



**SPECIAL MAGISTRATE – VARIANCE REQUEST
FROM THE FLOOD RESISTANT CONSTRUCTION
REQUIREMENTS OF THE FLOODPLAIN
MANAGEMENT ORDINANCE**

VAR 2023-02

Staff Report and Recommendation
Special Magistrate Meeting – July 31, 2023

Application: VAR 2023-02
Applicant: William Karns Enterprises
Property Owner(s): Boardwalk Place Properties LLC
Property Address: 215 Boardwalk Place East, Madeira Beach, FL 33708
Parcel ID: 15-31-15-00000-410-0200
Legal Description: PART OF SE 1/4 OF SEC 15-31-15 DESC AS THAT TRACT LYING SE'LY OF LOTS 1, 2 & 3, BLK 1 OF MITCHELL'S BEACH REV BETWEEN NE LINE OF LOT 1 & SW LINE OF LOT 3 EXT SE'LY TO MHW & LYING BETWEEN 128TH AVE (AKA BOARDWALK PL) & MHW TOGETHER WITH TIIF SLL #520006273 EXP 3/14/2026

Zoning/Future Land Use: C-2, John's Pass Marine Commercial/Commercial General

Request: Coastal AE-11 Flood Zone Base Flood Elevation (BFE) + 1-foot Freeboard Requesting 3-foot Variance from 15'-0" Design Flood Elevation (DFE) to 12'-0" DFE

Specific Code Provisions: Sec. 94-75. - Considerations for issuance of variances., Sec. 94-76. - Conditions for issuance of variances.

I. Background:

Variance 2023-02 for 215 Boardwalk Place East would allow for the construction of a commercial structure to be built that would have level access from the structure to the Johns Pass Boardwalk. In the Madeira Beach Code of Ordinances, *Sec. 14-39 – Technical amendments* (b) requires 1.) *All buildings and structures erected within coastal high-hazard areas and Coastal A Zones, shall be elevated so that the all bottom of the lowest horizontal structural members supporting the lowest floor, with the exception of pilings, pile caps, columns, grade beams and bracing, is elevated to or above the base flood elevation plus 4 feet or the design flood elevation, whichever is higher.* The code of ordinances Division 7, 94-75 & 94-76 allows for a variance to floodplain requirements from Madeira Beach ordinances, which currently has a 4-foot freeboard, but in no circumstance relief from the Florida Building Code requirements, which currently has a 1-foot freeboard. As with all other businesses along the boardwalk, this structure would not

attach to the boardwalk but instead would be constructed adjacent to the boardwalk and provide direct access to the boardwalk, via a “level” walk out. This access point(s) would be ADA compliant and provide ADA access that is not currently available along the eastern most end of the boardwalk. A floodplain variance request for relief from the current 4-foot freeboard must meet the criteria for variances, while still being compliant with all other construction requirements, meeting the City of Madeira Beach Land Development Regulations (LDRs), FEMA requirements and the Florida Building Code (FBC).

II. Variance Criteria and Analysis:

- **Sec. 94-75. Considerations for issuance of variances.**

In reviewing requests for variances, the special magistrate shall consider all technical evaluations, all relevant factors, and all other applicable provisions of the Florida Building Code, this chapter, and the following:

- (1) *The danger that materials and debris may be swept onto other lands resulting in further injury or damage;*

Findings: The building will be constructed in accordance with current Florida Building Codes (FBC), meeting all requirements for structures located in a Coastal A zone, including but not limited to deep foundation installation, stringent connection points and fasteners and structural design such that extreme lateral loads are considered. As such there is limited danger associated with loose materials or building debris.

- (2) *The danger to life and property due to flooding or erosion damage;*

Findings: In addition to the “Findings” stated above, deep foundation design considers scouring caused from erosion around pile foundations during storm events and as such is inherent to the design. In addition, all components constructed below the DFE will be dry floodproofed and a certification as to that fact will be provided by the design engineer. Therefore, there is no anticipated increase in danger to the building, occupants, or surrounding structures due to flooding or erosion.

- (3) *The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;*

Findings: In addition to the “Findings” stated above, the building below DFE will be dry floodproofed and any non-structural components will be designed to either resist shifting and floatation or to be removed from the site during an approaching storm. The anticipated design and construction techniques will be such that the building will not negatively impact current or future owners

- (4) *The importance of the services provided by the proposed development to the community;*

Findings: The proposed restaurant will improve upon what is currently located on this parcel and provide another route for ADA accessibility via the restaurant elevator. Promoting business redevelopment in this area while maintaining the unique characteristic of Johns Pass Village is critical given all the businesses

require access to the boardwalk as a fixed point providing pedestrian traffic to their businesses.

- (5) *The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;*

Findings: The location of the site is unique and offers an opportunity to provide new construction along the boardwalk and improve on what is currently constructed on the parcel. Another location would not provide the same opportunity as the one here.

- (6) *The compatibility of the proposed development with existing and anticipated development;*

Findings: The proposed development is compatible with both current uses and anticipated future use of all businesses along the boardwalk.

- (7) *The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;*

Findings: Madeira Beach Comprehensive Plan Policy 4.1.9.6 and Policy 4.1.9.8 reference the importance of John's Pass Village for tourism and commerce and that redevelopment needs to fit within the overall theme of the area. The proposed development would align with the redevelopment policies for John's Pass Village in the Madeira Beach Comprehensive Plan and fit within the established theme of the area. As stated previously, the proposed development would be more resilient compared to the existing structure on the property.

- (8) *The safety of access to the property in times of flooding for ordinary and emergency vehicles;*

Findings: The structure will be accessed in the same manner as other businesses along the corridor via the one-way Boardwalk Place East.

- (9) *The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and*

Findings: The property is in the AE-11, Coastal A high hazard area and has been mapped as such to take into account expected heights, velocity, duration, etc. associated with storm events. This structure will be built to higher standards than the surrounding buildings, which are much older and were constructed under different building requirements. All necessary studies and reports utilized in the final design of the building will be reviewed by city staff to ensure impacts from all storm effects have been considered.

- (10) *The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.*

Findings: There is no additional anticipated hardship associated with the proposed restaurant given the current parcel usage and in consideration that all utilities will be replaced with current, code compliant construction techniques.

- **Sec. 94-76. Conditions for issuance of variances.**

Variances shall be issued only upon:

- (1) *Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this chapter or the required elevation standards;*

Findings: The applicant has submitted sufficient information showing the unique challenges of the site as related to the necessity of accessing the fixed elevation of the boardwalk as compared to the elevation of the “business” level.

- (2) *Determination by the Special Magistrate that:*
 - a. *Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;*
 - b. *The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and chapters; and*
 - c. *The variance is the minimum necessary, considering the flood hazard, to afford relief;*

Findings: Granting of this variance will not result in any negative impact to the property or adjacent properties and will instead help to further options for more resilient construction in John’s Pass Village while maintaining the unique boardwalk, pedestrian friendly build out that currently exists. The designer has spent considerable time reviewing options for meeting FEMA criteria while maintaining access to the boardwalk and has determined this is the option of least variance that will still allow boardwalk access.

- (3) *Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the office of the clerk of the court in such a manner that it appears in the chain of title of the affected parcel of land; and*

Findings: The applicant is aware of and has acknowledged intent to comply with this requirement.

- (4) *If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the floodplain administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25.00 for \$100.00 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.*

Findings: The applicant is not requesting to build below the required BFE but is instead requesting relief from the additional requirement of the 4-foot freeboard

which is unique to the Madeira Beach LDR. The FBC requires 1-foot of freeboard which the applicant will adhere to.

III. Staff Recommendation:

Staff recommends the approval of VAR 2023-02.

Submitted by: City of Madeira Beach Community Development Department Staff

Attachments: 1) Application
2) Public Notice Mailing and Posting