

RESOLUTION NUMBER 2024- 029

WHEREAS, Hernando County has adopted zoning and land development regulations pursuant to Chapter 163 and Section 125.01(1), *Fla. Stat.*, which authorize the County to regulate the use of land in the unincorporated areas of Hernando County, Florida, and take action on the request herein; and,

WHEREAS, the Hernando County Board of County Commissioners (BOCC) conducted a duly advertised public hearing on January 23, 2024 to consider the requested dimensional variance on the specified parcel(s) in Hernando County, Florida, as more fully described below.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA AS FOLLOWS:

APPLICANT: Charles Fernandez and Kerrie Best

FILE NUMBER: V-23-25 / 145089

GENERAL

LOCATION: 6080 Waverly Road Weeki Wachee, FL 34607

LEGAL

DESCRIPTION: WEEKIWACHEE GARDENS 6 REPLAT LOT 14 ORB 649 PG 1648 of the Public Records of Hernando County, Florida.

PARCEL KEY: 92526

REQUEST: The applicants are requesting a **DIMENSIONAL VARIANCE** to allow a reduction of the rear yard setback from 15' to 0' and to allow an encroachment of 3' for a portion of the deck that cantilevers over a triangulated portion in connection with the subject parcel located in the R1A zoning district. The representations contained in the applicant's variance application are incorporated herein by reference and made a part hereof. For purposes herein, it is presumed that all requisite notice and advertising requirements have been satisfied.

The **DIMENSIONAL VARIANCE** requests a deviation from the requirements of Chapter 23, Article VI, Section 23-210 of the Hernando County Code of Ordinances.

FINDINGS

OF FACT: ALL of the facts and conditions presented to the BOCC in connection with the public hearing in this matter are incorporated herein by reference and made a material part of this Resolution as integral to the BOCC's action. The BOCC finds that the testimony and record supporting **APPROVAL** of the requested dimensional variance to be credible and to constitute competent substantial evidence. In further support thereof, the BOCC makes the following specific findings:

1. The newly constructed screen room for which the variance is sought averages 15' from the leading edge of the seawall; however, the attached deck encroaches into the riverine buffer and cantilevers over the seawall has been expanded, enlarged, and altered in violation of the Riverine Protection Ordinance. The portion of the deck that encroaches into the riverine buffer should be removed and the affected portion of the buffer should be restored with vegetation.
2. On June 13, 2023, the BOCC reviewed the application for a variance and made a motion to remove the portion of the deck from the water to the white roof supports, to reposition the deck support to be underneath the roof supports, create steps on the side, and add handrails, all in compliance with the Florida Building Code and other requirements in the Hernando County Code of Ordinances, such as setbacks.
3. The requested dimensional variance **does** satisfy ALL of the following prerequisites set forth in Appendix A, Article V, Section 3, Hernando County Code of Ordinances:
 - (a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district
 - (b) That the special conditions and circumstances do not result from the actions of the applicant
 - (c) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings, or structures in the same zoning district
 - (d) That literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant
 - (e) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure
 - (f) That the granting of the variance will be in harmony with the general intent and purpose of the land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare

2. The requested **DIMENSIONAL VARIANCE** is consistent with the County's adopted Comprehensive Plan and land development regulations.

**CONCLUSIONS
OF LAW:**

The BOCC is authorized to act on this matter pursuant to Chapters 125 and 163, *Fla. Stat.*, and Appendix A, Article V, Section 3, Hernando County Code of Ordinances. Accordingly, after public hearing and testimony, being fully advised in the record, and based upon competent substantial evidence, the BOCC makes the following specific conclusions of law:

1. The requested **DIMENSIONAL VARIANCE** is consistent with the County's adopted Comprehensive Plan and land development regulations, subject to all conditions made a part of the public hearing in this matter and which conditions are incorporated herein by reference.

ACTION:

After notice and public hearing, based upon the record in this matter and **ALL** of the findings of fact and conclusions of law above, the BOCC hereby **APPROVES** the requested variance with the following changes:

1. Any condition made a part of the BOCC action in this matter are incorporated herein by reference.
2. The applicant shall remove the portion of the deck from the water to the white roof supports, reposition the deck support to be underneath the roof supports, create a set of steps to the side, and add handrails in accordance with the Florida Building Code and Chapter 23, Article VI, Section 23-210(b)(1) of the Hernando County Code of Ordinances. The approved alterations shall include specific measurements and setbacks to comply with the Florida Building Code, the Riverine Protection Ordinance, and any other provisions in the Hernando County Code of Ordinances.
3. Pursuant to Appendix A, Article V, Section 3.D.(1), the **DIMENSIONAL VARIANCE** granted herein applies to the property for which it is granted, and not to the individual who applied for it, and it is transferrable to any future owner of the land, but it cannot be transferred by the applicant to a different site.

ADOPTED IN REGULAR SESSION THE 23rd DAY OF January, 2024

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

Attest: Hildi Kruppe, Deputy Clerk
Douglas A. Chorvat, Jr.
Clerk Of the Circuit Court And Comptroller

By: E. Narverud
Elizabeth Narverud
Chairwoman



Approved as to Form and Legal Sufficiency

By: Kyle J. Benda
County Attorney's Office