

WESTCHASE COMMUNITY ASSOCIATION, INC.
VARIANCE COMMITTEE RULES AND REGULATIONS

A. INITIAL PROCEDURES

1. After the Modification Committee issues a final denial of plans and specifications for a modification, the Association shall send the Owner written notice, via certified mail, of the final denial.
2. Within ten (10) days of the date of the Association's notice, the Owner may submit a Variance Application Form and a non-refundable application fee of \$150.00.
3. A copy of the Variance Application Form may be obtained from the Association Manager.

B. AUTO REJECT PROCESS

If a Variance Application Form is submitted more than ten (10) days after the date of any notice of a final denial from the Modification Committee, the Association may reject the Variance Application Form without the need for any consideration by the Variance Committee and send the Owner notice of such denial.

C. PROCEDURE TO REVIEW REQUESTS FOR ACCOMMODATIONS FOR HANDICAPPED PERSONS

1. If a variance is requested in order to accommodate a handicapped resident, the applicant must present credible facts supporting each of the following requirements:
 - a. The applicant qualifies as handicapped under the provisions of the Fair Housing Act. See 24 CFR 100.201(2012).
 - b. There is a relationship between the disability and the proposed accommodation.
 - c. The specific accommodation or variance requested is necessary to afford the applicant an equal opportunity to use and enjoy their dwelling or the common elements.
 - d. Absent of the requested accommodation or variance, the applicant would not be able to fully enjoy their dwelling or the common elements.
2. The applicant shall submit, in addition to the Variance Application Form, a Doctor's Certification Form from a licensed medical doctor verifying that the that the applicant qualifies as handicapped.
3. A copy of the Doctor's Certification Form may be obtained from the Association Manager.
4. Medical records disclosed by the applicant, including the Doctor's Certification Form, shall not be accessible to members as part of the Association's official records. Such medical records shall be kept confidential by the Variance Committee, by the Board of Directors and by any professional whose opinion is necessary for the Variance Committee to evaluate the Variance Application.
5. The Variance Committee will review the Doctor's Certification Form and the Variance Application in accordance with the procedures for review set forth below.

D. REVIEW PROCESS:

1. The Variance Committee will review the Variance Application Form and any documents submitted to the Modifications Committee to ensure that the plans and specifications show the nature, kind, shape, color, size, materials and location of the requested modifications, additions or alterations.
2. The Variance Committee may request that the Owner provide any information which the Variance Committee determines to be missing or necessary for it to make an informed decision. Such additional information may include, but shall not be limited to, floor plans, site plans, drainage plans, elevation drawings, and descriptions or samples of exterior materials and colors. The Owner must provide additional information requested by the Variance Committee within five (5) days of the date such information is requested or within such time as the Variance Committee determines, in its sole discretion, to be reasonable.

3. The Variance Committee may review the Variance Application Form and all supporting documentation to determine whether the modification, addition or alteration requested will constitute a violation of any provision in the Association's Governing Documents, any applicable building code, any government requirement, or any restriction or requirement of any Neighborhood or Supplemental Declaration. Neither the Variance Committee nor the Association shall be responsible for ensuring compliance with the foregoing regulations.

4. The Variance Committee may review the records of the Association, the Modification Committee and the Variance Committee to determine whether similar modification requests or variance requests have been granted.

5. If necessary, the Variance Committee, or any member or representative thereof, may visit the lot to inspect and photograph the location for the requested modification, addition or alteration.

6. If necessary, the Variance Committee may consult other committees, other professionals, and legal counsel for the Association.

E. HEARING PROCESS:

1. Within thirty (30) days of receipt of Variance Application Form and the \$150.00 fee, the Association will schedule a hearing before the Variance Committee and will send notice of the hearing to the Owner. The hearing will be scheduled no sooner than ten (10) days and no later than thirty (30) days from the date of the Association's notice.

2. Four (4) members of the Variance Committee must be present in order to conduct the hearing.

3. The Owner will be given fifteen (15) minutes to present his or her case.

4. Any other interested Member shall be allowed to speak for 3 minutes.

5. Variance Committee members are not required to respond to participants at the hearing, but may ask questions of the Owner, any expert, and any parties at the hearing.

6. At the conclusion of the hearing, deliberation will commence. The initial deliberation process shall be public, but only the Association's legal counsel, the Association Manager and the Variance Committee members may participate in discussion and deliberation.

7. If issues of potential or threatened litigation arise, the meeting may be closed to the extent counsel is present.

F. DECISION PROCESS

1. A majority vote of the Variance Committee members present at the meeting of the Variance Committee must vote in favor of the Owner's Variance Application for it to be approved.

2. The Variance Committee will document approval of the Variance Application in writing and the written approval must be signed by the Chairman of the Variance Committee.

3. The Association will send notice of the Variance Committee decision to the Owner within ten (10) days of the date of Variance Committee hearing, or if the assistance of legal counsel is required to evaluate the Variance Application, the Association will send notice of the Variance Committee decision within a reasonable period of time.

G. FACTORS FOR CONSIDERATION BY THE VARIANCE COMMITTEE

1. In determining whether to grant or deny a Variance Application, the Variance Committee may consider the following factors:

a. The topography of the Owner's lot or of adjacent lots, streets and Common Areas creates an issue with the line of sight for the Owner or for any other resident. For example: The Variance Committee may consider whether the arrangement of the natural and artificial physical features of an area creates a visual disturbance which may be addressed by granting a variance.

b. Natural obstructions create a visual blind spot resulting in a safety hazard.

- c. A physical limitation or handicap of the Owner or resident would make compliance with the Guidelines difficult or impossible. For Example: The Variance Committee may approve a railing or ramp where the Owner or resident is handicapped.
- d. Environmental considerations such as noise or smell from adjacent commercial properties weigh in favor of granting a variance.
- e. Aesthetic concerns weigh in favor or against granting the variance.
- f. Granting or denying the variance application will create substantial hardship for or have a detrimental effect on other Owners.
- g. The requested modification, addition, or alteration constitutes a violation of any provision in the Association's Governing Documents, any applicable building code, any government requirement, or any restriction or requirement of any neighborhood, supplemental declaration, or other association.
- h. The uniqueness of the specific request or set of circumstances is apparent. Variance applications should not be granted where a number of other owners could present the same reason for requesting a variance. If the Variance Committee habitually grants variances in situations that are not unique, it could eventually abandon the procedure or restriction in question.

2. The following factors shall not be considered a hardship warranting a variance from the Association's Guidelines and procedures:

- a. the Owner's inability to obtain approval of any governmental agency;
- b. the issuance of any permit;
- c. the terms of any financing; or
- d. the financial circumstances of the Owner.

H. LIMITATIONS ON VARIANCE COMMITTEE APPROVAL

1. To the extent a Variance Application Form is approved by the Variance Committee, approval applies only to Westchase Community Association, Inc., and the Owner is responsible, to the extent applicable, for obtaining any approval required from applicable governmental authorities or other associations.

2. Neither the Variance Committee, nor Westchase Community Association, Inc. assumes any responsibility for the structural adequacy, capacity, or safety features of the proposed construction, alteration or addition; for soil erosion of un-compactable or unstable soil conditions, for mechanical, electrical or any other technical design requirements for the proposed construction, alteration or addition; or for performance, workmanship or quality of work of any contractor or of the completed alteration or description.

3. In consenting to any proposed variance, the Variance Committee may condition such consent upon changes being made and any such approval shall be deemed a disapproval unless and until the party requesting approval agrees to the changes.

4. Any changes required in order to comply with applicable municipal codes or zoning requirements subsequent to the Variance Committee's final approval must be resubmitted to the Variance Committee for its approval.

- 5. In the event the Variance Committee finds the requirements for the granting of a variance have been satisfied, the Committee shall have the authority to grant a variance for an improvement other than the one specifically requested by the resident, if with the concurrence of the Property Manager or Modifications Committee. (#5 added as of 12/12/17)

WESTCHASE COMMUNITY ASSOCIATION, INC.
DOCTOR'S CERTIFICATION FORM

I hereby declare, under penalty of perjury, that the following statements are true and correct to the best of my knowledge and belief:

1. My patient's name is _____ (hereinafter, "Patient").

2. My patient's address is _____.

3. My name, business address and business telephone number are as follows:

4. I am a duly licensed physician in the State of _____.

5. My medical license number is _____.

6. I am certified in the following medical specialty(ies), if any:

7. Under the Fair Housing Act, "[h]andicap means, with respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment." 24 CFR 100.201 (2012) "As used in this definition: (a) Physical or mental impairment includes: (1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.... (b) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. (c) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities. (d) Is regarded as having an impairment means: (1) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation; (2) Has a physical or mental impairment that substantially limits one

or more major life activities only as a result of the attitudes of other toward such impairment; or (3) Has none of the impairments defined in paragraph (a) of this definition but is treated by another person as having such an impairment. *Id.*

8. I hereby certify that, in my opinion, Patient is a handicapped person, as defined in paragraph 7 above, due to the following condition(s) or for the following reason(s):

9. If you have certified that the Patient is handicapped in Number 8 above, can this condition be treated to prevent any substantial limits in any of the Patient's major life activities? Explain any qualifications to your answer.

10. If your answer to number 9 above indicates that the condition is treatable, is the Patient's condition being treated to prevent any substantial limits in any of the Patient's major life activities? Explain any qualifications to your answer:

11. I am aware that Patient has requested a waiver of Westchase Community Association, Inc.'s covenants, rules, regulations or policies or is requesting an accommodation in the enforcement of those covenants, rules, regulations or policies as follows:

12. I hereby certify that Patient's request in Number 11 above, if granted, would alleviate or mitigate Patient's handicap described in Number 8 above or otherwise assist Patient in using and enjoying Patient's home or the common areas or facilities in Westchase Community Association, Inc. for the following reasons:

13. I certify that the reasonable accommodation proposed **is /is not** satisfactory [circle one]. Please justify your response below:

14. By executing this certification, I confirm that the desired accommodation will affirmatively enhance the quality of life of Patient by specifically ameliorating the effects of the disability or handicap described in paragraph 8 above in the following way:

15. I understand that if a dispute arises concerning these issues, I may be called upon to testify concerning my professional opinions set forth in this certification.

16. The information contained in this form is for the internal use of Westchase Community Association, Inc. and shall be kept confidential by the Variance Committee, by the Board of Directors and by any professional whose opinion is necessary for the Variance Committee to evaluate the Variance Application.

I DECLARE under penalty of perjury under the laws of the State of Florida that the foregoing statements are true and correct.

Date: _____

Signature: _____

Print Name: _____