

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 02-26

WHEREAS, Diane Evanoff Kubicek has requested that the Town approve two variances for an existing single family residence (lot 18) that would allow a 4 foot west side yard setback and 5 foot east side yard setback instead of the minimum 7.5 foot side yard setback required by LDC Section 34-695. She has also requested approval of a variance for a proposed single family residence (lot 17) that would allow a 5 foot west side yard setback rather than the minimum 7.5 foot side yard setback required by LDC Section 34-695; and,

WHEREAS, the subject property is located at 383 & 385 Seminole Way, Ft. Myers Beach, in S33-T46S-R24E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 33-46-24-W2-005K0.0180 (lot 18 – 383 Seminole Way) and 33-46-24-W2-005K0.0170 (lot 17 – 385 Seminole Way, and the legal description as to;  
Lot 18: Lot 18, Block "K", McPhie Park Unit No. 3 Subdivision, Plat Book 8, Page 67, Public Records of Lee County.  
Lot 17: Lot 17, Block "K", McPhie Park Unit No. 3 Subdivision, Plat Book 8, Page 67, Public Records of Lee County, Florida; and

WHEREAS, the LPA recommends that the Town Council deny the variance requests as to Lot 17 (385 Seminole Way) and approve the requested variances on Lot 18 (383 Seminole Way) subject to the following conditions:

1. The variances are only for the side yard setbacks of 4 feet on the west side and 5 feet on the east side for an existing single-family residence as shown on the "As-built Survey of Lot 18, Block "K", McPhie Park Unit No. 3", as prepared by Harris-Jorgensen, Inc., dated 4-11-01 and signed and sealed April 4, 2002, stamped "Received, April 22, 2002, Community Development", and labeled as Attachment "C" to the staff report for VAR2002-00013.
2. No other building additions or increases to the size of the building may be located within the required setback areas.
3. If the building is voluntarily removed from the property, then the variance approved in Variance Case Number VAR2002-00013 is void and any subsequent structure(s) must comply with LDC requirements.
4. There must be a minimum 15 foot separation between any residence placed on Lot 19 and the residence on Lot 18.

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 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 ON LOT 18 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.

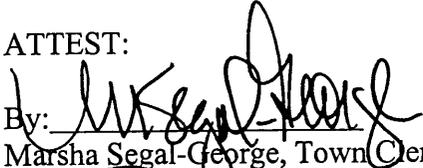
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The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

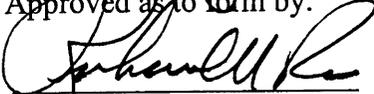
Howard Rynearson	aye
Daniel Hughes	aye
Bill Thomas	aye
W. H. "Bill" Van Duzer	abstain
Terry Cain	aye

APPROVED this 24th day of June, 2002.

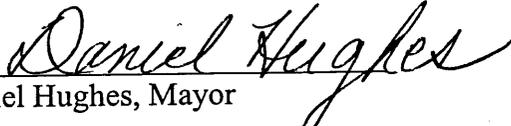
ATTEST:

By:   
Marsha Segal-George, Town Clerk

Approved as to form by:

  
Richard V.S. Roosa, Town Attorney

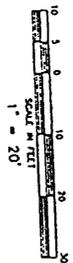
TOWN OF FORT MYERS BEACH

By:   
Daniel Hughes, Mayor

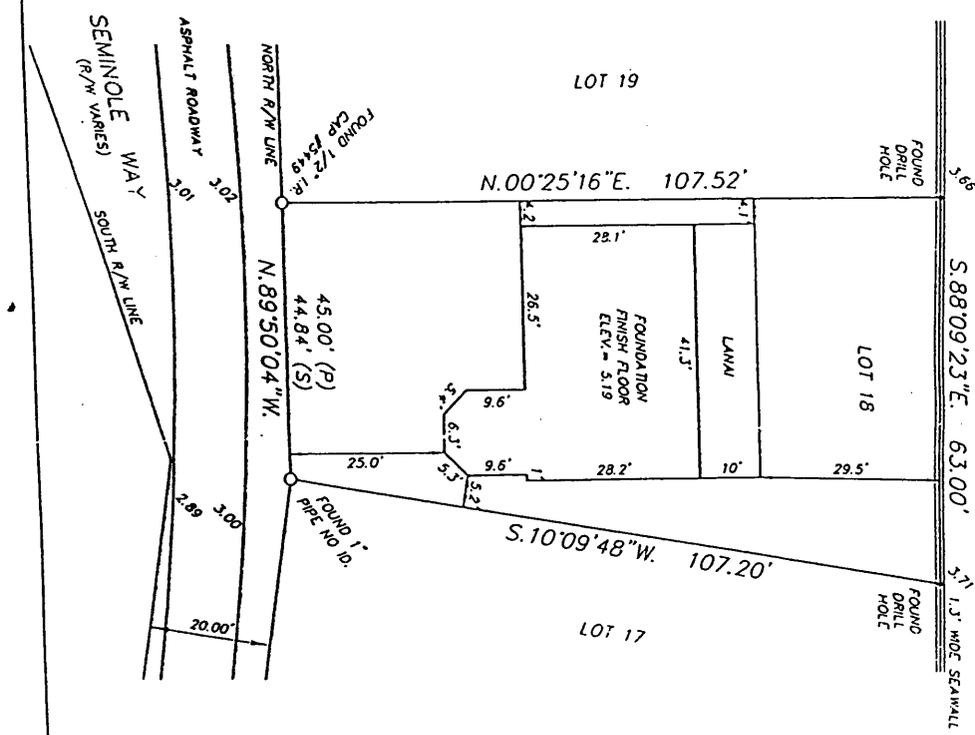
OSTEGO BAY

SECTION 33, TOWNSHIP 46 SOUTH, RANGE 24 EAST  
 (PLAT BOOK 8, PAGE 67)  
 LEE COUNTY, FLORIDA

AS-BUILT SURVEY OF  
**LOT 18 "K"**  
**BLOCK "K"**  
**MCPHIE PARK**  
 UNIT No. 3



- LEGEND:**
- N. NORTH
  - S. SOUTH
  - E. EAST
  - W. WEST
  - FOUND IRON PIN (CAP 14431)
  - FOUND IRON PIN (END L.R.)
  - CONCRETE MONUMENT (C.M.)
  - CONCRETE (CONC.)
  - POINT OF BEGINNING
  - POINT OF COMMENCEMENT
  - POINT OF CURVATURE
  - OFFICIAL RECORDS BOOK
  - PUBLIC UTILITY EASEMENT
  - DRAINAGE ESCAPE STRUCTURE
  - REGULATED WATER BOX
  - RETRACTED WATER BOX
  - G.A.M.D. GUT ANCHOR & WIRE
  - ELEV. ELEVATION
  - MAIL & TIN TAB
  - DRILL HOLE
  - EDGE OF PAVEMENT
  - O/H OVERHEAD POWERLINES
  - AS PER PLAT
  - AS PER FIELD
  - AS PER SURVEY
  - AS MEASURED
  - RELTA. OF CURVE
  - ARC OF CURVE
  - CHORD LENGTH
  - CHORD BEARING
  - AIR CONDITIONER
  - POWER POLE
  - WATER METER
  - TELEPHONE BOX
  - ELECTRIC BOX
  - CHUB/OUTER
  - CENTRINE
  - BENCHMARK
  - TYPICAL ELEVATION



ATTACHMENT C

**SURVEY NOTES:**  
 1: BASIS OF BEARINGS SHOWN HEREON TAKEN FROM THE NORTH RIGHT-OF-WAY LINE OF SEMINOLE WAY ASSUMED TO BEAR N.81°00'00\"/>

2: FIELD NOTES IN MCPHIE PARK.  
 3: SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.  
 4: THIS CERTIFICATE IS ONLY FOR LOTS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.  
 5: THIS SURVEY DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND IS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR DOCUMENTATION IN THE FIELD.  
 6: UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED IN THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL BASED SEAL OF A FLORIDA LICENSED SURVEYOR AND  
 7: ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.  
 8: ELEVATIONS ARE NATIONAL GEODETIC VERTICAL DATUM OF 1929 (N.G.V.D.).  
 9: FLOOD ZONE: "A15" ELEVATION: 11.00' N.G.V.D.  
 COMMUNITY # 125124 PANEL # 0441  
 SUFFIX--- B REVISION DATE: 9/19/84

THIS SURVEY IS CERTIFIED TO:  
 VAN CARE CONSTRUCTION, INC., LUBICER  
 WILLIAM F. & DIANE EVONOFF COMPANY  
 THE HUNTINGTON MORTGAGE COMPANY  
 TITLE PROFESSIONALS OF FLORIDA

CERTIFICATE  
 I HEREBY CERTIFY THAT THIS PLAT OF SURVEY WAS PREPARED UNDER MY DIRECT SUPERVISION AND IS CORRECT AND ACCURATE TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF AND MEETS THE MINIMUM STANDARDS OF LAND SURVEYING IN THE STATE OF FLORIDA UNDER FLORIDA STATUTES, CHAPTER 472 AND CHAPTER 81 0-17, FLORIDA ADMINISTRATIVE CODE.

FLS.LNSD 4631 JOHN B. HARRIS

DATE: April 4, 2000

SURVEY DATE: 4/11/01

FOUNDATION: 7/23/01

REVERSE BOUNDARY: 4/4/02

PROJECT # 01904

JOB # MP-U3-K18

HARRIS-JORGENSEN INC.

2706 S.E. SANTA BARBARA PLACE

CAPE CORAL, FLORIDA

PHONE: (941) 772-9939