



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:

Special conditions and circumstances exist on my property. My side yard is adjacent to a key lot that is less than 100 feet wide, creating an atypical layout compared to surrounding properties. Due to this configuration, the standard 4-foot fence height within the minimum side street setback does not provide adequate privacy or safety.

Furthermore, my family includes a young child and a dog who will regularly use the yard for play and outdoor activity. A 4-foot fence is insufficient to contain our dog securely and does not provide the necessary protection or peace of mind for our child's safety. The increased height of a 6-foot fence is essential for establishing privacy and creating a safe and secure environment that allows our family to safely enjoy the entire outdoor space. These specific needs create a unique hardship that is not commonly shared by other properties in the area.

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

Applicant Response:

The special conditions and circumstances described do not result from any actions taken by me as the applicant. The layout of the lots, including the neighboring key lot being less than 100 feet wide and my side yard facing a side street, was established when the subdivision was originally platted. I did not create the lot configuration, setback requirements, or zoning regulations that now limit fence height in this specific location.

Additionally, the need for a taller fence is a result of my family's current safety needs, especially with a young child and a dog who will use the side yard daily. These are common, reasonable concerns for any family. The hardship arises naturally from the way the property is situated.

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:

Granting this variance would not confer any special privilege that is denied to other properties in the same zoning classification.

Many properties in the same zoning districts already enjoy the ability to construct 6-foot fences in their rear and side yards, providing privacy and safety for their families. The only reason my property does not currently enjoy this same benefit is due to the unique layout of my side yard adjacent to a narrow key lot. Comparison to other lots approved, driveway placement is not considered, only property width, which places further hardship for my situation.

This request simply seeks to allow my property to function in the same way as others in the neighborhood, by installing a 6-foot fence that provides safety, security, and privacy. Approving the variance would not provide an unfair advantage, but rather bring my property in line with the reasonable use and enjoyment that others already have within this zoning classification.

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:

Literal enforcement of the zoning provisions would deprive me of the ability to provide a reasonable level of safety, privacy, and use of my entire property that other homeowners in the same zoning classification commonly enjoy. Most properties in this zoning category are permitted to have 6-foot fences in areas where their yards are more private or less exposed. Due to the unique placement of my home, with a side yard that faces a side street and is adjacent to a narrow key lot, I'm unable to achieve that same level of enclosure and security without a variance.

Comparing my situation to others in the neighborhood, driveway placement on the key lots are similar, yet the additional yardage on the farther side of the other key lot achieves the 100-foot width, despite having zero impact to the corner property.

This restriction creates an unnecessary and undue hardship, especially considering I have a young child and a dog who I want to regularly enjoy the side yard. A 4-foot fence does not offer the containment, security, or privacy needed for safe family use. The inability to install a 6-foot fence in this specific area places an unfair burden on my family and limits the full use and enjoyment of our yard in a way that neighboring property owners are not similarly restricted.

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

Applicant Response:

The requested variance to allow a 6-foot fence within the minimum side street setback is the minimum necessary to make reasonable and safe use of the side yard on my property. A fence of lesser height, such as the currently allowed 4 feet, does not adequately address the safety and security needs of my family, particularly for our young child and dog.

We are not requesting to exceed 6 feet or to enclose additional setback area beyond what is needed. The 6-foot height simply aligns with what is commonly accepted as sufficient for privacy and containment. This modest increase ensures we can safely use our entire yard without creating additional visibility or undue impact on the surrounding neighborhood. Therefore, the variance requested is the least possible deviation from the zoning code necessary to achieve a reasonable and functional use of our 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:

Granting this variance will be in harmony with the general intent and purpose of the zoning regulations, which aim to promote public safety, protect neighborhood character, and allow for the reasonable use of private property. A 6-foot fence in this specific side yard location will not be injurious to the surrounding area or detrimental to the public welfare.

There are locations within the neighborhood where existing fence placement (despite following County regs), plants and shrubs, and street parking create more visibility challenges on the roadways than what is being requested with this variance.

The fence will be designed to maintain a visually appropriate and consistent appearance with other fences in the neighborhood, and it will not create additional visibility hazards. On the contrary, it will enhance safety for my family, especially for our young child and dog, by providing a secure and contained yard space.

For what it is worth, the property owners at 4863 Shannock Avenue have provided their full support and permission in us obtaining a 6-foot fence within the side street setback.

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.

Michael Lemonie

Signature of Applicant

Jackson,
Desiree

Digitally signed by
Jackson, Desiree
Date: 2025.10.01
11:15:51 -04'00'

Signature of Planner