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By Brian Bullock, Registered Architect

Variance Application Standards - Response Form

Required Standards for Approval

A Variance application shall be approved only on the finding that there is competent substantial evidence in the record that ALL of the following standards are met:

a. Extraordinary and Exceptional Conditions

Standard: There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity.

Response: The extraordinary and exceptional condition pertaining to this property is that the original building was constructed prior to the enactment of the current zoning ordinance, resulting in a legally non-conforming structure with a reduced side setback of 0.51 feet. This pre-existing non-conforming condition creates a unique circumstance that does not generally apply to other lands or structures in the vicinity that were built in compliance with current setback requirements. For proper alignment of structural elements and technical feasibility of construction, the proposed addition must align with the existing non-conforming building. The structural integrity and architectural coherence of the project require that the addition maintain the same 0.51-foot side setback as the existing structure, as any other configuration would create engineering challenges and compromise the building's structural soundness.

b. Conditions Not Result of Landowner Actions

Standard: The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner.

Response: The extraordinary and exceptional condition (the existing 0.51-foot side setback) was not created by the actions of the current landowner. The building was constructed prior to the enactment of the zoning code, which grandfathers the existing structure's side setback encroachment as a legally non-conforming condition.

This pre-existing non-conforming status is a matter of historical timing and zoning law, not the result of any action taken by the property owner.

c. Unnecessary and Undue Hardship

Standard: Because of the extraordinary and exceptional conditions referred to in paragraph a., above, the application of this Code to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship.

Response: The side yard setback requirement would create an unnecessary and undue hardship for the Owner as creating the required setback would cause a non-alignment of structural elements as well as prevent the space utilization from aligning in an efficient manner. The existing building has approximately 100 linear feet of this non-conforming condition currently. Requiring compliance with the current setback standards would effectively prohibit reasonable utilization of the property by forcing an impractical and structurally compromised design that fails to integrate properly with the existing building.

d. No Special Privilege

Standard: The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.

Response: The Variance would not confer any special privilege on the landowner as there are other buildings in the neighborhood which have this same condition, demonstrating that this does not give this property any privileges or benefits denied to similarly situated properties. The following neighboring properties also have reduced side setbacks:

- 1210 S ANDREWS AVE POMPANO BEACH FL 33069
- 1150 SW 10 AVE POMPANO BEACH FL 33069
- 1080 SW 12 AVE POMPANO BEACH FL 33069
- 1040 S ANDREWS AVE POMPANO BEACH FL 33069
- 1000 SW 12 AVE POMPANO BEACH FL 33069
- 910 SW 12 AVE POMPANO BEACH FL 33069
- 790 SW 12 AVE POMPANO BEACH FL 33069

Note: The listed addresses have existing zero side setbacks (which may be existing non-conformities or new).

This demonstrates that the requested variance would merely allow the property to maintain a condition that is characteristic of similarly situated properties in the neighborhood, rather than granting any special privilege.

e. Minimum Extent Necessary

Standard: The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure.

Response: This reduction is the minimum requested to allow for the proper alignment of structures and spaces. We are not reducing the side setback any more than what currently exists with the original building. The proposed addition will maintain the existing 0.51-foot side setback, representing the absolute minimum variance necessary to achieve reasonable use of the property while maintaining structural integrity and proper alignment with the existing non-conforming building.

f. Harmony with Code Intent

Standard: The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit.

Response: The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit. As evident from our DRC application, we are compliant with all aspects of the Code with the exception of this side setback. The variance request is limited to addressing the unique circumstance created by the pre-existing non-conforming building, while maintaining full compliance with all other zoning requirements, thereby preserving the overall intent and spirit of the Code.

g. No Adverse Effects

Standard: The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare.

Response: No adverse effects are caused by this variance request. This building will be similar to many of its neighbors and will actually encroach for less length than many of the existing buildings in the neighborhood. The proposed addition maintains the same setback as the existing structure and does not create any new impacts on health, safety, property values, or public welfare. The variance allows for a building configuration that is consistent with the established neighborhood character.

h. Consistency with Comprehensive Plan

Standard: The Variance is consistent with the comprehensive plan.

Response: This project is in compliance with the comprehensive plan. The existing use will remain and the proposed addition use matches the existing use. The variance does not alter the fundamental land use or density characteristics of the property, maintaining consistency with the comprehensive plan's vision for the area.

Insufficient Grounds for Variance Approval

The following factors do NOT constitute sufficient grounds for approval of a Variance:

a. Prohibited Use Request

Factor: A request for a particular use that is expressly, or by inference, prohibited in the zoning district.

Confirmation this does NOT apply to your request: Yes, confirmed. This factor does not apply to our request.

b. Hardships from Other Factors

Factor: Hardships resulting from factors other than application of requirements of this Code.

Confirmation this does NOT apply to your request: Yes, confirmed. This factor does not apply to our request.

c. Profitability or Marketability

Factor: The fact that land or a structure may be utilized more profitably or be more marketable with a Variance.

Confirmation this does NOT apply to your request: Yes, confirmed. This factor does not apply to our request.

d. Citing Other Uses

Factor: The citing of other nonconforming or conforming uses of land or structures in the same or other zoning districts.

Confirmation this does NOT apply to your request: Yes, confirmed. This factor does not apply to our request.

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