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Variance Hardship Worksheet
1760 Williamsburg Way, Melbourne 32934
Lot 15, Creekwood

1. That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the applicable zoning classification:

The subject property at 1760 Williamsburg Way previously contained an older building that was in poor condition with black mold and had to be removed. For the new structure, we hired a licensed contractor (Tuff Shed), who relied on a licensed survey and conducted multiple measurements to ensure the building met all applicable development regulations, including setback and variance requirements. Based on the survey data and guidance provided, we and Tuff Shed believed in good faith that the new structure was in full compliance. It was only after construction that it was discovered a small portion of the building encroached into an easement area. This was an unintended result, caused by unique conditions specific to this parcel—namely, the replacement of a pre-existing structure, reliance on professional survey information, and the absence of visible physical markers indicating the easement boundary. The encroachment has since been formally resolved and approved by **the Board of County Commissioners of Brevard, the HOA of Creekwood and our neighbor whom we share the easement with.** These conditions are not present on similarly zoned neighboring properties and would not typically arise under standard development scenarios.

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

The conditions leading to the variance request did not result from any intentional action on our part as the property owner. We relied on our licensed contractor (Tuff Shed), and a licensed surveyor to guide the placement of the new structure. All efforts were made to comply with applicable zoning, easement and setback requirements, including reviewing and following the survey measurements multiple times during construction. The building site was measured several times. The slight encroachment into the easement and setbacks was an unintended and unforeseen consequence, not due to any disregard of the rules or attempt to circumvent regulations. We acted in good faith based on the information and services provided to us, and took reasonable steps throughout the process to ensure compliance. In addition, we requested the area to be measured several times to ensure we were compliant with the county requirements.

3. The granting of 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 structures in the identical zoning classification:

Granting this variance does not provide us with any special privilege that would be denied to other property owners in the same zoning classification. The variance request is based on a unique and unintentional situation involving a minor encroachment, which occurred despite our reliance on licensed professional services and good-faith efforts to comply with all applicable

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regulations. The structure was not placed to gain advantage or exceed what is allowed by code, but simply to replace a deteriorated building on the property using the best available information. Additionally, the encroachment has been **approved by the Board of County Commissioners of Brevard, Creekwood HOA and discussed with and approved with our direct neighbor.** No additional development rights or expanded use of the property are being sought. Any similarly situated property owner who experienced the same unique circumstances could request—and reasonably be granted—the same type of relief. This variance simply allows us to use the property in a manner consistent with its zoning and intended use.

4. The 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 of the applicant:

Literal enforcement of the zoning provisions would deprive us of the ability to reasonably use our property in the same manner as other properties in the same zoning classification. The structure was constructed in good faith using a licensed builder (Tuff Shed) and based on a professional survey, with every effort made to comply with applicable development regulations. The project successfully passed multiple inspections throughout the construction process and was nearly complete when, during the final inspection, it was discovered that a small portion of the building encroached into an easement area. This issue was not identified earlier despite professional oversight and adherence to required procedures.

Since that discovery, we have been placed in a prolonged state of limbo—unable to use or finalize the building while we waited for the determination of the easement encroachment. After going through the long process resolution to the easement and finally gaining approval, we have in addition been met with a small variance/ setback issue.

During this time, we have incurred ongoing financial costs, including delayed use, loss of intended use, and uncertainty around potential demolition or reconstruction—all while the structure remains otherwise compliant and functional. This has caused a significant and unnecessary financial burden, both in direct costs with unnecessary interest as we wait for the COO to obtain a loan, additional county fees and in lost time.

The encroachment has since been formally approved by the Board of County Commissioners of Brevard, confirming there is no objection or public harm. The building does not exceed the rights afforded to others in the same zoning classification and is consistent with the property's intended use. Denial of the variance under these circumstances would unjustly punish us for a technical, unintended error and would impose a level of hardship not experienced by other similarly situated property owners.

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

The requested variance is limited solely to addressing a small, unintentional encroachment of a portion of the newly constructed building into the required easement and setback areas. We are not seeking any additional relief beyond what is necessary to retain the structure as built,

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based on a professional survey and through reliance on a licensed builder (Tuff Shed). The encroachment is minor in nature, does not interfere with neighboring properties, the public infrastructure/utilities, and the easement resolution was approved by the **Board of County Commissioners of Brevard**. The variance does not expand the building's footprint, intensity of use, or allow any additional development rights.

Without this variance, we would be required to completely demolish both the foundation and the entire building structure to resolve an issue that occurred despite good-faith efforts to comply with all regulations. This would result in substantial financial loss, material waste, and unnecessary hardship for a structure that is otherwise compliant, safe, and consistent with zoning intent. The variance requested is truly the minimum necessary to make reasonable use of the land and avoid an outcome that would be disproportionate to the minor encroachment at issue.

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:

Granting this variance supports the overall intent and purpose of the zoning regulations, which is to ensure orderly, safe, and fair development while protecting property rights and public interests. The variance request results from a minor, unintentional encroachment into an easement and setback area, despite our reliance on a professional survey and a licensed builder (Tuff Shed), and our consistent efforts to comply with all applicable regulations. The structure aligns with the character of the surrounding area, is consistent with the zoning, and poses no threat to public health, safety, or welfare.

Importantly, the **Board of County Commissioners of Brevard** has formally approved the encroachment, and our **Homeowners Association (HOA)** has also approved the structure, confirming that it meets neighborhood standards and has the support of the local community. The building passed all required inspections until the final stage, when this technical issue was identified. It was built in good faith, with proper oversight, and is otherwise fully compliant.

Requiring removal of the structure due to this minor variance/setback would result in complete demolition of both the foundation and the building, causing significant financial and practical hardship with no corresponding public benefit. Granting this variance provides a fair, reasonable resolution that allows for the intended use of the property while remaining in full harmony with the zoning code's purpose and intent.

Summary

We're incredibly grateful for the opportunity to share our story and request this variance. This project has meant a great deal to us — it's not just a structure, but something we've poured time, trust, and personal investment into. From the beginning, we worked hard to do everything right. We hired a licensed builder, used a professional survey, followed the rules, and passed every inspection — right up until the very last one. Learning, after all of that, that a small part of

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the building encroached into the easement and setback was not just unexpected, it was heartbreaking.

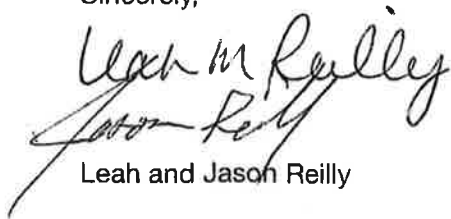
What followed has been over a year of uncertainty, financial strain, and emotional stress. We've felt stuck in limbo, unable to move forward with something we believed we had done correctly. The idea that the only solution might be to tear down the entire foundation and building — because of something so minor and unintended — has weighed heavily on us.

Throughout this process, we've received approval from both the Board of County Commissioners of Brevard and our Homeowners Association, which has brought some peace of mind. It affirms what we already knew: that the building fits within the character of the neighborhood, poses no harm to others, and deserves a fair chance. We have improved our property with this building.

We're not asking for anything beyond what is absolutely necessary. We're simply trying to preserve what we built in good faith. Granting this variance wouldn't give us special privilege — it would give us closure, and the chance to finally use and enjoy the space we worked so hard for.

Thank you deeply for your time, your compassion, and your thoughtful consideration of our request.

Sincerely,

A handwritten signature in black ink, appearing to read "Leah M. Reilly" and "Jason Reilly" in a cursive script. The signature is written over the printed name "Leah and Jason Reilly".

Leah and Jason Reilly

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:

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

(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:

(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:

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

(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:

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

