

## RESOLUTION 20-27

**A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING A VARIANCE FOR A FLAGPOLE OVER TWENTY-FIVE (25) FEET; MAKING FINDINGS; APPROVING THE VARIANCE FOR THE SUBJECT PROPERTY, LOCATED AT 1390 JAMAICA ROAD, MARCO ISLAND, FLORIDA; PROVIDING FINDINGS OF FACT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 30-65, of the Land Development Code, provides standards and considerations for the grant of a variance; and

**WHEREAS**, the Owner submitted Variance Petition 20-000129 for the Subject Property located at 1390 Jamaica Road, Marco Island, Florida 34145 on the Subject Property; and

**WHEREAS**, the City of Marco Island staff has reviewed and recommended denial of VP 20-000129; and

**WHEREAS**, the Owner seeks a height variance of five (5) feet to allow the erection of a thirty (30) foot high above grade flagpole; and

**WHEREAS**, pursuant to Section 30-1024(1)a. of the Code of Ordinances of the City of Marco Island, no flagpole in any zoning district may be erected in excess of twenty-five (25) feet in height above grade; and

**WHEREAS**, a photo array of existing site conditions was submitted by the Owner, is entered into evidence, and was considered by both the City Council and the Planning Board in deciding this issue; and

**WHEREAS**, the City's Planning Board has reviewed and recommended denial of the Variance Petition, VP 20-000129; and

**WHEREAS**, the City Council reviewed and discussed the variance petition at their August 17, 2020 City Council meeting; and

**WHEREAS**, the City Council approved the Variance Petition 20-000129 for the Subject Property located at 1390 Jamaica Road, Marco Island, Florida 34145 on the subject property.

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

**SECTION 1. Recitals; Definitions.**

(a) That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

(b) That 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) "Development Permit" is defined as set forth in Section 163.3164, Florida Statutes.

(4) "LDC" means the City's Land Development Code as set forth in Chapter 30, Code of Ordinances of the City of Marco Island, Florida.

(5) "Owner" means John B. Pelling, Jr., as Trustee, or his successors in interest under the John B. Pelling, Jr., Revocable Trust dated June 12, 2003.

(6) "Subject Property" means the following described parcel of land, lying, situate and being in the State of Florida, County of Collier, City of Marco Island, to-wit:

Lot 5, Block 6, Marco Beach Unit 1, according to the plat thereof, as recorded in Plat Book 6, Pages 9-16, Public Records of Collier County, Florida.

**SECTION 2. Approval.** That Variance Petition 20-000129 for a variance of five (5) feet in height to permit a thirty (30) foot high above grade flagpole is hereby approved for the Owner on the Subject Property.

**SECTION 3. Development Permit Does Not Create a Vested right For Other Development Permits.** That issuance of this approval by the City does not in any way create any right on the part of the Owner 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 fails to obtain the requisite 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.

**SECTION 4. Effective Date.** This Resolution shall be effective immediately upon adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 17<sup>th</sup> day of August 2020.


**ATTEST:**

  
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Laura M. Litzan, City Clerk

**CITY OF MARCO ISLAND, FLORIDA**

By:   
\_\_\_\_\_  
Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:

  
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Alan L. Gabriel, City Attorney

