

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2005-09

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT MYERS BEACH

WHEREAS, Dave and Kathy Ostdiek have requested 2 variances in the Residential Conservation (RC) Zoning District to allow for the construction of an elevated pool. They have requested a variance from the minimum required waterbody setback of 25 feet from Estero Bay in the RC District to allow a 10 foot setback per LDC Table 34-3 and Section 34-1174. They have also requested a variance from the minimum required setback of 20 feet from the rear property line in RC to allow a 5 foot setback per Table 34-3 and Section 34-1174; and

WHEREAS, the subject property is located at 21401 Widgeon Terrace, Ft. Myers Beach, in S34-T46S-R24E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP number is: 34-46-24-W1-022L0.0000 and the legal description attached as Exhibit A is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on June 14, 2005, 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.

NOW, THEREFORE BE IT RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

That the LPA recommends that the Town Council approve both requested variances for the 10-foot waterbody setback and the requested 5 foot rear property line with the following conditions;

1. No living space will be allowed under the raised pool.
2. The mangroves will not be cut below the height of the wall surrounding the pool or 12 feet which ever is higher.

Pursuant to the recommendation of approval of the Applicant's variance requests , the LPA finds the following;

Findings & Conclusions;

1. There are extraordinary conditions inherent to the property in question. There is a safety issues and a desire to not impact the neighbors by placing the pool on the side of the house. Also there is a desire to protect the height of the mangroves on this property.
2. The exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken subsequent to the adoption of the ordinance. The applicant because of safety and nearness to adjacent property owner does

not desire to place the pool elsewhere on the property thus creating a non-conforming setback.

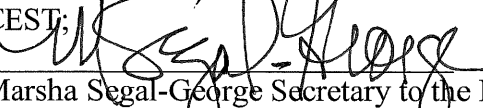
3. The variances, if granted, are the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property.
4. The granting of the variances will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The applicant presented letters of "no objection" from his neighbors.
5. The conditions 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 ordinance.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Titus and seconded by LPA member Plummer, and upon being put to a vote, the result was as follows:

Anita Cereceda	absent
Jessica Titus	yes
Betty Simpson	yes
Robert Simon	no
Jodi Hester	absent
Jane Plummer	yes
Bob Raymond	no

DULY PASSED AND ADOPTED THIS 14th day of June, 2005.
LPA of the Town of Fort Myers Beach

By: 
Anita Cereceda, Chairman, Betty Simpson, Acting Chariman

ATTEST;
By: 
Marsha Segal-George Secretary to the LPA