

1.13.3 Decision Criteria

Revised 3.16.2026

A. The Commission shall, based upon substantial and competent evidence, make an affirmative finding on each of the following in granting a variance application or find that the variance will correct a bona fide staff error that has led to design or construction that does not comply with the LDR:

1.The particular physical surroundings, shape, topographical condition, or other physical or environmental condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;

Hardship due to physical conditions

The lot was formed with a slight misalignment during construction, resulting in an encroachment of less than one inch into the side setback. Enforcing strict compliance would require significant structural changes for an immaterial deviation, creating an undue hardship beyond a mere inconvenience.

2.The conditions upon which the request for a variance is based are unique to the parcel and would not be applicable, generally, to other property within the vicinity;

Unique conditions

This condition is unique to this parcel and resulted from a one-time construction error. It does not apply to other lots in the vicinity.

3.The variance is not based on any conditions, including financial, occupational, or ability, which are personal to the applicant as applied to the property involved in the application;

Not based on personal conditions

The request is not related to financial or personal circumstances. It is solely due to the physical placement of the home and lot conditions.

4.The alleged hardship has not been created by any person presently having an interest in the property or, if it was, it was created as a result of a bona fide error;

Hardship not self-created (or bona fide error)

The encroachment occurred as a bona fide error during lot formation and was not intentional.

5.The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity;

No detriment to public welfare

The minor encroachment does not affect neighboring properties, safety, access, or community aesthetics. It poses no harm to public welfare or adjacent improvements.

6.The variance granted is the minimum variance that will make possible the reasonable use of the property; and

Minimum variance necessary

We are requesting relief only for the less-than-4-inch encroachment—just enough to bring the property into compliance without unnecessary changes.

Request from Planning and Zoning:

Please clarify the side setback encroachment. The Decision Criteria responses state that the encroachment is “less than one inch;” the survey identifies the encroachment as 0.31 feet (3.72 inches).

The form at the above address is encroaching into the 5' Build Line by .31' (about 4") per the platted note below. 5' from the property line needs to be maintained; this house should be 5' away from the property line, and it is 4.67 currently.

LOT LINE EASEMENTS
UNLESS OTHERWISE INDICATED, EASEMENTS OF TEN (10) FEET IN WIDTH, ALONG ALL FRONT AND FIVE (5) FEET IN WIDTH ALONG EACH SIDE LOT LINES ARE HEREBY RESERVED AND CREATED FOR THE PURPOSE OF ACCOMMODATING UNDERGROUND UTILITIES AND PRIVATE IRRIGATION. WHEN AN AREA GREATER THAN ONE (1) LOT IS DESIGNATED AND USED AS A-BUILDING SITE, THE OUTSIDE BOUNDARY OF SAID SITE SHALL, UPON SUCH DESIGNATION, AUTOMATICALLY BE SUBJECT TO THE LOT LINE EASEMENTS RESERVED AND CREATED HEREIN, SUCH THAT THE PRIOR LOT LINE EASEMENTS SHALL NO LONGER APPLY AND THE NEW LOT LINE EASEMENTS SHALL TAKE EFFECT ON THE NEW BUILDING SITE DESIGNATION. SUCH EASEMENTS SHALL ALSO BE EASEMENTS FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE AND OPERATION OF TELECOMMUNICATION AND BROADBAND SERVICES, INCLUDING CABLE TELEVISION SERVICES, HOWEVER CABLE TELEVISION SERVICE SHALL NOT INTERFERE WITH THE FACILITIES AND SERVICES OF ELECTRIC, TELEPHONE, GAS OR OTHER UTILITIES.

7.The property cannot be put to a reasonable use which complies fully with the requirements of the Code unless the variance is granted.

Reasonable use without variance

Without the variance, the property cannot be reasonably used as intended without major reconstruction for a negligible issue. Granting variance allows reasonable use while maintaining the spirit of the code.

