

VARIANCE NO. VA-99-29  
DR. JACK JAWITZ

JUN 7 10 09 AM '00

**FINAL ORDER OF MANATEE COUNTY HEARING OFFICER  
MARK SINGER ON BEHALF OF MANATEE COUNTY DENYING  
VARIANCE NO. VA-99-29, TO ALLOW A REDUCTION TO THE  
WATERFRONT SETBACK AND TO THE REAR YARD SETBACK;  
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 90-01, as amended; and

**WHEREAS**, pursuant to the Land Development Code, Manatee County Ordinance 00-22, as amended, the Hearing Officer has the authority to grant Variances; and

**WHEREAS**, Dr. Jack Jawitz has requested a Variance to allow reductions to the waterfront and rear yard setbacks to build a detached garage structure; and

**WHEREAS**, on May 17, 2000 the aforementioned Hearing Officer held a public hearing to receive the staff report, applicant's presentation and public comment and argument regarding the proposed Variance for setback reductions.

**NOW, THEREFORE**, the Final Order regarding Variance No. VA-99-29 requested by Dr. Jack Jawitz states 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 zoning classifications for the subject property are RSF-2 (Residential Single Family, 2 dwelling units per acre) and RSF-2/CH (Residential Single Family, 2 dwelling units per acre/Coastal High Hazard Area). The setbacks are front yard 25 feet, side yard 10 feet, and rear yard 25 feet. The waterfront setback is 25 feet.
- B. The application for variance is to allow an eleven foot setback for the rear and waterfront yards, a variance of 14 feet.
- C. The review criteria set forth in Section 509.5.3 of the Land Development Code must be met for a variance to be granted.
- D. The applicant did not meet the standards for review of Section 509.5.3 of the Land Development Code, specifically the following:
  - 1. The particular physical surroundings, shape, topographical condition, or other physical or environmental condition of the specific property involved 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.

Finding: There is no particular hardship in this case. It is only an inconvenience to the applicant.

2. 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, except that physical handicaps or disability may be considered where relevant to the request.

Finding: The application for variance is based on conditions which are personal to the applicant, namely his desire to build a garage in a particular location.

3. The alleged hardship has not been created by any person presently having an interest in the property.

Finding: The alleged hardship has been created by the applicant's desire to locate the garage in a particular location.

4. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity.

Finding: The granting of this variance will be detrimental to the public welfare because it will set an undesirable precedent for approving future requests for variances that are not necessary, which would be harmful to the public.

5. The variance granted is the minimum variance that will make possible the reasonable use of the property.

Finding: The request for variance is not necessary to allow the applicant to have reasonable use of the property since there is room to accommodate the desired structure applying the current building setbacks and the applicant is currently enjoying a reasonable use of the property.

6. The property cannot be put to a reasonable use which complies fully with the requirements of the Code unless the variance is granted.

Finding: The property can be put to a reasonable use without the variance since there is a building envelope within which to build the proposed structure, allowing it to be in full compliance with the Code. Further, the applicant is currently enjoying a reasonable use of the property.

Section 2. Conclusions of Law. Based upon the prior Findings of Fact and considering the testimony, evidence, documentation, and the staff report presented, 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 Ordinance 00-22, amending Section to the Land Development Code.

- B. The applicant has the burden of proving entitlement to the Variance.
- C. The applicant has failed to prove his entitlement to the variance request.

Section 3. Order. Based upon the foregoing, the variance requested by Dr. Jack Jawitz for the property located at 5260 Riverview Blvd., Bradenton, FL 34205, and more particularly described in Exhibit "A" attached hereto and incorporated herein, for reduction of setbacks is hereby denied.

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

Section 5. Effective Date. The effective date of this Variance denial shall be upon execution of this Order by the Hearing Officer.

2000. ORDERED ON BEHALF OF MANATEE COUNTY this 7<sup>th</sup> day of June,

MANATEE COUNTY, FLORIDA

BY: \_\_\_\_\_

Mark D. Singer, as  
Hearing Officer for Manatee County

ATTEST: R.B. SHORE  
Clerk of the Circuit Court

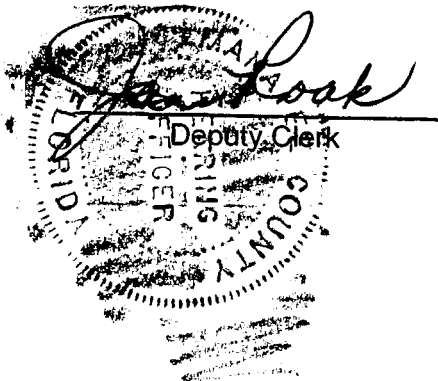


EXHIBIT "A"

LEGAL DESCRIPTION:

BEG ON THE E LN OF LOT 4 OF SANS TERRE BLK ACCORDING TO PLAT OF SANS TERRE BLK, BLK 6B & PART OF BLK 6, TOWN OF PALMA SOLA, PB1 P 128, AT ITS INTERSEC WITH N LN OF SHORE RD, TH W ALG N SIDE OF SHORE RD 248 FT, TH N 26 DEG W, 172 FT M/L TO THE CEMENT POST, TH N 27 DEG 30 MIN E, 301 FT M/L TO WATERS OF MANATEE RIVER, TH NWLY MEANDERING ALG SHORE OF RIVER, 258 FT M/L TO HEDGE, WHICH IS POB; TH ALG SHORE OF RIVER NWLY, 468 FT M/L TO W LN OF US LOT 4, SEC 20, TH S ALG SD LN 30 FT M/L TO SHORE OF BAYOU, TH SELY ALG SHORE OF BAYOU, 472 FT M/L TO HEDGE, FORMING E LN OF PROPERTY, TH N ALG HEDGE 253 FT M/L TO POB, INCL RIP RTS & SUBJ TO EASMT FOR SHORE RD. PLUS A PARCEL OF SUBMERGED LAND IN THE MANATEE RIVER IN SEC 20, IN OR 314 P 156 DESC AS FOLLOWS: COM AT THE SE COR OF SD SEC 20; TH N 122.72 FT; TH W 530 FT TO AN IRON PIPE MARKING ~~THE~~ SE COR OF LOT 4, SANA TERRE BLOCK, BLKS 6B AND PART OF BLK 6, TOWN OF PALMA SOLA, PB 1 P 128; TH CONT W 319.10 FT; TH N 166.16 FT TO A CON MON; TH N 27 DEG 20 MIN 33 SEC W, 303.59 FT TO AN IRON ROD MARKING THE ELY LN OF LANDS OF HUGO GREISEN, BEING THE SAME E LN IN OR 139 P 411; TH N 30 DEG 45 MIN 38 SEC E, 125.78 FT ALG SD ELY LN TO ITS INTERSECTION WITH A CON SEAWALL FOR THE POB; TH CONT N 30 DEG 45 MIN 38 SEC E, 66.87 FT TO ITS INTERSECTION WITH THE MANATEE COUNTY BULKHEAD LN, SD INTERSECTION MARKED AS X300671.68 & Y1154436.50; TH NWLY ALG SD BULKHEAD LN, BEING A CURVE CONCAVE TO THE S HAVING A RADIUS OF 3800 FT D/A OF 7 DEG 23 MIN 33 SEC, LONG CHORD OF 489.99 FT ON A CHORD BEARING OF N 68 DEG 25 MIN 43 SEC W, A DIST OF 490.29 FT TO ITS INTERSECTION WITH THE W LN OF U.S. GOV'T LOT 4 OF SD SEC 20, SD INTERSECTION MARKED X300216 & Y1154616.65; TH S ALG SD W LN, 24 FT TO THE H/W/L OF THE MANATEE RIVER; TH S 63 DEG 55 MIN 37 SEC E, ALG SD H/W/L 339.05 FT; TH S 61 DEG 05 MIN 02 SEC E, 133.58 FT ALG SD H/W/L AND CON SEAWALL TO THE POB. LESS LAND IN OR 927 P 430 DESC AS FOLLOWS: COM AT THE SE COR OF SEC 20; TH N 122.72 FT; TH W 530 FT TO THE SE COR OF LOT 4, SANS TERRE BLOCK, BLOCKS 6B AND PART OF BLOCK 6, TOWN OF PALMA SOLA, PB 1 P 128; TH CONT W 319.10 FT, TH N 166.16 FT; N 27 DEG 20 MIN 33 MIN W, 303.59 FT TO AN IRON ROD MARKING THE ELY LN OF LANDS OF HUGO GREISEN, BEING THE SAME E LN IN OR 139 P 411, FOR A POB; TH N 30 DEG 45 MIN 38 SEC E, ALG SD E LN, 125.88 FT TO A CON SEAWALL; TH CONT N 30 DEG 45 MIN 38 SEC E, 66.87 FT TO ITS INTERSECTION WITH THE MANATEE COUNTY BULKHEAD LN, SD INTERSECTION MARKED AS X-300,671.68 & Y-1,154,436.50; TH NWLY ALG SD BULKHEAD LN, BEING A CURVE CONCAVE TO THE S, HAVING A RADIUS OF 3800 FT AND D/A OF 2 DEG 17 MIN 20 SEC A DIST OF 151.81 FT TO A PT MARKED X-300,533.141 & Y-1,154,498.542; TH S 38 DEG 22 MIN 39 SEC W, 52.98 FT TO SD CON SEAWALL; TH CONT S 33 DEG 37 MIN 20 SEC W, 161 FT, M/L, TO THE SHORELINE OF WARNERS EAST BAYOU; TH SELY ALG SD SHORELINE 165 FT, M/L, TO A PT THAT LIES S 30 DEG 45 MIN 38 SEC W AND 51 FT, M/L FROM THE POB: "LESS R/W FOR RIVERVIEW BLVD", TOGETHER WITH ALL RIPARIAN RIGHTS THEREINTO APPERTAINING

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EXHIBIT "B"

SITE PLAN SUBMITTED WITH APPLICATION