



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 ☒ No

If yes, please indicate the case number and the name of the contractor:

Case Number: _____

Contractor: Land and Sea Marine Construction

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:

There are just three homeowners who share this unique circular area along the East Fork canal. Within this area, each of the three properties faces the challenge of limited space when considering waterway access. The applicants are particularly affected due to the extreme pie-shaped nature of their lot resulting in the least amount of space in the canal. The variance 23V00010, along with subsequent additional dock and dredging, have led to hardship. The applicants are now requesting a variance to address their inability to launch their boat from a boat lift that was originally constructed and permitted by the County 20 years ago. They are seeking a variance for both side setbacks and projection limitations into the waterway.

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

Applicant Response:

The applicants purchased their home in 2002, with the existing seawall already in place. In 2003, due to permitting limitations at that time, they applied for an elevator-style boat lift. The construction of the lift and final permit inspection were completed by February 11, 2004. Since then, there have been no alterations to the seawall or boat lift in the past two decades. Recently, neighboring property owners on both sides have constructed seawalls and new boat lifts, enabling them to launch straight into the waterway. The applicants are requesting a variance to rotate their boat dock's position so they can enjoy similar ease of access as their neighbors.

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:

Applicants would like to be able to launch their boat and enjoy the waterway just as both neighbors are now able to do. The applicants took great care to hire the same surveying company used by their neighbors and the same marine contractor who built the seawall and boat dock for the neighbor to the west. This was done to ensure that the design and footprint of the proposed new boat dock would not interfere with the ability of either neighbor to launch their boats.

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:

Literal enforcement of the existing regulations would prevent the applicants from using their boat and deprive them of rights previously enjoyed, which are now commonly enjoyed by both neighbors on either side. Not granting this variance could also have a negative impact on the resale value of their home.

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

Applicant Response:

Yes, the variance requested is the minimum necessary to make it possible for the applicants to use their boat once again.

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:

Granting this variance would not only serve the applicants' needs but also contribute to improved harmony in the waterway on the East Fork Canal. The applicants had hoped to avoid the cost of reconfiguring their boat dock, which would exceed \$25,000. However, given the current circumstances, they have no other viable option to regain the ability to use their boat.

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.

Gwyn O'Kane

Signature of Applicant

Signature of Planner