



INDIAN CREEK VILLAGE

9080 Bay Drive
Indian Creek Village, FL 33154

Tel. (305) 865-4121
Fax (305) 865-2502

PROCEDURES FOR VARIANCE REQUESTS **INCLUDING PUBLIC HEARINGS**

BEFORE FILING THIS APPLICATION, PLEASE READ THE VILLAGE'S LAND
DEVELOPMENT REGULATIONS CAREFULLY

PRIOR TO THE HEARING DATE, VILLAGE COUNCIL MEMBERS AND
OFFICIALS MAY INSPECT THE PROPERTY FOR WHICH THE
APPLICATION(S) FOR VARIANCE(S) HAS BEEN SUBMITTED. THE FILING
OF THIS APPLICATION CONSTITUTES THE CONSENT OF APPLICANT TO
SUCH INSPECTIONS.

FILING FEES FOR VARIANCE REQUESTS

THE NON-REFUNDABLE FILING FEE (\$1,500.00) FOR EACH VARIANCE APPLICATION REQUEST SHALL BE THE AMOUNT ENUMERATED IN THE BUILDING DEPARTMENT SCHEDULE OF FEES AND SHALL BE SUBMITTED TO THE VILLAGE AT THE TIME THAT A FULLY COMPLETED APPLICATION IS SUBMITTED.

THIS FEE IS USED TO DEFRAY THE COSTS OF PROCESSING THE APPLICATION, THE MAILING OF PUBLIC HEARING NOTICES AND THE PUBLIC HEARING.

COMPLETE APPLICATION SUBMITTAL

AN APPLICATION SHALL ONLY BE DEEMED COMPLETE BY THE VILLAGE CLERK AND SHALL BE SUBMITTED TO THE VILLAGE HALL, 9080 BAY DRIVE, INDIAN CREEK VILLAGE, FL 33154.

SUBMITTAL PACKAGE

ALL APPLICANTS ARE REQUIRED TO PREPARE 10 REDUCED SETS OF THE VARIANCE APPLICATION PACKAGE AND SUBMIT THEM TO THE VILLAGE AT LEAST 10 DAYS PRIOR TO ANY PUBLIC HEARING PERTAINING TO THE MATTER.

MEETING AND HEARING LOCATION

THE LOCATION FOR ALL MEETINGS AND HEARINGS CONCERNING VARIANCE REQUESTS SHALL BE HELD AT VILLAGE HALL, 9080 BAY DRIVE, INDIAN CREEK VILLAGE, FL 33154.

PUBLIC HEARING NOTICES

ALL PROPERTY OWNERS IN THE VILLAGE WILL BE NOTIFIED OF VARIANCE APPLICATION REQUESTS AT LEAST 15 DAYS PRIOR TO THE PUBLIC HEARING BEFORE THE VILLAGE COUNCIL AT WHICH THE REQUEST WILL BE HEARD.

APPEALS OF COUNCIL DECISIONS

ALL APPEALS OF VILLAGE COUNCIL DECISIONS SHALL BE APPEALED TO THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT FOR MIAMI-DADE COUNTY.

VARIANCES

Variations are defined as a relaxation of certain regulations contained the Village's Land Development Regulations as further outlined in Sub-section C. Variance Procedure., Article 11. Administration and Enforcement.

VARIANCE PROCEDURE

The following section of the Code is applicable to variance applications and procedures:

APPENDIX A

LAND DEVELOPMENT REGULATIONS

ARTICLE 11. ADMINISTRATION AND ENFORCEMENT

* * *

C. Variance Procedure.

- (1) The village shall hear applications for and grant or deny nonuse variances from setback requirements subject to certain limitations, frontage requirements, height limitations, lot size restrictions, landscape/open space requirements and other deviations from the village land development regulation provisions which have no relation to change of kind, intensity, or nature of land use of the property in question. The village council, any of its members, or staff may inspect the premises and area under consideration. The village may grant a nonuse variance upon showing by the applicant that the variance meets all the following criteria:
 - (a) That special conditions and circumstances 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.
 - (b) That the special conditions and circumstances do not result from the actions of the applicant.
 - (c) That granting the variance requested will not confer on the applicant any special privilege that is denied by these LDRs to other lands, buildings or structures in the same zoning district.
 - (d) That literal interpretation of the provisions of these LDRs would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs and would work unnecessary and undue hardship on the applicant.
 - (e) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

- (f) That granting the variance will not change the use to one that is not permitted in the zoning district or different from other land in the same district.
 - (g) That the granting of the variance will be in harmony with the general intent and purpose of these LDRs and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- ~~(2) All applications for nonuse variance shall be initiated by the filing with the village manager of an application on a form prescribed by the Village Manager, executed by the owner of the property described in the application, or by a duly authorized agent, evidenced by a written power of attorney, if not a member of the Florida Bar. An initial nonrefundable fee for each variance requested, as enumerated in the Building Department Schedule of Fees, shall be paid to the village for the review of said application by the Building Official. Within 60 days of the variance application the Building Official shall render a decision approving, denying or requiring modifications to said request.~~
- ~~(3) If an applicant wishes to appeal the administrative decision of the Building Official a written request for review of said decision shall be made to the Village Manager. An appeal request shall include an Appeal of Building Official Decision fee, as enumerated in the Building Department Schedule of Fees, for each variance to be appealed. This fee shall cover the Village's direct and indirect costs associated with this review by the Village's Manager, Planner or other staff as deemed necessary. Within 60 days of the receipt of the appeal request and associated fees the Village Manager or designee shall render a decision either affirming the Building Official's decision or granting said variance request as submitted to the Village Manager.~~
- (4) If requested, appeals of the Village Manager's decision shall be heard by the village council within 60 days of an application having been filed hereunder. Said appeal shall be reviewed and transmitted to the village council, together with the written recommendations of the village manager, or his or her designee, such recommendation to become a part of the hearing file and record, and open for public inspection. No action on the application shall be taken by the village council until a public hearing has been held following at least 15 days' notice of the time and place of such hearing mailed to the property owners of record, on Indian Creek Island; provided, however, that failure to mail or receive such notice shall not affect any action or proceedings taken hereunder. A fee, as enumerated in the Building Department Schedule of Fees, for each variance appeal requested shall be submitted to the village for costs associated with the public hearing process.

- (5) In granting any application for nonuse variance, the village council may prescribe any reasonable conditions, restrictions and limitations it deems desirable or necessary, in order to maintain the integrity of the village land development and the comprehensive plan and the compatibility of the property in the village in relation to the present and future use of such property.
- (6) All actions taken by the village council shall be by majority vote and resolution. In case, however, of objections to such application by the owners of record of 20 percent or more, either in person or in writing made known, of the property owners in the village, such variance shall require the favorable vote of four-fifths of all members of the village council.
- (7) The village shall record among the public records of Miami-Dade County, Florida, notice of each variance granted.
- (8) Unless the variance is used by issuance of a building permit within six months from the date of the meeting at which the variance is granted, such variance shall become null and void.

VARIANCE APPLICATION SUBMITTAL REQUIREMENTS

IT IS THE RESPONSIBILITY OF THE APPLICANT TO ENSURE THE COMPLETENESS OF THE APPLICATION.

EACH APPLICATION SHALL INCLUDE TWO SETS OF THE FOLLOWING AND SHALL BE FOLDED TO FIT INTO A LEGAL FOLDER (9" X 14")

1. **LETTER OF INTENT** detailing the variance application request and reasons for the Village Council granting such request.
2. **COMPLETED VARIANCE REQUEST QUESTIONNAIRE**
(SEE ATTACHMENT "A")
2. **APPLICATION FEE (NON-REFUNDABLE) \$1,500.00**
3. **COMPLETED AND NOTARIZED OWNERSHIP AFFIDAVIT FORM**, by the owner of the property or, if necessary, authorizing the applicant, if not the legal owner, permission to act as the owner's representative by submitting a **COMPLETED AND NOTARIZED POWER OF ATTORNEY AFFIDAVIT**.
4. **ONE COPY EACH OF A RECENT SIGNED AND SEALED SURVEY OF THE SUBJECT PROPERTY AND AN ELEVATION CERTIFICATE.**
5. **ONE SIGNED AND SEALED SET OF PLANS TO INCLUDE; SITE, ARCHITECTURAL, AND LANDSCAPE PLANS** which clearly indicate all heights of existing and proposed buildings, all existing and proposed setbacks and, all existing and proposed lot coverage and open space calculations. In addition, the Landscape Plan shall include existing and proposed landscaping, the species along with corresponding diameter and height at the time of planting, all groundcover, surface materials (pavers, concrete, etc.), lighting and irrigation, and/or any other information deemed necessary by the Village.

NOTE: ONCE APPLICATIONS ARE SUBMITTED, THEY BECOME A PERMANENT PART OF THE PUBLIC RECORD OF INDIAN CREEK VILLAGE.

PRELIMINARY REVIEW OF APPLICATION

AFTER A DETERMINATION OF THE COMPLETENESS OF THE APPLICATION A MEETING WITH THE APPLICANT OR THE APPLICANT REPRESENTATIVE WILL BE SCHEDULED WITH THE VILLAGE MANAGER AND THE VILLAGE BUILDING OFFICIAL OR HIS DESIGNEE.

VILLAGE REVIEW OF VARIANCE APPLICATION REQUEST

AFTER THE REVIEW FOR COMPLETENESS BY THE VILLAGE BUILDING OFFICIAL THE PROCEDURES AS OUTLINED IN SUB-SECTION C. OF THE CODE SHALL BE FOLLOWED.

IF A RECORD OF ALL PROCEEDINGS IS DESIRED THE APPLICANT IS RESPONSIBLE FOR ALL TRANSCRIPTION SERVICES

RECORDATION

AFTER A VARIANCE REQUEST IS APPROVED BY THE VILLAGE, THE VILLAGE CLERK SHALL RECORD THE ACTION AND CONDITIONS, IF ANY, WITH THE CLERK OF THE MIAMI-DADE COUNTY COURTS.

ALL COSTS ASSOCIATED WITH RECORDATION SHALL BE PAID BY THE APPLICANT.

ATTACHMENT "A"

VARIANCE REQUEST QUESTIONNAIRE

APPLICANT/OWNER: _____

LOT NUMBER: _____

DATE: _____

APPLICATION NUMBER: _____

1. IS THIS VARIANCE BEING REQUESTED AS A RESULT OF A VIOLATION NOTICE?

YES _____ NO _____

2. HAS A PUBLIC HEARING FOR ANY REASON BEEN PREVIOUSLY HELD ON THIS PROPERTY?

YES _____ NO _____

3. ARE THERE ANY EXISTING STRUCTURES ON THIS PROPERTY THAT ARE TO BE DEMOLISHED?

4. BRIEFLY STATE THE VARIANCE REQUEST:

5. STATE HOW THE REQUESTED VARIANCE MEETS THE REQUIREMENTS OF SUB-SECTION C. VARIANCE PROCEDURES:

6. WHO SHALL BE NOTIFIED OF MATTERS CONCERNING THIS APPLICATION?

PROVIDE THE FOLLOWING INFORMATION: NAME, ADDRESS, PHONE, AND E-MAIL

ATTACHMENT "B"

INDIVIDUAL OWNER OR OWNER REPRESENTATIVE AFFIDAVIT

APPLICANT/OWNER: _____

LOT NUMBER: _____

DATE: _____

APPLICATION NUMBER: _____

The Undersigned, being first duly sworn, states that I am the Owner, Tenant, or Agent of the Owner of the property described and which is the subject matter of the application; that all the answers to the questions in this application and all supplemental data attached to and made a part of the application are complete and true to the best of my knowledge and belief.

The Undersigned hereby authorizes Indian Creek Village and its officials and staff to enter the property to conduct any necessary inspections in connection with this application.

SIGNATURE: _____

Owner/Owner Representative
(Strike non-applicable description)

Signed and sworn to or affirmed before me on _____
DATE

by _____. He/she is personally known

to me has produced _____

as identification.

NOTARY PUBLIC: _____

My Commission Expires: _____

ATTACHMENT "C"

POWER OF ATTORNEY AFFIDAVIT

APPLICANT/OWNER: _____

LOT NUMBER: _____

DATE: _____

APPLICATION NUMBER: _____

The Undersigned, being first duly sworn, states that the undersigned is the owner of the above-described real property and that I am aware of the nature and effect of the application for variance relative to my property and I am hereby authorizing

_____ to be my legal representative before the Village Council.

I hereby authorize Indian Creek Village and its officials and employees to enter the property to conduct any necessary inspections in connection with this application.

SIGNATURE: _____

Owner

Signed and sworn to or affirmed before me on _____
DATE

by _____. He/she is personally known to me has produced _____ as identification.

NOTARY PUBLIC: _____

My Commission Expires: _____

ATTACHMENT "D"

CORPORATION AFFIDAVIT

APPLICANT/OWNER: _____

LOT NUMBER: _____

DATE: _____

APPLICATION NUMBER: _____

_____, and _____,
First duly sworn, state that we are the President/Vice-President, and Secretary/Assistant Secretary of the applicant corporation, and as such, have been authorized by the corporation, to file this application; that all the answers to the questions in this application and all supplemental data attached to and made a part of this application are complete and true to the best of our knowledge and belief; that the corporation is the owner/tenant of the property described herein which is the subject matter of the application.

We hereby authorize Indian Creek Village and its officials and employees to enter the property to conduct any necessary inspections in connection with this application.

SIGNATURE: _____
PRESIDENT

(CORPORATE SEAL)

ATTEST:

SECRETARY

Signed and sworn to or affirmed before me on _____
DATE

by _____. He/she is personally known to me and has produced _____ as identification.

NOTARY PUBLIC: _____

My Commission Expires: _____



**INDIAN CREEK VILLAGE
VARIANCE APPLICATION**

DATE: _____ JOB ADDRESS: _____ TAX FOLIO: _____

LEGAL DESCRIPTION: _____ MASTER PERMIT #: _____

OWNERS NAME: _____ PHONE #: _____

CONTRACTING CO: _____ ADDRESS: _____

QUALIFIER: _____ PHONE: _____

STATE LICENSE #: _____ COMPETENCY #: _____

ARCHITECT: _____ ENGINEER: _____ ADDRESS: _____

BONDING COMPANY _____ ADDRESS: _____

MORTGAGOR: _____ ADDRESS: _____

VARIANCE DESCRIPTION: _____

SQUARE FEET: _____

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OWNERS AFFIDAVIT: I certify that all the foregoing information is accurate and that all work will be done in compliance with all applicable laws regulating construction and zoning. Furthermore, I authorize the contractor listed on the attached permit application to do the work stated.

Signature of Owner

Signature of the Representative of the Owner

Date

Date

Notary as to Owner

Notary as to Representative of the Owner

My Commission Expires

My Commission Expires

NOTICE: In addition to the requirements of this variance, there may be additional restrictions applicable to this property that may be found in public records of this county, and there may be additional permits required from other governmental entities such as water management districts, state agencies, or federal agencies.

VARIANCE FEE: _____

Approved by: _____