



## SPECIAL MAGISTRATE – VARIANCE REQUEST

VAR 2025-03

### Staff Report and Recommendation Special Magistrate Meeting – April 28, 2025

**Application:** VAR 2025-03  
**Applicant:** Paul Mazzillo  
**Property Owner(s):** Paul Mazzillo  
**Property Address:** 422 137th Avenue Cir Madeira Beach, Florida 33708  
**Parcel ID:** 15-31-15-34488-000-0300  
**Legal Description:** GULF SHORES HARBOR SUB LOT 30  
**Zoning/Future Land Use:** R-2, Low Density Multifamily Residential/Residential Medium

**Request:** To reduce the front setback from 20 feet to 12 feet, reduce the rear setback from 25 feet to 15 feet, and reduce the side setback (East) from 5 feet to 4 feet.

**Specific Code Provisions:** Sec. 110-206. - Setback requirements.

The following minimum setbacks shall apply in the R-2, low density multifamily residential district:

- (1) Front yard: 20 feet.
- (2) Rear yard: 25 feet.
- (3) Side yard:
  - a. Single-family lots less than 50 feet wide may reduce the total side setback to ten feet with a minimum of five feet on either side.

#### **I. Background**

The variance request for the property at 422 137th Avenue Cir is to reduce the front yard setback, side yard setbacks, and rear yard setback to allow for the construction of a new single-family home on a substandard and irregularly shaped lot. The existing single-family structure on the property was substantially damaged by Hurricane Helene. The property owner can rebuild within the same footprint by right, but the existing home has a side yard setback that is less than one (1) foot from the property line. The proposed new single-family structure will meet all current FEMA and Florida Building Code requirements. The proposed side yard setbacks would be closer to being conforming than the existing side

yard setbacks. Located below is a summary table of the existing setbacks and the proposed setback variances.

<b><u>SETBACK</u></b>	<b><u>REQUIRED</u></b>	<b><u>PROPOSED VARIANCE</u></b>
FRONT	20 feet	12 feet
REAR	25 feet	15 feet
SIDE (WEST)	5 feet	5 feet
SIDE (EAST)	5 feet	4 feet

## **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.) Lot 30 is a substandard and irregularly shaped lot. The lot does not meet the minimum site area requirements for a single-family home (4,000 square feet). The lot depth is less than the minimum required (80 feet). The lot width at the front of the lot is less than the minimum required for a single-family home (40 feet).

c.) The proposed variance maintains the existing front yard setback of 12 feet, which is similar to nearby properties. The proposed rear yard setback of 15 feet matches the rear yard setback of a neighboring property. The proposed variance supports the traditional development pattern of a block face for the neighborhood.

e.) The existing home has habitable space at grade that flooded during Hurricane Helene. The new single-family home would be more disaster resistant since the home would be built to the current floodplain and Florida Building Code requirements.

- (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 plat for lot 30 was approved in 1941 before the current Madeira Beach land development regulations were adopted. The existing home was built in 1950, which predates the design criteria requirements for a single-family home in the R-2 Zoning District. Both the lot and the home are considered legally nonconforming. The applicant did not make a self-created hardship since the house and lot predate the current zoning requirements.

- (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:**

Many of the lots located in the R-2, Zoning District along 137th Avenue Cir are nonconforming and have older structures that are at grade. All single-family homeowners in the R-2, Zoning District have the right to rebuild within their existing footprint, but many of the at grade structures have setbacks that are

significantly less than what would be conforming. If other neighboring property owners were to rebuild, they would need to apply for a similar variance to reduce the nonconformity of the setbacks.

- (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:**

The applicant would not be able to build a new home within the R-2, Zoning District setbacks since the lot is substandard. Relying on rebuilding a home within the existing footprint would create a home with minimal side setbacks. The proposed variance would have side setbacks that would be closer to conforming reducing the impact of the home on neighboring properties. The proposed variance fits within the intent of the R-2, Zoning District of supporting a mix of lower density single-family and multi-family dwellings.

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

**Staff Findings:**

Using the existing footprint when rebuilding the home would have led to a house with a side setback far too close to neighboring properties. The proposed variance allows for reasonable use of the land and not go beyond the minimum variance necessary.

- (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 is in harmony with the general intent and purpose of the city land development regulations. The R-2, Zoning District is a residential zoning

district that does allow for single-family homes on smaller sized lots. The new home would not be injurious to the area involved or otherwise detrimental to the public welfare.

### **III. Staff Recommendation:**

City Staff recommends the approval of VAR 2025-03.

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

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