

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 00-37a

WHEREAS, Carleen J. Simmons, the property owner, petitioned for a variance in the (RS-1) district from LDC Section 34-2192 which requires a 25 foot setback from the edge of right-of-way of a local roadway, to permit a setback of 7.5 feet for the construction of a swimming pool; and,

WHEREAS, the subject property is located at 315 Bayland Road, Ft. Myers Beach; and,

WHEREAS, the applicant has indicated the property's current STRAP number is: 28-46-24-W4-0010C.0010; and,

WHEREAS, the LPA gave full and complete consideration to the recommendations of the Staff, the documents in the file, and the testimony of all interested persons and recommended that the Town Council deny the variance request to permit a setback of 7.5 feet and instead approve a setback of 10 feet for the construction of a swimming pool.

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 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, as conditioned, 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, as conditioned, 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 an accessory open air, in-ground swimming pool to be constructed within a building envelope of equal shape to the one shown on attached site plan, stamped "Receive by Development Services August 31, 2000" and labeled "proposed pool and deck." The half circle shaped waterfall area of the building envelope will be located no closer than 7.5 feet from the Coquina Road right-of-way and will have a maximum area of 25 feet square feet.
2. The setback will also be maintained as a 10-foot vegetative buffer along Coquina Road. The vegetative buffer will comply with the plant material found in a Type "D" buffer, to include a minimum of 5 trees per 100 linear feet and a double staggered row hedge. In addition, landscaping will be installed along the abutting property line to the northwest. The landscaping will be located on the subject property between the swimming pool fence, required by the LDC, and the right-of-way/abutting property line.

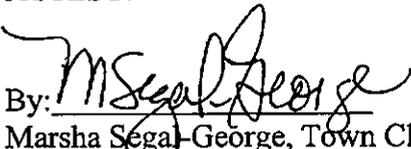
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

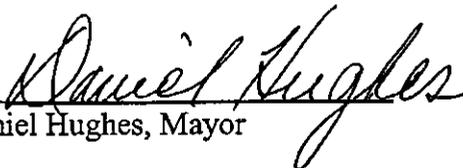
Anita T. Cereceda	<u>Aye</u>
Daniel Hughes	<u>Aye</u>
Garr Reynolds	<u>Nay</u>
Ray Murphy	<u>Aye</u>
Terry Cain	<u>Aye</u>

APPLICATION DULY DENIED/GRANTED this 9th day of October, 2000.

ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Marsha Segal-George, Town Clerk

By: 
Daniel Hughes, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney

DRAWING NO. 8-14-00 DATE		PROJECT MANAGER BUILDING CONTRACTOR ADDRESS:	CLIENT: SIMMONS ADDRESS: REVISIONS:
		PROJECT # FC P-556	10815 50th Street, Irvine, CA 92618 (949) 272-3636

