



BOARD OF COUNTY COMMISSIONERS

**Planning and Development**

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
(321) 633-2070 Phone

**VARIANCE HARDSHIP WORKSHEET**

Is the variance request due to a Code Enforcement action: ☐ Yes ☒ No

If yes, please indicate the case number and the name of the contractor:

Case Number: \_\_\_\_\_

Contractor: \_\_\_\_\_

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:**

Request #1(Code Section 62-1372)

The existing parcel is zoned RU-2-15 with a minimum lot width of 75'. The existing parcel is only 50.1' wide with existing developments to the north and south. A variance of 24.9' of the minimum lot width is required to allow for redevelopment of the site. The existing lot width is consistent with next 10 parcels south of the subject parcel.

2. That the special conditions and circumstances do not result from the actions of the applicant.

Applicant Response:

Request #1(Code Section 62-1372)

The parcel was platted in 1946 with a lot width of 50 feet. The applicant did not take ownership of the parcel until 2019. Therefore, the applicant did not create any special conditions and circumstances that require this variance request.

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:

Request #1(Code Section 62-1372)

The variance request is simply to allow a substandard lot to be redeveloped under the current zoning. The platted width of 50' from 1946 does not meet the minimum lot width requirements of the current zoning.

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:

Request #1(Code Section 62-1372)

The parcel can not be redeveloped under the current zoning without a variance to the minimum lot width.

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

Applicant Response:

Request #1(Code Section 62-1372)

The variance request of 24.9' is the minimum request to the minimum lot width requirement of 75'. The current lot width is 50.1'.

6. That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant Response:

Request #1(Code Section 62-1372)

The granting of the variance will allow the applicant the ability to redevelop the parcel under the current zoning. The redevelopment shall be a 4-unit multifamily project which is harmonious with the existing multifamily project to the north and south of the subject parcel.

I fully understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by a Planning and Development representative. I am fully aware it is my responsibility to prove complete compliance with the aforementioned criteria.

  
Signature of Applicant Robert Vander Weide  
OBC Realty, LLC

  
Signature of Planner



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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:**

Request #2 (Code Section 62-2105)

The parcel is only 50.1' wide and has had Variance V-1305 approved to reduce side setbacks for the existing structure to 5'. Because the existing structure extends seaward of the 1981 CCCL and the Brevard County CLS, the structure proposed for the redevelopment of the site must remain in the footprint of the existing structure. See attached letter of Compliance from Brevard County Natural Resources. Therefore, project approval cannot be obtained without a variance to the breezeway requirements.

2. That the special conditions and circumstances do not result from the actions of the applicant.

Applicant Response:

Request #2 (Code Section 62-2105)

The site conditions are existing and not a result of the applicants actions. However, redevelopment of the site, to be consistent with the surrounding areas, requires the breezeway variance to bring the project into compliance.

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:

Request #2 (Code Section 62-2105)

Reduction of the breezeway requirement goes along with the previously approved Variance V-1305 (side setbacks reduced to 5'). The Brevard County Natural Resources Letter of Compliance also stated that the proposed building footprint may follow the same footprint as the existing building in areas seaward of the 25' setback off of the 1981 CCCL. Without the breezeway requirement reduced, the referenced approvals cannot be realized.

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:

Request #2 (Code Section 62-2105)

The parcel will not be able to be redeveloped without following the existing building's footprint. The existing building footprint cannot be utilized without a variance to the breezeway requirement.

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

Applicant Response:

Request #2 (Code Section 62-2105)

The applicant is limited to the use of the existing footprint by the Department of Natural Resources. Thus, a variance of 8.2' to the required 21.4' breezeway is needed to allow reasonable use of the property.

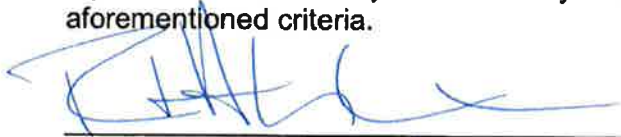
6. That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant Response:

Request #2 (Code Section 62-2105)

Approval will allow the site to be redeveloped to a higher standard of quality and match up more closely to the newer developments in the surrounding area.

I fully understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by a Planning and Development representative. I am fully aware it is my responsibility to prove complete compliance with the aforementioned criteria.

  
Signature of Applicant Robert Vander Weide  
OBC Realty, LLC

  
Signature of Planner