



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-01502

Contractor: Bradley D Smith & Cheryl L Smith

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:

Without the requested variance, Brevard County Municipal Code Sec. 62-3316, g, specifies a 15' setback from a vacant lot (461 Kenneth lot#2) property line. The setback requirement would require relocation of the flagpole/lighting total of 9' 7" to right; placing it center of residence concrete driveway. Relocation would result in a permitted rerouting of driveway/ access to garage.

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

Applicant Response:

The American flagpole was not placed in 2006 with intention to avoid compliance. The American flagpole was placed in 2006, in the current optimal location to: avoid well plumbing in residence yard; avoid interference with overhead or underground utility powerlines; also, to avoid visual obstruction and to enhance community aesthetics. The American flagpole has been a source of pride for almost 2 decades (19 years) in our neighboring community, especially elderly veterans; family veterans who have passed, also a monument of solidarity for our active Marine Corp family stationed OCONUS.

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:

Granting the variance will not confer on the resident any special privilege as neighboring properties in the same RU-1-11 zoning area have flagpoles. The American flagpole poses no safety issues, line of sight obstruction, nor utility line interference.

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:

Enforcement of the setback provision would present an emotional hardship for the residents and surrounding neighbors of the beautiful lighted eagle topped American Flag displayed for almost 2 decades. Financial hardship would be realized as residents are senior citizens and retired on a fixed income, so relocating the flagpole by 9'2" could include safety concerns, permit fees, plumbing, electrical, concrete contractor costs.

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

Applicant Response:

Minimum variance requested is 9' 2". 9

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:

The granting of this variance will uphold the integrity of Brevard County Municipal Code Sec. 62-3316, g, by enhancing aesthetic attractiveness with the American Flag display as a manmade attribute. The flagpole location is not injurious nor obstructive to sight or utility lines and has been revered as a neighborhood monument for 19 years. Removal of this American flagpole will further degrade the neighborhood moral and the aesthetic attractiveness of the community.

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