

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 05-02

WHEREAS, David Winmill, the property owner, has requested a variance in the Residential Single-Family (RS) zoning district to allow a 2.5-foot side yard setback and a 3-foot rear yard setback for a pool screen enclosure, where Table 34-3 and Section 34-1174 of the Towns' LDC requires a 10-foot side setback and a 5-foot rear setback; and,

WHEREAS, the subject property is located at 3071 Shell Mound Blvd., Fort Myers Beach, and the applicant has indicated the property's current STRAP number is: 29-46-24-W1-0120B.0190 and the legal description is attached as Exhibit A; and,

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) who recommended that the Town Council approve the requested variances with the 3 Conditions listed on Page 2 of 4 of the Staff Report dated August 26, 2004 which is attached; and,

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

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

- a. There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question;
- b. The exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken after the adoption of the regulation in question;
- c. The variance granted 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. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
- e. 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 a nature as to make it more reasonable and practical to amend the regulation in question.

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:

See attached two pages from the Staff Report

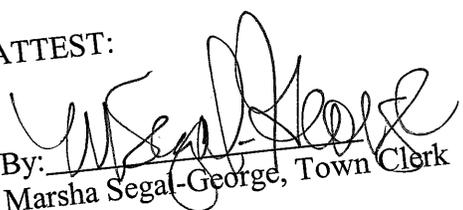
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

Howard Rynearson	<u>aye</u>
Don Massucco	<u>aye</u>
Bill Thomas	<u>aye</u>
W. H. "Bill" Van Duzer	<u>aye</u>
Garr Reynolds	<u>aye</u>

APPLICATION DULY GRANTED/DENIED this 10th day of January, 2005.

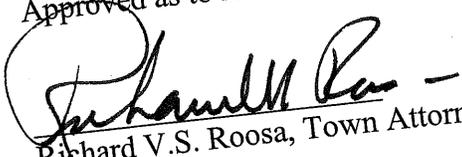
TOWN OF FORT MYERS BEACH

ATTEST:

By: 
Marsha Segal-George, Town Clerk

By: 
Bill Thomas, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney

Staff recommends approval of the requested variance in the Residential Single-Family (RS) zoning district to allow a 2.5-foot side yard setback and a 3-foot rear yard setback for a pool screen enclosure, where Table 34-3 and Section 34-1174 of the Town of Fort Myers Beach Land Development Code requires a 10-foot side setback and a 5-foot rear setback.

Conditions:

1. The variance to allow a 3-foot rear setback and 2.5-foot side setback for a pool screen enclosure is limited to the site plan stamped received by the Permit Counter on September 20, 2004. A copy is attached as Attachment "B".
2. The proposed height of the screen enclosure may not exceed the peak roof height of the existing single-family residence.
3. The applicant must maintain the mangroves at a minimum height of 4-feet above existing grade of the subject property.

Findings & Conclusions

Based upon an analysis of the application and the standards for approval of a variance, staff makes the following findings and conclusions:

1. There are exceptional or extraordinary conditions or circumstances inherent to the property in question due to the construction of the residence and pool in 1960 prior to zoning regulations in Lee County.
2. The exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken after the adoption of the regulation in question. The applicant purchased the property in February 2004, after the construction of the residence and pool.
3. 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. The proposed variances are the minimum variance that will allow the applicant access around perimeter of the pool and enclosure.
4. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The proposed variance will not be detrimental to the public welfare due to the applicant providing for space to access the rear of the property while still allowing for access around the pool interior to the enclosure.
5. 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 a general or recurrent nature so as to make it more reasonable and practical to amend the regulation in question.

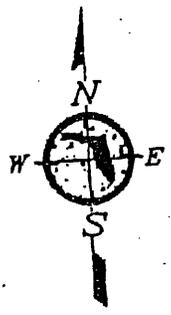
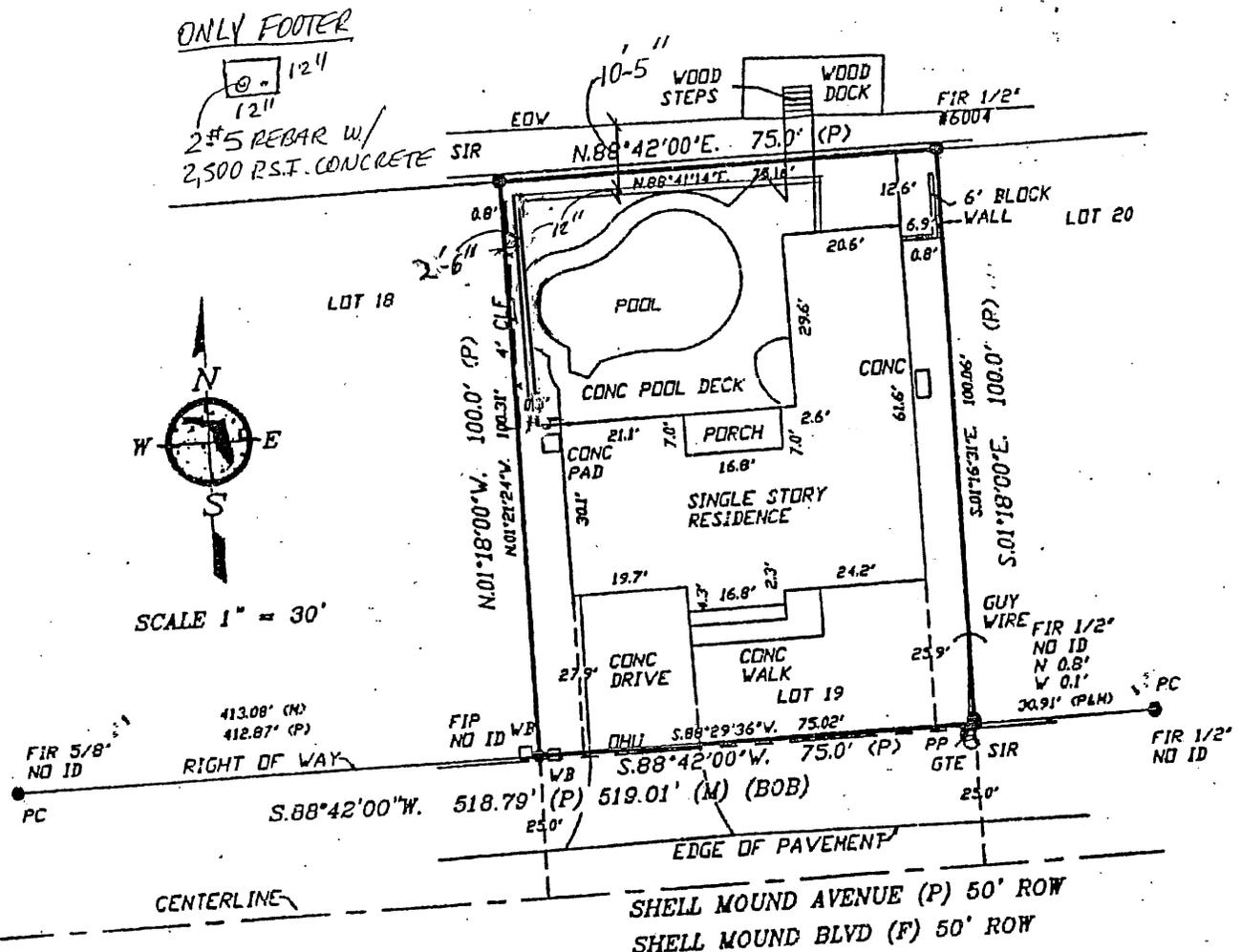
EXHIBIT ATTACHMENT B

SURVEY SKETCH OF BOUNDARY SURVEY

NOTE: THE INTENT OF THIS SURVEY IS FOR TITLE TRANSFER ONLY
 COPYRIGHT 2004, F.L.A. SURVEYS CORP.

NOT FOR FENCE CONSTRUCTION
 NOT FOR CONSTRUCTION
 NOT FOR DESIGN

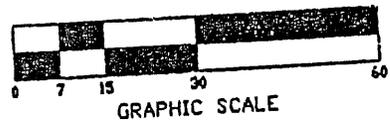
STREET ADDRESS
 3071 SHELL MOUND BLVD
 FORT MYERS BEACH, FLORIDA



SCALE 1" = 30'

LEGAL DESCRIPTION :
 LOT 19, BLOCK B, ZIMMER'S ADDITION TO SHELL MOUND PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 11, PAGE 54, PUBLIC RECORDS OF LEE COUNTY, FLORIDA

CERTIFIED TO :
 DAVID LORING WINMILL
 FIRST MAGNUS FINANCIAL CORPORATION
 ITS SUCCESSORS AND/OR ASSIGNS
 FIRST FIDELITY TITLE, INC.
 CHICAGO TITLE INSURANCE COMPANY



RECEIVED
 SEP 20 2004

PERMIT COUNTER

FLOOD ZONE : A12 EL. 12
 COMMUNITY PANEL 125124-04338
 INDEX DATED : 7-20-98
 (FLOOD ZONE : "B", "C", "D", & "X" ARE NOT IN DESIGNATED FLOOD HAZARD ZONE AREA.)

VAR 2004-00045

LOCATION :