

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:

Please see attached

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

Please see attached

(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:

Please see attached

(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:

Please see attached

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

Please see attached

(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:

Please see attached

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



Signature of planner

#### Response to (1)

##### Special Conditions:

##### 1. Contiguous to a Key Lot

The subject lot is contiguous to a key lot. This requires a side set back of 20 feet instead of the traditional 15 feet. The key lot is completely comprised of a drainage ditch. Therefore, will never be suitable for construction. The purpose of the 20 foot setback is to make sure neighboring properties front setbacks are the same, and one is not in front of the other. Since the contiguous lot will never be developed this will not be an issue. The subdivision of this area took place prior to the establishment of Brevard County Zoning. At which time, key lots were not a known issue.

##### 2. Lot located within a Flood Plain

The second special condition is that the lot is located in a flood plain requiring an elevation over 4 foot from the existing road. Consequently, a home would require a front set back of at least 40 foot to allow a proper pitch for a useable driveway.

##### 3. Narrow Lot Shape

The shape of the lot is a narrow rectangle measuring 80 foot wide and 157 foot deep. This width, considering setbacks, would make it impossible to turn the house on the lot utilizing an Orris Ave entrance.

4. Lot has a wetlands located on the west end of the property along the drainage ditch.

5. Large oak trees (38 inch, 24 inch and 20 inch diameter) located on the back 1/3 of the property. Natural resources has asked that we preserve, if possible.

#### Response to (2)

The special conditions are a result of the shape of the lot, elevation requirements, subdivision of the area prior to today's zoning requirements, wetlands located on the property, and the large preservation oaks located on the property.

#### Response to (3)

Granting the requested variance will only correct the zoning issue related to the unbuildable key lot and the unnecessary 20 foot setback.

#### Response (4)

The enforcement of the 20 foot setback makes it impossible to abide by the property's current zoning and build a single family residence on the parcel in turn creating an undue hardship. The applicant brought this issue to the county during due diligence period before purchasing the lot, and was informed the side set back was 15 feet. Fast forward five months, house plans are engineered and drawn, septic permit in hand and at the end of the permitting process, the key lot issue is being revisited, requiring a 20 foot setback.

#### Response (5)

A five foot variance from the side set back is the minimum to fit a single family home on the lot. It would still provide the normally required 15 foot setback if the property were not contiguous to a key lot.

Response (6)

Granting this variance will be in harmony, non-injurious and non-detrimental to public welfare because it will allow for the normal residential setback of 15 feet. This variance will not be harmful to the key lot due to the fact that the key lot is completely composed of a drainage ditch and non-buildable.