



SPECIAL MAGISTRATE – VARIANCE REQUEST

VAR 2026-02

Staff Report and Recommendation Special Magistrate Meeting – June 22, 2026

Application: VAR 2026-02
Applicant: Jane Graham, Esq. Sunshine City Law
Property Owner(s): Robert Bello, Jr.
Property Address: 13301 Gulf Lane Madeira Beach, FL 33708
Parcel ID: 15-31-15-58320-007-0010
Legal Description: MITCHELL'S BEACH REVISED BLK 7, LOT 1
Zoning/Future Land Use: R-3, Medium Density Multifamily Residential/Resort Facilities Medium (RFM)

Request:

1. Section 110-231 (1) - Reduce front yard setback from 20 feet to 3 feet 4 inches
2. Section 110-231 (4) – Reduce the north side yard setback from 5 feet to 3 feet
3. Section 110-428 – Reduce the south side yard corner lot setback from 10 feet to 3 feet
4. Section 110-423 Intersection Visibility – Reduction of the cross visibility area by 20 feet 11 inches.
5. Section 110-96 -Rebuilding after a catastrophic loss to allow a storm damaged building to be replaced with a new structure while decreasing setback nonconformities on all sides and eliminating ISR and parking non-conformities.

Specific Code Provisions:

Sec. 110-231. Setback requirements. (1) Front yard: a. Single-family, duplex and triplex: 20 feet, measured from right-of-way to structure. (4) Side yard setbacks: a. Single-family, duplex and triplex dwellings: 1. For lots less than 50 feet in width, the minimum side yard setback shall be five feet.

Sec. 110-428. Same—Side yard of corner lot. Any corner lot shall have a side yard that is a minimum of ten feet, along the street side and an interior side setback to meet the minimum required by the district. (Also consult section 110-418.)

Sec. 110-423. Intersection visibility. (a) At all street intersections no obstruction to vision (other than an existing building, post, column, or tree) exceeding 36 inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between the points along such street lot lines 25 feet distant from their point of intersection.

(b) It shall be unlawful for the owner or person in charge of any lot, parcel or piece of land within the city to allow any obstruction to vision in the triangle formed by the lines of two intersecting streets, or street and an alley, and a line joining points on such lines 30 feet distant from their point of intersection by permitting any vegetation to grow or be maintained between the heights of three feet and ten feet above the grade of the centerline of the intersection, or by constructing or maintaining any fence or other structure which by constructing or maintaining any fence or other structure which constitutes an obstruction to view within the triangle.

Sec. 110-96. Rebuilding after a catastrophic loss. (b) Rebuilding regulations. Rebuilding regulations shall be as follows: (1) Single-family. May be rebuilt within the same footprint if it complies with all other existing regulatory codes and provisions of the land development regulations.

I. Background

This at-grade residential structure on the property was built in 1938. The elevated residential structure on the property was built in 1987. The property has previously received two variances. Variance 82.12 allowed for the property owner to build a second living unit on the property above the 100-year flood level and reduce the side yard setbacks to 5 feet. Variance 85.14 reapproved the previous variance that had expired allowing the property owner to build a second living unit on the property above the 100-year flood level and reduce the side yard setbacks to 5 feet. In 2024, the at-grade residential structure received flood damage from Hurricane Helene. The property owner would like to replace the existing at-grade structure with an elevated FEMA compliant structure.

The variance request is to allow the property owner of 13301 Gulf Lane to replace their at-grade nonconforming structure with a new residential structure that is closer to being conforming than the current structure. The new structure would have 4 parking spaces

located under the building to meet the parking requirements for two residential units. The property would be brought into compliance with the Impervious Surface Ratio requirement of 0.85 for the R-3, Zoning District. Located below is a table showing the existing structure versus the proposed structure setbacks and various other land development regulation requirements.

Land Development Regulations Existing Versus Proposed

<u>Land Development Regulations</u>	<u>REQUIRED</u>	<u>EXISTING</u>	<u>PROPOSED SETBACKS</u>
FRONT SETBACK (EAST)	20 Feet	11 inches into the ROW at grade. 2.5 Feet of Roof Overhang into ROW Airspace	Reduced to a minimum front yard setback of 3 feet 4 inches.
SIDE SETBACK (SOUTH)	5 Feet Interior Side, 10 Feet Street Adjacent	1 foot 10 inches of porch into the ROW and an additional 3 foot 9 inches of shrubbery beyond that for a total of 5 feet 7 inches into the ROW.	3 feet
SIDE SETBACK (NORTH)	5 Feet Interior Side, 10 Feet Street Adjacent	10 Foot of Garage extends to within 2 feet 8 inches of the lot line and 45 foot of elevated deck is all the way to the lot line.	3 feet for structure

REAR SETBACK OR BETWEEN STRUCTURES SETBACK (WEST)	25 feet, Landward of coastal construction control line, or 10 feet between structures	Buildings 2 foot 6 inches away from each other while roof lines overlap.	A minimum of 10 feet between the structures
INTERSECTION VISIBILITY	25 feet	0 feet	4 feet 1 inch (Reduction of the cross visibility area by 20 feet 11 inches)
IMPERVIOUS SURFACE RATIO	85%	98.8%	79.4%
OFF-STREET PARKING	2 Per Residential Unit	1	4

II. Sec. 2-507. – Variances Criteria and Analysis

(1) Special conditions and circumstances exist which are peculiar to the land, building, or other structures for which the variance is sought and which do not apply generally to the lands, building, or other structures in the same district. Special conditions to be considered shall include, but are not limited to, the following circumstances:

- a. *Substandard or irregular-shaped lot.* If the site involves the utilization of an existing lot that has unique physical circumstances or conditions, including irregularity of shape, narrowness, shallowness, or the size of the lot is less than the minimum required in the district regulations;
- b. *Significant vegetation or natural features.* If the site contains significant native vegetation or other natural features;

- c. *Residential neighborhood character.* If the proposed project promotes the established historic or traditional development pattern of a block face, including setbacks, building height, and other dimensional requirements;
- d. *Public facilities.* If the proposed project involves the development of public parks, public facilities, schools, or public utilities;
- e. *Architectural and/or engineering considerations.* If the proposed project utilizes architectural and/or engineering features that would render the project more disaster resistant.

Staff Findings:

a. The property would be considered both a substandard and an irregularly shaped lot for two residential structures located on a corner lot. The existing residential density and structure footprint is protected by *Sec. 110-96. Rebuilding after a catastrophic loss.* The current at-grade residential structure encroaches into the public right-of-way, creating a safety hazard. Rebuilding the structure in the same footprint would not be possible and attempting to meet the required setbacks would not allow the property owner to retain the existing residential density. The proposed variance would allow for a reasonable use of the property.

c. The proposed variance would maintain the existing neighborhood character since other neighboring structures have similar setbacks. Removing the structure encroachment into the right-of-way will significantly improve intersection visibility safety, while maintaining the traditional development pattern of a block face.

e. The proposed replacement residential structure would be compliant with current FEMA, Florida Building Code, and Fire Code Requirements. The existing structure was built in 1938 and flooded during Hurricane Helene. The proposed replacement structure would be more disaster resistant than the existing structure.

(2) The special conditions and circumstances do not result from the actions of the applicant. A self-created hardship shall not justify a variance.

Staff Findings: The existing structure was built in 1938, which predates the Madeira Beach Land Development Regulations. The footprint of the existing structure encroaches into public right-of-way, and it would not be possible to rebuild a residential structure within the existing footprint. The property owner has the right to retain the residential density of their property because of *Sec. 110-96. Rebuilding after a catastrophic loss*. The variance request is not because of a self-created hardship.

- (3) Granting the variance will not confer on the applicant any special privilege that is denied to other lands, buildings or structures in the same zoning district.**

Staff Findings: Any property owner with an at-grade residential structure has the right to retain their residential density and rebuild back into the same footprint for single-family homes. The existing structure currently encroaches into the public right-of-way, and it would not be possible to build a new residential structure encroaching into public right-of-way. The proposed variance would allow for the construction of a single-family home that would not confer on the applicant any special privilege. Other neighboring properties are also able to use *Section 110-96 - Rebuilding after a catastrophic loss* to retain existing residential density. The proposed setbacks would not increase nonconformities and would bring the structure separation setback fully into compliance.

- (4) Literal interpretation would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the land development regulations, subpart B of this Code or section 14-205 of the Code of Ordinances and would work unnecessary and undue hardship on the applicant.**

Staff Findings: Any R-3, Zoning District property with an at-grade residential structure that was damaged during Hurricane Helene has the right to retain their existing residential density because of *Section 110-96 - Rebuilding after a catastrophic loss*. The existing footprint would not be buildable because of the right-of-way encroachments, and it would not be possible to build a new residential structure that would meet all the required setbacks because of the second structure on the lot. Literal interpretation of the Land Development Regulations would deny the property owner the right to retain the existing residential density.

(5) The variance granted is the minimum variance that will make possible reasonable use of the land.

Staff Findings: The variance granted would be the minimum amount of variance required to make reasonable use of the land. Without granting the variance, it would not be possible for the property owner to retain the residential density that is protected by *Section 110-96. - Rebuilding after a catastrophic loss*. The proposed variance would be the minimum amount of variance required to protect retaining the existing residential density while reducing the nonconformities of the property.

(6) The granting of the variance will be in harmony with the general intent and purpose of the city land development regulations or the Code of Ordinances (when it relates to section 14-205), and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Staff Findings: The proposed variance would not be detrimental to public welfare or harmful to nearby property owners. The proposed variance would remove the encroachments into the public right-of-way of the existing structure. The new structure would allow for the required parking for both residential units for the property to be shifted under the new structure. Removing at-grade residential structures and replacing them with floodplain compliant structures would be in harmony with the general intent of the land development regulations related to variances.

iii. Staff Recommendation: City staff recommends the approval of VAR 2026-02 with the following conditions:

1. The roof overhangs may extend 1 foot beyond the approved reduced setbacks for the building and they cannot extend into the public right-of-way.
2. The drainage system plan must be designed to make sure water will not drain onto the adjacent neighbor's property.
3. The demolition permit for the at-grade residential structure must be applied for by September 25, 2026.

IV. Recommended Special Magistrate Order:

The Special Magistrate approves the following variance requests:

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Submitted by: Andrew Morris, Long Range Planner, Madeira Beach Community Development Department

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