



**Staff Report and Recommendation**

Special Magistrate Meeting – November 27, 2023

**Application:** VAR 2023-08  
**Applicant:** James Thompson  
**Property Owner(s):** ACQUISITION GROUP LLC  
**Property Address:** 13436 Boca Ciega Ave, Madeira Beach, FL 33708  
**Parcel ID:** 15-31-15-65304-003-0090  
**Legal Description:** PAGE'S REPLAT OF MITCHELL'S BEACH BLK C, LOT 9  
**Zoning/Future Land Use:** R-2, Low Density Multifamily Residential/Residential Medium

**Request:** Reduce front setback from 20 feet to 12 feet to be same as house [being] removed

**Specific Code Provisions:** Sec. 110-206. – Setback requirements (1) Front yard: 20 feet

**I. Background**

The current structure was built in 1941 before the creation of the Madeira Beach Land Development Regulations which contains setback requirements, therefore the house is legally nonconforming. The current structure has a 12 foot front setback which is similar to that of many of the neighboring houses on the south side of Boca Ciega Ave. Additionally, The current structure to be torn down also encroaches into the required seven foot side setback by two feet, being only five feet away from the side property line. The proposed new construction home will conform to the required side setback of seven feet on each side and a total of 15 feet.

**II. Variance Criteria (Sec. 2-507(b)) 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.*

**Findings:** a. *Substandard or irregular shaped lot.* The lot has an irregular triangular shape with two side property lines connecting without a rear property line.

*c. Residential neighborhood character.* Many other single-family houses on the same side of the street as 13436 Boca Ciega Ave have a 12 foot front yard setback.

*e. Architectural and/or engineering considerations.* The new construction will be built to meet current flood elevation requirements making it more disaster-resistant. Additionally, the proposed new construction will conform to the side yard setback which the current structure does not meet.

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

**Findings:** The hardship of the irregularly shaped property was not created by the property owner. The property was platted in 1935 and the home was built in 1941. The property and the home were built before the setback and lot minimum requirements were adopted into the Madeira Beach Code of Ordinances, making the lot & house legally nonconforming.

*(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.*

**Findings:** Approval of the variance will not grant any special privilege to the property. Most neighboring properties do not share the irregular triangular shape that the 13436 Boca Ciega Ave property has. Similar properties in this zoning district along the same street are built within the front setback to the same extent being proposed in this application.

*(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 and would work unnecessary and undue hardship on the applicant.*

**Findings:** Literal interpretation of the code would reduce the buildable footprint of the lot significantly since the front property line is the longest side of the property. These setbacks were intended to be used on rectangular lots where the front property line is the shorter than the side property lines.

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

**Findings:** Granting the variance allows for the construction of a reasonably sized single-family home. Reducing the front setback to 12 feet is reasonable because it would match the existing front setback of the current home and would have a similar front setback to homes on neighboring properties.

*(6) The granting of the variance will be in harmony with the general intent and purpose of the city land development regulations, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

**Findings:** The proposed new construction is harmonious with the general intent and purpose of the city Land Development Regulations and will not negatively affect the character of the neighborhood. Allowing the uniformity of front setbacks will be an equitable outcome for the applicant, the public, and neighbors alike.

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

Staff recommends the approval of this variance.

Submitted by: Joe Petraglia

Attachments: 1) Application with survey of property with proposed new construction  
3) Survey of property with existing structure  
3) Public Notice mailing and posting