

VARIANCE APPLICATION

CITY OF PORT ST. LUCIE
Planning & Zoning Department
121 SW Port St. Lucie Blvd.
Port St. Lucie, Florida 34984
(772)871-5213

FOR OFFICE USE ONLY

Planning Dept _____
Fee (Nonrefundable) \$ _____
Receipt # _____

Refer to "Fee Schedule" for application fee. Make check payable to the "City of Port St. Lucie. Fee is nonrefundable unless application is withdrawn prior to advertising for the Planning and Zoning Board meeting. **Attach two copies of proof of ownership (e.g.: warranty deed, affidavit), a copy of recent survey and a statement addressing each of the attached criteria.**

PRIMARY CONTACT EMAIL ADDRESS: office@lionadv.us

PROPERTY OWNER:

Name: Mirko Scarcella
Address: 1856 SW KIMBERLY AVE - PORT SAINT LUCIE 34953 FL
Telephone No. 7864511935

APPLICANT (IF OTHER THAN OWNER, ATTACH AUTHORIZATION TO ACT AS AGENT):

Name: _____
Address: _____
Telephone No. _____ Email _____

SUBJECT PROPERTY:

Legal Description: PORT ST LUCIE- section 20- BLK 1249- LOT 7
Parcel I.D. Number: 3420-595-0481-000-3
Address: 1856 SW KIMBERLY AVE - PORT SAINT LUCIE 34953 FL
Current Zoning Classification RS-2 single family residential

Description of requested variance and applicable conditions/circumstances justifying request (continue on separate sheet, if necessary): Provide documentation that the attached variance criteria have been met.

Description of Requested Variance:

I am requesting a variance to allow the existing outdoor kitchen-barbecue structure to remain at its current location, which is 6.1 feet from the side and 10.1 feet from the front of the backyard. The structure was built based on initial guidelines provided by the city building department, which specified that a 6-foot distance from the side and a 10-foot distance from the front were adequate, and that no permit was needed for its construction.

Applicable Conditions/Circumstances Justifying Request:

Inconsistent Guidance: The variance request arises out of conflicting and inconsistent information from the city building department. We initially contacted the department both by phone and in person and were assured that no permit would be required if the structure was 6 feet from the side and 10 feet from the front of the backyard. However, upon revisiting, we were informed that a permit was indeed needed and that the distance from the side had to be 10 feet, not 6 feet.

Due Diligence: We acted in good faith, making multiple inquiries to ensure we were adhering to the correct guidelines. We followed the initially provided distances meticulously, building the structure at 6.1 feet from the side and 10.1 feet from the front.

Financial and Emotional Hardship: Dismantling or relocating the nearly completed structure would impose significant additional costs and emotional distress, all due to an error that was not of our making.

Public Welfare: The structure is enclosed by a permitted 6-foot vinyl fence, rendering it invisible from the street and to neighboring properties. It also does not interfere with any utilities or drainage systems, posing no detriment to public welfare.



Signature of Applicant

Mirko Scarcella

Hand Print Name

9-12-23

Date

NOTE: Signature on this application acknowledges that a certificate of concurrency for adequate public facilities as needed to service this project has not yet been determined. Adequacy of public facility services is not guaranteed at this stage in the development review process. Adequacy for public facilities is determined through certification of concurrency and the issuance of final local development orders as may be necessary for this project to be determined based on the application material submitted.

03/02/20

VARIANCES

§ 158.295 PLANNING AND ZONING BOARD OR ZONING ADMINISTRATOR (DIRECTOR OF PLANNING AND ZONING) TO HEAR VARIANCES; POWERS AND DUTIES OF BOARD AND ZONING ADMINISTRATOR

(C) Duties of the Zoning Administrator and Planning and Zoning Board in authorizing a variance. The Planning and Zoning Board and Zoning Administrator may authorize the variance from the provisions of this chapter as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary and undue hardship. In order to authorize any variance from the terms of this chapter, the Planning and Zoning Board or Zoning Administrator should consider:

- (1) 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;
- (2) That the special conditions and circumstances do not result from any action of the applicant;
- (3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures, in the same zoning district;
- (4) That literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter and would work unnecessary and undue hardship on the applicant;
- (5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure;
- (6) That the granting of the variance will be in harmony with the general intent and purpose of the chapter and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare;
- (7) That there will be full compliance with any additional conditions and safeguards which the Planning and Zoning Board or Zoning Administrator may prescribe, including but not limited to reasonable time limits within which the action for which variance is required shall be begun or completed, or both.

VARIANCES

The Planning and Zoning Board and Zoning Administrator may authorize the variance from the provisions of this chapter as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary and undue hardship. In order to authorize any variance from the terms of this chapter, the Planning and Zoning Board or Zoning Administrator will consider the variance criteria in **§ 158.295 (C) 1-7** and consider your responses to the following when making a determination.

(1) Please explain 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;

Special conditions and circumstances peculiar to my property are primarily a result of conflicting information provided by the city building department at different points in time. When initially inquiring about the project to build an outdoor concrete kitchen-barbecue, my family and I were explicitly informed that no permit was required, provided we maintain a distance of 6 feet from the side and 10 feet from the front of the backyard. This information was corroborated on multiple occasions and through different departments within the building department itself. Relying on this information, construction began and progressed to near completion. However, upon a subsequent in-person visit to the department, the information provided changed abruptly, and we were informed that a permit was indeed required, and the side distance needs to be 10 feet instead of the initially stated 6 feet. As a result, an undue and unnecessary hardship has been imposed, as we've already incurred expenses and labor to construct the kitchen-barbecue based on the initial information provided. The structure is not visible to the public or neighboring properties due to an existing, permitted 6-foot vinyl fence at the back of the property. Additionally, the barbecue has been built beyond areas that require clearance for water drainage, thereby presenting no public harm or contravention to the intended utility of zoning laws. These special conditions do not generally apply to other lands, structures, or buildings in the same zoning district, making this case unique. Thus, the hardship is not self-inflicted but arises from inconsistent guidance provided by the city department, leading to confusion, unnecessary expense, and construction delays.

(2) Please explain if these conditions and circumstances result from actions by the applicant;

The conditions and circumstances leading to this variance request did not result from actions taken by me or my family. We undertook this outdoor kitchen-barbecue project in strict compliance with the guidelines and information provided by the city building department. Prior to starting construction, we made diligent efforts to obtain accurate information by contacting the building department both by phone and in person. On both occasions, we were informed that no permit would be required for the structure, given that it adhered to specified distance regulations of 6 feet from the side and 10 feet from the front of the backyard.

Relying on the information provided by multiple departments within the building department, we proceeded with construction. It was only after a friend raised concerns about the permit that we revisited the department, only to be informed of a different set of regulations, contradicting their earlier guidelines.

Thus, the conditions and circumstances are a direct result of inconsistent and conflicting information from the city building department, and not from any action or oversight on our part.

(3) Please explain how granting the variance requested will not confer on the applicant special privilege that is denied by this chapter to other lands, buildings, or structures, in the same zoning district;

Granting the variance will not confer any special privilege upon me that is denied to other lands, buildings, or structures in the same zoning district. The variance is being sought to address an issue stemming from conflicting guidance provided by the city building department, not to gain an advantage or circumvent the rules that apply to everyone else in the zoning district. It's important to note that the variance request is specific to the unique circumstances of my case, which involves having acted in good faith based on information from the city's building department. Other property owners who adhere to the standard guidelines would not be affected or disadvantaged by the granting of this variance, as it is not a precedent for ignoring building codes or guidelines. Rather, it is a remedy for a specific, documented hardship that arose from the inconsistent directions provided by the city. Furthermore, the structure itself is designed to be unobtrusive and compliant with the aesthetic and functional expectations of the neighborhood. It is hidden from public view by a permitted 6-foot vinyl fence and does not impede water drainage. Therefore, the variance would not result in a condition that undermines public interest or contravenes the intent of zoning laws.

Thus, the variance would serve to rectify an unfortunate situation without providing me a special privilege that would be denied to others in the same zoning district.

(4) Please explain how a literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter and would work unnecessary and undue hardship on the applicant;

A literal interpretation of the chapter's provisions, in this case, would impose an unnecessary and undue hardship on me and my family, a hardship not commonly faced by other properties in the same zoning district. We started the construction of the outdoor kitchen-barbecue based on the explicit guidelines and assurances provided by the city building department. We were informed that no permit would be required if we adhered to a distance of 6 feet from the side and 10 feet from the front of the backyard. Acting in good faith, we followed these directions meticulously.

However, inconsistent and conflicting information was later provided by the same department, stating that a permit was indeed needed and that the side distance had to be 10 feet instead of the previously specified 6 feet. Due to this, we had to incur additional unexpected expenses for hiring a licensed engineer in Florida to produce the required drawings and documentation, a cost and process not commonly necessitated for similar projects in the zoning district when adhering to initial guidelines.

We've already invested money, time, and labor into building the structure based on the initial guidance provided. Requiring us to disassemble or relocate the nearly completed structure would not only be financially burdensome but would also be emotionally taxing, all due to an error that was not our own.

Therefore, a literal interpretation of the chapter's provisions in light of the conflicting guidance we received would unjustly deprive us of rights commonly enjoyed by others in the zoning district, namely the right to rely on accurate information from city departments for property improvements. The variance request serves to rectify this specific hardship without undermining the overall intent and purpose of the zoning laws.

(5) Please illustrate and explain if the variance requested is the minimum variance that will make possible the reasonable use of the land, building, or structure;

The variance requested is indeed the minimum variance that will allow for the reasonable use of the land and the already partially constructed outdoor kitchen-barbecue structure. We are not requesting any additional or excessive leniencies outside of what was initially conveyed to us by the city building department. The structure has been built 6.1 feet from the side and 10.1 feet from the front of the backyard, strictly adhering to the original guidelines provided.

It's important to note that we undertook this project based on multiple assurances from different departments within the city building department. We did our due diligence, acting in good faith to comply with the city's instructions.

Disassembling or relocating the existing structure would impose significant financial and emotional hardship, while serving no obvious public or administrative interest. Additionally, the structure poses no detriment to public welfare or to neighboring properties. It is fully concealed by a permitted 6-foot vinyl fence and does not obstruct water drainage.

In light of these factors, the variance requested is minimal and serves solely to rectify the undue hardship imposed on us by the conflicting and inconsistent instructions from the city's building department. It enables reasonable use of our property while remaining consistent with the spirit and intent of zoning laws.

(6) Please indicate how granting variance will be in harmony with the general intent and purpose of the chapter and that granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare;

Granting the requested variance will be in harmony with the general intent and purpose of the zoning chapter, which aims to facilitate the reasonable use of land while ensuring that such use is not detrimental to the public welfare or injurious to the surrounding area. In this specific case, the variance would serve to rectify a unique and unfortunate situation that arose due to inconsistent guidance provided by the city building department.

The outdoor kitchen-barbecue structure we've built is designed to be both functional and aesthetically pleasing, in line with the character of the neighborhood. It is not visible from the street or to neighboring properties, thanks to a 6-foot vinyl fence that has been permitted by the city. Furthermore, the structure does not interfere with any utilities or drainage systems; it's built in an area that does not require clearance for water drainage.

As such, granting this variance would not be injurious to the area involved or otherwise detrimental to the public welfare. It would allow us to make reasonable use of our property without violating the overall spirit and intent of the zoning laws.

By resolving this issue in a manner that imposes no harm on the community or the environment, the variance would uphold the general intent of providing a balanced and reasonable approach to land use, thus aligning with the chapter's overall goals.

(7) Please indicate that there will be full compliance with any additional conditions and safeguards which the Planning and Zoning Board or Zoning Administrator may prescribe, including but not limited to reasonable time limits within which the action for which variance is required shall be begun or completed, or both.

I fully understand and acknowledge the importance of adhering to conditions and safeguards laid out by the Planning and Zoning Board or Zoning Administrator. I am committed to full compliance with any additional conditions, safeguards, or reasonable time limits that may be prescribed to ensure the project aligns with the general intent and purpose of the zoning chapter.

This commitment extends to starting or completing the actions for which the variance is required within any time frames that may be established. I understand that these conditions are in place to ensure that the variance, if granted, would not be injurious to the area involved or detrimental to public welfare.

In sum, I am prepared to adhere strictly to any additional conditions and safeguards that may be deemed necessary, as it is my intention to resolve this matter in a way that is in full accord with the regulations and expectations of the Planning and Zoning Board or Zoning Administrator.



MIRKO SCARCELLA

9-12-23

Signature of Applicant

Hand Print Name

Date