

VARIANCE HARDSHIP WORKSHEET

Is the request due to a Code Enforcement action?

Yes. If Yes, indicate case number _____, and
name of contractor _____

No.

Prerequisites to granting of variance:

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:

The requested variance is to correct an error made by the county 25 years ago when permits for accessory structures were finalized even though one structure depicted in the application site plan and as built with less than 15 feet from the side lot line. This error is an anomaly and it would not apply to other lands, structures or buildings in the applicable zoning classification, but has created a hardship on the landowner

(2) That the special conditions and circumstances do not result from the actions of the applicant:

The applicant's licensed contractor, William H Evans Contracting, submitted the required permit application (Permit #99366) to construct a horse barn and accessory carport/wash area, including a site plan showing proposed structure locations on a survey. After the structures were built, Brevard County finalized the permit, as built consistent with the submitted site plan, where the accessory carport/wash area was located less than 15 feet from the side lot line but outside of the 10 ft side utility easement.

(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:

This variance is specific to one specific structure and an error made by Brevard County staff during the permit review and approval process nearly twenty-five years ago. Correcting this error and bringing the property into compliance does not convey any special privilege on the applicant.

(over)

(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:

Brevard County finalizing the permit created a noncompliance issue for the applicant. This non-compliance that could prevent the applicant from future use of there property where permits are required from Brevard county. This error creates a burden on the applicant that other property owners in the same zoning classification do not share

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

Approval of a variance for the existing carport/wash area structure would be the minimum necessary variance to rectify the hardship caused by the County error. The corner posts of carport/wash area structure is located side is located 14 feet from the side lot line and the north east corner is located 12.6 feet from side lot line.

(6) That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

Granting the variance will resolve the noncompliance and will not be injurious to the area or otherwise detrimental to the public welfare. The structure has existed for over two decades without any issue or objection.

I 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 the below-signed zoning representative. I am fully aware that it is my responsibility to prove complete compliance with the aforementioned criteria.

Signature of applicant Sandra Y. Chungji

Signature of planner Paul Body