



City of Marco Island  
Growth Management Department  
50 Bald Eagle Drive  
Marco Island, FL 34145  
Phone: 239-389-5000

**VARIANCE PETITION**

Applicable Sections of the Marco Island Land Development Code Sec. 30-65 Procedures for obtaining variances

Petition number: **V-**\_\_\_\_\_ Date Received: \_\_\_\_\_

Planner: \_\_\_\_\_

**Above to be completed by Staff**

**PROPERTY INFORMATION**

Property Owner(s): VO Capital, LLC, Assoc. Members: Gary Van Cleef & Anthony J. Oliverio  
Owner's Address: P.O. Box 703, Marco Island, FL 34146  
Phone Number: 630-742-0121 Email: tonyomarco@gmail.com

**AGENT INFORMATION**

Agent's Name: Andres Boral, MBA, PE, Principal Engineer  
Agent's Address: 711 5th Avenue South, Suite 209, Naples, FL 34102  
Phone Number: 239-692-0509 Email: andres@boralengineering.com

**SITE INFORMATION**

Address: 588 BALD EAGLE DRIVE Property ID#: 774900 D 4.27B08  
Subdivision: Marco Beach Unit 6 Block: N/A Lot(s): N/A  
Is this a corner lot? : Yes Is this a waterfront lot? : No

Setbacks Required:

Front: 25 ft Rear: 25 ft Side: 25 ft Side: 25 ft

Setbacks provided:

Front: 90 ft Rear: 25 ft Side: 30 ft Side: 85 ft

**Zoning and Land Use**

Property Subject	Zoning	Land Use
	C-4 (Proposed Office, Retail and Restaurant)	
N	Right-Of-Way (West Elkcam Circle)	
S	RSF-4 (Cemetery)	
E	Right-Of-Way (Bald Eagle Drive)	
W	RSF-4 (Cemetery)	

For variance requests for existing structure(s), please provide the following information:

1. What is the requested encroachment?

N/A \_\_\_\_\_  
\_\_\_\_\_

2. When property owner purchased property?

N/A \_\_\_\_\_  
\_\_\_\_\_

3. When was the existing structure built (include building permit number if possible)?

N/A \_\_\_\_\_  
\_\_\_\_\_

4. How was existing encroachment created?

N/A \_\_\_\_\_  
\_\_\_\_\_

5. What is the certified cost estimate for bringing the existing structure(s) into compliance?

N/A \_\_\_\_\_  
\_\_\_\_\_

6. What extenuating circumstances exist related to the existing structures encroachment?

N/A \_\_\_\_\_  
\_\_\_\_\_

7. Are there any life/safety concerns related to the existing structure(s)?

N/A \_\_\_\_\_  
\_\_\_\_\_

For variance requests for *proposed structure(s)*, please provide the following information:

1. What is the proposed encroachment?

To reduce the southerly and westerly landscape buffers from 15' down to 3'.

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2. Why is the encroachment necessary?

To provide for adequate parking, stacking of drive-thru vehicles and a by-pass lane.

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3. What extenuating circumstances exist related to the proposed structure encroachment?

The zoning for the adjacent parcel is residential and used as a cemetery; while the subject parcel is a corner lot and zoned commercial.

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#### **NATURE OF PETITION**

Please note that staff and the Marco Island Planning Board shall be guided in their recommendation to City Council acting as the Board of Zoning Appeals, and that City Council shall be guided in its determination to approve or deny a variance petition by the below listed criteria. Please provide a *narrative* response to the listed criteria and/or questions. Attach additional pages if necessary.

1. Are there special conditions and circumstances existing which are peculiar to the location, size and characteristics of the land, structure or building involved?

Yes, the subject parcel is zoned commercial and the surrounding lands are zoned RSF-4 and used as a cemetery. A portion of the adjacent infrastructure encroaches into this subject property. Improvements to the south will be necessary regardless.

2. Are there special conditions and circumstances which do not result from the action of the applicant such as pre-existing conditions relative to the property which is the subject of the variance request?

A portion of the adjacent infrastructure encroaches into the subject property. Improvements to the south and west will be necessary regardless of setback or landscape buffer width.

3. Will a literal interpretation of the provisions of this zoning code work unnecessary and undue hardship or create practical difficulties on the applicant?

Yes, if the parking area shrinks by 12' feet, which would be caused by a Code required 15 feet landscape buffer width, two parking spaces would have to be deleted. This preliminary design meets the parking requirements of Marco Island.

4. Will the variance, if granted, be the minimum variance that will make possible the reasonable use of the land, building or structure and which promote standards of health, safety or welfare?

The quantity of landscaping material will not deviate from the required type "B" landscape buffer, only the width of the buffer is being requested to change.

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5. Will granting the variance requested confer on the petitioner any special privilege that is denied by these zoning regulations to other lands, buildings, or structures in the same zoning district?

Yes, the petitioner will experience an increase of 7 feet of drivable surface when compared to regulations of the same zoning designations.

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6. Will granting the variance be in harmony with the intent and purpose of this zoning code, and not be injurious to the neighborhood, or otherwise detrimental to the public welfare?

The petitioner is committed to be non-injurious to the neighboring cemetery by providing the quantity of planting material for a type "B" buffer.

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7. Are there natural conditions or physically induced conditions that ameliorate the goals and objectives of the regulation such as natural preserves, lakes, golf course, etc?

The petitioner is committed to the construction and use of material required for an opaque type "B" landscape buffer reaching 6' in height after one-year of growth, also to include trees spaced no more than 25' on center.

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8. Will granting the variance be consistent with the growth management plan?

Yes, this development is anticipated to provide a sense of place by being attractive and offering a distinctive layout pleasing to the public. Two points of ingress and egress will be provided for both pedestrians and vehicular traffic.

**VARIANCE PETITION**

(For structures other than boat dock facilities)

**APPLICATION SUBMITTAL CHECKLIST**

*This completed checklist is to be submitted with application packet*

REQUIREMENTS	# OF COPIES REQUIRED
Completed Application	1
Completed Owner/Agent affidavit, signed and notarized	1
Pre-application notes/minutes	1
Site Plan	<b>(please include 1 copy of any documentation in color or larger than 11x17 to be handed out at the Planning Board and City Council meetings)</b>
Digital Copy of Site Plan	1
Application fee, check shall be made payable to "The City of Marco Island" in the amount of \$2,000.00. The after-the-fact variance fee is twice the variance petition fee.	
<p><b>PUBLIC NOTICE REQUIREMENT:</b> In addition to the fees required herein, all costs of newspaper notices and required notices for public petitions shall be paid in full prior to a scheduled public hearing. If such payment is not received prior to a scheduled public hearing, the petition will be continued and rescheduled. Any additional cost associated with a rescheduled item shall also be paid in full prior to the public hearing. Advertising for public hearings shall be prepared by staff and submitted to the newspapers as required in the Marco Island Land Development Code (LDC). If an application is filed for which a fee is not listed herein, staff shall assess the fee based upon actual time spent reviewing the petition.  <b>Marco Island Code of Ordinances Section 30-8(a). Amended 10/17/2005</b></p>	

As the authorized agent/applicant for this petition, I attest that all of the information indicated on this checklist is included in this submittal package. I understand that failure to include all necessary submittal information may result in the delay of processing this petition.

*Andres Boral*

\_\_\_\_\_  
Signature of Petitioner or Agent

10/12/23

\_\_\_\_\_  
Date

## **DOCK FACILITY VARIANCE APPLICATION SUBMITTAL CHECKLIST**

*Required public hearing(s) will not be scheduled until the dock facility variance application package has been deemed by staff to be complete.*

- Pre-application notes/minutes if required (Call 389-5000 to schedule a pre-application meeting)
- Completed application
- Completed Owner/Agent affidavit, signed and notarized
- Site plan, drawn to scale, illustrating all of the following:
  - Location map
  - Lot dimensions and land contour of subject property
  - Riparian line(s)
  - Required dock setbacks
  - Configuration and dimensions of decking, boatlifts, boat mooring areas of the (a) existing, (b) proposed, and (c) adjacent boat docking facilities.
  - Water depth survey, completed by a professional Florida engineer, licensed marine contractor, registered surveyor, or other person deemed to be qualified by the Community Development Director or his designee, using the format attached to the application form.
- Permit number and Certificate of Completion date for the original construction of existing boat docking facility, if applicable
- Resolution number and date of previous boat dock extension requests, if applicable
- Application fee (checks should be made payable to "City of Marco Island") in the amount of \$2,000.

**PUBLIC NOTICE REQUIREMENT:** In addition to the fees required herein, all costs of newspaper notices and required notices for public petitions shall be paid in full prior to a scheduled public hearing. If such payment is not received prior to a scheduled public hearing, the petition will be continued and rescheduled. Any additional cost associated with a rescheduled item shall also be paid in full prior to the public hearing. Advertising for public hearings shall be prepared by staff and submitted to the newspapers as required in the Marco Island Land Development Code (LDC). If an application is filed for which a fee is not listed herein, staff shall assess the fee based upon actual time spent reviewing the petition. **Marco Island Code of Ordinances Section 30-8(a). Amended 10/17/2005**

As the authorized agent/applicant for this petition, I attest that all of the information indicated on this checklist is included in this submittal package. I understand that failure to include all necessary submittal information may result in the delay of processing this petition.

I understand that, in addition to approval of this dock variance, a building permit is required prior to commencement of construction. I also understand that if the City of Marco Island City Council approves this dock variance, an affected property owner may file an appeal within 14 days of the hearing. If I proceed with construction during this time, I do so at my own risk.

\_\_\_\_\_  
N/A  
Signature of Petitioner or Agent

\_\_\_\_\_  
N/A  
Date

**AFFIDAVIT**

We/I, VO CAPITAL, LLC being first duly sworn, depose and say that we/I am/are the owners of the property described herein and which is the subject matter of the proposed hearing; that all the answers to the questions in this application, including the disclosure of interest information, all sketches, data, and other supplementary matter attached to and made a part of this application, are honest and true to the best of our knowledge and belief. We/I understand that the information requested on this application must be complete and accurate and that the content of this form, whether computer generated, or City printed shall not be altered. Public hearings will not be advertised until this application is deemed complete, and all required information has been submitted. We/I hereby also consent to access to the subject property (excluding entering any home or other enclosed structure) by City of Marco Island staff members, Planning Board members, and/or Board or Zoning Appeals members for the limited purpose of evaluating, observing, or understanding the subject property conditions as they relate to the petition. While the petition is pending, staff members, Planning Board members, or Board of Zoning Appeals members will be allowed access upon the property provided they display a Marco Island City Photo ID or a Valid Driver's License.

As property owner we/I further authorize Andres Boral, MBA, PE to act as our/my representative in any matters regarding this Petition.

[Signature]  
Signature of Property Owner

Anthony J. Oliverio  
Signature of Property Owner

GARY VAN CLEEF - AMBR  
Printed Name of Property Owner

ANTHONY J. OLIVERIO - AMBR  
Printed Name of Property Owner

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of October, 2023, by Gary VanCleaf and Anthony J. Oliverio, who <sup>are</sup> ~~is~~ personally known to me or has produced \_\_\_\_\_ as identification.

State of Florida  
County of Collier

Anne Marie Wamback  
Signature, Notary Public - State of Florida

Anne Marie Wamback  
Printed, Typed, or Stamped Name of Notary

(Seal)  
  
**ANNE MARIE WAMBACK**  
Commission # HH 094834  
Expires February 18, 2025  
Bonded Thru Budget Notary Services