



**VILLAGE OF ESTERO**  
**Zoning**  
**STAFF REPORT**

---

**PROJECT NAME:** BLANTON VARIANCE  
**CASE TYPE:** ADMINISTRATIVE VARIANCE  
**CASE NUMBER:** ADD2018-E005  
**PLANNING AND ZONING BOARD DATE:** JUNE 19, 2018

**REQUEST**

The applicant is requesting an administrative variance for a side yard setback reduction from the required 5 feet to 4.9 feet for an existing residential dwelling located at 23721 Stonyriver Place. The residence is located in Spring Run at the Brooks, a residential subdivision located off Coconut Road.

**APPLICATION SUMMARY**

Applicant: John D. Spear representing Randall and Susan Blanton

Request: Administrative variance from Section 34-268 (a) (1) (f) of the Land Development Code (LDC) for buildings and structures that are not compliant with current setback regulations and can be proven to be permitted.

Location: The property is located at 23721 Stonyriver Place. The applicant indicates the STRAP number for the property is 10-47-25-E3-0200B.0220.

**PROJECT HISTORY**

The property was rezoned from Agricultural AG-2 to Mixed Planned Development (MPD) by Lee County (Resolution Z-97-037) in 1997. The development is known as Spring Run at The Brooks.

**STAFF ANALYSIS**

The homeowners are in the process of selling their home which is located in Spring Run at the Brooks development. During the closing process, the applicant's attorney reviewed the current property survey (dated May 8, 2018) and the development regulations for the subject property. The survey denoted a side yard setback of 4.9 feet whereas 5 feet was required by the development regulations in resolution Z-97-037.

An administrative variance has been requested for a side yard setback reduction from the required 5 feet to 4.9 feet. The applicant's variance request narrative indicates that the existing residential dwelling was properly permitted and was issued a Certificate of Occupancy (CO) by Lee County under permit #RES199900720 on April 29, 1999. The Plat for the subject property was recorded and approved by Lee County as Instrument Number 2018000069557.

Section 34-268 (a) (1) (f) of the Land Development Code allows for buildings or structures that are not in compliance with current setback regulations and that can be proven to have been properly permitted to be considered for an administrative variance.

Section 34-268 (b) requires the administrative variance to meet the following criteria:

- 1) *There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question;*
- 2) *The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to the property; and*
- 3) *The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

A survey prepared by Exacta Land Surveyors dated May 8, 2018 shows the southerly side yard setback to be 4.9 feet.

The reduction from 5 feet to 4.9 feet for the side yard setback is the minimum variance that will relieve the applicant of the unreasonable burden caused by the application of the regulation in question to the property because the building is already constructed.

The property owners have obtained a letter of no objection from the adjacent property owner located at 23733 Stonyriver Place. A copy of the no objection letter is attached.

### **RECOMMENDATION**

Staff would typically not recommend approval of a variance for an after-the-fact request. However, the building is existing and the variance will resolve the survey finding which was revealed during the sale of the subject property. Staff recommends approval with the following conditions:

- 1) The development must be in compliance with the survey prepared by Exacta Land Surveyors stamped "Received May 25, 2018" by the Village of Estero.
- 2) The variance is limited to the existing detached single family home. If the structure is ever voluntarily removed or destroyed the variance will become null and void.
- 3) The terms and conditions of the original zoning resolution remain in full force and effect.

### **ATTACHMENT**

- A. Applicant's Variance Request Narrative
- B. Updated Boundary Survey stamped "Received May 30, 2018" by the Village of Estero
- C. Copy of issued Certificate of Occupancy from Lee County
- D. Resolution Z-97-037
- E. No Objection Letter