

FILED FOR RECORD  
R. B. SHORE

**FINAL ORDER ON  
APPLICATION FOR VARIANCE NO. VA-03-06  
MICHAEL S. GLASGOW/GLASGOW DOCK**

2004 MAR 12 AM 9:01

CLERK OF DISTRICT COURT  
MANATEE CO FLORIDA

**FINAL ORDER OF MANATEE COUNTY HEARING OFFICER  
MARK D. SINGER ON BEHALF OF MANATEE COUNTY DENYING  
APPLICATION FOR VARIANCE NO. VA-03-06, REQUESTING A  
REDUCTION OF THE MINIMUM SIDE YARD SETBACK FROM  
25.0' TO 2.7' FOR A DOCK; PROVIDING FOR SEVERABILITY;  
AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners of Manatee County adopted the Manatee County Land Development Code, Manatee County Ordinance 90-01, as amended; and

**WHEREAS**, pursuant to the Land Development Code, Manatee County Ordinance 90-01, as amended, Mark D. Singer, as the Hearing Officer has the authority to grant or deny Variances; and

**WHEREAS**, Michael S. Glasgow has requested a Variance to allow a reduction of the minimum side yard setback from 25.0' to 2.7' for a dock, reducing the east side yard for a lot in the RSF-4.5/CH Zoning District at 4827 Palmetto Point Drive, Palmetto; and

**WHEREAS**, on March 4, 2004 the aforementioned Hearing Officer held a public hearing to receive the staff, applicant and public comment and argument regarding the proposed Variance for Michael S. Glasgow/Glasgow Dock .

**NOW, THEREFORE**, after consideration of the application for Variance No. VA-03-06 requested by Michael S. Glasgow/Glasgow Dock, the Hearing Officer makes the following Findings of Fact and Conclusions of Law and issues this Final Order as follows:

**Section 1. Findings of Fact.** The aforementioned Hearing Officer, after considering comment, argument, evidence, documentation and staff report presented, as well as all other matters presented at the Public Hearing above referenced, hereby makes the following Findings of Fact:

- A. The application is to allow a reduction of the minimum side yard setback from 25.0' to 2.7' for a dock, reducing the side yard setback in the RSF-4.5/CH Zoning District.
- B. The variance requested may be granted under the standards of Land Development code Section 509.2.2 required yards or buffers.
- C. The standards for review set forth in Section 509.5.3 of the Land Development Code must be met for a variance to be granted.
- D. The applicant did not meet the standards for review of Section 509.5.3 of the Land Development Code for the following reasons:

1. The particular physical surroundings of the property which have resulted from the platting configuration of the subdivision, has created an odd shaped lot at the end of a man-made canal. However, this does not present a hardship as distinguished from a mere inconvenience. The applicant may reconfigure the location of the proposed dock so that it may be erected within the buildable area without the grant of a variance.
2. The conditions of this request are not unique to the parcel, as other lots in the vicinity have a similar configuration.
3. The granting of the variance may be detrimental to the public welfare or injurious to other property or improvements in the vicinity. The proposed variance may substantially increase the congestion within the canal, or may endanger the public safety, or may diminish or impair property values within the vicinity.
4. The granting of this variance may affect an adjacent lot owners' ability to place or replace their waterfront structures in such a manner so as to allow safe use and maneuvering to get in and out of such structures and it may limit their ability to use their property.
5. The variance granted is not the minimum variance that will make possible the reasonable use of the property. The applicant can make reasonable use of the property. The applicant may reconfigure the location of the proposed dock so that it may be erected within the buildable area without the grant of a variance
6. The property can be put to reasonable use which complies fully with the requirements of the Code without the granting of the requested variance.

**Section 2. Conclusions of Law.** Based upon the prior Findings of Fact and considering the testimony, evidence, documentation, the staff report presented, and after a review of the applicable provisions of the Manatee County Comprehensive Plan and Land Development Code, the above referenced Hearing Officer hereby makes the following Findings of Law:

- A. This Hearing Officer has jurisdiction over the parties and subject matter in this proceeding pursuant to Section 509.5 of the Manatee County Land Development Code, as amended.
- B. The applicant has the burden of proving entitlement to the Variance, Gomez v. City of St. Petersburg, 550 So. 2d. 7 (Fla. 2<sup>nd</sup> DCA 1989)
- C. The variance is not of the type prohibited by Section 509.3 of the Land Development Code.

- D. The variance does not meet all of the standards set forth in Section 509.5.3 of the Land Development Code.
- E. Unless the evidence presented establishes that an application for a variance meets all of the standards set forth in Section 509.5.3 of the Land Development Code, an application for a variance must be denied.


Section 3. Order. Based upon the foregoing, the application for variance is hereby denied for the property located at 4827 Palmetto Point Drive, Palmetto, and more particularly described in Exhibit "A" attached hereto and incorporated herein.

Section 4. Final Action. This order shall be Final after thirty days from the date of execution by the Hearing Officer has elapsed.

Section 5. Appeals. Appeals are governed by Section 304.7 of the Land Development Code.

ORDERED ON BEHALF OF MANATEE COUNTY this 12<sup>TH</sup> day of MARCH, 2004.

MANATEE COUNTY, FLORIDA

BY: , as  
Hearing Officer for Manatee County

ATTEST: R.B. SHORE  
Clerk of the Circuit Court



EXHIBIT "A"

LEGAL DESCRIPTION:

LOT 71, PALMETTO SKYWAY SUBDIVISION, SECTION 2 AS PER PLAT THEREOF  
RECORDED IN PLAT BOOK 9, PAGES 40, 41, & 42 OF PUBLIC RECORDS OF MANATEE  
COUNTY