City of Marco Island
Community Affairs Department
50 Bald Eagle Drive
Marco Island, FL 34145
Phone: 239-389-5000 or FAX: 239-393-0266

PF-22

VARIANCE PETITION

Petition number: V-_____ Date Received: _____

Planner: _____

ABOVE TO BE COMPLETED BY STAFF

Property Owner(s): Ray and Louise Jean

Owner's Address: 940 Cape Marco Drive, #2401, Marco Island, FL 34145

Telephone: (713) 851-8555 Fax: _____

Agent's Name: Michael Hajjar (Herscoe Hajjar Architects, LLC)

Agent's Address: 22 10th Street South, Naples, FL 34102

Telephone: (239) 643-4010 Fax: (239) 643-5010

Site Information

Address: 261 Hideaway Circle South Property ID # 50036920007

Subdivision: Hideaway Beach Block: 17 Lot(s): 1

Is this a corner lot?: No Is this a waterfront lot?: No

Setbacks Required: 25'/30' Landscape Buffer Easement

Front: 25' ft Rear: 25ft Side: 15' ft Side: 15' ft

Setbacks provided:

Front: 25' ft Rear: 25'/30' ft Side: 15' ft Side: 15' ft

Zoning and Land Use

Property	Zoning	Land Use
Subject	PUD	Single Family Residence
N		
S		
E		
W		

PERMIT # 19-07386

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

1. **What is the requested encroachment?**

   4 ft. Cantilever deck.

2. **When property owner purchased property**

   Property purchased (lot) by Raymond A. Jean Revocable Trust – 7/2/18

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

   New construction, permit is being filed simultaneously herewith

4. **How existing encroachment created?**

   New construction, permit is being filed simultaneously herewith. No encroachments pre-existing.

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

   New construction, no existing structures.

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

   New construction, no pre-exiting structures.

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

   New construction, no pre-existing structures

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

1. **What is the proposed encroachment?**

   Cantilever balcony 4 ft. into 30' Landscape Buffer Easement

2. **Why is the encroachment is necessary?**

   To provide functional deck space around the pool by extending the pool deck out 4 additional feet. The pool screen will be extended out to the outer edge of the balcony deck.

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

The FEMA elevation places the first floor of the house roughly 6.5-7.5 ft. above natural grade preventing a natural transition to grade from the house roughly 6.5-7.5 ft. above natural grade.

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?**

No

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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?**

Hideaway PUD 30' "Buffer" requirement vs. City of Marco Island "Setback". Hideaway has provided letter (attached) giving permission for a 4 ft. balcony over buffer zone thus broadening the PUD's explicit rule allowing up to 4 ft balconies over a set-back area. ***

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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, the pool size will be reduced in size and the surface area for exterior seating and sunbathing will be limited. Access around the pool along the rear side of the pool will be eliminated.

***** (2) continued: Note that Marco LDC Section 30-1004 allows a number of encroachments into side setbacks. Most houses on Marco have a side setback of 7.5' and there is a 6' drainage and utility easement along that side, leaving 1 ½' outside the easement and adjacent to the building envelope. Yet, there are 10 exceptions in this code section, i.e.: A/C, fireplaces, bay windows, can encroach up to 2 feet (1/2 of a foot into the easement), stairways, balconies 4 feet (2 ½ feet into the easement), etc. These exceptions allow going into the easement at grade. There is no legal difference in encroaching into this buffer easement, which in the PUD is for the sole benefit of HBA members and nothing says how high the plants will be in that easement.**

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?**

No

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?**

No

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?**

Yes.

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?**

No

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

Yes, the variance would not adversely impact the existing landscaping or 30 ft. "Buffer" Zone." The Petitioner has requested and received permission for the 4 ft. cantilever balcony from Hideaway ARC (see attached). Additionally, per Hideaway ARC manual, Diagram F (see attached excerpts from Hideaway 1/16/19 ARC Design Criteria Manual in accordance with the Growth Management Plan), indicates that a 4 ft. balcony is permitted. The balcony requested shall be at 6 ft. above grade to permit the existing vegetation and plantings in the 30 ft. "Buffer Zone".

VARIANCE PETITION

(For structures other than boat dock facilities)

APPLICATION SUBMITTAL CHECKLIST

This completed checklist is to be submitted with application packet

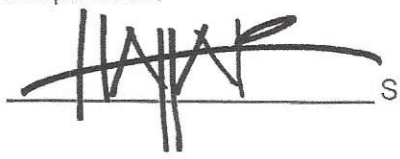
REQUIREMENTS	# OF COPIES REQUIRED
Completed Application	**1**
Completed Owner/Agent affidavit, signed and notarized	**1**
Pre-application notes/minutes	**1**
Site Plan	**1** **(please include 15 copies of any documentation in color or larger than 11x17 to be handed out at the Planning Board and City Council meetings)**
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.	

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.

G. Michael Hajjar — 11-06-19

of Petitioner or Agent — Date



Signature

AFFIDAVIT

We/I, R. A. Jean 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 MICHAEL HAJJAR ARCHITECT (239-643-4010) TBM CHRISTIAN CONSTRUCTION (239-394-2350) to act as our/my representative in any matters regarding this Petition.

R. A. Jean
Signature of Property Owner

Signature of Property Owner

RAYMOND A. JEAN
Printed Name of Property Owner

Printed Name of Property Owner

The foregoing instrument was acknowledged before me this 9 day of Sep, 2019, by Raymond A Jean, who is personally known to me or has produced Florid DL. as identification.

State of ~~Florida~~ Maine
County of Cumberland

Ruben Dario Lozano
Signature, Notary Public – State of ~~Florida~~ Maine

Ruben Dario Lozano
Printed, Typed, or Stamped Name of Notary

RUBEN DARIO LOZANO
Notary Public
Maine
My Commission Expires Oct 18, 2019

(Seal)

Exhibit A

4.04.04 MINIMUM SETBACKS

A. Principal Structures

1. Front Setbacks

For one level structure 25'
For two level structure 30' for second level

2. Interior Side Setback

For one level structure 15'
For two level structure 20' for second level

3. Side Street Setback

For one level structure 20'
For two level structure 25' for second level

4. Rear Setback
(non-beachfront lots)

For one level structure 25'
For two level structure 30' for second level

B. Roof Overhangs And Balconies

Roof overhangs may extend 8' beyond the principal structure setback line. Balconies may extend 4' beyond the principal structure setback line.

C. Accessory Structures

1. Front Setback 25'

Accessory structures 24" or more in height - measured above street grade, except for trellises, arbors and other landscape features, which have a minimum of 10' setback.

2. Interior Side Setback 10'

3. Side Street Setback 15'

4. Rear Setback 10'

Exhibit C

HIDEAWAY BEACH
ASSOCIATION, Inc.

September 9, 2019

RE: 261 Hideaway Circle South, Block 17, Lot 1

The ARC interpreted the deck extension to be a balcony having an elevation of 6'-71/2" above the crown of the road and therefore considered the design to provide ample space for the buffer zone vegetation to grow right up to the main structure wall, providing the required the 30 feet deep buffer zone. Therefore the ARC concluded that the design met the ARC criteria and was given final approval.

Sincerely,

Chris Reyelt
General Manager

250 SOUTH BEACH DRIVE, MARCO ISLAND, FLORIDA 34145-1833 239/394-5555 FAX 239/394-4176
www.hideawaybeachclub.org

Exhibit 13

e) Whichever street the front entry door faces is the street address. This must be verified by the Addressing Department at the Collier County Development offices and changes made accordingly.

f) For Combined Lots Driveway widths, see Driveways and Pathways.

Note: Those lots adjacent to residential lots on Kendall Drive, Colonial Avenue, and Spinnaker Drive must maintain a landscaped buffer strip a minimum of 30 feet in depth as platted. (See Diagram "E".)

HIDEAWAY

24. Roof Overhangs, Balconies And Stairs *(See Diagram F)*

a) Roof overhangs may extend five feet beyond the principal structure setback line.

b) Balconies and stairs, including stairs that access meters, may extend four feet beyond the principal structure set back line.

c) Stairs that access electric meters or first living level pools must be depicted on the elevations and material specifications provided.

25. Accessory Structures

Such as trellises, pergolas, arbors, water features and other landscape features have a minimum of 10-feet setback. Water features must have pumps and filters to avoid stagnate standing water and must be maintained weekly and run 24 hours and 7 days a week.

a) **Accessory Front Setback** 10 feet

b) **Accessory Interior Side Setbacks**

i	Single lots	15 feet
ii	Combined lots	25 feet

c) **Accessory Rear Setback**

i	**In Ground Pool**	**10 feet**
ii	**1st Living Level Pool**	**25 feet**

26. Interior Side Setbacks For Ground Level Pool Decks And Pool Barriers

a) Single lots 10 feet
b) Combined lots 20 feet

Note: Pools may not extend past the rear corner of the principal structure.

27. Side Street Setback for Ground Level Pool Decks And Pool Barriers

a) Single lots 15 feet
b) Combined lots 25 feet

20. Minimum Setbacks

NOTE: **All setback distances shall be measured from the property line, except the "second living level setback."** (*See Second Living Level Setbacks, Diagram A.)*

21. Principal Structures See Diagram D

a) **Front Setback**

Ground and First Living Level	25 feet

b) **Interior Side Setback**

Ground and first living level	15 feet

c) **Side Street Setback**

Ground and first living level	20 feet

d) **Rear Setback (non-beach front lots)**

Ground and first living level	25 Feet

22. For principal structures located on street-intersecting corner lots with two street frontages, the two property lines adjoining the adjacent lot will be defined as two "Interior Side Setback" ***(See Diagram D).***

23. Combined Lots

a) **Front Setback**

Ground and first living level	25 feet

b) **Interior Side Setback**

Ground and first living level	25 feet

c) **Side Street Setback**

Ground and first living level	25 feet

d) **Rear Setback (non-beach front lots)**

Ground and first living level	25 feet

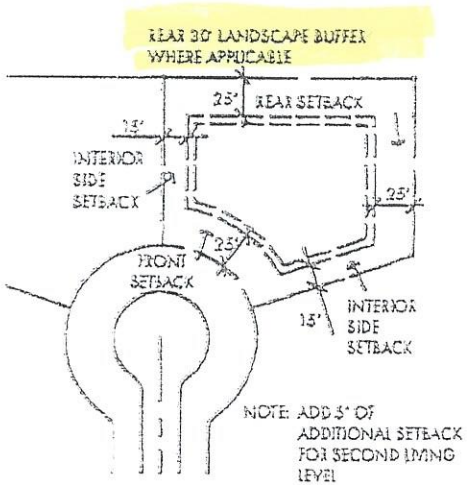
Diagram E

The rear setback on lots abutting the fence line on Kendall, Spinnaker and Colonial Drive is 30 feet and must be a landscaped buffer leaving a 4 foot wide strip along the fence line for fence line maintenance.

Fence Line

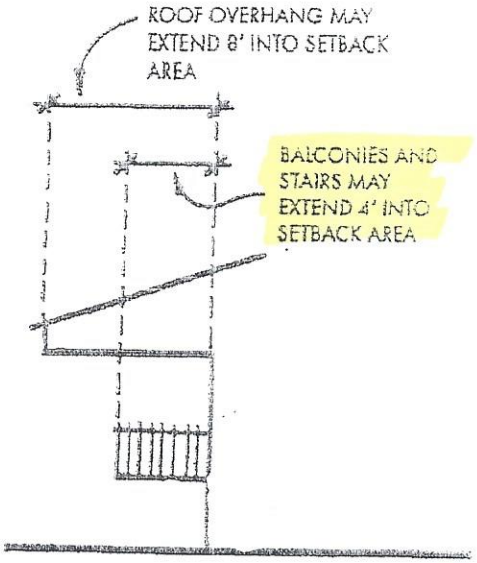
Four Foot Maintenance Area

Landscaping Buffer



CUL-DE-SAC LOT SETBACKS

Diagram F



ROOF OVERHANGS, BALCONIES AND STAIRS SETBACKS