



BOARD OF COUNTY COMMISSIONERS

Planning and Development

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

Existing Rear Setback Variance (Not in project area)
VARIANCE HARDSHIP WORKSHEET

Is the variance request due to a Code Enforcement action: [] Yes [4] No

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

Case Number: _____

Contractor: Sabatino Construction Group _____

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 due to the pre-existing placement of the structure, which encroaches into the required rear setback. This condition is unique to the property as the structure was constructed prior to current setback requirements or under previous approvals, resulting in a lawful nonconformity. The existing building footprint limits the ability to comply with current setback standards without requiring demolition or significant alteration of the existing structure, which is not applicable to most other properties within the same zoning classification.

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

Applicant Response:

The encroachment into the rear setback is not the result of any action taken by the current applicant. The condition was created by prior construction and exists as a pre-existing nonconforming structure. The applicant is not proposing any expansion or modification to the portion of the building that encroaches into the rear setback.

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 will not confer any special privilege to the applicant that is denied to other properties within the same zoning classification. The request is solely to recognize the existing nonconforming condition and allow reasonable improvements to the property. Similar relief is commonly granted for properties with legally existing encroachments where no further encroachment is proposed.

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 rear setback requirement would impose an unnecessary and undue hardship by preventing reasonable improvements to the property, despite the fact that no work is proposed within the encroaching rear area. Denial of the variance would effectively restrict the applicant's ability to utilize the property in a manner consistent with other similarly zoned properties, where improvements and additions are typically permitted.

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 variance requested represents the minimum necessary to allow reasonable use of the property. The applicant is not seeking to increase or expand the existing encroachment but is only requesting recognition of the current condition to facilitate a separate project which is on the front of the building.

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 the variance will be in harmony with the general intent and purpose of the zoning regulations, as it maintains the existing building footprint without increasing the degree of nonconformity. The proposed front addition will not negatively impact neighboring properties, public safety, or overall community welfare. The request preserves the character of the area while allowing reasonable use of the property.

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.

Matthew Sabatino

Digitally signed by Matthew Sabatino
DN: C=US, E=msabatino@sabatinoconstruction.com, O=Sabatino
Construction Group, OU=Corp, CN=Matthew Sabatino
Reason: I am approving this document
Date: 2026.03.25 15:48:46-04'00'

Signature of Applicant



Signature of Planner