

VARIANCE HARDSHIP WORKSHEET

Is the request due to a Code Enforcement action?

☒ Yes. If Yes, indicate case number 21CE-01208, and

name of contractor Carlos Antuenz - Turbo Services Huts
Brevard Electric

☐ 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 chickee hut has been located on the property for 7 years and constructed prior to the current property owners purchase of the property in April 2021.

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

As noted above, the chickee hut was constructed in its current location 7 years prior to the current property owners purchase of the property in April 2021, and was not the result of actions by the applicant.

(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:

Approving the variances will not confer a special privilege but rather allows for the chickee hut to remain in the same location it has been for the past 7 years. Other like structures are currently located in similar proximity along the coast and orientation to the primary structure. The subject property is located on A1A. Properties located along the waterfront have "two" possible frontages. In this case the previous property owners chose the waterside to serve as the front of the principal structure. The previous owners constructed an accessory/guest house, as permitted by code, to the rear of the property abutting highway A1A. The previous owners, some 7 years ago, constructed a chickee hut as did several other property owners in what is identified as the front of the primary structure. The unique circumstance resulted from a previous owners decision. The current owners are not requesting anything more than what is minimally required to bring the chickee hut into compliance. It should be noted that neither the FDEP, nor the County's Natural Resource Management Department will require any additional permitting of the chickee hut in its current location, provided the variances are approved.

(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:

Denying the requested variances will deprive the current property owners of rights commonly and currently enjoyed by others in the same zoning classification that do not have to contend with issues that have resulted from previous owners actions. The Hartman's completed the appropriate due diligence prior to purchasing their property. There was nothing available in the public record to give them any indication that the chickee hut was constructed at such a location on the property to have required variances from the County code.

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

The variances being requested are the minimum required to bring the existing structure into compliance with the applicable County code provisions. Note with respect to the variance from the side set back, a letter of no objection from the affected property owner is attached (See Attachment "B").

(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:

Granting the variances will be in harmony with the general intent and purpose of this chapter and that such use variances will not be injurious to the area involve or otherwise detrimental to the public welfare.

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

Arnell Gang

Signature of planner

Paul Body