

**FBC Home Concept Sales and Display**

**List of Variances Requested**

**REVISED 2-20-19**

The applicant is requesting variances:

1. **FROM LDC§ 33-351, Landscaping Buffers**, which requires 20-foot wide Type D buffers between commercial uses and rights of way,  
**TO ALLOW** a 10-foot wide enhanced Type D buffer along the right of way fronting U.S 41; and

**TO ALLOW** a 5-foot wide Type D buffer along Trailside Drive.

**JUSTIFICATION: The proposed variance will provide for right-of-way landscape buffer plantings, including a combination of shrubs and canopy trees, where no plantings exist today. The request will enhance existing conditions from an aesthetics standpoint along the highly visible US 41 corridor, while allowing the Applicant to operate a business on a site that was developed prior to adoption of the current Land Development Code regulations relating to buffering. The site has a unique triangular shape that presents significant spatial constraints when siting buildings, infrastructure and supportive features, such as landscape buffers.**

**Due to the configuration of the property and existing site constraints not caused by the Applicant, the provision of the full 20-foot buffer width cannot be provided along the street frontages. The variance will uphold public health, safety and welfare and recognizes the hardship associated with providing buffering on an existing nonconforming, triangular shaped site, with two road frontages, constructed under lesser requirements resulting in existing constraints caused by others.**

2. **FROM LDC Section 34-385, Commercial District Development Regulations**, which requires a 25-foot rear and street setbacks,  
**TO ALLOW** for a minimum 15.5-foot rear and street setback from Trailside Drive and 14.4 – foot rear and street setback from US 41.

**JUSTIFICATION: The site plan submitted with the application reflects the unusual triangular shape of the lot, which leads to varying building setback distances depending on the point of the existing, nonconforming building from which one measures to the right-of way. The building has a minimum existing setback of 15.5 feet from the Trailside Drive right-of-way, which increases as the lot width increases. 34-845, LDC incorporates 34-2191 et seq. in the setback requirements for commercial property. The overhang/canopy along US 41 is only 14.4 feet from the street.**

**Under 34-2192(b)(2)b.2, LDC, there is a reduction in the required street setbacks for corner lots recorded prior to January 28, 1983, which have a lot width of less**

than 100 feet. The width of a lot recorded prior to January 28, 1983 is measured as the average distance between straight lines connecting front and rear lot lines at each side of the lot, between the foremost and rearmost points of the side lot lines. For corner lots that meet this description, and that abut a local street and a street of higher classification, the street setback for the local street may be reduced to 15 feet. A corner lot is defined in 34-2, LDC as “a lot located at the intersection of two or more streets where the corner interior angle formed by the intersection of the two streets is 135 degrees or less.”

The parcel in question was recorded prior to January 28, 1983 and has an average width of less than 100 feet. Additionally, it meets the definition of a corner lot, as it is located at the intersection of US-41 and Trailside Drive, and its corner interior angle formed by the intersection of these two roads measures below 135 degrees. Therefore, the parcel as it exists is in compliance with current regulations. However, given the substantial improvements that will take place onsite, the existing building may become a lawful nonconforming use. To avoid this outcome, the applicant is proactively requesting a variance from the setback requirements for its parcel, as relocating or minimizing the square footage of its building would present an undue hardship to the applicant.

3. **FROM LDC Section 34-2020(b)**, Required Parking Standards, which requires 1 parking space per 700 square feet and 1 space per 1,500 square feet of dead storage, with a minimum of five spaces,  
**TO ALLOW** a total of three (3) parking spaces.

**JUSTIFICATION:** The proposed variance will provide for adequate on-site parking based upon the nature of the proposed use. The site is utilized for wholesale granite sales, which is not a high-trip generating retail use and does not support a large number of employees. The request will provide adequate parking for the on-site employee and patrons that typically visit by appointment. The site has been in operation since 2016 and the existing number of parking spaces have proven to be adequate and functional. The enclosed site plan denotes the parking spaces will be striped, which provides an enhancement over existing conditions.

The variance will uphold public health, safety and welfare and recognizes the hardship associated with existing site constraints caused by others, the unique configuration of the site, and general redevelopment of a site constructed under lesser requirements.

4. **FROM LDC Section 34-2192(a)**, Required Street Setbacks, which requires buildings and structures on a commercial-zoned parcel to have a minimum 25-foot setback from the edge of a right-of-way or street easement line for local streets and arterial or collector streets without frontage,  
**TO ALLOW** for a minimum 15.5-foot setback from Trailside Drive and 14.4 – foot setback from US 41.

**JUSTIFICATION:** Under 34-2192(b)(2)b.2, LDC, there is a reduction in the required street setbacks for corner lots recorded prior to January 28, 1983, which have a lot width of less than 100 feet. The width of a lot recorded prior to January 28, 1983 is measured as the average distance between straight lines connecting front and rear lot lines at each side of the lot, between the foremost and rearmost points of the side lot lines. For corner lots that meet this description, and that abut a local street and a street of higher classification, the street setback for the local street may be reduced to 15 feet. A corner lot is defined in 34-2, LDC as “a lot located at the intersection of two or more streets where the corner interior angle formed by the intersection of the two streets is 135 degrees or less.”

The parcel in question was recorded prior to January 28, 1983 and has an average width of less than 100 feet. Additionally, it meets the definition of a corner lot, as it is located at the intersection of US-41 and Trailside Drive, and its corner interior angle formed by the intersection of these two roads measures below 135 degrees. Therefore, the parcel as it exists is in compliance with current regulations. However, given the substantial improvements that will take place onsite, the existing building may become a lawful nonconforming use. To avoid this outcome, the applicant is proactively requesting a variance from the setback requirements for its parcel, as relocating or minimizing the square footage of its building would present an undue hardship to the applicant due to the unusual dimensions of this parcel.

5. **FROM LDC Section 34-30054(a)**, Outdoor Display of Merchandise for Sale, which requires a 25-foot setback from a street right-of-way and 10-foot setback from property line requirement for the open display of its merchandise, **TO ALLOW** a 5-foot outdoor display setback along Trailside Drive and a 10-foot outdoor display setback along US 41.

**JUSTIFICATION:** This parcel is ideally situated for outdoor display of merchandise due to its unique location and existing conditions, which make it largely unsuitable for additional buildings and/or off-street parking areas.

As with the other variance requests, the setback variances for outdoor display are due to the unusual and narrow dimensions of this property with street frontage on 2 of 3 sides, which would otherwise preclude the lessee from continuing its business on this parcel and would deter many other potential lessees from conducting business as noted above. Under 34-2192(b)(2)b.2, LDC, there is a reduction in the required street setbacks for corner lots recorded prior to January 28, 1983, which have a lot width of less than 100 feet. The width of a lot recorded prior to January 28, 1983 is measured as the average distance between straight lines connecting front and rear lot lines at each side of the lot, between the foremost and rearmost points of the side lot lines. For corner lots that meet this description, and that abut a local street and a street of higher classification, the street setback for the local street may be reduced to 15 feet. A

corner lot is defined in 34-2, LDC as “a lot located at the intersection of two or more streets where the corner interior angle formed by the intersection of the two streets is 135 degrees or less.” The same rationale supports the reduction of the setbacks required for outdoor display.

The parcel in question was recorded prior to January 28, 1983 and has an average width of less than 100 feet. Additionally, it meets the definition of a corner lot, as it is located at the intersection of US-41 and Trailside Drive, and its corner interior angle formed by the intersection of these two roads measures below 135 degrees.

Per past correspondence with the Village, the lessee has already relocated its merchandise outside of the right-of-way. However, requiring compliance with the 25-foot and 10-foot setback requirements would make this site effectively useless due to the triangular shape and would force the applicant to substantially reduce its inventory to an amount that would be unreasonable given the size and nature of the products it sells. Therefore, strict adherence to these setback requirements would create undue hardship for the applicant, as onsite inventory is a prerequisite for the operation of lessee’s business which requires outdoor display of merchandise so people can identify the unique piece of granite they wish to purchase. Therefore, the applicant is requesting a variance for relief from such restrictions given the shape and dimensions of the parcel, as well as the unique character and size of lessee’s merchandise and its associated onsite storage needs.