

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 06-22

WHEREAS, Stephen Dullard and Patricia Dullard, the property owners, petitioned for a variance in the RM (Residential Multifamily) zoning district from LDC Table 34-3 which requires a street setback of 25 feet from Delmar Avenue and a Public Unnamed Alley to allow for a 5 foot setback from Delmar Avenue and 16 foot setback from a Public Unnamed Alley for a single family residence; and

WHEREAS, the subject property is located at 61 Delmar Avenue, Fort Myers Beach, Lee County, Florida in S19-T46S-R24E, the applicant has indicated the property's current STRAP number is 19-46-24-W4-0100H.0020 and the legal description thereof is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on September 12, 2006, at which time the applicant indicated he agreed with staff's alternative recommendation, as set forth in the staff report, that applicant be granted approval to permit a single family residence with a 7.5 foot setback from Delmar Avenue and a 20 foot street setback from the Public Unnamed Alley and as a result applicant withdrew his original request for a more comprehensive variance from setback requirements; and

WHEREAS, the LPA recommended that the Town Council grant approval to permit a single family residence with a 7.5 foot setback from Delmar Avenue and a 20 foot street setback from the Public Unnamed Alley, as set forth in its LPA Resolution; and

WHEREAS, a public hearing was legally advertised and held before the Town Council on October 9, 2006, and during the course of this public hearing the Town Council considered the documents submitted by Appellant, the Town staff report, and all other evidence presented by Appellant, Staff and the public.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

FINDINGS AND CONCLUSIONS

Based upon the presentations by the Applicant, staff, and other interested parties at the hearing, and review of the application and the standards for granting variances, the Town Council makes the following findings and reaches the following conclusions:

1. There ARE exceptional or extraordinary conditions or circumstances that are inherent to the property in question and the request is for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy. *The subject parcel is physically suited for this variance, in that the parcel is abutting a beach access and an alley way; the lot is substandard in terms of lot width and is partly located in the Environmentally Critical (EC) zoning district. These circumstances are not typical.*
2. Any exceptional or extraordinary conditions which would otherwise justify the variance or circumstances are not the result of actions of the applicant taken

after the adoption of the regulation in question. *The applicant acquired the subject parcel in 2004 in its current configuration.*

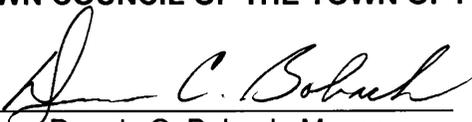
3. The variance recommended is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property. *The required setbacks create a small buildable area and therefore the recommendation is the minimum variance that will afford the applicant relief without modification to the regulations.*
4. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. *The lot was created in 1925 with a single-family residence built in 1952 within setbacks. Thus, the variance grants a use of the property well established within the setbacks in the neighborhood.*
5. The conditions or circumstances on the situation of the specific piece of property, or the intended use of the property for which the variance is sought, are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

The foregoing Resolution was adopted by the Town Council upon a motion by Councilmember Reynolds and seconded by Councilmember Massucco, and upon being put to a vote, the result was as follows:

Dennis C. Boback, Mayor	aye
Don Massucco, Vice Mayor	aye
Charles Meador, Jr.	aye
Garr Reynolds	aye
William Shenko, Jr.	aye

VARIANCE GRANTED AND RESOLUTION PASSED AND ADOPTED THIS 9th day of October, 2006.

TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By: 
Dennis C. Boback, Mayor

Approved as to legal sufficiency:

By: 
Anne Dalton, Esquire
Town Attorney

ATTEST:

By: 
Michelle Mayher, Town Clerk

EXHIBIT "A"

VAR2006-00010

LEGAL DESCRIPTION

LOT 2, BLOCK H, W.W. WATSONS SUBDIVISION, AS RECORDED IN PLAT BOOK 5,
PAGE 67, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

Applicant's Legal Checked

by lgm 3/09/2006.

LAND SURVEY

LOT 2, BLOCK H, W.W. WATSONS SUBDIVISION AS RECORDED IN PLAT BOOK 5, PAGE 67, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

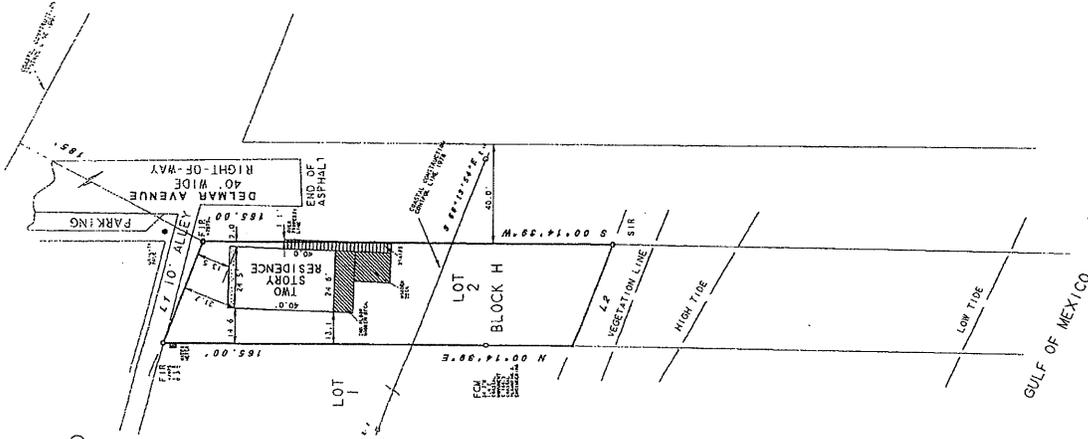
THE PROPERTY SHOWN HEREON IS LYING IN ZONE A12 OF THE NATIONAL FLOOD INSURANCE PROGRAM, ELEVATION + 14'.

THIS SURVEY IS CERTIFIED TO:
STEPHEN & PATRICIA DULLARD,
WILLIAM E. SHENKO, JR., P.A.,
ATTORNEY'S TITLE INSURANCE
FUND, INC.

REVISION:
SHOWED DELMAR AVENUE
RIGHT-OF-WAY LINE 3/20/2006
FILE DISK: OCT 04-5
CREW: HOLMES/DAVIDSON/CLASS

ATTORNEY'S
REAL ESTATE
LAND SURVEYING
INC.
1930 PARK MEADOWS DRIVE
SUITE 9
FORT MYERS, FLORIDA
(239) 277-7330
(239) 277-7332 FAX

Applicant's Survey Checked
By Lgm April 10, 2006



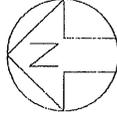
SURVEYORS NOTES:
1) FIR - FOUND 1/2" IRON ROD
UNLESS SHOWN OTHERWISE.
2) BEARINGS PER RECORDED PLAT CENTERLINE.
3) SIR - SET 1/2" IRON ROD #LB6594.
4) FCM- FOUND CONCRETE MONUMENT.

RECEIVED
APR 10 2006

PERMIT COUNTER

PROPERTY ADDRESS:
DELMAR AVENUE
FORT MYERS BEACH, FLORIDA

VAK 2006-00010



SCALE 1 INCH = 45 FEET
0 45 90

DATE:
SEPTEMBER 25, 2004

THIS SURVEY IS HEREBY CERTIFIED AS MEETING THE MINIMUM TECHNICAL STANDARDS AS SET FORTH IN REGULATION 61A03-10.001, F.S., AND CHAPTER 177, FLORIDA STATUTES, CHAPTER 472, FLORIDA STATUTES AND CHAPTER 61B17, F.A.C. AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY TITLE BEARING AND ANY OTHER INFORMATION CONTAINED HEREIN IS NOT TO BE USED FOR ANY PURPOSES WITHOUT MY WRITTEN AUTHORIZATION. UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL EMBOSSED SEAL OF THE SURVEYOR AND THE ORIGINAL SURVEYOR'S LICENSE NUMBER AND THE ORIGINAL SURVEYOR'S EMBOSSED SEAL IS NOT TO BE USED FOR ANY PURPOSES WITHOUT MY WRITTEN AUTHORIZATION. NO COPIES SHALL BE MADE WITHOUT MY WRITTEN AUTHORIZATION.

L. LARRY DARNER, SURVEYOR AND MAPPER #4294
NO. 1 VAL ID EMBOSSED SEAL

JOB NUMBER: 04-1311