

VARIANCE NO. VA-06-09
HORVAT

FILED FOR RECORD
R. B. SHORE

2007 FEB 14 AM 8:43

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER
JOHN ROE ON BEHALF OF MANATEE COUNTY APPROVING
VARIANCE NO. VA-06-09, TO ALLOW A 38.4' FRONT YARD
SETBACK IN THE A-1 ZONING DISTRICT; PROVIDING FOR
SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

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 has the authority to grant Variances; and

WHEREAS, Paul Horvat has requested a Variance to allow a 38.4' front yard setback in the A-1 zoning district; and

WHEREAS, on January 24, 2007 the aforementioned Hearing Officer held a public hearing to receive the staff, applicant, and public comment and argument regarding the proposed Variance for a 38.4' front yard setback in the A-1 zoning district that requires a minimum 50' front yard setback.

NOW, THEREFORE, after consideration of the application for Variance No. VA-06-09 requested by Paul Horvat 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:

1. The particular physical surroundings, shape, topographical condition, or other physical or environmental condition of the specific property involved results in a particular hardship upon the owner.
2. The conditions upon which the request for a variance is based are unique to the parcel and do not appear be applicable to other property within the vicinity.
3. The variance is not based on conditions, including financial, occupational, or ability, which are personal to the applicant as applied to the property involved in the application.
4. The alleged hardship has not been created by any person presently having an interest in the property and was created as the result of a bona fide error.
5. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity.
6. The proposed variance will not substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the vicinity.

7. The variance requested is the minimum variance that will make possible the reasonable use of the property.
8. The property cannot be put to a reasonable use which complies fully with the requirements of the Code.
9. There is no staff error.

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 all of the criteria set forth in Section 509.5.3 of the Land Development Code.

Section 3. Order. Based upon the foregoing, the variance is hereby approved for the property located at 13511 65th Street East, Parrish, FL, and more particularly described in Exhibit "A" attached hereto and incorporated herein, subject to the following conditions:

- A. Any future improvements shall comply with the minimum fifty (50) foot front yard setback measured from the right-of-way of 65th Street East.
- B. This variance shall not be effective until it has been recorded in the Public Records of Manatee County, Florida by the applicant and a copy of the recorded Order is received by the Planning Department.
- C. The variance shall run with the land.

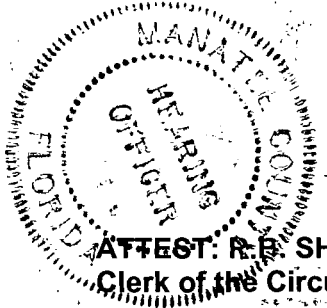
Section 4. Severability. In the event that any portion or section of this Order is determined to be invalid, illegal, or unconstitutional by a Court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of the Special Permit which shall remain in full force and effect.

Section 5. Effective Date. The effective date of this Order shall be upon execution of this Order by the Hearing Officer and its recordation in the Official Records by the applicant with the Office of the Clerk of the Circuit Court and receipt of a copy of the recorded Order by the Planning Department.

ORDERED ON BEHALF OF MANATEE COUNTY this 14th day of FEB., 2007.

MANATEE COUNTY, FLORIDA

BY: , as
Hearing Officer for Manatee County



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

BY: 
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION:

LOT 1, SUNBURST ACRES A SUBDIVISION IN SECTION 33, TOWNSHIP 33 S, RANGE 19 E AS
RECORDED IN PLAT BOOK 45, PAGE 155-156 PUBLIC RECORDS MANATEE COUNTY, FLORIDA

EXHIBIT "B"

SITE PLAN SUBMITTED WITH APPLICATION