



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: Atlantic Coast Construction NSB, LLC

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 located at 940 Butia Street, Merritt Island, was purchased by the applicant in 2020, with the house already located on the lot. The house was built in 1963. The aluminum shade structure was built in 2022 with corresponding building permit #21BC19034 issued by the County on January 26, 2022. The circumstances here are unique in that these same conditions will not apply to other properties. The present circumstances result from the fact that the building, built in 1963, was based on less precise survey technology at the time of the build. Therefore the building was within the required 20 foot setback causing the added aluminum shade structure to also fall within said setback. The house was nonconforming at the time of the issuance of the permit for the aluminum shade structure.

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

Applicant Response:

In the present matter, the contractor, Atlantic Coast Construction NSB, LLC, relied on the best available information at the time when constructing and installing the aluminum shade structure. The building permit was also approved by the County with notations of a 10 foot required setback. This error was not due to the applicants own actions, but rather the applicants agent, Atlantic Coast Construction NCB, LLC.

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 confer any special privilege to the applicant that would be denied to other property owners in the same zoning classification of RU-1-9 (Single-Family Residential).

Many homes in the surrounding neighborhood, all zoned RU-1-9, were built in the 1960's, which has required many of those property owners to also seek variances for their buildings or structures so that the owners can add value to their properties, create a more comfortable living space, and contribute to a more inviting and aesthetically pleasing neighborhood.

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 building on this Property is 60 years old and it is therefore not economically feasible to move it. Additionally, moving the aluminum shade structure installed within the Code's required set back from the rear lot line poses an immense, almost insurmountable, challenge to the applicants.

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

Applicant Response:

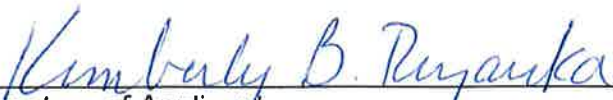
The applicant is seeking the minimum variance needed, 10.75 feet, to correct the nonconforming original house setback and the set back with the aluminum shade structure, to continue the reasonable use of the Property.

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 building on this Property has intruded into the setback for the past 60 years without being detrimental to the public welfare. Therefore the granting of this variance will allow the applicants to cure the nonconforming status of the house and the aluminum shade structure. This will bring an added value to the Property, make the indoor/outdoor space more usable, livable, and comfortable, without detriment to the public.

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