MEMORANDUM
MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

To: Monroe County Planning Commission
Through: Emily Schemper, A.I.C.P., C.F.M., Senior Director, Monroe County Planning and Environmental Resources Department
From: Devin Tolpin, A.I.C.P., C.F.M., Principal Planner, Monroe County Planning and Environmental Resources Department
Subject: Application for an 18-Foot Variance from the Required 25-Foot Front Yard Setback
700 Grouper Lane, Mile Marker 95, Key Largo
Property Identification Number: 00483470-000000

I. APPLICATION:

The subject property is a non-homesteaded property located at 700 Grouper Lane, Key Largo; below is an excerpt of basic details from its Monroe County Property Appraiser’s Office (MCPA) property record card for the property.

### Summary

<table>
<thead>
<tr>
<th>Parcel ID</th>
<th>00483470-000000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Account#</td>
<td>1593037</td>
</tr>
<tr>
<td>PropertyID</td>
<td>1593037</td>
</tr>
<tr>
<td>Millage Group</td>
<td>509P</td>
</tr>
<tr>
<td>Location</td>
<td>700 GROUPER LN KEY LARGO</td>
</tr>
<tr>
<td>Legal Description</td>
<td>OR 076-2311 OR 080-1129 OR 091-123 OR 096-975 OR 070-1022 OR 170-2206</td>
</tr>
<tr>
<td>Neighborhood</td>
<td>1737</td>
</tr>
<tr>
<td>Property Class</td>
<td>SINGLE FAMILY RESID (O29)</td>
</tr>
<tr>
<td>Subdivision</td>
<td>RAESCUA CANAL SUBD</td>
</tr>
<tr>
<td>Acre/Area</td>
<td>1.6262</td>
</tr>
<tr>
<td>Affordable</td>
<td>No</td>
</tr>
<tr>
<td>Housing</td>
<td>No</td>
</tr>
</tbody>
</table>

### Owner

<table>
<thead>
<tr>
<th>CASARETTO ALBERTO</th>
<th>CASARETTO WANDA</th>
</tr>
</thead>
<tbody>
<tr>
<td>1400 SE 3rd St</td>
<td>1400 NE 8th St</td>
</tr>
<tr>
<td>Fort Lauderdale, FL 33316</td>
<td>Fort Lauderdale, FL 33316</td>
</tr>
</tbody>
</table>

### Valuation

<table>
<thead>
<tr>
<th></th>
<th>2022 Working Values</th>
<th>2021 Certified Values</th>
<th>2020 Certified Values</th>
<th>2019 Certified Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>Market Improvement Value</td>
<td>$174,850</td>
<td>$169,149</td>
<td>$104,526</td>
<td>$187,455</td>
</tr>
<tr>
<td>Market Misc Value</td>
<td>$42,269</td>
<td>$41,040</td>
<td>$41,040</td>
<td>$41,040</td>
</tr>
<tr>
<td>Market Land Value</td>
<td>$2,054,412</td>
<td>$845,788</td>
<td>$820,035</td>
<td>$620,035</td>
</tr>
<tr>
<td>Just Market Value</td>
<td>$2,230,531</td>
<td>$1,070,937</td>
<td>$1,070,937</td>
<td>$1,070,937</td>
</tr>
<tr>
<td>Total Assessed Value</td>
<td>$2,104,360</td>
<td>$1,070,937</td>
<td>$1,070,937</td>
<td>$1,070,937</td>
</tr>
<tr>
<td>School Exempt Value</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>School Taxable Value</td>
<td>$2,230,331</td>
<td>$1,070,937</td>
<td>$1,070,937</td>
<td>$1,070,937</td>
</tr>
</tbody>
</table>

### Land

<table>
<thead>
<tr>
<th>Land Feature(s)</th>
<th>Number of Units</th>
<th>Unit Type</th>
<th>Frontage</th>
<th>Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>RES CANAL/WATERFRONT (OSW)</td>
<td>12,153.00</td>
<td>Square Foot</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>
The application solicits Planning Commission approval for a new residential building to be constructed on the site to only have a six-foot, eleven-inch front-yard setback, rather than the required twenty-five foot front yard setback per the Land Development Code.

Stated otherwise, the variance application requests for the Planning Commission to approve an eighteen (18) foot-and-one inch variance from the required twenty-five (25) foot front yard setback that Land Development Code § 131-1 requires.

Approval of the variance application would result in a front-yard setback of six (6) feet and 11 inches with other portions of the structure at varying distances from the front property line.

As noted, the applicant is contemplating development of a new residential building on the property.

Below are true-and-correct 2022 Monroe County Planning & Environmental Resources Department aerials showing the subject property’s land use district and flood zone categories.
II BACKGROUND INFORMATION:

Location: Key Largo near U.S. Highway 1, Mile Marker 95 (ocean-side)

Address: 700 Grouper Lane, Key Largo

Legal Description: The Southeast ½ of Lot 1, Rae’s Cuda Canal Subdivision, according to the Plat thereof, as recorded in Plat Book 3, Page 186, Public Records of Monroe County, Florida and The East five (5) feel of Lot 2, and the West ½ of Lot 1, Rae’s Cuda Canal Subdivision, according to the Plat thereof, as recorded in Plat Book 3, Page 186, Public Records of Monroe County, Florida

Property Identification Number: 00483470-000000

Property Owner/Applicant: Alberto and Wanda Casaretto

Agent: James Lupino, Esq.

Size of Site: 12,159 square feet (“sq. ft.”), with 9,626 sq. ft. total upland according to submitted boundary survey prepared by David S. Massey, P.S.M., dated July 8th, 2021

Land Use District: Improved Subdivision (“IS”)

Future Land Use Map (FLUM) Designation: Residential Medium (“RM”)

Tier Designation: III

Flood Zone: VE 15, VE 12, VE 11

Existing Use: The Applicant has proposed to demolish the existing single-family residential structure on the site, and replace it with a new residential building.

Existing Vegetation / Habitat: Developed.

Community Character of Immediate Vicinity: Single-family residences.
III RELEVANT PRIOR COUNTY ACTIONS:

The Plat of Raes’s Cuda Canal Subdivision was approved by resolution by the BOCC on March 5, 1957, and filed in Plat Book 3, Page 186. The subject property is located at Lot 1 (and 5 feet of Lot 2). Below is a true-and-correct excerpt of plat showing the subject property in yellow.

On March 13, 1970, Monroe County Building Permit No. 20310 was issued in order to construct a duplex on the property. The approved plans depict that structure in a different configuration than the structure that is currently in existence on the subject property. On December 29, 1983, Monroe County Building Permit No. C14256 was issued in order to add an addition to the structure. A memorandum included in said permit’s file indicates that the structure previously permitted was not constructed according to plan and was located within the required setbacks. That memorandum further that while a dimensional variance was requested, no documentation of any variance approval has ever been found. Apparently in error, the scope of work was nonetheless approved. It should lastly be noted that the structure approved then was approved as a single family residence.

Despite the availability of a vested rights determination administrative remedy at all times relevant in the Monroe County Code, including at §§ 102-134 – 102-137 in the current edition of the Monroe County Code, that remedy was never pursued or exhausted.

IV REVIEW OF APPLICATION:

The applicant is proposing to demolish the existing single-family residence on the site and to utilize approval of this variance application to build a new single-family residential building encroaching within the required front-yard setback. As noted, the subject property is situated within the Improved Subdivision (“IS”) Land Use District. Pursuant to Land Development Code § 131-1, the required non-shoreline setbacks within the IS District are as follows:

<table>
<thead>
<tr>
<th>Land Use District/ Land Use</th>
<th>Primary Front Yard (ft.)</th>
<th>Secondary Front Yard (ft.)</th>
<th>Primary Side Yard (ft.)</th>
<th>Secondary Side Yard (ft.)</th>
<th>Rear Yard (ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improved Subdivision (IS)</td>
<td>25</td>
<td>15</td>
<td>10</td>
<td>5</td>
<td>20</td>
</tr>
</tbody>
</table>

1 "An application for vested rights determination will be afforded a quasi-judicial, evidentiary hearing in front of a special magistrate who will make a proposed determination and a statement of what rights are vested. Interested persons will be afforded the opportunity to appear and introduce evidence and argument for or against the determination during the evidentiary hearing. The special magistrate’s proposed determination shall be forwarded to the BOCC for final approval.” Monroe County Land Development Code § 102-135.
Likewise as has been previously noted above, if the Planning Commission approves the applicant’s requested 18-foot, one-inch variance from the required 25-foot setback, it would result in an approved front-yard setback of 6-feet and 11 inches, as per the site plan submitted with this application, signed and sealed by Pete Ebersole, dated August 10th, 2022.

Below is a true-and-correct screenshot of the proposed site plan.

Note that most of the new residential building the applicant is proposing is less than 25-feet from the front-property line shaded in gray, and that this variance application also includes a front stairway and a porch overhanging in the northeastern corner of the building, which is located 6-feet and 11 inches from Grouper Lane.

Pursuant to LDC § 102-187, a Variance May Only Be Granted If the Applicant Demonstrates That All of the Following Standards Are Met:

(1) The Applicant Must Demonstrate a Good and Sufficient Cause to Obtain the Applied-for Variance: NOT IN COMPLIANCE

In response to this requirement, the application has stated the following as the basis for approval:

‘This parcel is atypical in configuration and has boundaries of water on 2 sides and a street on the third side. As an expensive parcel it justifies a structure of fair width and size and a variance will not affect any third party negatively.’

Professional Staff Review and Comment: The subject property is a platted lot with an added five feet of an adjacent lot, and has approximately 9,626 square feet of upland with approximately 3,300 square feet of buildable area outside of the required setbacks. It is not unusual for this property, a lot located at the terminal end of a canal, to have two shorelines – there are multiple properties within the subdivision with two shorelines (i.e., other properties at the end of canals).
The configuration of the proposed residential building includes a ground-floor entry-way and second-floor overhangs that are proposed to be located encroaching less than 25 feet from the front property line.

The plans generally demonstrate that the foundation can be constructed in compliance with the Code’s required setbacks.

The Monroe County Planning and Environmental Resources Department’s professional staff do not agree that the applicant has made a sufficient showing of good and sufficient cause for this variance application to be granted.

(2) Failure to Grant the Variance Would Result in Exceptional Hardship to the Applicant: NOT IN COMPLIANCE

LDC § 101-1 defines “exceptional hardship” as “a burden on a property owner that substantially differs in kind or magnitude from the burden imposed on other similarly situated property owners. Financial difficulty/hardship does not qualify as exceptional hardship.”

In response to this requirement, the application has stated the following as the basis for approval:

‘The applicant is bringing a non-compliant structure into compliance by rebuilding but the property configuration is such that a variance on the road side is necessary to justify the configuration. In doing so necessary square footage to justify the rebuild requires a variance on the street side to make the configuration feasible due to the shape of the lot.’

Professional Staff Review and Comment:

Bringing a non-compliant structure into conformity with what the law requires does not constitute an “exceptional hardship”.

Upon review of the submitted site plan, it is evident that a residential structure in similar configuration and size could be constructed without the requested variance.

The Monroe County Planning and Environmental Resources Department’s professional staff do not agree that failure by Monroe County to grant an eighteen (18) foot, one inch variance from the required twenty-five (25) foot setback required by the Land Development Code, constitutes an “exceptional hardship” or results in an “exceptional hardship”.

(3) Granting the Variance Will Not Result in Increased Public Expenses, Create a Threat to Public Health and Safety, Create a Public Nuisance, or Cause Fraud or Victimization of the Public: N/A

(4) The Property Has Unique or Peculiar Circumstances, Which Apply to This Property, But Which Do Not Apply to Other Properties in the Same Zoning District: NOT IN COMPLIANCE
In response to this requirement, the applicant has stated that “This property is uniquely configured and is one of a kind in design, location and configuration. No others fit the same profile.”

**Professional Staff Review and Comment:** The Monroe County Planning and Environmental Resources Department’s professional staff do not agree with the applicant. The subject property is a platted lot with an added five feet of an adjacent lot, and has approximately 9,626 square feet of upland to build on. It is not unusual for this property, a lot located at the terminal end of a canal, to have two shorelines – there are multiple properties within the subdivision with two shorelines (i.e., other properties at the end of canals).

(5) **Granting the Variance Will Not Give the Applicant Any Special Privilege Denied Other Properties in the Immediate Neighborhood in Terms of the Provisions of This Chapter or Established Development Patterns:** N/A

(6) **Granting the Variance is Not Based on Disabilities, Handicaps or Health of the Applicant or Members of His Family:** N/A

(7) **Granting the Variance Is Not Based on the Domestic Difficulties of the Applicant or His Family:** N/A

(8) **The variance is the minimum necessary to provide relief to the applicant:** NOT IN COMPLIANCE

The applicant states, “The cost of demolition of the existing structure and building new is justified only if a configuration to fit a suitable residence can be made.”

**Professional Staff Review and Comment:** It appears that a Code-compliant reconfigured structure could be constructed on this property in a manner that complies with the Code’s setback requirement. This variance is not the “minimum necessary” to provide relief to the applicant.

**V RECOMMENDATION:**

The Monroe County Planning and Environmental Resources Department’s professional staff recommends DENIAL of this variance application for Planning Commission approval of an eighteen foot-and-one inch variance from the required twenty-five foot front yard setback mandated by Land Development Code § 131-1, in order to construct a new residential building on the site with only a six-foot, eleven-inch front-yard setback.

**VI PLANS REVIEWED:**

A. Site Plan, Sheet Number SP-1.0, by Pete Ebersole, signed and sealed August 10\(^{th}\), 2022
B. Boundary Survey by David Massey, P.S.M., dated July 8\(^{th}\), 2021