

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:

see attached

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

see attached

(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:

see attached

(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:

see attached

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

see attached

(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:

see attached

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 TH Yurck

Signature of planner Paul Boddy

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This applicant is a long-time resident of Brevard County. Mrs. Hall and her husband lived, and worked, in Palm Bay, until they retired in 1990. They sold their home and bought a lot and trailer in Mims.

Over the years, Mr. Hall applied for permits and build structures on the land they owned. He built a pair of outbuildings; one a storage shed for the families' stuff, the other, storage for the riding mower, and lawn equipment. He built a pump house to cover the irrigation equipment, and he poured a parking pad for the travel trailer they once owned. There are five structures, all of which were properly permitted by Brevard County.

Mr. Hall died, and the applicant is his widow. She was notified by her insurance company, Citizens, Florida's insurer of last resort, that her home was too old to be covered by insurance. Then, in September of 2017 her home was hit by Hurricane Irma.

She patched her roof and was casting about for a solution. She has no income aside from her social security. Florida has a program to assist those who lose housing in a storm, the Hurricane Housing Recovery Program. Ms. Hall met all the requirements and her situation was approved. This program will provide her with a brand new home. Reconstruction has been authorized and fully funded. It is a simple task to remove the old home and drop the replacement home on the existing foundation.

There is a hardship in that since the structures were built, the Code has been changed. Had the applicant repaired the roof, she would not have been required to remove the structures. But, the program will not repair the roof. In fact, under the terms of the program, Mrs. Hall is explicitly forbidden from repairing the roof. But, because she is getting a brand new home, the Code requires the structures to be removed.

Mrs. Hall does not have the funds to demolish the structures. The program which is funding the new home will not pay for demolition. They are all in fine shape, strong enough to survive a hurricane. One shed is a garage filled with lawn equipment, her mower, and other gear. The other is storage. There is no funding for the demolition of structurally sound buildings not relating to housing. If she repaired her hurricane-damaged, thirty-year old trailer, she would be able to keep

her structures. But, if she gets a brand-new trailer, on the exact same pad, her structures have to go? This is a hardship.

She is asking for a variance to permit the five accessory structures, all of which were build pursuant to a county issued permit, to remain.

(1) *That special conditions and circumstances exist which are not applicable to other lands,*

structures or buildings in the applicable zoning classification: After the applicant bought her land, her husband built five structures on our lot. Each time he wanted a structure, he went to the County and applied for and was granted, a permit. At the time the structures were built, they were lawful, but the County Code was changed to make the structures an improper use.

(2) *That the special conditions and circumstances do not result from the actions of the applicant:* When the applicant built the structures they were lawful, since that time the County Code changed.

(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:* The structures were all built long ago, pursuant to issued permits. All the applicant is seeking is to permit the structures to remain on her land.

(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:* This home is over thirty years old. The applicant has been approved for a new home. If she had fixed the hole in the roof of her thirty year old home, she could keep her structures. Getting a new home should not require her to destroy the structures her husband built so long ago.

(5) *That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:* Should the applicant be allowed to keep the structures her husband built, according to a permit, she can get a brand new home dropped on the pad currently occupied by the building destroyed by the hurricane. Granting this variance will let the applicant live on her land in a safe dwelling.

(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:* Many of the homes in the applicant's neighborhood have structures like hers. She has always kept my home clean and neat; these structures will help with her home's appearance. Her house is a residential home in a residential neighborhood. The pumphouse covers the irrigation pump which would be unsightly without a structure covering it. The two sheds are storage for law equipment which would otherwise be left out in the view of the neighbors. The motor home pad is not visible.