



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 owner purchased this property with "permits in place" for the construction of a single-family home and customary accessory structures, such as a boat dock and lift. The boat dock and lift were installed according to the drawings furnished by the previous property owner. After the dock and lift were installed, it came to the attention of the builder and property owner that the boat lift piers extends further into the manmade waterway than code allows by 6.2 feet.

The subject property is unique in that it contains within its boundary a manmade waterway that would allow for a vessel to access the Banana River without projecting any piers or structures into the Banana River. The manmade waterway dead ends at the subject property and any variance granted would not impact any other property owner that has access to the same manmade waterway. The variance also would not impact anyone from the public as the waterway crosses private property.

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

Applicant Response:

The property owner purchased this property with "permits in place" for the construction of a single-family home and customary accessory structures, such as a boat dock and lift. The boat dock and lift were installed according to the drawings furnished by the previous property owner. After the dock and lift were installed, it came to the attention of the builder and property owner that the boat lift piers extends further into the manmade waterway than code allows by 6.2 feet.

The property owner did not knowingly cause piers to be installed further into the waterway than code allows.

Additionally, the property contains a manmade waterway that was created prior to taking ownership of the property. The subject property is at the dead end of this waterway and any variance would not impact other property owners or the public.

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 requested variance would allow for the property owner to utilize a dock and boat lift on private property within a preexisting manmade waterway. All other property owners with land that has frontage on or access to navigable waterways are permitted to apply for an construct docks, piers, and boat lifts. Most properties along Tropical Trail have docks, piers, and boat lifts.

Approval of this variance does not constitute any special privilege compared to what other EU zoned properties are allowed.

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 the code would prohibit the property owner from maintaining a usable boat lift on this unique manmade waterway located on private property. The waterway in question provides a safe place to keep a vessel, away from the wind and waves on the Banana River, and will not impact any other property owners or the public since it is located on a dead end. Moving the boat lift is not a solution and will cause further disruption of the waterway.

Literal enforcement of the code would constitute an unnecessary and undue hardship on the property owner.

- 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 proposed variance is the minimum variance that allows for the existing dock and boat lift to remain. Neither the dock nor the boat lift are oversized and they allow for a vessel to enter and exit the manmade waterway safely and with the least impact to the surrounding area.

It is reasonable that a property with frontage on the Banana River be allowed to have a dock and boat lift that do not interfere with any other property owner or the general public.

- 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 general intent of the code as it relates to residential docks and piers is to ensure that the size and location of such will not be injurious to the area or otherwise detrimental to the public welfare. This dead end manmade waterway is not an easement nor intended for public use or use of adjacent property owners. Allowing an increased projection of piers into the waterway will not negatively impact any property owners in the area or the general 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