

**VARIANCE NO. VA-22-01
TR INVESTOR, LLC – RESERVE AT TWIN RIVERS LOT 74
PLN2112-0100**

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER KELLY FERNANDEZ ON BEHALF OF MANATEE COUNTY GRANTING VARIANCE NO. VA-22-01 TO ALLOW A VARIANCE TO THE SETBACK REQUIREMENTS ESTABLISHED IN THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT BY ORDINANCE PDR-01-19(Z)(G) - TWIN RIVERS GENERAL DEVELOPMENT PLAN REDUCING THE MINIMUM FRONT YARD SETBACK FROM 25 FEET TO 20.50 FEET FOR A SITE LOCATED AT 15810 39TH GLEN E, PARRISH (MANATEE COUNTY) ON APPROXIMATELY 0.2751 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 (LDC), Manatee County Ordinance 15-17, as amended; and

WHEREAS, pursuant to the LDC, Manatee County Ordinance 15-17, as amended, the Hearing Officer has the authority to grant variances; and

WHEREAS, TR Investor, LLC requested a Variance to allow a 20.50-foot minimum front yard setback in lieu of the required 25-foot minimum requirement due to a staff error in the review of an incorrectly dimensioned boundary survey; and

WHEREAS, on April 20, 2022, 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 22-01 requested by TR Investor, 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 subject property is in the UF-3 (Urban Fringe – 3 Dwelling Units / Acre) Future Land Use Category.
- B. The subject property, approximately 0.2751 acres, is in the PDR (Planned Development Residential) subject to PDR-01-19(Z)(G).

- C. The subject property lies within Zones X, AE per FIRM Panel 12081C0192F, revised 8/10/2021.
- D. The request is to approve a variance to allow a 20.50-foot minimum front yard setback in lieu of the required 25-foot minimum requirement.
- E. A boundary survey conducted during the original stake out of the subject property provided to Manatee County appeared to show a 30-foot setback for the front load garage, but the dimensional tie was incorrect (extends beyond the front lot line) resulting in the minimum setback distance being incorrectly depicted.
- F. Manatee County did not notice the error and issued a building permit.
- G. When the spot survey was performed and submitted to Manatee County, the error in the boundary survey was identified. The actual front setback is 4.5 feet less than the minimum required.
- H. The house on the subject property is partially constructed, with the foundation and block wall structures in place.
- I. The applicant testified that the partially constructed house would need to be demolished and re-started if the Variance is not granted, resulting in a substantial expense.
- J. A large vehicle will be able to be parked on the driveway without blocking the sidewalk. The position of the house on the subject property will also not create a significant visual inconsistency with the position of adjacent and nearby houses.
- K. Manatee County staff recommends approval of the Variance due to the bona fide staff error of issuing the building permit based on an incorrectly depicted front yard setback.

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 LDC, 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 LDC.
- B. The applicant has the burden of proving entitlement to the Variance sought. *See 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 367.2 of the LDC.

- D. The variance meets the applicable criteria set forth in Section 367.5 of the LDC.
- E. A bona fide staff error led to the partial construction of a house that does not comply with the applicable front yard setback requirements in the LDC.
- F. 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.
- G. The variance is not based on any conditions, including financial, occupational, or ability, which are personal to the applicant as applied to the property involved in the application.
- H. The alleged hardship was created, in part, as a result of a bona fide staff error.
- 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.
- K. The variance is the minimum variance that will make possible the reasonable use of the property given the bona fide error.

Section 3. Order. Based upon the foregoing, a Variance is hereby approved and issued to TR Investor, LLC for property located at 15810 39TH Glen E, Parrish, as more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, reducing the minimum front yard setback established in the PDR (Planned Development Residential) zoning district by Ordinance PDR-01-19(Z)(G) - Twin Rivers General Development Plan from 25-feet to 20.50-feet, subject to the following condition:

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 Development Services.

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 Special Permit which shall remain in full force and effect.

Section 5. Effective Date. The effective date of this Special Permit 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 Development Services Department.

ORDERED ON BEHALF OF MANATEE COUNTY this 19th day of May,
2022.

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 14, RIVERSIDE PRESERVE PHASE I A SUBDIVISION AS RECORDED IN THE
PUBLIC RECORDS OF MANATEE COUNTY IN PLAT BOOK 64, PAGES 30-39

Angelina "Angel" Colonnese
Clerk of the Circuit Court of Manatee County Florida
1115 Manatee Avenue West, Bradenton, Florida 34205
P.O. Box 25400, Bradenton, Florida 34206
Phone (941) 749-1800 - Fax (941) 741-4082
www.manateeclerk.com

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Receipt#: 900490534 Payee Name: MEDALLION HOMES
Receipt Date: 05/19/2022

Instrument(s): 202241067431-EASEMENT

Receipt Total:	\$44.00
Amount Tendered:	\$44.00
Overage:	\$0.00
Service Fee	\$0.00
Total PAID	\$44.00

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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
Instrument Total:		\$44.00



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