

RESOLUTION 18-66

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, MAKING FINDINGS; APPROVING A VARIANCE REDUCING FRONT YARD SETBACK FROM TWENTY-FIVE (25) FEET TO FOUR (4) FEET AND SEVEN (7) FEET ALONG SOUTH BARFIELD DRIVE, SIDE YARD SETBACK TO SEVEN (7) FEET IN LIEU OF THE REQUIRED 10-FOOT SIDE YARD SETBACK ALONG THE CANAL, AND REAR YARD SETBACK FROM TWENTY-FIVE (25) TO TWENTY-THREE (23) AND TWENTY-ONE (21) FOR PROPERTY ZONED RSF 2, DESCRIBED AS TRACT A, THE SEVEN SAILORS, A REPLAT OF A PORTION OF TRACT "A" OF MARCO BEACH UNIT 13, A SUBDIVISION, PLAT BOOK 25, PAGES 35 AND 36, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA (1596 SHORE COURT, MARCO ISLAND, FLORIDA); PROVIDING FOR CONDITIONS OF APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 30-65, of the Marco Island Land Development Code provides standards and regulations for the review and approval of variance procedures; and

WHEREAS, Peter W. Cullen ("Owner/Developer"), submitted Variance Petition V18-001332 for property located at **1596 Shores Court, Marco Island, Florida 34145**; and

WHEREAS, the Subject Property is commonly referred to as 1596 Shores Court ("Subject Property"); and.

WHEREAS, Owner/Developer is requesting a variance to Section 30-85, of the Marco Island Land Development Code, the Dimensional Standards that apply to the RSF 2 minimum front, rear and side yard requirements, in particular the North rear yard setback reducing from twenty-five feet to twenty-one feet to the North corner of the tiki hut and twenty-three feet on the West corner of the tiki hut; the East front yard setback from twenty-five feet to four feet on the East corner of the tiki hut and seven feet on the North corner of the tiki hut, and the West side yard setback from ten feet to seven feet for the West corner of the tiki hut for the Subject Property; and

WHEREAS, the practical difficulty identified is that the Subject Property has a peculiar lot configuration; and

WHEREAS, the peculiar lot configuration was not a result of action by the Owner/Developer; and

WHEREAS, the granting of this variance will not violate the City's growth management plan; and

WHEREAS, the City of Marco Island (“City”) staff has reviewed and recommend approval of Variance Petition V18-001332; and

WHEREAS, the City’s Planning Board reviewed and recommended approval of Variance Petition V18-001332 on August 3, 2018; and

WHEREAS, City Council does hereby approve Variance Petition V18-001332, subject to the conditions of approval as set forth in this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

SECTION 1. Recitals; Definitions.

(a) The foregoing “Whereas” clauses are hereby ratified and confirmed as being true, correct and incorporated by this reference.

(b)

(c) As used herein, unless the context or City Code of Ordinances requires to the contrary, the following terms will be defined as set forth below:

(1) “City” means the City of Marco Island, a Florida Municipal Corporation.

(2) “Development” is defined as set forth in Section 163.3164, Florida Statutes.

(3) “LDC” means the Land Development Code of the City.

(4) “Owner/Developer” means Peter W. Cullen, his successors and assigns, as owners in fee simple of the Subject Property.

(5) “Site Plan” means the hand drawing of the tiki hut location on the approximately 30-foot wide by 100-foot long panhandle area of the Subject Property as shown on Exhibit “A”, a copy of which is attached hereto and by this reference incorporated herein.

(6) “Subject Property” is the real property situate and lying in the State of Florida, County of Collier, City of Marco Island, to wit:

Tract A, THE SEVEN SAILORS, a Replat of a portion of Tract “A” of Marco Beach Unit 13, a Subdivision, according to the plat thereof, as recorded in Plat Book 25, Pages 35 and 36 of the Public Records of Collier County, Florida.

SECTION 2. Adoption and Approval. The Owner/Developer seeks a variance from Section 30-85(a) for RSF-2 zoning of the LDC which provides front, rear and side yard setbacks. The Owner/Developer seeks a variance permitting construction of a tiki hut. Practical difficulties to the Owner/Developer and the Subject Property having been shown, based on the irregular portion of the Subject Property and all other requirements for the granting of a variance as specified in Section 30-65 of the LDC having been satisfied, Variance Petition V18-002439 with respect to the Subject Property located at 1596 Shores Court, Marco Island, Florida 34145, is hereby approved, subject to the conditions set forth in Section 3. below. The following setback/yard variances are

hereby granted as shown on the Site Plan for the approximately 30-foot wide by 100-foot long panhandle area of the Subject Property:

	Required Setback	Variance Approved Setback (as shown on Site Plan)
Front Yard Setback	25-feet	4-feet along South Barfield on the East corner of the tiki hut and 7-feet on the North corner of the tiki hut
Side Yard Setback (along canal)	10-feet	7-feet along West corner of the tiki hut
Rear Yard Setback (Northern most)	25-feet	21-feet to the North corner of the tiki hut to 23-feet on the West corner of the tiki hut

SECTION 3. Conditions of Approval. This Resolution relating to Variance Petition V18-001332 is hereby approved subject to the following conditions of approval:

(a) The Owner/Developer is required to re-submit construction documents to the City's Building Department for review and approval prior to the commencement of Development of the tiki hut.

(b) The Owner/Developer is responsible for compliance with any private deed restriction approvals with Marco Island Civic Association.

(c) That issuance of this approval by the City does not in any way create any right on the part of the Owner/Developer to obtain a permit from a state or federal agency and does not create any liability on the part of the City for issuance of the approval if the Owner/Developer fails to obtain the required approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in the violation of state or federal law. All applicable state and federal permits must be obtained before commencement of the Development. This condition is included pursuant to Section 166.033, Florida Statutes, as amended.

(d) Only a single-family home (" Dwelling Unit" as defined in Section 30-10, Code of Ordinances of the City of Marco Island) can be built on the Subject Property, for as long as this Variance shall apply to the Subject Property.

(e) No portion of the single-family home or Dwelling Unit can be segmented off and used as a separate rental unit.

(f) This Variance is valid only for so as long as the Subject Property is used as a single-family home (" Dwelling Unit", as defined in Section 30-10, Code of Ordinances of the City of Marco Island). This Variance shall terminate if the Property is used for anything other than a single-family home (" Dwelling Unit" as defined in Section 30-10, Code of Ordinances of the City of Marco Island). If the use of the Subject Property or structure ceases, or is discontinued, for any reason other than as a single-family

home/dwelling unit for a period of more than 180 consecutive days, this Variance shall expire and be deemed to have automatically terminated.

(g) All other dimensions standards outlined in Section 30-85, Code of Ordinances of the City of Marco Island are applicable to this project and the Subject Property.

(h) Other Permits. Prior to the commencement of any actual construction or repair work as may be authorized or permitted by the City, the Owner/Developer must obtain any and all approvals from federal and state governmental agencies, including but not limited to the Department of Environmental Protection and Florida Fish and Wildlife Conservation Commission, if applicable.

SECTION 4. Effective Date. This Resolution shall be effective immediately upon adoption by the City Council.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 4th day of September 2018.

ATTEST:



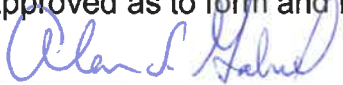
Laura M. Litzan, City Clerk

CITY OF MARCO ISLAND, FLORIDA

By: 

Jared Grifoni, Chairman

Approved as to form and legal sufficiency:



Alan L. Gabriel, City Attorney

EXHIBIT A

