

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:

See Response 1 on the Variance Hardship Attachment

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

See Response 2 on the Variance Hardship Attachment

(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:

See Response 3 on the Variance Hardship Attachment

(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:

See Response 4 on the Variance Hardship Attachment

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

See Response 5 on the Variance Hardship Attachment

(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:

See Response 6 on the Variance Hardship Attachment

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 _____

Signature of planner _____

**VARIANCE HARDSHIP ATTACHMENT - PZ NO. 24Z00009
MAY 23, 2024**

1. This 0.31-acre property has a unique circumstance as it is currently zoned AU but is part of a larger parcel of land totaling 7.71 acres with the main 7.40-acre portion of the parcel zoned RU-1-9; thus, the parcel has a mix of AU and RU-1-9 zoning necessitating a consistent zoning which requires the 0.31-acre AU zoned portion to be rezoned to RU-1-9. The 0.31-acre portion is only 50 feet in width, which does not meet the minimum lot width requirement for the RU-1-9 zoning district. However, this portion is part of a flag lot and serves exclusively as an access way to the main portion of the parcel unlike typical residential lots. The 0.31-acre portion will not contain any structures, thus not requiring the standard lot width intended for residential development.
2. The flag lot configuration of the 0.31-acre portion as a narrow access way was established before the applicant's ownership and is a result of historical parcel division. Also, mixed zoning (AU and RU-1-9) if the larger 7.71-acre parcel was in place prior to the applicant's acquisition of the parcel. The need for a variance arises from the inherent necessity to provide adequate access to the main portion of the parcel, a condition that the applicant did not create. These conditions were pre-existing and are beyond the applicant's control, underscoring that the variance request stems from circumstances inherent to the property itself.
3. Granting this variance will allow for the proper development of the main portion of the parcel, which is currently zoned RU-1-9 consistent with Brevard County's requirements. The flag lot configuration was intended to provide access to the main portion and the width of the parcel was set at 50 feet consistent with required access requirements. The re-zoning of this parcel and granting of this variance is in keeping with the intent of the flag lot configuration to allow proper access to the main portion of the parcel.
4. The 66 foot lot width's requirement in the RU-1-9 zoning district is intended to allow for the proper placement of an appropriate residential structure within the constraints of a residential lot, meeting setbacks and other lot development standards. Given that this portion of the parcel will not contain any structures, the literal enforcement of the lot width requirements for this property would deprive the applicant from the ability to access the main portion of the parcel and will constitute unnecessary and undue hardship as it would prevent the applicant from their ability to property develop the main parcel consistent with the County's regulations, which is a right enjoyed by other properties.
5. The existing width of the flag lot portion is 50 feet, which is the minimum variance that will make it possible for the reasonable use of this portion for access to the main portion of the land parcel.
6. The granting of this variance will allow for proper access to the main portion of the parcel as intended based on the overall property configuration and for the proper use of the main parcel consistent with the main parcel's zoning designation and the County's Comprehensive Plan. As such, the granting of this variance will not be injurious to the area involved or be detrimental to the public welfare.