



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: _____

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 Property is located at 4445 N Indian River Road, Cocoa, Florida 32927. The Property was purchased by the Property Owners in 2020, with a house already located on it. The house was built in 1957. The existing structures, including the primary residence, detached garage and shed, were already located on the Property at the time of the Owners' purchase.

The circumstances here are unique as the Property is a corner lot with an abutting 50 foot County owned, unimproved right of way, Thompson Avenue, situated to the north. The detached garage was permitted and approved by the County in 1998 (Permit No. C0073139). It is located 8.5 feet from the north, side property line, as shown in the provided survey. Therefore, this structure is within the 15 foot side setback and is non-compliant with County Code Sec. 62-1339(5).

Applicants are seeking a 6.5 ft variance from this 15 ft side setback requirement for the north property line only.

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

Applicant Response:

The garage, permitted and approved by the County, was on the Property at the time of Applicants' purchase. The location within the required 15 foot side setback of the property was not a result of any actions taken by the current Property Owners.

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 approval of this requested variance will not grant any special privilege to the Applicants as other properties have structures in the front or side setbacks, some with and some without variances. Many homes in the surrounding area were built between the early 1900's through the 1970's, before the zoning code. As a result, property owners have sought or might have to seek variances for their structures or accessory buildings so that the owners could protect their property while adding value, creating a more livable residence, and contributing to an overall appealing aesthetic.

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:

The enforcement of the Code would not allow any modifications or improvements to the garage, primary residence, or the Property because of the current nonconforming status of the Property.

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 Owners are seeking the minimum variance needed to correct the nonconforming status of the Property, and to allow for the remodel of the garage and residence.

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 detached garage has protruded into the side setback for nearly 27 years without any detriment to the public welfare. Therefore granting the requested variance will allow the Owners to cure the nonconforming status of the Property. The variance will increase the value to this Property and therefore result in elevated value to the neighboring properties, all without detriment 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

Signature of Planner