

# **NORTH RIVER SHORES PROPERTY OWNERS' ASSOCIATION, Inc. GUIDELINES FOR REQUESTING A VARIANCE APPROVAL**

The Board of Directors of the NORTH RIVER SHORES PROPERTY OWNERS' ASSOCIATION INC., (NRSPOA) is charged with maintaining the esthetic value of NRS through enforcing Restrictive Covenants and Recorded Setbacks. The original architects and developers of NRS recorded setbacks on the Deed of each property in order to maintain the view and aesthetic of each owner. To help property owners avoid unknowingly violating the Restrictive Covenants and Deeded Setbacks, the NRSPOA developed the **Construction Approval** and **Deed Restriction Variance Approval** processes. The following guidance is provided to assist property owners with compliance with NRSPOA Restrictive Covenants and Deeded Setbacks.

***NOTE: There is an application fee of \$500.00 to process a variance request application.***

## **VARIANCE REQUEST OVERVIEW**

Approval of variances to the NRSPOA Covenants and Restriction or Deeded Setbacks is a two part approval process. The variance must be approved by at least 15 of 20 (75 percent) of nearby or potentially affected property owners. If approved by affected property owners, the variance must also be approved by the NRSPOA Board of Directors (Board). The Board's decision on variances is final.

The variance petitioner will need to prepare a variance petition package containing the following documents:

1. The current Warranty Deed, to the subject property identifying the current owner(s) of the property or a copy of the contract for purchase if the petitioner is not the current title holder.
2. Original Deed indicating the recorded setbacks on the subject property.
3. A recent boundary survey of the subject property.
4. Site plan or drawing(s) showing accurately the proposed improvements, construction, or modification(s) (drawn to scale clearly indicating the requested variance(s))
5. Proposed variance petition letter describing the requested variance.
6. Owner shall notify the Deed Restriction Committee within 30 days of approved construction completion and shall provide the Deed Restriction Committee any "As-built" surveys as required by Martin County Building Department.
7. Variance processing fee of \$500.00.

***NOTE: This variance process is intended to be anonymous, so petitioners are strongly advised NOT to contact their neighbors personally or indirectly regarding a variance petition. If coercion or intimidation is discovered, the variance application will be denied.***

The variance application package must be submitted to the Deed Restriction Committee Chairperson for review and approval of the package format and content. Once the Deed Restriction Committee Chairman has indicated to the petitioner that the variance package is complete the variance petition package and application fee shall be sent to NRSPOA PO Box 3154, Stuart, FL 34995 for processing and mailing.

***NOTE: The submission of an incomplete or incorrect variance petition package to the Deed Restriction Committee that requires re-submission of a corrected package or additional information shall be accompanied by an additional review fee of \$100.00 to continue with the variance process.***

If the variance request is approved, **it is the petitioner's responsibility** and at petitioner's expense to record in the Martin County Public Records a written Release of Deeded Restriction, signed and sealed by the Board. An official recorded copy of this release must be provided to the Board.

***NOTE: If approved, the petitioner shall notify the Deed Restriction Committee within 30 days of approved construction completion and shall provide any "As-built" surveys or Record Drawings as required by Martin County Building Department. Unauthorized construction in violation of the covenants and restrictions, recorded setbacks, or approved variance shall be considered by the NRSPOA as an intentional act to be resolved by litigation and/or all other available means.***

### **VARIANCE APPROVAL PROCESS**

Those seeking variance to the NRSPOA covenants and restriction, may do so in accordance with Section 5 of the NRSPOA Covenants and Restrictions, by applying to the Board, addressing the NRSPOA Deed Restrictions Committee P.O. Box 3154, Stuart, FL 34995, and by conforming to the requirements and process described herein.

After making their initial request known to the NRSPOA, the petitioner or legal representative shall prepare a variance petition package. The Petitioner will first submit a draft petition package to the Deed Restrictions Committee Chairperson for review and approval as to form, content, and completeness. The petitioner shall provide all sufficient maps and or factual information concerning the requested variance(s), so that the property owners can easily and fully comprehend what they are being asked to approve. Drawings, sketches, and/or photos, if needed to accurately explain present and desired conditions, should be included and described in the variance request package. ***If multiple variances are sought, each separate variance shall be described.*** For Example: A variance from the side lot set back that involves both side lot lines should each be described separately and clearly. Urgency and extenuating circumstances, explained by the Petitioner, are encouraged. If the petitioner needs additional information to prepare the variance package, petitioners may inquire directly to the Board.

Petitions will be mailed to 20 designated nearby and or affected member properties. To facilitate this, the petitioner is responsible for providing 22 hard copies of the variance petition package and one digital copy of the complete variance application package in PDF format and the application fee to the NRSPOA, PO Box 3154, Stuart, FL 34995. Twenty (20) copies will be mailed to member properties, one (1) copy will be mailed to the Chairman of the Deed Restriction Committee and one

(1) copy will be mailed to each member of the NRSPOA Board of Directors.

Each of the 20 designated member properties will have a ten (10) business day period for petition review and response. After at least 15 business days, a second letter is to be sent to non-responders by Certified Mail with Return Receipt notification. When all responses are received, they will be evaluated, and a final decision as to the granting of a variance will be rendered by the Board. The Covenants and Restrictions require a **favorable response from at least 15 of 20 (75 percent) of the designated 20 member properties**, whereupon the Board may agree to release the property from the requested restriction(s) and/or deeded setbacks. The Board is empowered to withhold approval, if coercion or intimidation is discovered, or if it is deemed in the best interest of the community as a whole, irrespective of favorable responses on the petition from designated member properties. **The Board's decision is final.**

The NRSPOA accounting firm will circulate by regular mail the variance request package and response instructions to each designated property owner asking them to indicate their desires "**GRANT** or **NOT TO GRANT** the variance", sign, and return variance request form to them. All responses will be treated as confidential.

Property owners who do not respond within ten (10) days will receive a second variance request letter from the NRS Account Firm by both regular and certified mail. Said second letter, clearly states that if no response is received within 30 days, the NRSPOA will assume the non-response is **approval of the variance request**. During this time, the designated 20 property owners may direct questions to the Chairperson of the Deed Restrictions Committee at (772) 692-3939.

If the variance request is approved, the Board will provide a signed and sealed written Release of Restrictions, and **it is the petitioner's responsibility**, at his/her own expense, to record this document in Martin County Public Records. Any release granted will be considered null and void if the recorded copy is not provided to the Board **WITHIN 60 DAYS** of the date the release of restriction is granted.

**ALL VARIANCE RELEASE WILL EXPIRE WITHIN EIGHTEEN (18) MONTHS OF THE DATE IT WAS APPROVED BY THE BOARD IF CONSTRUCTION HAS NOT BEEN COMPLETED BY THEN. THE PETITIONER MAY APPLY TO THE BOARD FOR A SIX (6) MONTH EXTENSION OF THE RELEASE WITHIN THREE (3) MONTHS FROM THE DATE OF ITS EXPIRATION. THE EXTENSION APPLICATION MUST BE ACCOMPANIED BY A CHECK FOR \$175.00.**

**THE PETITIONER SHALL NOTIFY THE CHAIRMAN OF THE DEED RESTRICTIONS COMMITTEE WITHIN 30 DAYS OF COMPLETION OF CONSTRUCTION AND PROVIDE HIM OR HER ANY REQUIRED "AS-BUILT" SURVEYS OR RECORD DRAWING REQUIRED BY MARTIN COUNTY BUILDING DEPARTMENT FOR FINAL INSPECTION FOR COMPLIANCE WITH THE RECORDED RELEASE OF RESTRICTIONS. UNAUTHORIZED CONSTRUCTION IN VIOLATION OF THE COVENANTS AND RESTRICTIONS, RECORDED SETBACKS, OR AUTHORIZED VARIANCE SHALL BE CONSIDERED BY THE BOARD AS INTENTIONAL TO BE RESOLVED BY LITIGATION AND/OR ALL AVAILABLE MEANS.**

# ***Deed Restrictions Variance Package Completeness Checklist***

**Petitioner will need to prepare and submit a variance request package containing the following documents:**

- 1. The current Warranty Deed to the property indicating the current owner(s) of record for the subject property or a Contract for Purchase if petitioner is NOT the Current Owner.
- 2. Original First Recorded Deed indicating the recorded property setbacks.
- 3. Recent survey of the subject property (signed & sealed within the past six (6) months by FL registered professional.)
- 4. Site Plans, Plot Plan Surveys, and or drawing(s) drawn to scale in relation to property boundary showing accurately the proposed improvements, construction, or modification(s) requiring a variance.
- 5. Proposed Petition Letter describing the requested variance(s)
- 6. Variance processing fee \$500.00

***Note: The submission of an incomplete or incorrect variance petition that requires re-submission of corrected or additional information shall be accompanied by an additional \$100.00 fee to continue with the variance process.***

***Note: The residents and the Board of directors of NRSPOA take the variance process very seriously. If approved the release of restriction must be recorded in the public record running with the land. Please be certain that what you are asking a variance for is precisely what you want. A modification after a release of restriction is granted will require a new variance application and may not get approved.***

## **Sample Petition Wording for Variance Request Letter**

### ***Substitute petitioner's situation information***

Date Jan. xx, xxxx

Dear Neighbor:

My wife Jane and I, reside at 123456 NW ABCD Place, Stuart, FL, and seek a variance in Section 6 of our Deed, presently requiring a 15 foot side lot setback to west property line.

We now have an attached single-car garage at the west end of our house, with the end wall spaced 22 feet from the side-lot line, as shown on the attached plot plan. We have acquired a second automobile to meet the needs of our growing family, and wish to add 12 feet to our existing garage by building new end walls, a new door matching the present door, and extending the roof and slab, matching existing construction, and conforming to the Local Codes, all as shown on the attached plans. This addition would bring the extended building to within 10 feet of the side-lot line, 5 feet less than is called out in the original Deeds setbacks.

We hereby seek a variance to be granted by the NRSPOA Board and on condition of obtaining the consent of at least 15 of 20 (75 percent) of the current owner(s) of record of the designated 20 properties of whom we have requested to signify their consent to such a variance, and who hopefully will assist us in obtaining our release, as provided for in Section 5 of the NRSPOA Deed Restrictions.

***If you have questions about this petition, please contact the Deed Restrictions Committee at: 772-692-3939.***

Sincerely:

*Mary Doe     John Doe*

(PRINT NAMES)

encl.:

Survey  
Site Plan  
Photos