



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 29, 2026

DISTRICT 5

(26V00004) Susan R. Gasperini requests a variance of Chapter 62, Article VI, Brevard County Code as follows; 1.) Section 62-1342(5)(a) to allow 10 ft. from the required 20 ft. rear setback for a principal structure in an RU-1-7 (Single-Family Residential) zoning classification. This request represents the applicants' request to build a single-family residence with an open porch on the back. The applicant states a mistake was made when the building plans for the building permit, 25BC18956, were reviewed. The proposed single-family home has a covered open porch on the rear of the house which is supported by columns and is covered with a trussed roof which requires a 20 feet rear setback. The building permit was approved with a 10 ft. rear setback to the covered porch. This mistake was discovered when the foundation survey was reviewed for zoning requirements. This request equates to a 39% deviation to what the code allows. There are four (4) variances approved to the rear setback requirements for a principal structure 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 12/10/2025.

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: The plans were previously approved as an error.

Staff response: **Based on staff analysis, the building plans for the single-family home building permit 25BC18956 were approved with a 10 foot rear setback to the covered open porch. The mistake was discovered when the foundation survey was submitted for review for zoning requirements.**

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

Applicant response: This error was made by the County.

Staff response: **Based on staff analysis, the building plans for the single-family home building permit 25BC18956 were approved with a 10 foot rear setback to the covered open porch. The mistake was discovered when the foundation survey was submitted and reviewed for zoning requirements.**

(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: This is a hardship as construction has begun.

Staff response: **Based on staff analysis, the construction of the single-family home has begun.**

(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: If not approved I will have to tear out what was previously approved.

Staff response: **Based on staff analysis, without the variance the covered rear porch will require being revised.**

(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 needed.

Staff response: **Based on staff analysis, the variance requested is the minimum needed to meet the rear setback requirement for the 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: It will not be harmful to anyone.

Staff response: **Based on staff analysis, the parcel abutting to the rear of the subject parcel has a drainage swale running along the rear of the parcel and a block wall approximately 24 feet from the subject parcel's rear property line.**