

## VARIANCE HARDSHIP WORKSHEET

Is the request due to a Code Enforcement action?

**Yes.** If Yes, indicate case number 23CE-01039 (for shed), and  
name of contractor N/A

**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 location of the home on the property makes it difficult to situate a shed and meet the current setback requirements. We received a complaint for a shed setback violation, and Curtis Britt identified it to be a 6'x10' shed (as depicted on the Brevard County Appraisers sketch) for which we are seeking a variance. While the shed does violate today's code just like others in our neighborhood, including our immediate neighbors to the N, S, E and W, we believe the complaint was actually over a temporary Sunshade cloth 12'x16' (visible from the street) erected to protect orchids while we were installing permitted underground electrical on the east side of the house. Per Curtis from the NOV: "The shed requires a work permit (referring to our 6'x10' shed). Upon doing so, it may require a 7 (seven) foot setback from the property line of the next door neighbor to the west of your residence. The other option would be to remove the shed."

Per discussion with Paul Body on 1/24, a 6'x10' shed does not require a work permit, although all sheds must meet setbacks. Paul added that we can not just address the shed in the variance, all property issues need to be addressed at the same time. The shed is on skids and can be moved if necessary for maintenance, etc. The shed is used to store typical items such as yard tools, crab traps, life jackets, etc., just like our neighbors do with their sheds.

Other non code identified issues include a 2'x4' Rubbermaid shed/storage bin used for pool chemicals on the east side of the property fence line, a 144 Sq Ft CVPTL (Covered Patio) also identified in the Brevard County Appraisers sketch, and a boat dock that exceeds the 20% canal width along with three mooring piles.

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

No alterations have been performed to the property by us, we purchased the property in 1997 as is. The violations were not made known to us by previous owners, sales agents, closing agents, or inspectors.

(over)

(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:

A brief aerial review and drive-by of homes on Shore Dr. and the streets north (Harbor Dr.) and south (Neptune Dr.) reveal approximately 58 "visible" setback violations out of the 64 homes, and many docks extending 30%+ of the canal width. These are not unique to our areas and exist throughout most of Brevard County including the Banana River and Sykes Creek areas. Docks exceeding 30% of the canal width exist on our canal. Our dock extends 18.5' (~24.6%) and was most likely constructed when rules were not so restrictive (primarily creosote piles/poles). Granting this variance will not confer any special privileges, it will only allow us to enjoy the same privileges as others in our community.

(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:

Sheds and lean-to's exist throughout the area, especially at older home locations due to their smaller size and more limited storage areas. We are asking for a variance so that we may enjoy the same benefits afforded to others in our neighborhood. Enforcement would deprive us the rights enjoyed by other property owners in our neighborhood. Granting this variance will not result in any special privilege.

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

The variance granted is the minimum variance that will make possible the reasonable use of the land as others in the local/surrounding community.

(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:

This home was built in the 60's, and there have not been any known set back complaints, or set back code enforcement violations/actions. Approval of these variances are no way injurious to the area involved or detrimental to the public welfare. Approximately 90% of the homes have the exact same dock and shed issues.

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



Signature of planner

