

**VARIANCE NO. VA-23-02
6440 LINCOLN ROAD VARIANCE PLN2301-0070**

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER KELLY FERNANDEZ ON BEHALF OF MANATEE COUNTY GRANTING VARIANCE NO. VA-23-02, REDUCING THE EIGHT (8) FOOT SIDE YARD SETBACK ON THE SOUTHSIDE TO 6.3 FEET IN THE RSF-6 (RESIDENTIAL SINGLE FAMILY 6) ZONING DISTRICT FOR A SITE BEING LOT 3 MARINELAND ADDITION, LOCATED AT 6440 LINCOLN ROAD, BRADENTON (MANATEE COUNTY) ON APPROXIMATELY 0.247 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, Susan Brown is requesting a variance from the side yard setback requirements in the RSF-6 (Residential Single Family 6) zoning district to reduce the eight (8) foot side yard setback on the southside to 6.3 feet for Lot 3, Marineland Addition, located at 6440 Lincoln Road, Bradenton; and

WHEREAS, on May 30, 2023, 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 23-02 requested by Susan Brown, 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-6 (Residential 6) Future Land Use Category.
- B. The subject property is in the RSF-6 (Residential Single Family 6) zoning district.
- C. The request is to approve a variance to the side yard setback requirements established in the in the RSF-6 (Residential Single Family 6) zoning district, reducing the eight (8) foot side yard setback to 6.3 feet on the southside.

- D. Previous owners of the subject property extended the second floor porch without a building permit.
- E. Upon applying for an After-the-Fact building permit, it was discovered that a corner of the second floor porch encroached into the side yard setback on the southside of the property.
- F. The encroachment appears to be primarily caused by a roof overhang.

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. The particular physical surroundings, shape, topographical condition, or other physical or environmental condition of the subject property would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
- 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 has not been created by any person presently having an interest in the property.
- 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.

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- K. The variance is the minimum variance that will make possible the reasonable use of the property.
- L. The property cannot be put to a reasonable use which complies fully with the requirements of the Code unless the variance is granted.

Section 3. Order. Based upon the foregoing, a Variance is hereby approved and issued to Susan Brown to reduce the eight (8) foot side yard setback in the RSF - 6 (Residential Single Family 6) zoning district on the southside to 6.3 feet for Lot 3, Marineland Addition, located at 6440 Lincoln Road, Bradenton, on approximately 0.247 acres, 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 Department.
2. The After-the-Fact building permit (BLD 2106-2912) has expired and has been voided. The applicant must obtain all necessary building permits and have all necessary inspections conducted.

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 Development Services Department.

ORDERED ON BEHALF OF MANATEE COUNTY this 28th day of June, 2023.

MANATEE COUNTY, FLORIDA

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

ATTEST: ANGELINA COLONNOSO,
Clerk of the Circuit Court

BY: Angela Colonnoso
Deputy Clerk

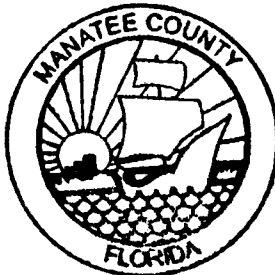


EXHIBIT "A"
Legal Description

Lot 3, MARINELAND ADDITION, a Subdivision, according to the plat thereof, recorded in Plat Book 8, Page 11, of the Public Records of Manatee County, Florida. Less a portion of said Lot 3 described as follows: Commence at the Northeasterly-most corner of said Lot 3; thence South 70°00'00" West, along the Northerly line of said Lot 3, a distance of 104.71 feet to the Point of Beginning; thence continue South 70°00'00" West, along said Northerly line, a distance of 57.5 feet, more or less to the apparent shoreline of Bradenton River; thence meandering Southerly, along said apparent shoreline of Bradenton River, a distance of 20.5 feet, more or less; thence North 70°00'00" East, a distance of 12.36 feet; thence South 86°49'18" East, a distance of 36.00 feet; thence North 03°10'42" East, a distance of 37.49 feet to aforesaid Northerly line of Lot 3 and the Point of Beginning. Lying and being in Section 23, Township 35 South, Range 18 East, Manatee County, Florida. Also Less parcel as recorded in Official Records Book 2330, Page 6444, of the Public Records of Manatee County, Florida, to wit: A portion of Lot 3, MARINELAND ADDITION, a Subdivision in Section 23, Township 35 South, Range 18 East, as per plat thereof recorded in Plat Book 8, Page 11, of the Public Records of Manatee County, Florida, being described as follows: Commence at the Northeasterly-most corner of said Lot 3; thence S 70°00'00" W, along the Northerly line of said Lot 3, a distance of 102.83 feet to the Point of Beginning; thence S 02°30'49" W, a distance of 37.23 feet; thence N 89°45'35" W, a distance of 2.15 feet; thence N 03°10'42" E, a distance of 36.49 feet to an intersection with the Northerly line of said Lot 3; thence N 70°00'00" E, along said Northerly line, a distance of 1.87 feet to the Point of Beginning. Together with parcel as recorded in Official Records Book 2330, Page 6447, of the Public Records of Manatee County, Florida, to wit: A portion of Lot 3, MARINELAND ADDITION, a Subdivision in Section 23, Township 35 South, Range 18 East, as per plat thereof recorded in Plat Book 8, Page 11, of the Public Records of Manatee County, Florida, being described as follows: Commence at the Northeasterly-most corner of said Lot 3; thence S 70°00'00" W, along the Northerly line of said Lot 3, a distance of 146.53 feet to the Point of Beginning; thence S 02°30'49" W, a distance of 19.99 feet; thence S 86°45'35" E, a distance of 38.21 feet; thence S 03°10'42" W, a distance of 1.00 feet; thence N 86°49'18" W, a distance of 38.00 feet; thence S 70°00'00" W, a distance of 6.2 feet, more or less to an intersection with the apparent shoreline of Braden River; thence Northwesterly along said apparent shoreline, a distance of 20.3 feet, more or less to an intersection with the Northerly line of said Lot 3; thence N 70°00'00" E, a distance of 11.7 feet, more or less to the Point of Beginning.

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

Recorded By: hhoey
Cashiered By: hclark

Receipt#: 900584232 Payee Name: SUSAN BROWN
Receipt Date: 06/29/2023

Instrument(s): 202341069766-GOVERNMENT RELATED

Receipt Total:	\$35.50
Amount Tendered:	\$35.50
Overage:	\$0.00
Service Fee	\$1.24
Total PAID	\$36.74

SIGN HERE →

Authorization Code: 06190D A.I.D #. Credit Card Type: visa Card Charge: \$36.74

This payment will appear on your credit card or debit card statement as "Manatee County Clerk of Circuit Court". There is a non-refundable 3.5% service fee per transaction to provide this service.

Credit card Applied:	\$35.50	CREDIT CARD	8200150
Service Fee	\$1.24		
Amount Paid	\$36.74		

Instrument: 202341069766 GOVERNMENT RELATED

001000000341100	RECORDING FEE \$5/\$4	\$17.00
199000000341150	PRMTF \$1/\$.50	\$2.50
001000000208911	PRMTF FACC \$.10	\$0.40
199000000341160	PRMTF CLERK \$1.90	\$7.60
001000000208912	PRMTF BCC \$2	\$8.00
Instrument Total:		\$35.50

Receipt

6/29/2023 12:32:10PM

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Fines, fees, services charges, court costs and other costs are determined by law enacted by the Florida Legislature. If requested, a receipt is available indicating specific fund account distribution.