

## RESOLUTION 23-19

**A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING VARIANCE PETITION VP 23-000008 FOR 352 CENTURY DRIVE AND 368 NORTH COLLIER BOULEVARD, MARCO ISLAND, FLORIDA 34145 AS PROVIDED IN SECTION 30-85 OF THE CITY OF MARCO ISLAND LAND DEVELOPMENT CODE; PROVIDING FOR FINDINGS AND CONDITIONS OF APPROVAL; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 30-65, of the Marco Island Land Development Code (“LDC”) provides standards and regulations for the review and approval of variance procedures; and

**WHEREAS**, Michael A. Vale, owner, (“Owner/Petitioner”), submitted a Variance Petition VP 23-000008 for property located at 352 Century Drive, Marco Island, Florida 34145 (the “Subject Property”); and

**WHEREAS**, the Subject Property is legally described as follows:

Marco Beach, Unit 11, Block 374, Portion of Lots 6 & 7 as described in OR 1343, PG830, Less that portion of Lot 6 as described in OR 3917, PG 99, Parcel # 57940480005, and 368 North Collier Boulevard, Marco Beach, Unit 11, Block 373, Lot 8, Parcel # 57940000003; and;

**WHEREAS**, there are special conditions and circumstances related to the Subject Property, due its shape and size; and

**WHEREAS**, the special conditions and circumstances related to the Subject Property were not caused by the applicant and have existed prior to the formation of the City; and

**WHEREAS**, the literal interpretation of the provisions of the City of Marco Island LDC will work unnecessary and undue hardship on the applicant by making the parcel unusable when it has been used for a dock in the past; and

**WHEREAS**, approving this requested variance is the minimum necessary for reasonable use and allowing for a docking facility to be constructed on the Subject Property, solely in conjunction with a single-family residence to be constructed on 368 North Collier Boulevard; and

**WHEREAS**, granting the variance will not confer special privilege to the Petitioner; and

**WHEREAS**, granting the variance will be in keeping with the neighborhood since docks are an allowed accessory use in the neighborhood, and the Subject Property, with the approved variance, will be able to be utilized with the dock use and not remain vacant; and

**WHEREAS**, granting this variance is in keeping with the current City of Marco Island Comprehensive Plan, Future Land Use Element, Policy 2.1.4:

The City will seek to identify and eliminate existing non-conformities that detract from the City's character or could impact the public health, safety, or welfare through diligent code enforcement action and through attrition via approved development orders; and

**WHEREAS**, the City of Marco Island ("City") staff has reviewed the application for the variance, and recommends approval; and

**WHEREAS**, the City's Planning Board reviewed and recommended approval of Variance Petition VP 23-000008 at the City Planning Board's April 7, 2023 meeting; and

**WHEREAS**, City Council does hereby approve Variance Petition VP 23-000008, 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.** The foregoing "Whereas" clauses are hereby ratified and confirmed as being true, correct and incorporated by this reference.

**SECTION 2. Variance Approved.** Based on the testimony and evidence presented to the City Council, the City Council finds that Variance Petition VP 23-000008 meets the requirements of Section 30-65(g)(3) of the City of Marco Island Land Development Code and hereby approves the variance subject to the below conditions:

1. That the owner of 368 North Collier Boulevard record a unity of title with Collier County, subject to the review of the City Attorney prior to recording. That the owner provide a certified copy of the unity of title to the City prior to the submittal of any building permits for any construction taking place on 352 Century Drive, Marco Island, FL 34145.
2. The only accessory structure allowed on 352 Century Drive is a docking facility that will be utilized solely in conjunction with the single-family home to be constructed and maintained on 368 North Collier Boulevard, Marco Island.

3. In the event the single-family structure is no longer existing on 368 North Collier Boulevard, the docking facility located at 352 Century Drive, Marco Island shall be removed if a permit for a primary structure is not submitted to the City within twelve (12) months of the removal of the primary structure on 368 North Collier Boulevard, Marco Island.


**SECTION 3. 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 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 on the Subject Property. This condition is included pursuant to Section 166.033, Florida Statutes, as amended.

**SECTION 4. 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 5. Effective Date.** That this Resolution shall take effect immediately upon adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this 8<sup>th</sup> day of May 2023.

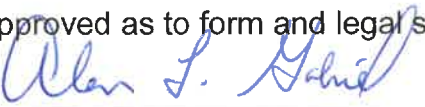
ATTEST:

  
\_\_\_\_\_  
Lina Upham, Deputy City Clerk

CITY OF MARCO ISLAND, FLORIDA

By:   
\_\_\_\_\_  
Gregory Folley, Chairman

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
Alan L. Gabriel, City Attorney

