



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: 25CE-00612

Contractor: Life Style Homes 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:

Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning classification.

The subject property presents unique structural and topographical conditions due to the proximity of the home to the north and south side property lines, as well as its required finished floor elevation (FFE). To support the approved site grading and maintain structural integrity of the elevated lot, retaining walls were constructed along the north and south sides of the home. These walls are necessary to retain soil and ensure proper drainage, as approved through the County's engineering and lot drainage plans.

Because the grade falls away quickly toward the neighboring lots, the retaining walls exceed a 30-inch differential on the outside face, triggering mandatory fall protection requirements under the Florida Building Code. These conditions — close lateral setbacks, elevated FFE, and substantial grade differentials — are not typical of other properties in the same zoning classification and create a unique need for this variance request.

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

Applicant Response:

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

The need for the retaining walls and fall protection guards stems from the finished floor elevation (FFE) included in the site and drainage plans, which were submitted to and approved by Brevard County. These plans created a significant grade differential between the subject property and adjacent lots, necessitating the use of structural retaining walls for site stability and the subsequent requirement for guards under Florida Building Code.

The applicant followed all permitting processes and constructed the home in good faith based on the County's approved plans. The resulting conditions requiring this variance are not the result of actions taken independently by the applicant, but rather a direct consequence of County-reviewed and approved design elements.

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:

The variance requested will not confer on the applicant any special privilege that is denied by the ordinance to other lands, structures or buildings in the same zoning classification.

The requested variance does not grant any special privilege, but instead seeks the minimum relief required to safely use the property and comply with Florida Building Code. The retaining wall and guard are not aesthetic or luxury features but are required for safety due to grade differences. The applicant is merely requesting relief to allow what is functionally and legally required under state law, similar to what would be granted to any other owner facing the same physical and regulatory constraints.

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:

The literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification under the terms of this chapter and would work unnecessary, and undue, hardship on the applicant.

Literal enforcement would prevent the applicant from legally completing and using a structure for which a Certificate of Occupancy has already been issued. It would also prohibit the applicant from complying with the Florida Building Code's life-safety requirements for fall protection, exposing them to legal and liability risk. No reasonable alternative exists to install the necessary fall protection without this variance, which creates a functional and financial hardship not encountered by others without similar site conditions.

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 applicant is not seeking any special entitlement or overreach of zoning allowances, but rather a practical, code-compliant path forward that balances safety, structural integrity, and neighborhood compatibility.

To align with zoning intent and reduce visual impact on neighboring properties, the applicant will begin reducing the height of the retaining wall at the point where maintaining the required minimum 6" elevation above the applicant's grade no longer results in a wall height exceeding 30" from the adjacent property's grade. From this transition point—located near the rear corners of the home—the wall will be angle-cut down to match the height of the seawall, and will then continue at that level along the remainder of the rear yard.

To maintain aesthetically balanced symmetry, the same treatment will be applied to both the north and south side walls. In areas where the wall height is brought under 30", no guardrail will be reinstalled, consistent with Florida Building Code requirements. Where guardrails are still required, the existing 48" rails will be replaced with 36" units to reduce massing and improve visual compatibility.

These revisions ensure that only the minimum necessary deviation from current zoning regulations is being requested, and that the proposed changes will substantially reduce the variance's footprint, while still satisfying life-safety and drainage requirements tied to the finished floor elevation of the home.

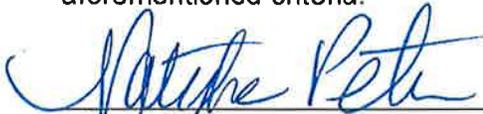
6. That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant Response:

The granting of the variance will be in harmony with the general intent and purpose of this chapter and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The proposed variance enables compliance with the Florida Building Code's fall protection requirements and maintains public safety. The applicant has offered to reduce the guard height, eliminate its presence where possible, apply stucco and paint to the wall exterior, and add landscaping for aesthetic mitigation — all of which promote neighborhood compatibility and public welfare. The solution seeks harmony with both building safety standards and community aesthetics.

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