

## RESOLUTION 23-01

**A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA APPROVING A 92-FOOT-4.5-INCH (92'- 4.5") COASTAL CONSTRUCTION CONTROL LINE (CCCL) SETBACK VARIANCE; MAKING FINDINGS; APPROVING A VARIANCE FOR THE SUBJECT PROPERTY, LOCATED AT 598 SPINNAKER DRIVE, MARCO ISLAND, FLORIDA (LOT 1, BLOCK 389, MARCO BEACH UNIT 12, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGES 87091, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA); APPROVING SAID VARIANCE; PROVIDING THAT THE APPROVAL OF THE VARIANCE DOES NOT CREATE A VESTED RIGHT TO ANOTHER DEVELOPMENT PERMIT; PROVIDING FOR FAILURE TO COMPLY WITH THIS DEVELOPMENT PERMIT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 30-753, of the City of Marco Island Land Development Code ("LDC"), provides the location of a coastal construction control line ("CCCL"), and Sections 30-754 and 30-755 of the LDC provides that no Development shall occur seaward of the CCCL without the grant of a variance; and

**WHEREAS**, Section 30-755(1), of the Land Development Code, provides that a variance may be granted

if in the immediate contiguous or adjacent area a 'number of existing structures' have established a reasonably continuous and uniform construction line closer to the line of mean high water than the [CCCL] line . . . , and if said existing structures have not been unduly affected by erosion, a proposed structure may be permitted along such line; and

**WHEREAS**, the Two Socks Trust 2013 (the "Owner/Developer") submitted Variance Petition (CCCL Variance-22-000245) seeking a CCCL variance for the property located at 598 Spinnaker Drive, Marco Island, Florida 34145 (the "Subject Property"); and

**WHEREAS**, the City of Marco Island staff has reviewed and recommends approval of CCCL Variance-22-000245 and the Variance Petition; and

**WHEREAS**, pursuant to on Section 30-755(1) of the LDC, the City Council finds that in the immediate contiguous or adjacent area several existing structures on Spinnaker Drive have established a reasonably continuous and uniform construction line closer to the line of mean high water than the CCCL line, and that said existing structures have not been unduly affected by erosion; and

**WHEREAS**, the City Council hereby recommends approval of the CCCL Variance-22-000245; and

**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:**

**SECTION 1. Adoption and Approval.** The CCCL Variance-22-000245 application to grant a Coastal Construction Control Line Variance for the Subject Property is hereby approved seaward of the 1974 CCCL. The Variance shall not exceed the distances as identified in the plans created by Dave Wainscott, Job 2022-783, Sheet SP2, dated 10-20-2022. The approval of the CCCL variance does not constitute approval of any other potential deviations or a building permit.

**Section 2. Condition of approval:**

1. The separate bedroom above the one-car garage must be fully incorporated into the primary structure.

**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/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. This condition is included pursuant to Section 166.033, Florida Statutes, as amended.

**SECTION 4. Failure to Comply With Resolution.** That failure to adhere to the Variance approval and 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. The Owner/Developer understands and acknowledges that it must comply with all other applicable requirements of the City Code before they 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 5. Effective Date.** This Resolution shall be effective immediately upon adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 9<sup>th</sup> day of January 2023.


**ATTEST:**

  
Michael J. Sheffield, City Clerk

**CITY OF MARCO ISLAND, FLORIDA**

By:   
Gregory Folley, Chairman

Approved as to form and legal sufficiency:

  
Alan L. Gabriel, City Attorney

