



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, July 15, 2026
DATE: June 30, 2026

DISTRICT 1

(26V00040) Kurt and Natalia E. Blackman request a variance of Chapter 62, Article VI, Brevard County Code as follows; Section 62-1334(4) to allow 0.92 acres from the 2.5-acre minimum lot size required in an AU (Agricultural Residential) zoning classification. This request represents the applicant's request to legitimize the lot size requirements. The applicant states the property was combined with adjacent parcels and then subdivided into the current configuration by the previous owner. When the parcel was subdivided, on February 4, 2022, the AU zoning required a minimum lot size of not less than two and one-half acres. The applicant states the previous owner and the current owner were unaware that the lot was not in compliance with the zoning. The request equates to a 37% deviation to what the code allows. There are no variances to the minimum lot size requirement approved in the immediate area. There is a pending code enforcement action (26CE-00214) 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 12/23/2021.

Is the request due to a Code Enforcement action? **YES**

If Yes, indicate case number **26CE-00214**, and

Name of contractor: **N/A**

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 property, before combined with other parcels and then redivided, was originally zoned AU. We would like to retain the original zoning.

Staff response: When the parcel was subdivided into the current configuration on February 4, 2022, it did not meet the minimum lot size requirement for the AU zoning classification.

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

Applicant response: When the property was purchased by the current owner, the property was subdivided, titled and recorded with the county as AU. After the fact, it was determined by the county that the zoning should have been changed by the previous owner to RR-1 and recorded before the property was sold. Both parties were unaware that the zoning was not authorized.

Staff response: The property was reconfigured by the previous property owner. Property owners should confirm their zoning requirements prior to reconfiguring any property.

(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: Due to the fact that this parcel was zoned AU originally before being combined and then resubdivided (even though it was below the minimum acreage set forth by

the county), the homeowner would like to retain the original zoning. It still falls below the minimum acreage but is about half an acre larger than it was when it was grandfathered originally.

Staff response: The property does not meet the required minimum lot size for AU zoning. There are no variances to the minimum lot size requirement approved in the immediate area. Similarly situated properties in the area are zoned RR-1 (Rural Residential) which requires a minimum lot size of not less than one acre.

(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: All of the surrounding properties are zoned AU. This classification for the parcel in question would align with those around them.

Staff response: Several properties in the area are zoned RR-1 and RU-1-11 (Single-Family Residential) in addition to AU. These zoning classifications have more limited permitted uses than the AU zoning.

(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 variance will result in the homeowner to be able to have farm animals and will also allow for the adjacent parcel to the west that is was subdivided from, to be officially recorded with its flag stem and AU zoning. The adjacent parcel does meet the minimum requirements for AU zoning.

Staff response: The variance requested is the minimum variance that will allow this parcel to maintain AU zoning.

(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: There is no other intended use by the current homeowner other than to be able to have small farm animals, mainly chickens, and to fix the issue of the adjacent property being legitimately recorded.

Staff response: In all single-family residential zones, on lots of at least one-half acre minimum, up to four chickens (no roosters or other fowl) may be permitted per one-half acre of land without a conditional use permit for the personal, noncommercial use of the occupants only.