
RESOLUTION PROPOSAL

DATE: January 28, 2010
SUBJECT: Request for Waiver of Enforcement of Setback Lot 23 Section 4
SPONSOR: General Manager

BACKGROUND INFORMATION:

The house was built in 1972. The attached garage was built in May of 1982 and the enclosed porch addition was built in August of 1985. When these home additions were constructed there was no survey requirement. The Statement of Subdivision rear setback requirement is 25 ft. The enclosed porch is 13.7 ft. from the rear property line resulting in an encroachment of 11.3 ft. The Statement of Subdivision side setback requirement is 10 ft. The garage corner is 8.2 ft. from the side property line resulting in an encroachment of 1.8 ft.

STAFF RECOMMENDATION: Due to the 7 year statute of limitation allowance and hardships that would be created in removing the corner of the garage and a large portion of the enclosed porch it is recommended that the Board of Directors grant a waiver of enforcement for the encroachments. The Statement of Subdivision rear setback requirement of 25 ft would be reduced to 13.7 ft. resulting in an 11.3 ft. waiver of enforcement and the right side setback would be reduced to 8.2 ft resulting in a 1.8 ft. waiver of enforcement.

PROPOSED FINANCIAL IMPACT: NA

PROPOSED SOURCE OF FUNDING: NA

STRATEGIC PLAN REFERENCE: NA

POSSIBLE MOTION:

Move that the Board of Directors grant a waiver of enforcement for an 11.3 ft. rear setback violation reducing the 25 ft. rear setback to 13.7 ft. and a waiver of enforcement for a 1.8 ft. right side setback violation reducing the 10 ft. right side setback to 8.2 ft. for Lot 23 Section 4. This waiver of enforcement is granted upon condition that the current property owners sign an agreement which will indemnify and hold harmless Lake Monticello Owners' Association from any liability arising from the violation of the building setback line in the Statement of Subdivision.

The decision of the Association in granting this waiver of enforcement shall be final and shall not be deemed a waiver of the right to enforce restrictive covenants, rules or regulations in other cases. Further, the property owners must understand that the position taken by the Association only affects the right of the Association to seek enforcement of the recorded covenants and restrictions and that said restriction inures to the benefit of all of the owners of individual residential lots at Lake Monticello, each of whom has the individual right to seek enforcement of said restrictions.

PERSON RESPONSIBLE FOR FOLLOW-UP: General Manager