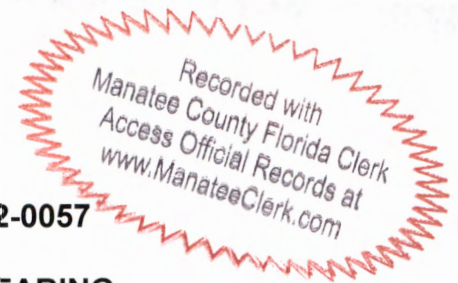


**VARIANCE NO. VA-20-01  
ROSEDALE ADDITION LOT 207 PH II PLN2002-0057**



**FINAL ORDER OF MANATEE COUNTY HEARING OFFICER KELLY M. FERNANDEZ ON BEHALF OF MANATEE COUNTY GRANTING VARIANCE NO. VA-20-01 TO ALLOW A VARIANCE TO THE SETBACK REQUIREMENTS ESTABLISHED IN THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT BY ZONING ORDINANCE PDR-11-02(P)/11-S-14(P)/FSP-11-20(R2) ROSEDALE ADDITION II – PRELIMINARY PLAT/FINAL SITE PLAN MODIFICATION TO REDUCE THE SIDE YARD SETBACK’S MINIMUM DISTANCE BETWEEN BUILDINGS FOR THE WEST SIDE OF LOT 207 OF ROSEDALE ADDITION PH II FROM 12 FEET TO 9.5 FEET LOCATED AT 4509 BALTRY COURT, BRADENTON (APPROXIMATELY 0.26 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**, WCI Communities, LLC (the “applicant”) requested a variance to the setback requirements established in the PDR (Planned Development Residential) zoning district by Zoning Ordinance PDR-11-02(P)/11-S-14(P)/FSP-11-20(R2) to reduce the side yard setback’s minimum distance between buildings for the west side of Lot 207 of the Rosedale Addition PH II from 12 feet to 9.5 feet; and

**WHEREAS**, on August 19, 2019 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-20-01 requested by WCI Communities, LLC 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 UF-3 (Urban Fringe-3) Future Land Use Category.
- B. The site is on 0.26± acres zoned PD-R (Planned Development - Residential) by Zoning Ordinance PDR-11-02(P).
- C. The overall site lies in Zone X per FIRM Panel 12081C0329E, effective 3/17/2014.
- 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-11-02(P)/11-S-14(P)/FSP-11-20(R2) to reduce the side yard setback's minimum distance between buildings for the west side of Lot 207 of the Rosedale Addition Ph II from 12 feet to 9.5 feet.
- E. The PD-R zoning district requires a minimum side yard of (0/12) zero feet (0') on one side and twelve feet (12') between buildings, or (6/6) six feet (6') on each side and twelve feet (12') between buildings, or a combination of 0/12 and 6/6 with twelve feet (12') between buildings.
- F. On April 19, 2019 the applicant applied for a building permit to construct a single-family residence on the property with side yard setbacks of 9.5 feet on both sides of the house. The permit was approved.
- G. The residence to the west of the subject property (not built by the applicant) was built with a zero lot line setback. This should have resulted in the subject property being built with a 12 foot setback to achieve the required 12 foot separation between residences.
- H. County staff did not identify the setback violation and issue a stop work order until after various inspections had been performed, including review and approval of the Foundation Survey.
- I. The house on the subject property was substantially complete at the time the stop work order was issued. The applicant provided documentation that if the variance is not granted the house will have to be demolished and rebuilt or moved, both of which are a significant cost.
- J. The variance is not of the type prohibited by Section 367.2 of the Land Development Code.
- K. A bona fide staff error led to the construction of a house that is nearly complete that does not comply with the setback requirements.
- L. 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.



- M. The alleged hardship was created as the result of a bona fide error by both the applicant and County staff.
- N. The granting of the variance with conditions will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity.
- O. The variance will not substantially increase the congestion in the public streets, or increase the danger of fire, or endanger public safety.
- P. The variance is the minimum variance that will make possible the reasonable use of the property given the bona fide error.
- Q. The property cannot be put to a reasonable use which complies fully with the requirements of the Code unless the variance is granted due to the bona fide error.

**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 2<sup>nd</sup> DCA 1989).
- C. The variance is not of the type prohibited by Section 367.2 of the Land Development Code.
- D. The variance meets the applicable criteria set forth in Section 367.5 of the Land Development Code.

**Section 3. Order.** Based upon the foregoing, a Variance is hereby approved and issued to WCI Communities, LLC for property at 4509 Baltry Court, Bradenton, as 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-11-02(P)/11-S-14(P)/FSP-11-20(R2), to reduce the side yard setback's minimum distance between buildings for the west side of Lot 207 of the Rosedale Addition Ph II from 12 feet to 9.5 feet, subject to the following conditions:

- 1. The applicant shall relocate the air conditioner condenser out of the west side yard.
- 2. 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.

**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 17<sup>th</sup> day of September 2020.



MANATEE COUNTY, FLORIDA

BY: [Signature], as  
Hearing Officer for Manatee County

ATTEST: ANGELINA COLONNESO,  
Clerk of the Circuit Court

BY: [Signature]  
Deputy Clerk

**EXHIBIT "A"**  
**Legal Description**

LOT 207 ROSEDALE ADDITION - PHASE II PER THE PLAT THEREOF RECORDED  
ON PLAT BOOK 56, PAGE 43 IN THE OFFICIAL RECORDS OF MANATEE COUNTY,  
FLORIDA

# BRADENTON HERALD

Bradenton.com

## AFFIDAVIT OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Depth
663161	0004716370	NOTICE OF ESTABLISHMENT OR CHANGE OF	20200819 HO	\$128.70	1	11.00 In

Attention: Bobbi Roy

MANATEE CO PLANNING DEPT  
PO BOX 1000  
BRADENTON, FL 34206

### NOTICE OF ESTABLISHMENT OR CHANGE OF A REGULATION AFFECTING THE USE OF LAND IN UNINCORPORATED MANATEE COUNTY

NOTICE IS HEREBY GIVEN, that the Hearing Officer for Manatee County, will conduct a Public Hearing on Wednesday, August 19, 2020 at 3:00 p.m. at the Manatee County Government Administrative Center, 1st Floor Honorable Patricia M. Glass Chambers, 1112 Manatee Avenue West, Bradenton Florida to consider and act upon the following matters:

#### VA-20-01 - ROSEDALE ADDITION LOT 207, PHASE II VARIANCE PLN2002-0057

Approval of a side yard setback variance to the setback requirements established in the PDR (Planned Development Residential) zoning district by Zoning Ordinance PDR-11-02(P)/11-S-14(P)/FSP-11-20-(R2).

Rosedale Addition II - Preliminary Plat/Final Site Plan Modification to reduce the minimum side setback for Lot 207 of Rosedale Addition - Phase II from 12 feet to 9.5 feet; located at 4509 Bally Court, Bradenton (Manatee County) (approximately 0.26 acres); providing for severability; and providing for an effective date.

Rules of Procedure for this public hearing are in effect pursuant to Section 312.8 of the Manatee County Land Development Code. Copies of this section of the Code are available for review at the Building and Development Services Department.

All interested parties are invited to appear at this hearing and be heard, subject to proper rules of conduct. Additionally, any written comments filed with the Director of the Building and Development Services Department will be heard and considered by the Hearing Officer and entered into the record.

Interested parties may examine the Official Zoning Atlas, the application, related documents, and may obtain assistance regarding this matter from the Manatee County Building and Development Services Department, 1112 Manatee Avenue West, 4th Floor, Bradenton, Florida, telephone number (941) 748-4501 ext. 6878 or email at: planning.agenda@mymanatee.org.

According to Florida Statutes, Section 286.0105, any person desiring to appeal any decision made by the Hearing Officer

### THE STATE OF TEXAS

#### COUNTY OF DALLAS

Before the undersigned authority personally appeared VICTORIA RODELA, who, on oath, says that she is a Legal Advertising Representative of The Bradenton Herald, a daily newspaper published at Bradenton in Manatee County, Florida; that the attached copy of the advertisement, being a Legal Advertisement in the matter of **Public Notice**, was published in said newspaper in the issue(s) of:

1 Insertion(s)

Published On:

August 05, 2020

### THE STATE OF FLORIDA

#### COUNTY OF MANATEE

Affidavit further says that the said publication is a newspaper published at Bradenton, in said Manatee County, Florida, and that the said newspaper has heretofore been continuously published in said Manatee County, Florida, each day and has been entered as second-class mail matter at the post office in Bradenton, in said Manatee County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

*V Rodela*

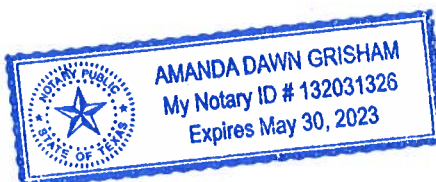
(Signature of Affiant)

Sown to and subscribed before me this  
5th day of August in the year of 2020

*Amanda Dawn Grisham*

SEAL & Notary Public

Extra charge for lost or duplicate affidavits.  
Legal document please do not destroy!



made by the hearing officer with respect to any matter considered at the Public Hearing will need a record of the proceedings, and for such purposes they may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is to be based.

**Americans With Disabilities:**

The Hearing Officer of Manatee County does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the Hearing Officer's functions including one's access to and participation in public hearings. Anyone requiring reasonable accommodation for this meeting as provided for in the ADA, should contact Carmine DeMillo 941-792-8784 ext. 8303 or [carmine.demilio@mymanatee.org](mailto:carmine.demilio@mymanatee.org) or FAX 745-3790.

THE PUBLIC HEARING MAY BE CONTINUED FROM TIME TO TIME PENDING ADJOURNMENTS.

MANATEE COUNTY HEARING OFFICER

Manatee County Building and Development Services Department  
Manatee County, Florida



# Angelina "Angel" Colonnese

Clerk of the Circuit Court

Manatee County

P.O. Box 25400  
Bradenton, FL 34206

## Official Records Receipt Recording

Username: kgowen

Changed By: kgowen

Receipt#: 900308394

Payee Name: GRIMES GOEBEL AR500027

Receipt Date: 09/17/2020

ATTN JANET DANZIGER  
BRADENTON, FL 34205

1023 MANATEE AVE W

Escrow Balance: (\$44.00)

Escrow Customer: 001000000223000

Instrument: 202041099228 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
001000000229552	E-CERTIFICATION FEE	\$0.00
001000000341400	E-COPIES	\$0.00
001000000341400	E-CERTIFICATION	\$0.00

Instrument Total: \$44.00

Receipt Total: \$44.00

Amount Tendered: \$44.00

Overage: \$0.00

Escrow \$44.00

Amount Paid: