

RESOLUTION 22-20

A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING A VARIANCE APPLICATION FOR CHRISTOPHER AUSOBSKY, FOR THE REDUCTION OF THE REQUIRED REAR SETBACK FROM 10 FEET TO 4 FEET TO ALLOW FOR THE CONSTRUCTION OF A SCREEN ENCLOSURE FOR THE PROPERTY LOCATED AT 82 NORTH BARFIELD DRIVE, MARCO ISLAND, FLORIDA. PROVIDING FOR FAILURE TO OBTAIN OTHER DEVELOPMENT PERMITS; PROVIDING FOR FAILURE TO COMPLY WITH APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 30-1002 of the City of Marco Island Code of Ordinances regulates the issuance of permits to address issues related to the construction of accessory building and structures, and the required rear setbacks for those structures; and

WHEREAS, Christopher Ausobsky, the Owner/Developer of the property located at 82 North Barfield Drive, Marco Island, Florida (the "Property"), submitted a request to construct a screen enclosure which will encroach into the required rear setback at the Property; and

WHEREAS, the proposed screen enclosure meets all other City requirements; and

WHEREAS, the City of Marco Island staff has reviewed the application submitted by the Owner for the construction of the screen enclosure, and recommended approval of VP-22-000036; and

WHEREAS, the Planning Board finds there are special circumstances associated with this Property as the requested screen enclosure was previously permitted for this Property; and

WHEREAS, the Planning Board finds the literal interpretation of the LDC could pose an unnecessary hardship on the Owner who could be required to remove a swimming pool in order to install a screen enclosure in order to comply with current rear yard setback requirements; and

WHEREAS, the Planning Board finds the variances are the minimum necessary for reasonable use of the land; and

WHEREAS, the Planning Board finds Granting of the variances will not confer any special privilege on this applicant; and

WHEREAS, the Planning Board finds that the granting of the variances will be in harmony with the intent and purpose of the LDC and not be injurious to the neighborhood; and

WHEREAS, the City's Planning Board has reviewed and recommended approval of VP - 22-000036;

WHEREAS, the City Council finds that the Variance Petition meets the requirements of the City of Marco Island Code of Ordinances and should be approved, subject to the conditions of approval 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. That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

SECTION 2. Adoption. The City Council considered all of the evaluations of all relevant criteria included in Section 30-65(g)(3) of the City's Code of Ordinances. Based upon the evaluation of all of the applicable criteria, 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. Condition. The applicant shall construct the proposed screen enclosure as shown in the application, and be consistent with all other required regulations.


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/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 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 on 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/Developer 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/Developer 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 18th day of July 2022.

ATTEST:



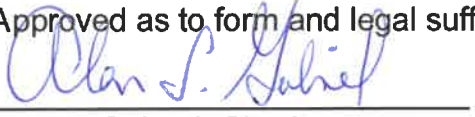
Michael J. Sheffield, City Clerk

CITY OF MARCO ISLAND, FLORIDA

By: 

Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:



Alan L. Gabriel, City Attorney

