

City of Satellite Beach BOARD OF ADJUSTMENT

INFORMATION FOR VARIANCE APPLICANTS

1. Variances are permissible for the following matters only: structure size and height, lot size and area, yard size and amount of open space, setbacks, fences, and landscaping.
2. Other than City government agencies, only the owner(s) of at least 75 percent of the property, or an agent they have authorized through a properly executed power of attorney, may request a variance.
3. To request a variance, the applicant must submit all required documentation (see 8 below) and the application fee to the Building and Zoning Department at least 30 days before a hearing date is scheduled.
4. Variance requests are heard by the Board of Adjustment at their regular meetings, which are held on the first Monday of each month at 7:00 p.m. in the Council Chambers at City Hall, 565 Cassia Boulevard. Any party or members of the public may be heard and may represent themselves or be represented by an agent or attorney.
5. Applicants should understand that the criteria the Board of Adjustment must follow are stringent, because land development regulations are intended to benefit the community as a whole through planned and controlled development. Consequently, the hardship(s) cited in this application (other than health factors) must be peculiar to the particular property and not affect the area generally. (Hardships common to an area go to the reasonableness of the land development regulations generally and do not support a variance. *In such a case, the remedy is to seek a change in the code rather than request a variance.*)
6. The affirmative vote of at least four of the five members of the Board of Adjustment is required for the approval of a variance. If a five-member board is not present at the public hearing for the variance, the applicant can request that the hearing be continued until a full board is present. Any decision by the Board may be reviewed within 30 days as provided by law.
7. Anyone receiving a variance can apply immediately for any permit(s) required in connection with the variance. Such permit(s) must be obtained within six months of the variance approval date; after that time, the variance is void.
8. **As applicable, the following items must be submitted for a variance request:**
 - Completed Application**
 - Application Fee - \$350 Variance & Admin Review**
\$125 Fence Variance
 - Escrow Fee - \$300**
 - Survey/Site Plan**
 - Drawings of Proposed Project**
 - Photographs** (*helpful, but not required*)
 - Letter of Intent (explaining project in simple language)** (*helpful, but not required*)
 - Power of Attorney** (*if applicant is owner's agent*)

**City of Satellite Beach
VARIANCE APPLICATION**

Applicant _____ **Phone** _____

Address _____

City _____ **State** _____ **Zip** _____

Property for Which Variance Is Requested

Address *(if different from above)* _____

City _____ **State** _____ **Zip** _____

Legal Description _____

Zoning Classification _____

Section(s) of City Code from which Variance is requested _____

Full Description of Variance *(Attach drawing showing planned work and dimensions.)* _____

Reason for Variance _____

All of the following criteria must be met before the Board of Adjustment can grant a variance.
Please provide detailed information for each item.

YOU MUST ANSWER 1a OR 1b

1a. What special circumstance exists which is peculiar to the land, building, or structure involved and not applicable to other land, buildings, or structures in the same zoning district?

1b. What compelling health factor (i.e., what permanent and life-threatening disease which cannot be cured, or what permanent injury which cannot be rehabilitated) exists regarding the owner-occupant or his/her immediate family member (i.e., lineal ascendants or descendants, spouse, or siblings only) residing on the property, which makes a variance necessary? (NOTE: Applicant must provide the Board of Adjustment with written verification of the compelling health factor from a Florida-licensed physician.)

AND ALL OF THE FOLLOWING

2. How was the special circumstance in 1a above created? (NOTE: A variance cannot be granted if said circumstance is the result of applicant's action, including failure by the applicant or any previous owner of the property to obtain any required permit. However, a variance is not precluded if said circumstance was created by those who were acting in full compliance with all government regulations in effect when the circumstance was created or who detrimentally relied on a permit issued in error through no fault of their own and who demonstrate such detrimental reliance to the Board of Adjustment.)

3. How would a literal interpretation of the City's land development regulations deprive you of rights commonly enjoyed by other properties in the same zoning district, and how does such interpretation work unnecessary hardship on you? (NOTE: The following cannot be considered by the Board of Adjustment as the basis for a variance: 1. a nonconforming use of property in the same zoning district, 2. any use of property in other zoning districts, and 3. any use of property prohibited in any zoning district.)

4. Is this the minimum variance that will make possible the reasonable use of the land, building, or structure under present zoning, and if so, why?

5. How will the variance be in harmony with the general intent of the City's land development regulations and not be detrimental to the neighborhood or the public welfare?

The undersigned applicant certifies that she/he is eligible to apply for the variance requested in this application and that, to the best of her/his knowledge; this application is complete and accurate.

Applicant's Signature Date: _____

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ DAY OF _____, 20____,
BY _____

- WHO IS PERSONALLY KNOWN TO ME, OR
- WHO HAS PRODUCED _____ AS IDENTIFICATION.

Notary Public

City of Satellite Beach

BOARD OF ADJUSTMENT VARIANCE CHECKLIST

- The variance pertains **ONLY** to any of the following matters: structure size and height, lot size and area, yard size and amount of open space, setbacks, fences, and landscaping.

TO GRANT A VARIANCE, ALL OF THE FOLLOWING CONDITIONS MUST BE MET:

1a OR 1b

- 1a. A special circumstance exists regarding the property which:**
- 1. Is peculiar to the land, building, or structure involved (*i.e., is not applicable to other lands, buildings, or structures in the same zoning district*); AND
 - 2. Is not the result of the applicant's actions (*including failure by the applicant or any previous owner of the property to obtain any required permit*). *

What is the special circumstance? _____

- 1b. A compelling health factor** (*i.e., a permanent and life-threatening disease which cannot be cured, or a permanent injury which cannot be rehabilitated*) **exists regarding the owner-occupant or any of owner's immediate family members** (*i.e., lineal ascendants or descendants, spouse, or siblings*) **residing on the property.**

What is the compelling health factor? _____

AND ALL OF THE FOLLOWING:

- 2. How were the special circumstances in 1a above created?** _____
- _____
- 3. Does literal interpretation of the land development regulations deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and work unnecessary hardship on the applicant.**
- Yes
 - No
- If yes, how?** _____
- _____
- 4. Applicant's reason justifies granting the variance, and the variance is the minimum that will make possible the reasonable use of the land, building, or structure under present zoning.**
- 5. The variance will be in harmony with the general intent of the land development regulations and not be detrimental to the neighborhood or the public welfare.**

* However, a variance is **NOT PRECLUDED IF** the special circumstance was created by those (*applicant or previous owner(s) of the property*) who:

- were acting in full compliance with all government regulations in effect when the special circumstance was created: OR
- detrimentally relied on a permit issued in error through no fault of their own and who demonstrate such detrimental reliance to the Board.

Variance Modification: While a variance request is being considered by the Board:

1. The applicant may modify the request to obtain a lesser variance;
2. The Board may approve a lesser variance on its own initiative; and
3. The Board may prescribe conditions and safeguards as part of the variance, consistent with the land development regulations.