

ORDINANCE 88-2

RECEIVED

1:30 JAN 14 PM 1985

CLERK OF COUNTY COMMISSIONERS
COLLIER COUNTY FLORIDA

AN ORDINANCE AMENDING ORDINANCE 82-2, THE COMPREHENSIVE ZONING REGULATIONS FOR THE UNINCORPORATED AREA OF COLLIER COUNTY, FLORIDA BY AMENDING SECTION 11. BOARD OF ZONING APPEALS: POWERS, DUTIES AND PROCEDURES; AMENDING SUBSECTION 11.1.b., VARIANCES, TO REQUIRE A PUBLIC HEARING FOR VARIANCES BEFORE THE COLLIER COUNTY PLANNING COMMISSION AS WELL AS BEFORE THE BOARD OF ZONING APPEALS, AND TO PROVIDE A PROCEDURE FOR A RECOMMENDATION OF APPROVAL OR DENIAL OF VARIANCES BY THE COLLIER COUNTY PLANNING COMMISSION TO THE BOARD OF ZONING APPEALS; AND TO PROVIDE AN EFFECTIVE DATE.

WHEREAS, on December 16, 1986, the Board of County Commissioners of Collier County Directed the Community Development Division Staff to amend Ordinance 82-2, the Comprehensive Zoning Regulations for the Unincorporated Area of Collier County, to require a public hearing for variances before the Collier County Planning Commission, which, after consideration of the facts, could recommend if the variance should be granted based upon the appropriate criteria and guidelines.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA:

SECTION ONE:

Ordinance 82-2, the Comprehensive Zoning Regulations for the Unincorporated Area of Collier County, Florida, Section 11., Board of Zoning Appeals: Powers, Duties and Procedures, Subsection 11.1.b., Variances: Powers; Conditions Governing Petitions; Procedures; Limitations:, shall be amended to read as follows:

11.1.b. Variances: Powers; Conditions Governing Petitions; Procedures; Limitations: To authorize upon appeal from the decision of the Zoning Director in specific cases such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions peculiar to the property, a literal enforcement of this Zoning Ordinance would result in unnecessary and undue hardship. A variance from the terms of this Zoning Ordinance shall not be granted unless and until:

- 1) Written Petition: A written petition for a variance is submitted by the applicant to the Community-Development Administrator Zoning Director.
- 2) Notice of Public Hearing: Notice of public hearing before the Collier County Planning Commission is given at least fifteen (15) days in advance of the public hearing. The owner of the property for which variance is sought, or his agent or attorney designated by him on his petition, shall be notified by mail. Notice of the public hearing shall be prominently posted on the property for which the

Words underlined are additions; Words ~~struck-through~~ are deletions.

variance is sought. Notice of the public hearing shall be advertised in a newspaper of general circulation in the County at least one time fifteen (15) days prior to the hearing.

Notice of the time and place of the public hearing before the Collier County Planning Commission shall be sent at least fifteen (15) days in advance of the hearing by mail to all owners of property within three hundred (300) feet of the property lines of the land for which a variance is sought.

- 3) Public Hearing: The public hearing shall be held by the Board-of-Zoning-Appeals Collier County Planning Commission. Any party may appear in person, by agent or attorney, or may submit written comments to the Community Development-Administrator Zoning Director.
- 4) Considerations:--~~The Board of Zoning Appeals shall consider and be guided by the following standards in making a determination on any petition.~~ Findings: Before any variance shall be recommended for approval to the Board of Zoning Appeals, the Collier County Planning Commission shall consider and be guided by the following standards in making a determination:
 - (a) Are there special conditions and circumstances existing which are peculiar to the location, size and characteristics of the land, structure, or building involved and which are not applicable to the same degree or extent to the lands, structures, or buildings in the same zoning district?
 - (b) Are there special conditions and circumstances which do not result from the action of the applicant?
 - (c) Will a literal interpretation of the provisions of this Zoning Ordinance deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Zoning Ordinance and work unnecessary and undue hardship on the applicant?
 - (d) Will the variance, if granted, be the minimum variance that will make possible the reasonable use of the land, building or structure?
 - (e) 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?
 - (f) Will granting the variance be in harmony with the general intent and purpose of this Zoning Ordinance, and not be injurious to the neighborhood, or otherwise detrimental to the public welfare?
- 5) Conditions and safeguards: In recommending approval of granting any variance, the Board of Zoning Appeals Collier County Planning Commission may prescribe recommend appropriate conditions and safeguards in conformity with this Zoning Ordinance, including, but not limited to, reasonable time limits within which action for which variance is required shall be begun or completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Zoning Ordinance.

Words underlined are additions; Words ~~struck-through~~ are deletions.

- 6) Denial: If the Collier County Planning Commission recommends denial of a variance, it shall state fully in its record its reason for doing so. Such reasons shall take into account the factors stated in Subsection 4) above, or such of them as may be applicable to the action of denial and the particular regulations relating to the specific variance requested if any.
- 7) Status of Planning Commission Report and Recommendations: The report and recommendation of the Collier County Planning Commission required above shall be advisory only and shall not be binding upon the Board of Zoning Appeals.
- 8) Notice of Public Hearing: Upon completion of the Public Hearing before the Collier County Planning Commission, notice of Public Hearing shall be given at least fifteen (15) days in advance of the Public Hearing for the Board of Zoning Appeals. The owner of the property for which the variance is sought, or his agent or attorney designated by him on his petition, shall be notified by mail. Notice of Public Hearing shall be advertised in a newspaper of general circulation in the County at least one time fifteen (15) days prior to the hearing.
- 9) Public Hearing: The public hearing shall be held by the Board of Zoning Appeals. Any party may appear in person, by agent or attorney, or may submit written comments to the Zoning Director.
- 10) Board of Zoning Appeals: Action on Collier County Planning Commission Report and Recommendation: Upon consideration of the Collier County Planning Commission's report, findings and recommendations, and upon consideration of the standards and guidelines set forth in Subsection 11.1.b.4.(a)-(f), the Board of Zoning Appeals shall approve, by resolution, or deny a petition for a variance.
- 11) Conditions and safeguards: In granting any variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Zoning Ordinance, including, but not limited to, reasonable time limits within which action for which variance is required shall be begun or completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Zoning Ordinance.
- 6+ 12) Limitations on Power to Grant Variances: Under no circumstances shall the Board of Zoning Appeals grant a variance to permit a use not permitted under the terms of this Zoning Ordinance in the zoning district involved, or any use expressly or by implication prohibited by the terms of these regulations in the said zoning district.

No non-conforming use of neighboring lands, structures or building in the same district, and no permitted use of lands, structures or building in any other district shall be considered grounds for the granting of a variance.

BOOK 029 PAGE 223

Words underlined are additions; Words ~~struck-through~~ are deletions.

SECTION TWO:

This Ordinance shall become effective upon receipt of notice that it has been filed with the Secretary of State.

DATE: January 5, 1988

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

Arnold L. ...
CHAIRMAN

ATTEST: James C. Gales
JAMES C. GALES, CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Kenneth B. Cuyler
KENNETH B. CUYLER
COUNTY ATTORNEY

This ordinance filed with the
Secretary of State's Office the
11th day of Jan, 1988
and acknowledgement of that
filing received this 14th day
of Jan, 1988

By James Chesario
Deputy Clerk

Z08711C

BOOK 029 PAGE 224

Words underlined are additions; Words ~~struck-through~~ are deletions.

STATE OF FLORIDA)
COUNTY OF COLLIER)

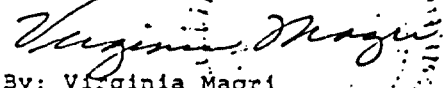
I, JAMES C. GILES, Clerk of Courts in and for the Twentieth
Judicial Circuit, Collier County, Florida, do hereby certify that the
foregoing is a true copy of:

Ordinance No. 88-2

which was adopted by the Board of County Commissioners on the 5th
day of January, 1988, during Regular Session.

WITNESS my hand and the official seal of the Board of County
Commissioners of Collier County, Florida, this 6th day of
January, 1988.

JAMES C. GILES
Clerk of Courts and Clerk
Ex-officio to Board of
County Commissioners


By: Virginia Magri
Deputy Clerk