



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

F.5.

2/23/2021

### Subject:

Board Policy Review, Re: BCC-40, Waiver of Board of Adjustment Application Fees

### Fiscal Impact:

Board of Adjustment Application fee is \$598 for the first variance, and \$182 for each additional variance. The fee defrays the cost of advertising, mailing notifications, and processing the application.

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners continue Board Policy BCC-40, Waiver of Board of Adjustment Application Fees.

### Summary Explanation and Background:

Pursuant to BCC-31, Sunset Review of Programs, Services, Ordinances, Policies, & Administrative Orders, staff has reviewed BCC-40 and requests continuance of the Policy until February 23, 2024. BCC-31 requires the review of Board Policies every three years to determine if a policy is relevant. BCC-40 is relevant in that it provides a mechanism for the County Manager or designee to waive fees for variances under the following circumstances.

1. The nonconformity for which the variance is requested was created due to a physical or material change in the property caused by an action of the Board of County Commissioners, or an action as directed by the Board of County Commissioners.
2. The nonconformity for which the variance is requested was created due to a physical or material change in the property caused by an action of a Federal, State, or regional governmental agency based upon a request by the Board of County Commissioners.
3. The structure for which the variance is requested has been determined to be in existence for a period of ten (10) years prior to the determination that the structure does not meet zoning code requirements.

No substantial changes to the Policy were identified during the review of BCC-40.

### Clerk to the Board Instructions:

Please forward the signed original BCC-40 to the County Manager's Office.



February 24, 2021

**M E M O R A N D U M**

TO: Frank Abbate, County Manager

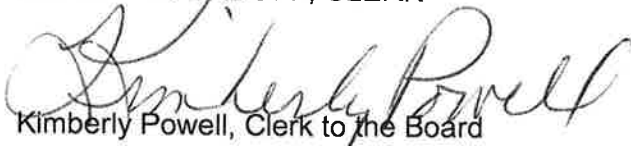
RE: Item F.5., Board Policy Review for BCC-40, Waiver of Board of Adjustment Application Fees

The Board of County Commissioners, in regular session on February 23, 2021, granted continuing Board Policy BCC-40, Waiver of Board of Adjustment Application Fees until February 23, 2024. Enclosed is a fully-executed Board Policy BCC-40.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

  
Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Planning and Development  
Finance  
Budget



**BOARD OF COUNTY COMMISSIONERS**

## **POLICY**

Number: BCC-40  
Cancels: March 6, 2018  
Approved: February 23, 2021  
Originator: Planning & Development  
Review: February 23, 2024

### **TITLE: Waiver of Board of Adjustment Application Fees**

#### **I. Objective**

To provide for the administrative waiver by the County Manager, or designee, of application fees for the Board of Adjustment under certain circumstances.

#### **II. References**

- A. Application Fees for the Board of Adjustment – The application fee for consideration for an item by the Board of Adjustment, as established by resolution by the Board of County Commissioners.
- B. Board of Adjustment – As established by Chapter 62, Division 4, Section 62-211 of the Code of Ordinances of Brevard County, Florida.
- C. Variance – As established by Chapter 62, Division 5, Section 62-251 of the Code or Ordinances of Brevard County, Florida.

#### **III. Directives**

- A. The County Manager, or designee, is hereby authorized to grant waivers of application fees for the Board of Adjustment as defined above, in the following circumstances.
  - 1. The nonconformity for which the variance is requested was created due to a physical or material change in the property caused by an action of the Board of County Commissioners, or an action as directed by the Board of County Commissioners; or
  - 2. The nonconformity for which the variance is requested was created due to a physical or material change in the property caused by an action of a Federal, State, or regional governmental agency based upon a request by the Board of County Commissioners; or
  - 3. The structure for which the variance is requested has been demonstrated to be in existence for a period of ten (10) years prior to the determination that the structure does not meet zoning code requirements.

- B. Any request for a waiver which is denied by the County Manager, or designee, may appeal that decision to the Board of County Commissioners within 30 days of the date the order is signed, but not thereafter.

#### IV. Reservation of Authority

The authority to issue or revise this policy is reserved to the Board of County Commissioners

ATTEST:

  
\_\_\_\_\_  
Rachel Sadoff, Clerk  
\_\_\_\_\_  
Rita Pritchett, Chair  
Board of County Commissioners  
Brevard County, Florida  
As approved by the Board on February 23, 2021

**SUNSET REVIEW  
BCC-31**

Policy Number and Name: BCC-40, Waiver of Board of Adjustment Application Fees

Department: Planning and Development

Citizen Group: N/A

Review to include, but not limited to:

1.) Quantify the need being met and who benefits:

BCC-40 provides a mechanism for the County Manager or designee to waive fees for variances when the necessity for the variance was caused by action of a local, state, federal, or regional governmental agency. BCC-40 also provides for application fees to be waived if a structure for which the variance is requested has been demonstrated to be in existence for a period of 10 years prior to the determination that the structure does not meet zoning code requirements.

2.) Is this Policy / Administrative Order duplicative?

☐

Yes

☒

No

If yes, please explain:

3.) Can another agency perform this function?

☐

Yes

☒

No

If yes, please explain:

4.) County Funding:

☒

Yes

☐

No

If yes, please explain:

Application fees are \$598 for the first variance, and \$182 for each additional variance.

5.) Should this Policy / Administrative Order be:

☐ Eliminated

☐ Modified

☒ Continued

6.) Is there an acceptable alternative?

☐ Yes

☒ No

If yes, please explain:

N/A The date the Citizen Group / Advisory Board will review.

02/23/21 The date the Board of County Commissioners will review results.

Tad Calkins, Planning and Development Director

Date