

**VARIANCE NO. VA-22-05
CRUTCHMAN PROPERTY VARIANCE PLN2207-0068**

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER KELLY FERNANDEZ ON BEHALF OF MANATEE COUNTY GRANTING VARIANCE NO. VA-22-05 TO ALLOW A VARIANCE TO THE SIDE YARD SETBACK REQUIREMENTS IN THE PDMU (PLANNED DEVELOPMENT MIXED USE) ZONING DISTRICT ESTABLISHED BY ORDINANCE PDMU-92-01(P)(R) – LAKE VIEW ESTATES REDUCING THE WEST SIDE SETBACK FROM 8 FEET TO 6 FEET AND THE EAST SIDE SETBACK FROM 8 FEET TO 5 FEET FOR A SITE BEING LAKE VIEW ESTATES AT THE LAKE CLUB LOT 47 LOCATED AT 14754 COMO CIR, BRADENTON (MANATEE COUNTY) ON APPROXIMATELY 0.4764 ACRES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR 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, John Cannon Homes is requesting a variance from the side yard setback requirements in the PDMU (Planned Development Mixed Use) zoning district established by Ordinance PDMU-92-01(P)(R) – Lake View Estates to reduce the side setback for Lake View Estates at the Lake Club Lot 47 from 8 feet to 6 feet due to a bona fide staff error; and

WHEREAS, on October 26, 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 22-05 requested by John Cannon Homes, 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 RES-1 (Residential - 1) Future Land Use Category.
- B. The subject property is in the PDMU (Planned Development Mixed Use) zoning district subject to PDMU-92-01(P)(R).

- C. The request is to approve a variance to the side yard setback requirements to reduce the side setback from 8 feet to 6 feet for Lake View Estates at the Lake Club Lot 47.
- D. County staff determined that the screening wall on east side of the property for the air conditioning and pool equipment requires the approval of a 5 foot setback.
- E. The overall site lies within X, per FIRM panel 12081C0331E effective 08/10/2021.
- F. The building permit application submitted for the subject property depicted a “master courtyard” wall approximately 6 feet from the west property line, along with HVAC screening and pool equipment screening walls approximately 5 feet from the east property line. A side yard setback of 8 feet is required for Lake View Estates.
- G. Manatee County did not notice the error and issued a building permit.
- H. The error was not identified until the exterior of the home was substantially completed.
- I. The applicant’s representative testified that the applicant believed the courtyard wall and screening walls were exempt or allowed encroachments, that they are typical, and that they provide privacy and aesthetic screening.
- J. Manatee County staff has stated that the encroachments will not negatively impact the function, access, or use of the side yards with respect to the collection and conveyance of stormwater runoff.
- K. Manatee County staff recommends approval of the Variance due to the bona fide staff error of issuing the building permit with an incorrect side 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 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 LDC.
- B. The applicant has the burden of proving entitlement to the Variance sought. *See Gomez vs. City of St. Petersburg*, 550 So. 2nd. 7 (Fla 2nd DCA 1989).
- C. The variance is not 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 construction of screening walls that do not comply with the applicable side yard setback requirements.
- 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.

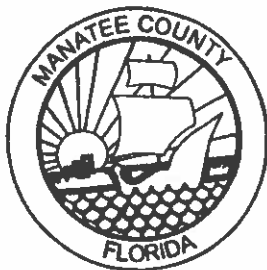
Section 3. Order. Based upon the foregoing, a Variance is hereby approved and issued to John Cannon Homes for property located at 14754 Como Cir, Bradenton, as more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, reducing the side yard setback requirements in the PDMU (Planned Development Mixed Use) zoning district established by Ordinance PDMU-92-01(P)(R) – Lake View Estates from 8 feet to 6 feet on the west side and 8 feet to 5 feet on the east side, 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 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 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 1st day of December, 2022.



MANATEE COUNTY, FLORIDA

BY: Kerry S., as
Hearing Officer for Manatee County

ATTEST: ANGELINA COLONNESO,
Clerk of the Circuit Court

BY: Debi Jessman
Deputy Clerk

EXHIBIT "A"
Legal Description

Lot 47, Lake View Estates at the Lake Club PD# 5888.3435/9



Beaufort Gazette
Belleville News-Democrat
Bellingham Herald
Bradenton Herald
Centre Daily Times
Charlotte Observer
Columbus Ledger-Enquirer
Fresno Bee

The Herald - Rock Hill
Herald Sun - Durham
Idaho Statesman
Island Packet
Kansas City Star
Lexington Herald-Leader
Merced Sun-Star
Miami Herald

el Nuevo Herald - Miami
Modesto Bee
Raleigh News & Observer
The Olympian
Sacramento Bee
Fort Worth Star-Telegram
The State - Columbia
Sun Herald - Biloxi

Sun News - Myrtle Beach
The News Tribune Tacoma
The Telegraph - Macon
San Luis Obispo Tribune
Tri-City Herald
Wichita Eagle

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
33903	330850	Print Legal Ad-IPL00935730 - IPL0093573		\$156.78	2	66 L

Attention: Bobbi Roy
Manatee County Planning Department
PO BOX 1000
BRADENTON, FL 34206

Bobbi Roy

October 17, 2022
1070006401

NOTICE OF PUBLIC HEARING 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, October 26, 2022, at 3:00 p.m. at the Manatee County Government Administrative Center, 5th Floor, Manatee Room, 1112 Manatee Avenue West, Bradenton Florida** to consider and act upon the following matters:

VA-22-05 – Crutchman Property, Variance PLN2207-0068

Approval of a side yard setback variance to the setback requirements in the PDMU (Planned Development Mixed Use) zoning district established by Ordinance PDMU-92-01(P)(R) – Lake View Estates reducing the side setback from 8 feet to 5 feet; for a site being Lake View Estates at The Lake Club Lot 46 located at 14754 Como Cir, Bradenton (Manatee County) on approximately 0.4764 acres; providing for severability; and providing for an effective date.

VA-22-06 – Karcha Property, Variance PLN2207-0067

Approval of a side yard setback variance to the setback requirements in the PDMU (Planned Development Mixed Use) zoning district established by Ordinance PDMU-92-01(P)(R) – Lake View Estates reducing the side setback from 8 feet to 5 feet; for a site being Lake View Estates at The Lake Club Lot 46 located at 14758 Como Cir, Bradenton (Manatee County) on approximately 0.4457 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 Development Services Department, 1112 Manatee Avenue West, Bradenton, FL 34205 or at mymanatee.org.

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 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 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 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 DeMilio 941-792-8784 ext. 8303 or 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 Development Services Department
Manatee County, Florida
IPL0093573
Oct 14 2022

THE STATE OF TEXAS COUNTY OF DALLAS

Before the undersigned authority personally appeared Ryan Dixon, 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:

No. of Insertions: 1
Beginning Issue of: 10/14/2022
Ending Issue of: 10/14/2022

THE STATE OF FLORIDA COUNTY OF MANATEE

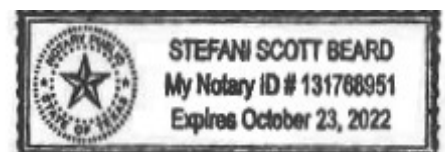
Affidavit further says that the said publication is a newspaper published at Bradenton, in said Manatee County, Florida, and that the said newspaper has heretofore been continuously published in said Manatee County, Florida, each day and has been entered as second-class mail matter at the post office 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.

Ryan Dixon

Sworn to and subscribed before me this 17th day of October in the year of 2022

Stefani Beard

Notary Public in and for the state of Texas, residing in Dallas County



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



The Gainesville Sun | The Ledger
Daily Commercial | Ocala StarBanner
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PO Box 631244 Cincinnati, OH 45263-1244

PROOF OF PUBLICATION

Bobbi Roy
Manatee Co. Planning Dept/Lg
1112 Manatee AVE W # 4TH
Bradenton FL 34205-7804

STATE OF FLORIDA, COUNTY OF Sarasota

The Herald-Tribune, a newspaper printed and published in the city of Sarasota, and of general circulation in the Counties of Sarasota, Manatee, and Charlotte, State of Florida and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issues dated or by publication on the newspaper's website, if authorized, on:

10/14/2022

and that the fees charged are legal.
Sworn to and subscribed before on 10/14/2022

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$155.00

Order No: 7901844

Customer No: 528884

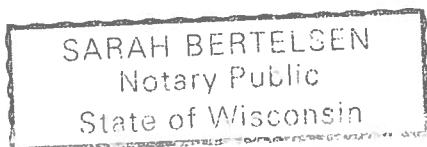
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Bobbi Roy

November 16, 2022 107.0006402



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MANATEE COUNTY HEARING
OFFICER
Manatee County Development
Services Department
Manatee County, Florida
#7901844, 10/14/2022