements to be classified as a Nonconforming Lot of Record today.**

(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 hardship is inherent to the land and arises from physical and regulatory constraint that were established through prior governmental actions rather than any action from applicant. Denial of variance would render the property unable to reasonably develop as the homeowner intended for residential purpose.

Staff response: **When the parcel was subdivided per Survey Book 2, Page 60 it did not meet the 150 feet lot width requirement for the GU zoning classification to be classified as a Nonconforming Lot of Record today. If the variances are denied the applicant could apply to rezone the parcel to a zoning classification that is compatible with the parcel's current size.**

(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 homeowner is not seeking to intensify the permitted use or deviate from the intended residential zoning classification but rather to accommodate the reduction in usable acreage resulting from historic public actions.

Staff response: **The applicant has applied for a building permit (25BC21489) to build a single-family residence.**

(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: Approval of the requested variance will not adversely impact public health, safety or welfare, nor will it alter the essential character of the area.

Staff response: **There are other surrounding parcels that are developed with a single-family residence with the GU zoning that do not meet the lot size requirements to be classified as a Nonconforming Lot of Record today.**