



## 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, March 18, 2026  
DATE: February 25, 2026

### DISTRICT 1

**(25V00082) Tyler Gardner and Shelby Hines** request a variance of Chapter 62, Article VI, Brevard County Code as follows; 1.) Section 62-1401(5)(a) to allow 13.9 ft. of the required 15 ft. side (south) setback for a principal structure in an RRMH-1 (Rural Residential Mobile Home) zoning classification. This request represents the applicant's request to legitimize an existing Mobile Home to finalize the building permit (25BC13635) for the installation of the Mobile Home. The applicant states the Mobile Home was set up in the wrong location on the lot and moving the Mobile Home would require all the utilities to be moved also. This request equates to a 93% deviation to what the code allows. There are no variances approved to the setback requirements for a primary structure the immediate area. There is no code enforcement action pending with the Brevard County Planning & Development Department. If the Board approves the variance, it may want to limit its approval as depicted on the survey provided by the applicant with a Field date of 10/10/2025.

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: This property's hardship arises from the fact that the home was placed incorrectly on the lot by the manufacturer and installation contractor, not by the homeowner. The home's placement deviates from the county-approved plot plan, creating a unique setback issue that does not apply to other properties in this zoning classification. The layout and utility locations on this specific parcel further complicate relocation and make this condition unique to our property

Staff response: **The Mobile Home installer set up the mobile home in the wrong location.**

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

Applicant response: The incorrect placement of the home was not caused by the applicant. Palm Harbor Homes and their subcontractors assumed the placement location without following the approved plot plan or verifying measurements with the county. The applicant relied in good faith on licensed professionals to install the home correctly and had no role in determining or approving the incorrect placement.

Staff response: **The Mobile Home installer set up the mobile home in the wrong location.**

(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 would not provide the applicant with any special privilege or exemption. It simply allows the home to remain as placed, correcting an error made by the contractor, and bringing the property into compliance without further delay or hardship. The variance would only restore the applicant's ability to use the property as intended and permitted.

Staff response: **Granting the variance would allow the building permit to be finale to receive the Certificate of Occupancy.**

(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: Strict enforcement would prevent the applicant from receiving a Certificate of Occupancy and make it impossible to live in the home, despite having complied with all county requirements during the permitting process. The applicant has already sold their temporary living quarters (a camper) based on assurances from Palm Harbor that the home would be ready for occupancy by August and has been paying for storage while now needing to secure a rental. Forcing relocation of the home would result in extreme financial and emotional hardship.

Staff response: **Granting the variance would allow the building permit to be finale to receive the Certificate of Occupancy.**

(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 variance is the minimum necessary to allow reasonable use oi the property and obtain a Certificate of Occupancy. No expansion, additional construction, or deviation beyond the existing placement is being requested - only permission for the home to remain as currently installed.

Staff response: **The variance requested is the minimum variance to allow the building permit to be finale to receive the Certificate of Occupancy.**

(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: Approving this variance will not negatively impact surrounding properties or public welfare. The home's placement does not interfere with neighboring lots, easements, drainage, or access. Granting the variance will preserve the property's intended residential use and maintain the neighborhood's character, while avoiding unnecessary reconstruction and environmental disruption.

Staff response: **This request equates to a 93% deviation to what the code allows. The location of the Mobile Home is not located in any Utility or Drainage easements.**