

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2003- 01

****The motion made and seconded for approval of this variance failed and the recommendation for approval was rejected by a majority of the LPA. A subsequent motion of denial was not offered so this resolution was prepared to conform to the action taken.

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF FORT
MYERS BEACH

WHEREAS, Daniel W. Hahn has requested a variance from the LDC Sections 34-715, 34-1174(b) and 34-2191 to allow a proposed swimming pool and deck in front of an existing residence to be located 10 feet from the street right-of-way where accessory structures must meet the minimum requirement of a 25 foot street setback; and

WHEREAS, the subject property is located at 50 Gulf Road, Ft. Myers Beach, in S30-T46S-R24E, Lee County, FL.; and

WHEREAS, the applicant has indicated the property's current STRAP number is: 30-46-24-W2-0020B.041A, and the legal description is attached hereto and incorporated herein by reference as Exhibit A; and

WHEREAS, a public hearing was legally advertised and held before the Local Planning Agency (LPA) on January 14, 2003, 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 the Applicant's variance request for a swimming pool in front of an existing residence, subject to the following conditions;

1. All portions of the pool cage and deck must be set back a minimum of 25 feet from Gulf Beach Road. No overhang or other structure may encroach this setback.
2. The variance is limited to a swimming pool, pool cage and deck with the deck set back a minimum of 10.0 feet from the property line to the north and a minimum of 27 feet from the property line to the south.
3. The swimming pool, pool cage and deck are landscaped with a vegetative buffer with a minimum of 5 native trees and 30 linear feet of native shrubbery adequate to screen the use from Gulf Beach Road so as to prevent it from being a traffic distraction.
4. The owners must mark the 6 parking spaces

That the LPA recommends that the Town Council denies the Applicant's variance request for a reduction from the required 25 foot setback from the street right-of-way.

Pursuant to the recommendation for approval of the Applicant's variance request for a swimming pool in front of an existing residence, the LPA finds the following;

Findings & Conclusions;

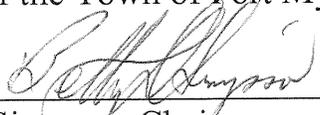
1. There are exceptional or extraordinary conditions or circumstances inherent to the property in question. The subject property and triplex residence is situated near the beach in close proximity to commercial/tourist activities, next to 3 large multi-family structures, one with a commercial swimming pool on Gulf Beach Road. The shape of the lot is irregular with a legally non-conforming structure. The rear yard is small with large trees buffering a condominium with parking facilities.
2. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Though it may be unusual to have a swimming pool in a front yard, in this particular instance it will not be incompatible and in no way poses a hazard to the neighbors or interferes with traffic flow if conditioned correctly.
3. 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 ordinance. This request is unique to this property in this circumstance.

4. The exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken subsequent to the adoption of relevant ordinances. The applicant purchased the property September 7, 2000 and did not construct the resident in its current configuration.
5. The variance, if granted, is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulations in question to this property. The variance is the only means to provide any reasonable accessory structures to go with the residence. A variance from the minimum setbacks from the road does not qualify as the minimum variance necessary to provide relief because there is adequate room to meet the 25-foot required setback from the street.

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

Anita Cereceda	no
Jessica Titus	yes
Betty Simpson	no
Roxie Smith	abstains
Jodi Hester	no
Hank Zuba	no
Nancy Mulholland	no
Harold Huber	yes
Jane Plummer	yes

DULY PASSED AND ADOPTED THIS 14th day of January, 2003.
LPA of the Town of Fort Myers Beach

By: 
Betty Simpson, Chairman

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

Exhibit 'A'

**VAR2002-00042
DANIEL HAHN SWIMMING POOL**

PROPERTY DESCRIPTION

A TRACT OR PARCEL OF LAND IN THE WINKLER SUBDIVISION, PLAT BOOK 8, PAGE 45, PUBLIC RECORDS, LEE COUNTY, FLORIDA, SECTION 30, TOWNSHIP 46, RANGE 24, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 43, BLOCK "B", OF SAID WINKLER SUBDIVISION, THENCE S.68°37'24"E. ON THE NORTHERLY LINE OF LOT 43 AND LOTS 42 AND 41 OF SAID BLOCK "B" AND THE SOUTHERLY RIGHT OF WAY LINE OF ESTERO BLVD. FOR 126.68 FEET TO THE NORTHEAST CORNER OF SAID LOT 41; THENCE S.21°23'56"W. ON THE EASTERLY LINE OF SAID LOT 41 FOR 75.10 FEET; THENCE N.68°44'00"W. FOR 97.39 FEET TO A POINT ON THE WEST LINE OF SAID LOT 43; THENCE N.00°08'06"W. ON SAID WEST LINE OF SAID LOT 43 AND THE WESTERLY RIGHT OF WAY OF GULF BEACH BLVD. FOR 123.57 FEET TO THE POINT OF BEGINNING.

Applicant's Legal Checked

by Amy Rodriguez