



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, February 18, 2026

DATE: January 28, 2026

### DISTRICT 2

**(25V00092) Shane Clark Edgar and Jonee Josephine Infante** request three variances of Chapter 62, Article VI, Brevard County Code as follows; 1.) Section 62-1340(5)(a) to allow 6.7 ft. from the required 7.5 ft. side (east) setback for a principal structure; 2.) Section 62-2123(a) to allow 0.8 ft. from the required 5 ft. rear setback for a swimming pool screen enclosure; and 3.) Section 62-1340(5)(b) to allow 5.7 ft. from the required 7.5 ft. side (west) setback for an accessory structure in an RU-1-11 (Single-Family Residential) zoning classification. This request represents the applicants' request to legitimize an existing single-family residence; an existing swimming pool screen enclosure and an existing accessory structure (one story building). The applicant, Shane Edgar, states that the structures were in this configuration when he purchased the property on November 28, 2022. The applicant also states the structures were built by a previous owner and have been in this configuration for over 15 years. The three Public Utilities Easements where the structures encroach were vacated by the Board of County Commission per Resolution 2015-140. The first request equates to an 89% deviation of what the code allows. The second request equates to a 16% deviation of what the code allows. The third request equates to a 76% deviation of what the code allows. There is one variance approved to the principal structure setback requirements in the immediate area. There is no variance approved to pool screen enclosure setback requirements or the accessory structure 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 with a date of 8/07/2025.

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: Yes, Built before we purchased.

Staff response: **Based on staff analysis, it appears that the structures were in this configuration when the applicant purchased the property on November 16, 2022.**

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

Applicant response: Yes, Built before we purchased.

Staff response: **Based on staff analysis, it appears that the structures were in this configuration when the applicant purchased the property on November 16, 2022.**

(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: Yes, Built before we purchased.

Staff response: **Based on staff analysis, it appears that the structures were in this configuration when the applicant purchased the property on November 16, 2022.**

(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: Yes, Built before we purchased.

Staff response: **Based on staff analysis, it appears that the structures were in this configuration when the applicant purchased the property on November 16, 2022.**

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

Applicant response: Yes, this is the minimum variance required.

Staff response: **The requested variances are the minimum variances required.**

(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: Yes, These structures have been in existence for over 15 years, no one has complained.

Staff response: **Based on staff analysis, the structures appear to have been in this configuration for over 15 years.**