

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 03-04

WHEREAS, Daniel W. Hahn, the property owner 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, Fort 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 held before the Local Planning Agency (LPA) and a motion made and seconded to approve the variance subject to conditions, the Local Planning Agency failed to pass the motion and therefore recommended that the Town Council deny the Applicant's variance request; and,

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 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.

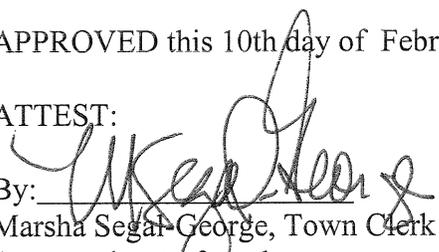
1. All portions of the pool and deck must be set back a minimum of 25 feet from Gulf Beach Road. No overhang or other structure may encroach this setback.
2. The variance is limited to a swimming pool and deck with the deck set back a minimum of 10.0 feet from the property line to the north and a minimum of 27 feet from the property line to the south.
3. The swimming pool 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. The same vegetative buffer is required along the north property line from the front buffer to the building.
4. No pool cage shall be permitted.
5. The required number of parking spaces will be provided on site.

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

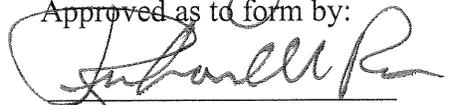
Howard Rynearson	<u>Yes</u>
Daniel Hughes	<u>No</u>
Bill Thomas	<u>Yes</u>
W. H. "Bill" Van Duzer	<u>Yes</u>
Terry Cain	<u>Yes</u>

APPROVED this 10th day of February, 2003.

ATTEST:

By: 
Marsha Segal-George, Town Clerk

Approved as to form by:


Richard V.S. Roosa, Town Attorney

TOWN OF FORT MYERS BEACH

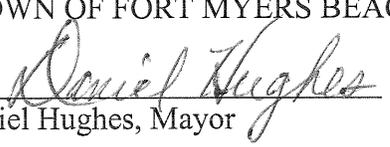
By: 
Daniel Hughes, Mayor

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 200202