

VARIANCE NO. VA-05-03
CORTEZ SCHOOL HOUSE

2005 MAR 22 AM 10:36

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER,
MARK D. SINGER ON BEHALF OF MANATEE COUNTY CLERK COURT
GRANTING VARIANCE NO. VA-05-03, TO ALLOW THE
RESTORATION AND RENOVATION OF AN EXISTING
HISTORIC STRUCTURE WITH A FINISHED FLOOR
ELEVATION OF 7.33' IN AN A-13 (ELEVATION 11') FLOOD
ZONE; 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, the Hearing Officer, Mark D. Singer, Esq., has the authority to grant Variances; and

WHEREAS, Manatee County has requested a Variance to allow the restoration and renovation of an existing structure with a finished floor elevation of 7.33' in an A-13 (elevation 11') Flood Zone; and

WHEREAS, on March 16, 2005 the aforementioned Hearing Officer held a public hearing to receive the staff, applicant, and public comment and argument regarding the proposed Variance to allow the restoration and renovation of an existing structure with a finished floor elevation of 7.33' in an A-13 (elevation 11') Flood Zone.

NOW, THEREFORE, after consideration of the application for Variance No. VA-05-03 requested by Manatee County, 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 variance is the minimum necessary, considering the flood hazard, to afford relief in that the grant of the variance would allow the applicant continued use of this property without destroying the historic character, design, or designation of the building. The building cannot be elevated without causing significant damage to the building. Elevation of the building would cause the removal of the historic designation to the building as a contributing structure to the Cortez Village Historic District and might also result in it no longer being listed as a contributing structure for the Cortez National Register Historic District and it being removed from the National Register of Historic Places.
- B. The request is unique to the parcel and would not be applicable, generally, to other property within the vicinity due to the historic significance of the structure in Cortez Village and Manatee County.
- C. The Comprehensive Plan recognizes the need for flexibility and adaptive reuse of historic structures in order to promote historic preservation.



- D. This variance is permitted under the standards of Land Development Code Section 718.10.
- E. This variance is consistent with the applicable standards under Land Development Code Section 509.5.3, 509.6.3.3, 718.10, and 718.10.1.
- F. A unique and unnecessary hardship would result if this variance were not granted.
- G. The variance is not of the type prohibited by Section 509.3 of the Land Development Code.
- H. The State of Florida Division of Historical Resources has certified that the renovation meets the standards and guidelines as set forth in The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

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 Conclusions 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. 2nd DCA 1989).
- C. The variance is not of the type prohibited by Section 509.3 of the Land Development Code.
- D. The variance meets the criteria set forth in Sections 509.5.3 and 718.10 of the Land Development Code.

Section 3. Order. Based upon the foregoing, the variance is hereby approved/denied and issued to Manatee County/Cortez Schoolhouse for the property located at 4415 199th Street West, Cortez and more particularly described in Exhibit "A" attached hereto and incorporated herein, to allow the restoration and renovation of an existing structure with a finished floor elevation of 7.33 feet in an A-13 (elevation 11') Flood Zone, subject to the following conditions:

- A. This Variance shall not be effective until the applicant has recorded it in the Public Records of Manatee County, Florida and a copy of the recorded Variance is received by the Planning Department.
- B. Administrative approval of a Final Site Plan shall be required subsequent to the Hearing Officer's approval of the Variance.
- C. The variance shall not run with the land.
- D. The variance shall terminate should 50 percent or more of the historic structure be destroyed.

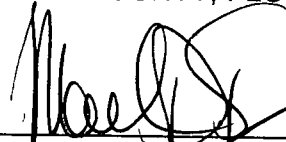
- E. This approval shall be contingent upon compliance of any conditions stipulated by the Manatee County Historic Preservation Board (Reference HPB/COA-05-02).
- F. All construction on this site shall use flood resistant materials as approved by the Building Department.
- G. Any applicant to whom a variance from Section 718 or the Floodplain Management Code, Ordinance 89-10 is granted shall be given a written Notice of Disclaimer signed by the Building Official. This Notice of Disclaimer shall be recorded by the applicant in the Clerk of the Circuit Court office so that the Notice of Disclaimer runs with the land. This notice shall state the following: The variance does not run with the land and applies only to the current structure and use. Any change in the structure (substantial damage, etc.) or use may invalidate this variance. The issuance of a variance to construct a structure below the required elevation will result in increased insurance premium rates for flood insurance up to or exceeding twenty-five dollars (\$25.00) for every one hundred dollars (\$100.00) of coverage and such construction below the required elevation increases the risks to life and property.

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 22nd day of March, 2005.

MANATEE COUNTY, FLORIDA

BY: 
MARK D. SINGER, as
Hearing Officer for Manatee County

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


D.C.
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION:

LOT 1 AND LOTS 4 THROUGH 12 INCLUSIVE, OF CRAMPTON'S RE-SUB OF CORTEZ ADDITION TO CORTEZ, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 7, PAGE 11 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA; TOGETHER WITH THAT PART MARKED SCHOOL GROUNDS RESERVED AS SHOWN ON THE PLAT OF CRAMPTON'S RESUB AND ALSO DESCRIBED AS LOT 3, 4, 5, AND 6 LESS THAT PART OF LOT 6 SOUTH OF SOUTH LINE OF LOT 3 BLOCK 50 EXTENDING WEST TO THE ROAD, BLOCK 50, CORTEZ ADDITION TO CORTEZ, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 59 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA; TOGETHER WITH THAT 20 FOOT STRIP NORTHERLY OF LOT 12 MADE RESERVED ON PLAT OF CRAMPTON'S RESUBDIVISION, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 7, PAGE 11 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA. LESS ROAD RIGHT-OF-WAY FOR STATE ROAD 684 AS DESCRIBED IN DEED BOOK 264, PAGE 485 AND DEED BOOK 268, PAGE 409.

EXHIBIT "B"

SITE PLAN SUBMITTED WITH APPLICATION