



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-01117

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:

Yes. It sits 7 to 12 inches lower than surrounding lots and is located one lot away from a higher-elevation commercial property (Target) that generates persistent noise. Additionally, there have been repeated police-documented disturbances involving a neighboring resident, including two incidents of fence damage. These combined factors create privacy, safety, and noise concerns that are not commonly shared by others in the same zoning district.

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

Applicant Response:

Correct. The special conditions and circumstances affecting my property were not created by me. The elevation difference was established during the original grading of lots in the 1960s, long before I owned the property. The proximity to a significantly elevated commercial parcel is the result of historical zoning and land use planning outside my control. The ongoing disturbances and property damage involving a neighboring resident are not the result of any action on my part. I have responded only through lawful, appropriate channels.

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:

Yes. Granting this variance will not confer any special privilege denied to other properties in the same zoning classification. The modest 10-inch increase is narrowly tailored to account for the lot's lower elevation and proximity to a noise-producing commercial use property. This variance serves the same purpose as others previously granted in the county. It addresses site-specific privacy and safety concerns—and does not grant any excessive or unique rights beyond those reasonably afforded to similar properties.

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:

Affirmative. Due to lower elevation a standard-height fence fails to provide adequate screening, allowing neighbors to see into my home and yard. Other properties not affected by this elevation difference already receive full privacy from a standard fence. Furthermore, the proximity to a nearby commercial property that sits nearly three feet higher and generates persistent noise, increases the need for both sound and visual buffering. This is not typical for homes in this zoning classification. Finally, there is ongoing confrontational behavior from a neighboring resident. As a result, criminal complaints have been brought, and a modest increase in height would reduce direct exposure and remain a deterrent for further incidents. Collectively, these circumstances justify a limited variance to provide protections and conditions already afforded to others under standard zoning enforcement.

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 requested 10-inch variance is the minimum necessary to offset the natural elevation difference of up to 12 inches between my property and neighboring lots. This modest increase restores a reasonable level of privacy and safety consistent with what other properties in the same zoning classification already enjoy. Without this variance, the fence height measured from my side would be 6 feet—but due to the neighbors' higher ground, it would functionally stand at only about 5 feet in some areas. This reduced height would not adequately deter visual intrusion or protect against unwanted interactions, and thus the requested increase is proportionate to the hardship.

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:

Yes. Granting this variance is in harmony with the general intent and purpose of the zoning code, which emphasizes flexibility, conflict reduction, and the protection of property rights. The variance addresses specific elevation challenges, improves privacy, and provides a modest safety buffer in response to documented disturbances and nearby commercial activity—without affecting the residential character of the area or harming public safety. The variance does not impair traffic visibility or negatively impact neighboring properties. Instead, it supports the peaceful enjoyment and reasonable use of residential land, fully aligned with the spirit of the code.

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