

**MANATEE COUNTY HEARING OFFICER  
REGULAR MEETING  
COUNTY ADMINISTRATION BUILDING, FIFTH FLOOR, MANATEE ROOM  
1112 Manatee Avenue West  
Bradenton, Florida  
March 2, 2023**

Presiding was:


Kelly Fernandez, Hearing Officer

Also Present were:

Camilo Soto, Assistant County Attorney

James Rigo, Planning Section Manager

Robin Toth, Deputy Clerk, Clerk of the Circuit Court

 Ms. Fernandez called the meeting to order at 3:09 p.m.

All witnesses and staff giving testimony were duly sworn.

**CITIZEN COMMENTS**


There being no citizen comments, Ms. Fernandez closed Citizen Comments.


**AGENDA**


HO20230302DOC001


(Olivia Cristantiello, Court Reporter, was present)

1. **VARIANCE VA-22-09 – PRINCE/HILL**

 A duly advertised public hearing was held to consider request for approval of a side-yard setback variance to the setback requirements in the PDMU (Planned Development Mixed Use) zoning district established by Ordinance PDMU-92-01(P)(R) – Lakeview Estates, reducing the side setback from 8 feet to 5.8 feet; for a site being Lake View Estates at The Club, Lot 65, located at 8319 Lucerne Loop, Bradenton (Manatee County), on approximately 0.414 acres; providing for severability and providing for an effective date.

 Ms. Fernandez stated she reviewed all the documents in the agenda packet.


 Jessica Ingram, John Cannon Homes, Inc. (applicant representing the builder), requested approval of building 2.2 on left side and 1.1 on right side. On right side wall to allow the structure to remain. Permit applied for 10/28/21, permit issued 1/29/21, She used a slide presentation showing the site walls, copies of approved elevations of the walls, height the courtyard walls, right elevation showing the full courtyard wall and equipment screening wall. 8.8- foot and 4-foot height of screening wall.


 The left side is the courtyard wall; the back side of the erected structure. Guidelines will be covered by landscaping.

She referred to a spot survey dated 1/31/22 clearly showing the dimensions from the lot lines on both sides, which was approved by the Zoning Dept. on 3/7/22, a revision was submitted to screen the generator area.

Ms. Ingram showed a copy of the floor plan and generator pad, copy of elevations for said revisions stamped by the Building Department, diagrams of generator pad added. Pictures of the generator pad erected and photos of equipment screen walls for Pool and HVAC equipment.

Ms. Ingram read Code Section 401.3 E. 2, Section F – Yard Encroachments. Cannon homes took this to be standard regulations.

 Ms. Ingram also referenced Under 402.7. PDR Standards, and side yard site elements of The Lake Club, fences and walls in this location may be up to six feet in height. This was clarified with Pam Bank, LWR Development Project Coordinator (EM 3/15/13). Cannon Homes did not clarify this with the Building Department, she showed a list of all projects in Planned Developments in The Lake Club that have side-yard setback violations and ones with asterisks have side-yard walls. Cannon Homes as not notified that the screen walls were not compliant with the Code and that they were an issue. The Landscape does not encroach into the easement. A variance request will not increase the chance of fire or endanger the public.

 Variance of the LISTEN and type in ALL. She displayed photos of other homes in the Lake Club development. There are homes on either side of LISTEN


Chelsea Freeman, Planner, stated the applicant is requesting a variance from the 8-foot side-yard setback, as established in Ordinance PDMU-92-01(P)(R) for the Lake View Estates at The Lake Club Subdivision. The property is zoned PDMU, subject to Ordinance PDMU-92-01(P)(R), for the Lake View Estates at The Lake Club Subdivision, and its associated Preliminary Site Plan (approved 10/13/17). The approved yard setbacks are Front - 25 feet/20 feet\* (\*) side loaded garage; Side - eight feet, and Rear - 15 feet.


Building plans were submitted, depicting an open courtyard in the southern side yard. The site plans describe the southern open "master courtyard" as featuring an outdoor shower area and lighting fixtures. The master courtyard's wall is approximately 6.9 feet from the southern property line. Building plans also depict open equipment wing walls in the northern and southern side yard. Site plans describe the northern and southern open equipment wing walls as shielding for mechanical equipment, and the equipment wing walls vary approximately between 5.8 and 6.9 feet from the northern and southern property line.


The southern courtyard wall is eight feet in height and contains plumbing and electrical wiring. The equipment screening walls in the north and south side yard are measured 4 feet in height. These walls exceed 30 inches in height and are considered yard encroachment per


Land Development Code (LDC) 401.3.F. The courtyard and equipment screening walls were displayed on numerous sheets of the plans that were submitted with the building permit application.


The courtyard wall encroaches 1.1 feet into the southern side yard. The equipment wing walls encroach between 1.1 to 2.2 feet into the northern and southern side yards. This may be considered a bona fide error on the part of the County and the error was not found until after the building permit was issued and the home was substantially constructed.


 Rob Wenzel, Development Services Division Manager, stated they have to tie into the structure; there is a space between the structure and the wall. The 8ft tall walls look like they are tied in but they are not. The courtyard walls are more of an issue.

 Jim Rigo, Planner, stated that does not believe whether there is a gap in walls, these walls were poured on a slab/foundation and tied in with the entire house.


 Mr. Wenzel stated the eight foot walls are tied in, but no positive the air conditioning enclosures are tied into the foundation of the house, but the eight foot walls are.

 Ms. Fernandez asked if Cannon Homes has been in touch with either property owners on either side.


 Chelsey Freeman, Planner, stated she has been in contact with property owners to north and south and explained this variance request to them and they were satisfied.

 Because of this stop work order, this has been extended over seven months; anticipated closing date is not until August 2023. Cannon Homes is no longer building courtyard homes and this model home is no longer being offered. Nothing will no longer exceed the setbacks.

 Ms. Ingram stated this project was put on a standstill.


 Ms. Freeman stated points of clarification: LDC defines that AC and pool screening – it does not classify screening walls as being exempt. Upon question, the County does not require screening wall about the equipment.

 Mr. Rigo stated all of these requests are beyond the 30-inch. The 4 and 8 foot walls do not require the accessory slab.

 Mr. Wenzel stated staff in the processing of revising all permits in Lake Club; staff believes all the courtyards are taken care of with the three variances; the AC units screenings have not yet been addressed LISTEN.

 Ms. Fernandez stated that staff is in agreement that this can be viewed as a bonafide staff error. Staff concurred.

 Mr. Rigo stated this Variance is very similar to a previous Variance (VA-22-05 Crutchman, 10/26/22).

 There being no further public comment, Ms. Fernandez closed the public hearing. She stated she was provided with a Draft Notice of Intent and Final Order and did not need a transcript.

**ADJOURN**

There being no further business, Ms. Fernandez adjourned the hearing at 3:30 p.m.

Minutes Approved: \_\_\_\_\_