

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:

In this request, the only property on the south side of East Merritt Avenue which was affected by

Emminent Domain in this way is 375 E. Merritt Avenue. Prior to Emminent Domain the property

adjacent to the front of the structure was significant; what is now approximately 3 lanes of roadway.

The adjacent property at the corner of Plumosa and Merritt Avenue is BU-1-A.

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

The property at issue was purchased by my family in 1962; in the 1990's, the front of the property

was taken through Emminent Domain. The original property line extended to what is now the easterly traffic lanes of E. Merritt Avenue. The eminent domain left the structure with a minimal set back from the street.

(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:

Not that I am aware of; there are no other properties that were subject to the eminent domain that created this type of set back issue.

(over)

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(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:

That is absolutely correct. The property as it exists today, largely as a result of the eminent domain and the significant roadway that consumes the front yard and traverses in front of the home, made the property undesirable as a residential property, and alone created any setback issue.

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

That is correct. This variance will allow the property to be used as BU-1-A. There is a pending application for this land to be rezoned, consistent with the contiguous properties.

(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: Absolutely. The area has transformed into a commercial area. The adjacent property and properties to the South and East are already in use as commercial BU-1-A properties.

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 Paula L. Herron

Signature of planner Paul Body