



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: NA

Contractor: NA

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:

IN 1982, VARIANCE V-1246 WAS APPROVED FOR THIS PARCEL TO (1) PERMIT A VARIANCE OF 25 FT FROM THE REQUIRED 50 FT FRONT SETBACK; AND (2) TO PERMIT A VARIANCE OF 25 FT FROM THE REQUIRED 25 FT REAR SETBACK IN A BU-1-A ZONE CLASSIFICATION. (GRANTED A ZERO FT REAR SETBACK)

IN 2006, ORDINANCE NO. 06-55 REQUIRED NEW LANDSCAPE BUFFERS (TYPE "A" 20 FT. BUFFER (REAR) SETBACK ADJACENT TO RESIDENTIAL & TYPE "B" BUFFER ADJACENT TO PUBLIC ROADS). THIS ORDINANCE STATES THERE SHALL BE NO PARKING OR STRUCTURES IN THE BUFFERS.

THE 20 FT TYPE "A" BUFFER IS NOW REQUIRED OVER TOP OF THE AREA PREVIOUSLY GRANTED ZERO FT REAR SETBACK BY VARIANCE V-1246. THIS CREATES A HARDSHIP.

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

**Applicant Response:**

IN 1982, THE BOARD OF ADJUSTMENT APPROVED VARIANCE V-1246 ALLOWING FOR A 0 FT REAR SETBACK DUE TO THE LOTS NARROW DIMENSION.

IN 2006, BREVARD COUNTY CREATED ORDINANCE NO. 06-55, REQUIRING A TYPE "A" 20 FT SETBACK ADJACENT TO RESIDENTIAL (REAR SETBACK) WHERE VARIANCE V-1246 ALLOWED FOR A ZERO FT SETBACK. THIS NEW ORDINANCE SIMPLY RECREATED A NEW 20 FT REAR SETBACK (VARIANCE V-1246 PROVIDED 0 FT REAR SETBACK).

\*NOTE: A NATURAL RESOURCES WAIVER WILL BE REQUESTED TO REDUCE THE TYPE "A" BUFFER FROM 20 FT TO 13.6 FT AND THE TYPE "B" BUFFER FROM 15 FT TO 9.9 FT.

CREATION OF THE NEW ORDINANCE NO. 06-55 WAS NOT DUE TO 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.

**Applicant Response:**

THE PARCEL WAS GRANTED V-1246 ALLOWING FOR A 0 FT REAR SETBACK AND A 25 FT FRONT SETBACK. GRANTING OF THIS VARIANCE WILL PARTIALLY RESTORE THAT ALREADY GRANTED BY VARIANCE V-1246.

GRANTING THIS VARIANCE WOULD NOT CONFER ANY SPECIAL PRIVILEGE THAT WAS NOT ALREADY GRANTED UNDER VARIANCE V-1246. GRANTING OF THIS VARIANCE IS NECESSARY TO ALLOW THE PROJECT TO COMPLY WITH SECTION 62-4342(1) IN PROVIDING LANDSCAPE BUFFERS. THUS, REASONABLY ALLOWING THE SITE TO BE UTILIZED.

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:**

LITERAL ENFORCEMENT OF CODE SECTION 62-1481(5) WOULD MAKE THE PROPERTY UNDEVELOPABLE DUT TO OVERLAPPING SETBACKS. UNDERSTANDING, IN 1982 THE BOARD OF ADJUSTMENT APPROVED A 0 FT REAR SETBACK AND A 25 FT FRONT SETBACK PER V-1246.

LITERAL ENFORCEMENT OF SECTION 62-4342(1) REQUIRES A 20 FT REAR SETBACK FOR TYPE "A" LANDSCAPE BUFFER OVER TOP OF THE AREA PREVIOUSLY GRANTED 0 FT SETBACK BY VARIANCE V-1246. THIS CREATES A HARDSHIP.

\*NOTE: A NATURAL RESOURCES WAIVER WILL BE REQUESTED TO REDUCE THE TYPE "A" BUFFER FROM 20 FT TO 13.6 FT AND THE TYPE "B" BUFFER FROM 15 FT TO 9.9 FT.

GRANTING OF THE VARIANCE WILL ALLOW THE BUILDING ENVELOPE TO SHIFT EASTERLY TO COMPLY WITH REDUCED LANDSCAPE BUFFERS.

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

Applicant Response:

VARIANCE V-1246 GRANTED A 0 FT REAR SETBACK AND A 25 FT FRONT SETBACK DUE TO THE LOTS NARROW DIMENSION.

SECTION 62-4342(1) REQUIRES A 20 FT TYPE "A" LANDSCAPE BUFFER (REAR SETBACK). A NR WAIVER WILL BE REQUESTED TO REDUCE THE TYPE "A" BUFFER FROM 20 FT TO 13.6 FT AND THE TYPE "B" BUFFER FROM 15 FT TO 9.9 FT. ALLOWING FOR BUILDING AND PARKING. THE PROPOSED PLAN WILL PROVIDE A 13.6 FT REAR SETBACK FROM RESIDENTIAL (V-1246 ALLOWED 0 FT) AND A 22.98 FT FRONT SETBACK FROM HIGHWAY A1A (V-1246 ALLOWED 25 FT).

THIS VARIANCE APPLICATION IS REQUESTING A 27.02 FT VARIANCE FROM SECTION 62-1421(5) THAT REQUIRES A 50 FT SETBACK. THIS IS A 2.02 FT VARIANCE FROM THE APPROVED 25 FT FRONT SETBACK PER V-1246. THIS IS THE MINIMUM VARIANCE NECESSARY TO PROVIDE A REASONABLE SIZE BUILDING ON THE SITE DUE TO ITS NARROW DIMENSION AND COMPLIANCE WITH REDUCED LANDSCAPE BUFFERS.

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 OF THIS VARIANCE WILL BE IN HARMONY WITH THE GENERAL INTENT AND PURPOSE OF SECTION 62-4342(1) SHIFTING THE BUILDING EAST. THUS, PROVIDING A LANDSCAPE BUFFER BETWEEN RESIDENTIAL AND COMMERCIAL. V-1246 THAT PROVIDED FOR A ZERO FT. REAR SETBACK BETWEEN RESIDENTIAL AND COMMERCIAL.

GRANTING OF THIS VARIANCE WILL NOT BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE.

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

Jackson, Desiree

Digitally signed by Jackson,  
Desiree  
Date: 2025.11.12 09:29:45 -05'00'

Signature of Planner