



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: Linde is a critical infrastructure company because it provides essential industrial gases and engineering services to multiple sectors vital for the functioning of society. The company's products and services support key industries such as healthcare, energy, manufacturing, and food production, all of which are designated critical infrastructure sectors. The special circumstances and conditions of this land are that it is existing industrially zoned land. The existing plant in the area is being expanded and there is no other location with existing site conditions. Locating a similar plant of industrial nature to another location is not feasible. The dedication of the right of way to the west led to an encroachment within the front setback.

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

Applicant Response: Industrial sites are very limited in Brevard County with even tighter regulations for performance standards. This location is ideal for the existing operation and for the planned expansion. The circumstances necessitating the variances stem from the right of way dedication and the location of the natural environmental features to the east, which sandwich the industrial development to the west against the existing right of way.

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 special privilege would be granted to the property owners as they are seeking to use the property for industrial uses and the property is industrially zoned. The use, as a cryogenic oxygen and nitrogen supply company supports the Space industry and supports the local economy. The front setback variance is due to the dedication of the right of way as part of the development of the new plant expansion. The large front setback for industrial is usually due to aesthetics and screening from the right of way. The area is isolated and the larger front setback is unnecessary in this area. The additional building height setback is usually to protect shorter adjacent buildings from a sun shadowing effect.

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 property is industrial zoned and the property owners are expanding their cryogenic oxygen and nitrogen supply company. The property is limited as it is sandwiched by the natural environmental features to the east and to the west against the existing right of way. As part of the expansion they are dedicating right of way which affects the front setback. The properties in the area are operating in harmony and in character with the area serving the economy and the space industry.

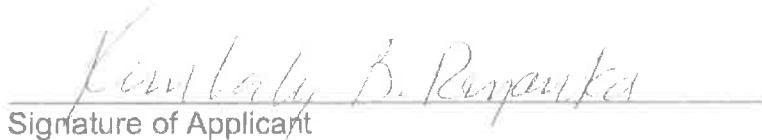
5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

Applicant Response: These are the minimum variances needed to make possible the reasonable use of the industrial land. This site is isolated industrial land, sited appropriately for the use intended and meant for the expansion of the existing facilities. As it is sandwiched between right of way and environmental features, these variances once approved, will make the best reasonable use of the land building and structures.

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 these variances will allow the owners to utilize the property for industrial use as the property to the south is used. The project will yield harmony with the general intent of this chapter and will not be injurious to this area or public welfare as it will yield economic benefits, increase employment opportunities for the local community within Mims and Brevard County.

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