

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 96-13₂

WHEREAS, J. EDWARD WAGONER, NANCY J. WAGONER, THOMAS J. COBB and LINDA K. COBB, the property owners of Lot 11, INDIAN BAYOU SUBDIVISION as recorded in Plat Book 33 pages 10 and 11, and having parcel number 33-46-24-W2-01100.0110, petitioned for a variance of setback of 25 feet from a non-seawalled natural body of water in RM-2 district to 17 feet; and,

WHEREAS a hearing was held and the council considered the following criteria, recommendations and testimony of the staff, testimony from the applicant and from the public.

IT IS THE FINDING of this council that all of the following exist:

a. That there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question and that do not apply generally to the other nearby properties in the same zoning district;

b. That the exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken subsequent to the adoption of the ordinance (any action taken by an applicant pursuant to lawfully adopted regulations preceding the adoption of the ordinance from which this chapter is derived will not be considered self-created);

c. That the variance is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property;

d. That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and

e. That the condition or situation of the specific piece of property, or the intended use of the property, for which the variance is sought is not of so general or recurrent nature as to make it more reasonable and practical to amend the ordinance.

NOW THEREFORE BE IT RESOLVED THAT THE VARIANCE IS APPROVED SUBJECT TO THE FOLLOWING conditions and requirements that are necessary for the protection of the health, safety, comfort, convenience and welfare of the general public and that are reasonably related to the variance requested:

1. The variance is limited to the construction of a pool, deck and screen enclosure in conjunction with a duplex.

2. During construction filter fabric must be installed and

maintained along the top of the bank to prevent accidental encroachment and avert the sloughing of fill into the mangrove wetland.

3. Development of the parcel shall be in accordance with the site plan entitled "Duplex For Cobb / Wagoner", dated March 16, 1996, and stamped received by the zoning counter on March 22, 1996.

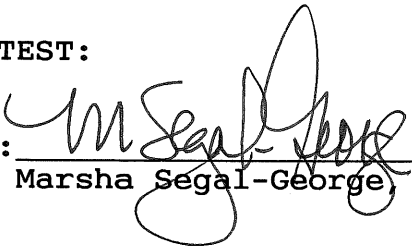
4. Applicant may not remove mangroves nor place fill in the mangrove area.

The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

Anita T. Cereceda	<u>aye</u>
Ted FitzSimons	<u>aye</u>
William (Rusty) Isler	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

APPLICATION DULY GRANTED this 16th day of May, 1996.

ATTEST:

By: 
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By: 
Anita T. Cereceda, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney