

VARIANCE HARDSHIP WORKSHEET

Is the request due to a Code Enforcement action?

☐ Yes. If Yes, indicate case number _____, and
name of contractor _____

☐ 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:

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

(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:

(over)



(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:

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

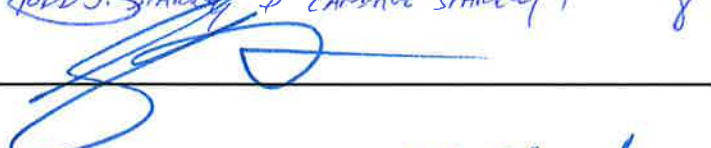
(6) That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

I 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 the below-signed zoning representative. I am fully aware that it is my responsibility to prove complete compliance with the aforementioned criteria.

Signature of applicant


TODD J. STARKEY & CANDACE STARKEY

Signature of planner


see attached

Variance Hardship Worksheet

Request: The applicant is requesting a variance from the normal five (5) foot rear setback to three and one-half (3.5) feet – allowing for an eighteen-inch encroachment.

Reason for Request: This applicant lives in Viera on a retention pond. No neighbor immediately abuts the rear of the applicant's home or rear lot line. The applicant contracted with a pool company recently to install a small pool in the backyard. The pool company submitted plans showing that it would be able to install the pool without encroaching on the rear setback. The County approved those plans and construction commenced. Unfortunately, because of site conditions and/or contractor negligence, the pool tank and concrete were installed in such a way that the footer and screen (required to enclose the pool) cannot be installed except within that setback. Once finished (if allowed as originally planned pursuant to this variance request), all improvements would lie three and one-half feet from the rear property line – a mere eighteen-inch encroachment. Unfortunately, the contractor did not catch this issue until recently. Given the level of improvements that have been installed (all concrete, plumbing, and electrical for the pool), those improvements cannot be moved without tremendous expense. It is important to note that this issue exists only because of the curvature of the pond and, thus, the rear lot line. If it were not for that curvature, this issue would not exist.

Response to Prompt 1: The special circumstances affecting this land relate primarily to the curvature of the rear lot line. If that curvature did not exist, then ample room would have been available to accommodate – despite the minor deviation from the plans.

Response to Prompt 2: The applicant is not the contractor. The applicant had no part in the installation of the pool or any part of its construction and did not participate in setting the boundary lines for any of the property.

Response to Prompt 3: No special privilege will befall the applicant when the variance is granted. Again, it is not the entire length of the pool that will be located in setback. Rather, only a small portion of the pool improvements will be located within the setback area and that, again, stems from the curvature of the rear property line.

Response to Prompt 4: If the application is denied, the applicant will not be able to put a screen over the pool – reducing usability during the hottest summer months and increasing operational expenses from the need to input additional/more consistent chemical treatments. Many other property owners in the area benefit from being able to enclose their pool via a screen.

Response to Prompt 5: The variance sought here is the bare minimum required to finish the pool as originally planned (subject to the eighteen-inch relocation).

Response to Prompt 6: A variance of this extent will never be noticed by anyone – except a surveyor. It permits only a very minor encroachment. The neighbors have all been advised of the application and none objected.