

**VARIANCE NO. VA-16-04
NORTHCRAFT VARIANCE – DTS20160463**

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER DENNIS STOTTS ON BEHALF OF MANATEE COUNTY GRANTING A VARIANCE NO. VA-16-04 TO ALLOW A VARIANCE FOR THE CORRECTION OF A BONA FIDE STAFF ERROR TO THE SETBACK REQUIREMENTS ESTABLISHED IN THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT BY ZONING ORDINANCE PDR-02-41(P)(R), TO REDUCE THE MINIMUM REAR SETBACK FOR LOT 11 OF PALMETTO ESTATES SUBDIVISION FROM 15 FEET TO 5 FEET LOCATED AT 1426 24TH STREET EAST, PALMETTO (MANATEE COUNTY) ON 0.16± ACRES; 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 15-17, as amended; and

WHEREAS, pursuant to the Land Development Code, Manatee County Ordinance 15-17, as amended, the Hearing Officer has the authority to grant Variances; and

WHEREAS, Bright Day Construction Services requested a Variance to the setback requirements established in the PDR (Planned Development Residential) zoning district by Zoning Ordinance PDR-02-41(P)(R) to reduce the minimum rear setback for Lot 11 of Palmetto Estates Subdivision from 15 feet to 5 feet; and

WHEREAS, on January 18, 2017 the aforementioned Hearing Officer held a public hearing to receive the staff report, applicant, and public comment, and argument regarding the proposed Variance.

NOW, THEREFORE, after consideration of the application for Variance No. VA-16-04 requested by Bright Day Construction Services the Hearing Officer makes the following Findings of Fact and Conclusions of Law and issues the 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 site is in the RES-6 (Residential – 6 dwelling units per acre) Future Land Use Category.

- B. The site is on 0.16± acres zoned PDR (Planned Development Residential) by Zoning Ordinance PDR-02-41(P)(R).
- C. The overall site lies within Zone X Flood Map Panel 0166E.
- D. The request is to approve a Variance to the setback requirements established in the PDR (Planned Development Residential) zoning district by Zoning Ordinance PDR-02-41(P)(R) to reduce the minimum rear setback for Lot 11 of Palmetto Estates Subdivision from 15 feet to 5 feet.
- E. Section 367.2 of the Land Development Code specifies that a variance may be granted to allow a single lot or parcel to depart from dimensional regulations of the Code that restrict required yards, buffers or setbacks.
- F. The variance is not of the type prohibited by Section 367.3 of the Land Development Code.
- G. The alleged hardship was not created intentionally by the applicant.
- H. The conditions upon which the request for a variance is based are unique to the parcel, and do not appear to be applicable to other properties within the vicinity.
- I. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity.
- J. The variance will not substantially increase the congestion in the public streets, or increase the danger of fire, or endanger public safety, or substantially diminish or impair property values within the vicinity.
- K. The owner of the property is advised that any future additions and/or alterations must conform to the requirements applicable to the remaining established setbacks.

Section 2. Conclusions of Law. Based upon the prior Findings of Fact and considering the testimony, evidence, documentation and the staff report presented, and a review of the applicable provisions of the Manatee County Comprehensive Plan and Manatee County 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 the Land Development Code.
- B. The applicant has the burden of proving entitlement to the Variance it seeks, *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 367.3 of the Land Development Code.

- D. The variance meets all of the criteria set forth in Section 367.6 of the Land Development Code.

Section 3. Order. Based upon the foregoing, a Variance is hereby approved and issued to Bright Day Construction Services at 1426 24th Street East, Palmetto and more particularly described in Exhibit "A" attached hereto and incorporated herein, for a Variance to the setback requirements established in the PDR (Planned Development Residential) zoning district by Zoning Ordinance PDR-02-41(P)(R) to reduce the minimum rear setback for Lot 11 of Palmetto Estates Subdivision from 15 feet to 5 feet subject to the following conditions:

1. 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 Building and Development Services Department.
2. This recommendation approves the encroachment of the existing screen room only and is not intended to permit any additional construction of the primary structure (including enclosing the screen room), or other structures subject to the required setbacks, within any of the minimum yard setback requirements listed in the Zoning Ordinance.
3. Access doors for this screened enclosure shall be limited to the east and west sides of the structure to eliminate any potential rear easement obstructions.
4. The amended survey/site plan (Exhibit B) submitted with staff's report shall be part of the approval.

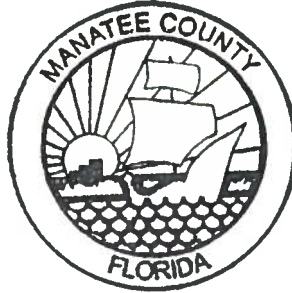
Section 4. Severability. In the event that any portion or section of this Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decisions shall in no manner affect the remaining portions or sections of the Variance which shall remain in full force and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

Section 5. Effective Date. The effective date of this Variance shall be upon execution of this Order 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 Building and Development Services Department.

ORDERED ON BEHALF OF MANATEE COUNTY this 15th day of February, 2017.

MANATEE COUNTY, FLORIDA

BY: *Deavis M. Stotts*, as
Hearing Officer for Manatee County



ATTEST: ANGELINA COLONNESO,
Clerk of the Circuit Court

BY: *Robin Roth, Jr.*
Deputy Clerk

**EXHIBIT “A”
Legal Description**

Lot 11 Block C Palmetto Estates Subdivision PB51 Page 20

Angelina "Angel" Colonnese

Clerk of the Circuit Court

Manatee County

P.O. Box 25400
Bradenton, FL 34206

Official Records Receipt Recording

Username: hhooy

Changed By: cwelke

Receipt#: 900053640 Payee Name: BENDERSON

Receipt Date: 03/24/2017

Instrument: 201741026690 - BK2665/PG7685 EASEMENT

001000000341100	RECORDING FEE \$5/\$4	\$21.00
199000000341150	PRMTF \$1/\$.50	\$3.00
001000000208911	PRMTF FACC \$.10	\$0.50
199000000341160	PRMTF CLERK \$1.90	\$9.50
001000000208912	PRMTF BCC \$2	\$10.00
001000000208901	DEED DOC STAMPS \$.70	\$0.00
001000000341400	INDEXING NAMES	\$0.00

Instrument Total: \$44.00

Receipt Total: \$44.00

Amount Tendered: \$44.00

Overage: \$0.00

MFC \$44.00 18145157

Amount Paid: