



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: 26V00017

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:

The house was constructed in 1953. It was constructed within what is now the rear setback. The proposed addition will be in what is now the setback to align with the rear of the existing building. The detached garage, covered areas, and pool were also constructed not in accordance with current code requirements.

The property currently does not meet the min 5' separation requirement from the principle residential structure to the covered patio (tiki hut). The tiki hut was exempt from a building permit since it was constructed by Native Americans. A letter of no permit required was issued from the Building Official.

In order to permit and construct the proposed addition, all non-compliance items will require a variance to make the site compliance with current code.

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

Applicant Response:

As the original house, garage and pool was not constructed by the applicant. In order to make the building addition functional, it must line up with the existing rear wall of the building, which is in what is now the rear setback. It is not known what the required rear setback was when the original house was constructed, but it, along with the other accessory items may have complied at the time of construction. It is now non-conforming due to zoning code adoption or changes.

The Separation Requirement was not known by the owner or the Native American Contractor.

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:

Setback - From observing the aerial of the area, it appears that many of the properties have buildings within the rear setback and have similar accessory structure non-compliances. Most likely due to the fact that a lot of properties in the area were constructed in the 30's, 40's and 50's.

Structure Separation - It is difficult to determine if other properties in the area have structures that do not meet the 5' separation requirement. From aerial maps and drive by inspection, it appears there may be at least two similar properties that do not meet this requirement, but the actual distances cannot be confirmed without survey information or by trespassing onto private property.

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:

Setback - Yes, it would deprive the applicant of enjoying a reduced rear building setback and other accessory item non-compliances in which a few of the neighbors on his block currently enjoy.

Structure Separation - It is difficult to determine if other properties in the area have structures that do not meet the 5' separation requirement. From aerial maps and drive by inspection, it appears there may be at least two similar properties that do not meet this requirement, but the actual distances cannot be confirmed without survey information or by trespassing onto private property. But assuming so, it would deprive the applicant of enjoying a reduced structure separation.

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

Applicant Response:

Setbacks and distances and areas - Yes, the request is the minimum variance possible to make the existing site no longer a non-conforming site, as well as allow the addition to be in the same location as the existing principle structure.

Structure Separation - Yes, the request is the minimum request to make the current property and a small proposed building addition compliant with the County code.

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:

Granting the requests of the setback, distances and areas is non-injurious to the area and will be and remain in harmony with many of the existing properties in the immediate area.

Granting the separation request and allowing the existing improvement to remain, which is already in harmony with the neighborhood since the improvement is a typical covered area that is residential in nature and adds much needed outdoor enjoyment while protecting the users from direct sun.

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.



Bruce A. Moia P.E. 05-13-2026

Signature of Applicant



Signature of Planner