

VARIANCE CRITERIA

Respond completely and fully to all six criteria listed below to demonstrate that the request meets the standards of Land Development Code of Seminole County Sec. 30.43(3) for the granting of a variance:

1. Describe the special conditions and circumstances that exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district.

See Attached Criteria Answer

2. Describe how special conditions and circumstances that currently exist are not the result of the actions of the applicant or petitioner.

See Attached Criteria Answer

3. Explain how the granting of the variance request would not confer on the applicant, or petitioner, any special privilege that is denied by Chapter 30 to other lands, buildings, or structures in the same zoning district.

See Attached Criteria Answer

4. Describe how the literal interpretation of the provisions of the zoning regulations would deprive the applicant, or petitioner, of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on the applicant or petitioner.

See Attached Criteria Answer

5. Describe how the requested variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

See Attached Criteria Answer

6. Describe how the granting of the variance will be in harmony with the general intent and purpose of the zoning regulations and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

See Attached Criteria Answer

VARIANCE CRITERIA QUESTIONNAIRE

Pursuant to Seminole County Land Development Code Section 30.3.3.2(b), the applicant submits the following responses to each of the six required variance criteria. The applicant requests a variance from the 20-foot rear setback established under the Hawk's Overlook (Paddock Way) Planned Development to permit construction of an attached aluminum louvered-roof pergola (30'-0" × 12'-0", 360 sq ft) with prefabricated outdoor kitchen, at a proposed rear setback of 6'-5" — a variance of 13'-7".

CRITERIA 1. What are the special conditions and circumstances that exist that are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district?

Four distinct conditions exist on Lot 14 that together create circumstances peculiar to this property and materially distinguish it from typical lots in the surrounding district:

Developer-Predetermined Home Placement. The principal residence on Lot 14 is a Grandview "B1" with Guest Suite floor plan constructed by M/I Homes of Orlando LLC as a production speculative home. The siting of this floor plan on this lot was determined entirely by the production homebuilder during the initial subdivision development phase, prior to the applicant's involvement. The rear face of the principal structure (inclusive of the Coastal Lanai) sits approximately 36.4 feet from the rear property line. Because the required rear setback is 20 feet, only approximately 16.4 feet of usable rear-yard depth remains beyond the setback line — insufficient depth for any meaningful covered outdoor living amenity.

Existing Coastal Lanai Encroachment. The residence as constructed includes a 55-foot-wide × 12-foot-deep Coastal Lanai extending from the rear of the main house body. This Lanai is an integral part of the principal structure and cannot be removed, repositioned, or reduced. Its 12-foot depth consumes a substantial portion of what would otherwise be available rear yard, and any rearward extension of an attached outdoor living structure must begin from the back face of this Lanai — not from the back face of the main house body.

Tract LB-1 Landscape Buffer Encumbrance. The lot is bordered along its entire rear property line by Tract LB-1, a recorded landscape buffer tract required by the approved Hawk's Overlook (Paddock Way) PD Master Development Plan. This perimeter PD element provides permanent vegetative separation between the residential lots and adjacent off-site uses, including the abutting Kew Gardens subdivision (Plat Book 4, Page 51) to the rear. The buffer is non-removable and non-modifiable, and effectively performs the privacy and visual-separation function that the 20-foot rear setback would otherwise be intended to provide on a lot without such a buffer.

Irregular Lot Geometry and Additional Easements. Lot 14 is non-rectangular, with a curving rear property line and acute corner geometry where Lot 15 abuts at a bearing of N 55°37'39" W. The lot is also encumbered by a 5-foot drainage easement along the eastern (Lot 15) property line and a 10-foot Utility and Sidewalk Easement along the southwest. These compound encumbrances further constrain the usable area beyond what is typical for a standard rectangular residential parcel.

None of these conditions applies to typical lots in the zoning district. The combined effect of developer-controlled siting, the existing Coastal Lanai consuming 12 feet of rear-yard depth, the PD-required Tract LB-1 buffer, and the irregular lot geometry creates a constrained rear yard materially smaller and more restricted than that of a conventional rectangular residential lot — conditions peculiar to Lot 14.

CRITERIA 2. How are the special conditions and circumstances that exist not the result of the actions of the applicant?

Each of the four special conditions identified above was created by parties other than the applicant, prior to the applicant's acquisition of any interest in Lot 14:

The home placement was a developer decision. M/I Homes of Orlando LLC, the production homebuilder and current record owner, determined the location, orientation, and floor plan of the principal residence as part of its subdivision development. The applicant, Jeffrey Singer, is purchasing the home as a newly constructed residence under a Purchase and Sale Agreement. He had no role in selecting the floor plan, siting the home, or determining its setbacks. The home was already designed, sited, and substantially under construction when Mr. Singer entered his agreement to purchase.

The Coastal Lanai is a standard feature of the floor plan. The 55-foot × 12-foot Coastal Lanai is an integrated architectural feature of M/I Homes' Grandview "B1" floor plan as offered to all purchasers of that model. Mr. Singer did not request, design, or modify the Lanai dimensions; he purchased the home as-built.

The Tract LB-1 buffer is a PD requirement. Tract LB-1 is a recorded landscape buffer established by the approved Hawk's Overlook (Paddock Way) PD Master Development Plan, adopted by Seminole County years before Mr. Singer's involvement. It is a regulatory encumbrance he inherited and has no ability to remove, modify, or reduce.

The lot configuration was established at platting. The shape and dimensions of Lot 14 — including its irregular geometry, curving rear line, and acute corner intersections — were established when the Hawk's Overlook subdivision was platted (Plat Book 90, Pages 80–87). These are matters of recorded plat and cannot be altered by the applicant.

Mr. Singer has undertaken no prior construction, lot division, or other action that contributed to the conditions giving rise to this request. The hardship arises entirely from the conditions of the lot and home as he is purchasing them.

CRITERIA 3. How would the granting of the variance request not confer on the applicant any special privilege that is denied by Chapter 30 to other lands, buildings, or structures in the same zoning district?

The requested variance confers no special privilege beyond what is routinely enjoyed by similarly situated owners in residential PD communities throughout Seminole County and Central Florida:

Outdoor living amenities are standard in residential PDs. Attached pergolas, covered lanais, screen enclosures, and outdoor kitchens are commonplace features of residential PD developments in this market segment. The proposed pergola and outdoor kitchen are entirely consistent with — not extraordinary relative to — the type of outdoor living improvements other homeowners in comparable PDs routinely enjoy.

The structure is modest in scale and open-air. The 360-square-foot pergola is modest in size and uses an open louvered-roof system (StruXure Pivot 6) classified under ASCE 7-22 Table 26.13-1 as a partially open structure. It does not enclose habitable space, does not introduce a non-residential use, does not increase density, and does not create a structure of unusual prominence.

No unique or extraordinary use is requested. The variance enables no use denied to other lots in the district. The applicant seeks no special signage rights, unusual height, or increased lot coverage beyond what is typical. It simply enables a customary residential improvement that owners on less-encumbered lots can build without setback relief because their lots lack the specific combination of constraints present on Lot 14.

Comparable variances have been granted. Similar setback variances have been granted by Seminole County and neighboring jurisdictions for outdoor living amenities on comparably constrained lots. Approval places the applicant on equal footing with — not in a privileged position relative to — other owners in similar circumstances.

CRITERIA 4. How would the literal interpretation of the provisions of the zoning regulations deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on the applicant?

Strict literal interpretation of the 20-foot rear setback would deprive the applicant of the reasonable right to a functional outdoor living space routinely enjoyed by similarly situated homeowners. Each available alternative is materially inadequate:

Alternative A — A severely reduced-depth pergola is non-functional. The maximum permissible depth for an attached pergola behind the Coastal Lanai while meeting the 20-foot setback is approximately 4 feet 4 inches (36.4 ft existing rear-wall-to-line distance, minus the 12-ft Lanai, minus the 20-ft setback). A 4-foot-deep structure cannot accommodate outdoor furniture, an outdoor-kitchen island with appliances, or dining seating. Standard lounge seating requires 7–8 feet of depth, and an outdoor-kitchen island with proper clearance requires 8–10 feet. A 4-foot pergola is a decorative overhang with no functional utility.

Alternative B — A detached pergola is functionally inferior. Locating the pergola as a detached structure would require its own detached-accessory setbacks (further reducing usable area), eliminate the integrated indoor-outdoor flow from the Coastal Lanai, require movement through unprotected outdoor space during weather events, and create an isolated structure aesthetically disconnected from the residence. Detachment is not a reasonable substitute for an attached outdoor living extension.

Alternative C — Forgoing the amenity entirely defeats the purchase. The applicant is purchasing a premium home in a premium PD community specifically for the outdoor lifestyle features customary to Central Florida properties of this caliber. Denying the amenity because of constraints he did not create is precisely the disparate treatment the variance procedure exists to remedy.

The applicant seeks relief not for financial loss or competitive purpose, but for the reasonable residential enjoyment of his property. The hardship arises entirely from the special conditions of Lot 14 established by the developer and the PD. Literal application of the setback here would impose an undue burden disproportionate to any legitimate planning purpose.

CRITERIA 5. How would the requested variance be the minimum variance that will make possible the reasonable use of the land, building, or structure?

The requested 13'-7" variance is the minimum relief necessary to enable a functional outdoor living space. Each design parameter has been calibrated to minimize the encroachment while still producing a usable amenity:

12-foot depth is the minimum for functional use. The proposed depth is the smallest that accommodates the intended program: an outdoor-kitchen island with grill, side burner, refrigeration, and sink along one side (approximately 30 inches of island depth plus 42–48 inches of working clearance), and a covered seating/dining area opposite (approximately 7 feet for furniture and circulation). Reducing below 12 feet would force elimination of either the kitchen or the seating zone.

30-foot length matches the existing Lanai. The 30-foot length aligns with and supplements the 55-foot Coastal Lanai, creating a continuous integrated outdoor living envelope along the rear of the home. It is the minimum length to accommodate the two functional zones (kitchen + seating) side by side under the StruXure Pivot 6 standard zone configuration.

Placement directly behind the Lanai minimizes other yard impact. Attaching the pergola directly to the rear of the existing Coastal Lanai concentrates the structure in a single contiguous footprint at the location least intrusive to the open rear yard, preserves maximum lawn area along both side property lines, and avoids any encroachment into the side setbacks or the 5-foot drainage easement on the east side.

The open louvered roof further minimizes impact. The StruXure Pivot 6 motorized louvered roof opens to permit the passage of light, air, and rainwater through the structure. Unlike a solid-roofed addition, it minimizes visual, microclimatic, and stormwater impact, is classified under ASCE 7-22 as a partially open structure, and is automatically commanded to the vertical open position by a wind sensor at 45 mph, with manual repositioning during hurricane warnings per FBC Section 3105.5.3.

Any further reduction in size or any alternative placement would render the structure functionally inadequate; the variance requested is the minimum necessary to enable any reasonable outdoor living use of the rear yard.

CRITERIA 6. How would the granting of the variance be in harmony with the general intent and purpose of the zoning regulations and not be injurious to the neighborhood, or otherwise detrimental to the public welfare?

Approval is fully in harmony with the purpose and intent of the zoning regulations and the Hawk's Overlook (Paddock Way) PD Development Order. Each planning purpose served by the rear setback remains satisfied:

Light and air are preserved. The open louvered roof permits the passage of natural light and air through the structure and creates no solid visual or atmospheric barrier. Adjacent properties experience no diminution of light or air relative to conventional setback compliance.

Privacy and visual separation are preserved by Tract LB-1. The recorded PD-required landscape buffer along the rear property line provides permanent vegetative privacy and screening between Lot 14 and the abutting Kew Gardens subdivision — performing the function the 20-foot setback would otherwise serve. The buffer plus the modest remaining 6'-5" setback preserves rear-property privacy fully.

Residential character is reinforced. The open-air amenity is consistent with the residential character of the neighborhood; materials and colors (bronze frame, white louvers) complement the principal residence. No commercial, industrial, or institutional use is introduced. The improvement enhances rather than detracts from neighborhood character.

Public health, safety, and welfare are protected. The structure is engineered by De Stefano Engineering Group, PL (FL Certificate of Authorization #27383) to the 2023 8th Edition Florida Building Code, ASCE 7-22 wind criteria (136 mph basic wind speed, Exposure Category B, Risk Category II), and the 2020 Aluminum Design Manual. A Somfy wind sensor automatically opens the louvers at 45 mph, with manual repositioning during hurricane warnings per FBC Section 3105.5.3. Reinforced concrete footings (20" × 20" × 16", 4000 PSI, #4 rebar) and 316 stainless-steel connectors meet or exceed applicable standards.

Easements and side setbacks are fully respected. The structure meets the 5-foot side setbacks on both the east and west property lines. No portion of the pergola, its footings, or its drainage encroaches into the 5-foot drainage easement along the Lot 15 (east) boundary. All easement functions and utility-access rights are preserved.

Stormwater is not adversely affected. With an open louvered roof, rainwater passes through the structure when the louvers are open, reaching grade as it would absent any structure. The pergola does not contribute to impervious-surface coverage or alter the existing drainage pattern, and the PD's approved master stormwater system is not affected.

For the foregoing reasons, the applicant respectfully submits that the proposed variance satisfies each of the six criteria under Seminole County LDC § 30.3.3.2(b), is supported by genuine hardships peculiar to Lot 14 and not created by the applicant, requests only the minimum relief necessary, and is in harmony with the purpose and intent of the zoning regulations. Approval is respectfully requested.