

## **Supplement to Variance Application for the Site at 672 Crescent Street**

### **Variance requested:**

The applicants seek a variance to allow the applicants to cut into their lot as shown in the site plan, enclosed at tab 3.

### **Nature of Petition:**

- 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 lot is a corner lot. The existing seawalls on the lot and on the adjacent lot do not meet at a 90-degree angle. As a result, the riparian rights available to the lot are significantly diminished as compared to other lots in the City where the seawalls meet at a 90-degree, or greater, angle. Further, as a corner lot, even if the seawalls met at a 90-degree angle, the lot would have significantly diminished riparian rights as compared to a standard shoulder lot with 10 feet of the platted lot in the water. Further, the applicants have been subjected to a significant amount of delay and changes in course at the direction of the City. Initially, a building permit was issued in 2016, permit number SEAW-17-01509. The application for this building permit specifically requested a cut in to the lot. This application is enclosed at tab 1. Further, an FDEP permit for the cut in was acquired by the applicants after the application was submitted and before the permit was issued, at the direction of the City. This permit is enclosed at tab 2. Pursuant to the building permit, permit with the site plan is enclosed at tab 3, the seawall construction was begun. The notice of commencement is enclosed at tab 4. The City then altered its course, revoked the permit and cited the applicants for a code enforcement violation for the construction of the seawall. An email requesting the construction to stop is enclosed at tab 6. The applicants were then told to apply for a Land Development Code amendment and a conditional use permit. The applicants did this, and this application came to a hearing before the Planning Board in May of 2019. At that hearing, it was determined that this is better handled as a variance. The applicants, at that hearing, withdrew the application and now submits this application. This process has taken over 2 and a half years.

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?**

All the above-described conditions did not result from the action of the applicants and the conditions are pre-existing conditions.

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

A literal interpretation of the provisions of the City of Marco Island Land Development Code has created unnecessary and undue hardships on the applicants and will create practical difficulties to the applicants in that the lot's riparian lines are very tight.

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 variance, if granted, would be the minimum variance that will make possible the reasonable use of the land and is in line with shoulder lots. There is no impact on health, safety, or welfare.

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?**

Granting the variance will not result in conferring any special privilege on the applicant. This is because shoulder lots in the City, which are in the same zoning district, already have cut ins. Further, many waterfront, corner lots, similar to this lot and in the same zoning district, already have pre-existing cut ins.

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?**

Granting the variance will be in harmony with the intent and purpose of the City of Marco Island Land Development Code. This is because allowing a cut in on the lot actually decreases the size of what can be built on the lot because the setbacks are unchanged.

- 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, there are no natural conditions, or physically induced conditions that ameliorate the goals and objective of the regulation such as natural preserves, lakes, or golf courses.

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

Yes, granting the variance will be consistent with the growth management plan. This is because allowing a cut in on the lot actually decreases the size of what can be built on the lot. Further this proposed cut-in has much less impact than the City allowed Nautical Garage cut-in which was determined to be consistent with the growth management plan.

**Additional Notes:**

This is a vacant lot, and therefore, the questions on page 2 and 3 regarding *existing* and *proposed* structures, are not applicable.

**Index to Supplement to Variance Application for the Site at 672 Crescent  
Street**

| <b>Tab No.</b> | <b>Document</b>   |
|----------------|---|
| 1              | Application for Seawall Permit, Building Permit dated 10/25/2016    |
| 2              | FDEP Permit issued 2/27/2017  |
| 3              | City of Marco Island Seawall Permit issued 3/30/2017 with Site Plan |
| 4              | Notice of Commencement  |
| 5              | Email from City of Marco Island dated 4/5/2017                      |