



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: [X] Yes [] No

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

Case Number: _____

Contractor: Carries Fence of Palm Bay, Inc. /Lifestyle Builders, Inc.

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 elevations of the vacant lot (before house was constructed) and the existing house to the North (9035- built in 1957) and South (9065- built in 1973) were below the flood plain and in order to build the home to current FL Building, Zoning & State codes fill was brought onsite to build the house pad to meet current code. In order to contain the fill onsite and not flood out the neighbors a retaining wall is required. Per the Florida Bldg Code for safety reasons Brevard County Building Dept has required a rail/fence above the retaining wall.
see Exhibit A

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

Applicant Response:

No we did not create the low elevations.

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:

NO

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:

There would be a safety issue if the fence is not installed per the FL Bldg CODE requirement since the drop of elevation to the south and north lots are significant.

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 fence/rail on the retaining wall is for safety reasons and doesn't block the view.

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:

It is in harmony with the general intent and purpose of this chapter and will be for the safety of others. It does not cause detrimental damage to public welfare.

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



Signature of Planner

EXHIBIT A
VARIANCE HARDSHIP WORKSHEET

9045 HIGHWAY 1, MICCO, fl 32976

MATTHEW & GRETCHEN SOLAR

To build a new single family residence we had to construct the home above the base flood elevation and bring in fill. To contain the fill onsite and not flood out the neighbors we had to construct a retaining wall that meets Planning & Zoning's requirements of 4' within the 20' ROW and high mean water line and the maximum 6' requirement elsewhere. However, for fall protection off the walls per the Bldg Code, a guard rail was required by the Bldg Dept

In order to comply with the Building Department's fall protection requirement, a variance is requested and needed. There is no other option that we see to protect fall without a variance.