



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

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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:

When the house was built in 2001, Brevard County required that the contractor move the structure four feet to the North of the property parallel to Martin Road and the drainage ditch along the road. The drainage ditch is approximately 6 feet lower than our land bordering the North side of the house.

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

Applicant Response:

No other home along Martin Road was built this close to the drainage ditch, except for 3400 Brahman Ave, which the county installed a culvert and filled in the land. Our lot did not have a culvert installed, so the house foundation was set 4 foot from a drop off that sloped 6 feet down into the drainage ditch along Martin Road. The house foundation was not prepped well enough to prevent a shift in the house foundation so we consulted with an engineer to plan a way to reinforce the North side of the house.

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:

Our request is to put a railing/fence structure along the 4'10" retaining wall that was installed to protect the North side of the house from any foundation shifts. This railing will be similar to the fence on the property at 3400 Brahman Ave, and the fencing along the North side of Martin Road surrounding the Phillips Landing Subdivision. It will also be shorter than the 9' wall surrounding the new Palm Cove subdivision to the East of our property.

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:

Since the land on the North side of our house was unusable in its original state, and at the suggestion of our engineer, we put up a retaining 5' 7" retaining wall and had the gap between the house and new wall filled in with dirt and land fill. It was packed and prepped for a new slab that was tied into the house foundation using rebar. This wall is 4'10" from the base of the land that borders the Martin Road drainage ditch.

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 minimum height of a railing is 36" and we are requesting a 48" railing to be installed 1 foot in from the edge of the retaining wall. With the addition of this railing, we would then be able to use this space for ourselves and anyone visiting our house.

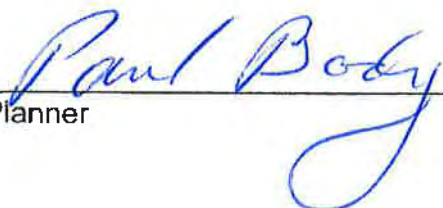
6. That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant Response:

Installation of the railing/fence would protect anyone visiting our home, and will be in harmony with the other fencing structures along Martin Road. If we are not allowed to put up the railing/fence structure along the length of the retaining wall, we would not be able to use the space, and anyone visiting our property could accidentally fall off of the side of the slab into the drainage ditch.

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