

RESOLUTION 20-53

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA APPROVING A FLOODPLAIN VARIANCE PETITION FOR JOSE AND HENEDINA GARCIA, FOR PROPERTY LOCATED AT 1200 BLUEBIRD AVENUE, MARCO ISLAND, FLORIDA; MAKING FINDINGS; PROVIDING DEFINITIONS; APPROVING THE VARIANCE TO EXCEED THE SUBSTANTIAL IMPROVEMENT / SUBSTANTIAL DAMAGE REGULATION THRESHOLD; PROVIDING FOR FAILURE TO COMPLY WITH APPROVAL; PROVIDING FOR EXPIRATION OF VARIANCE AFTER A FIVE-YEAR PERIOD; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 26-37, of the Marco Island Code of Ordinances provides for the City Council to consider applications for variances from the strict application of the flood resistant construction requirements of the Florida Building Code, and provides standards and regulations for the review and approval of variance petitions; and

WHEREAS, Jose G. Garcia, Jr. and Henedina C. Garcia, owners of the Subject Property, which is located at 1200 Bluebird Avenue, Marco Island, submitted a request for a variance to the substantial improvement/substantial damage threshold as provided in 44 C.F.R. §59.1 (2020); and

WHEREAS, the City of Marco Island staff has reviewed and recommended approval of the floodplain variance request (FOVP-20-000223); and

WHEREAS, pursuant to Section 26-37(g) of the City's Code of Ordinances, the City Council has determined that there are special conditions and circumstances existing which are peculiar to the location, size, and characteristics of the land, structure or building involved in the variance request; and

WHEREAS, pursuant to Section 26-37(g)(2)a. of the City's Code of Ordinances, the City Council has determined that the failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; and

WHEREAS, pursuant to Section 26-37(g)(2)b. of the City's Code of Ordinances, the City Council has determined that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and

WHEREAS, pursuant to Section 26-37(g)(2)c. of the City's Code of Ordinances, the City Council has determined that the granting of the variance is the minimum necessary, considering the flood hazard, to afford relief; and

WHEREAS, the City Council has reviewed the application for the variance, and found the application to be in compliance with the applicable provisions of the Section 26-37 of the City's Code of Ordinances; and

WHEREAS, the City Council does hereby approve Variance Petition FOVP-20-000223, 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 AS FOLLOWS:

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 hereof, 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) "Owner" means Jose and Henedina Garcia, and their respective successors and assigns as owners of the Subject Property.

(3) "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 29, Block 117, Marco Beach Unit 4, according to the plat thereof, as recorded in Plat Book 6 Page 37, Public Records, Collier County, Florida

(Said Legal Description has neither been reviewed nor examined by the City, Weiss Serota Helfman Cole & Bierman, P.L., Alan Gabriel, Esq. or David N. Tolces, Esq.)

SECTION 2. Adoption. The City Council considered all of the technical evaluations, all relevant factors, all applicable provisions of the Florida Building Code, as

well as the factors included in Section 26-37(f) of the City's Code of Ordinances. Based upon the evaluation of all of the applicable factors, the City Council hereby approves Owner's variance petition for the Subject Property. The variance petition is approved subject to the following conditions of approval set forth in Section 3 of this Resolution.

SECTION 3. Conditions of Approval. The variance petition is approved subject to the following conditions of approval:

(a) The variance is approved for a five (5) year period (the "Variance Term").

(b) During the Variance Term, the value of improvements/alterations that the Owner may make to the Subject Property shall not exceed \$100,000.00. Once the value of the improvement/alterations equal \$100,000.00, the Owner shall not be permitted to make any further improvements without first bring the Subject Property into compliance with the floodplain requirements.


SECTION 4. Failure to Obtain Other 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 the City, Collier County, a state or federal agency, and does not create any liability on the part of the City for issuance of the variance if the Owner fails to fulfill the obligations imposed by the City, Collier County, a state, or federal agency, or undertakes actions that result in violation of any municipal, county, state, or federal law or regulation. All applicable municipal, county, state, and federal permits must be obtained before commencement of any improvements to the Subject Property. This condition is included pursuant to Section 166.033, Florida Statutes, as amended.

SECTION 5. Failure to Adhere to Resolution. That failure to adhere to the approval terms and conditions contained in this Resolution shall be considered a violation of this Resolution and the City Code, and persons found violating this Resolution shall be subject to the penalties prescribed by the City Code, including but not limited to the revocation of any of the approval(s) granted in this Resolution and any other approvals conditioned on this approval. The Owner understands and acknowledges that it must comply with all other applicable requirements of the City Code before it may commence construction or operation, and that the foregoing approval in this Resolution may be revoked by the City at any time upon a determination that the Owner is in non-compliance with the City Code.

SECTION 6. Effective Date. That this Resolution shall take effect immediately upon adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 7th day of December 2020.

ATTEST:



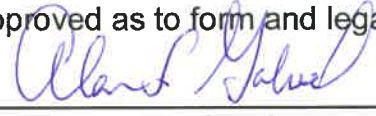
Laura M. Litzan, City Clerk

CITY OF MARCO ISLAND, FLORIDA

By: 

Jared Grifoni, Chairman

Approved as to form and legal sufficiency:



Alan L. Gabriel, City Attorney