

VARIANCE HARDSHIP WORKSHEET

Is the request due to a Code Enforcement action?

Yes. If Yes, indicate case number _____, and
name of contractor

No.

Prerequisites to granting of variance:

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:

The property is pie shaped, the width getting 33 feet smaller as you go east. Almost all of the other four sided properties in the subdivision are rectangular.

(2) That the special conditions and circumstances do not result from the actions of the applicant:

When the plot plan was submitted initially, before the cement slab was poured, I was told I needed to include dimensions on the drawing including distance to the property line and house. Nothing was said about distance to the pool enclosure. I included the dimensions to the property line and house and resubmitted the drawing. The plot plan and the building permit were approved. I assumed everything was fine and proceeded to have the slab poured. Much later, after the garage construction had already begun, I found out I needed a foundation survey. It took months to find a surveyor and to get it done due to the surveyor's schedule. By that time the garage frame construction, including roof, was completed. I submitted the survey only to find out about the 5 foot spacing to the pool enclosure requirement. I contend this issue is not my fault as I had followed instructions and had received an approved plot plan and permit.

(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:

Granting this variance will not deny anyone the right to submit a variance for a similar issue.

(over)

(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:

I can't move the garage now without destroying it and I found out I can't move the small area of the pool enclosure without a new permit and an engineering analysis showing the modification is okay. This would probably cost thousands of dollars. To replace the whole pool enclosure would in the range of 20,000 to 30,000 dollars. To change things now would cause an unfair hardship considering the tiny area affected.

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

The variance requested is a 7 degree triangle with the short end 1.1 feet and the long end 9 feet. The 1.1 foot length is the difference between the 5 foot requirement and the actual 3.9 foot spacing between the garage and the pool enclosure. This area is only 0.4% of the pool enclosure area.

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

The area involved is not really visible as it is 150 feet from the street and hidden from the neighbor by the garage.

I 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 the below-signed zoning representative. I am fully aware that it is my responsibility to prove complete compliance with the aforementioned criteria.

Signature of applicant Michele O'Malley

Signature of planner Paul Boddy