

RESOLUTION NUMBER 17-02
VAR16-0012
21421 Widgeon Terrace – Duffey Balcony Variance

WHEREAS, Rebecca J. Duffey, as applicant and owner of the subject property, filed an application seeking two setback variances from LDC Section 34-638: specifically (1) a variance from s. 34-638(b), which requires a 20 foot setback from the rear property line to all an 11 foot setback; and (2) a variance from LDC s. 34-638(d)(3), which requires a 25 foot setback from a non-seawalled waterbody to allow a 14.5 foot waterbody setback; and

WHEREAS, Applicant has indicated the STRAP number for the subject property is 34-46-24-W1-022J0.0000, and the subject property is legally described as indicated on attached Exhibit A; and

WHEREAS, the subject property is physically located at 21421 Widgeon Terrace, Fort Myers Beach, Florida, 33931 and within the Residential Conservation zoning district; and

WHEREAS, a duly advertised public hearing was held before the Local Planning Agency (LPA) on December 13, 2016; and

WHEREAS, the LPA recommended denial of the variance after full and complete consideration of the Applicant's request, recommendations of Town staff, documents in the record, and the testimony of all interested persons, as required by Town Land Development Code (LDC) s. 34-84; and

WHEREAS, on January 23, 2017 and February 6, 2017, the Town Council held a duly advertised public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by LDC s. 34-88; and

WHEREAS, the Town Council determined it is in the best interest of the Town to approve the request.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fort Myers Beach, Florida, as follows:

1. **Determination.**

Based upon the recommendations, testimony, and evidence presented by Town staff, LPA, and interested parties, the Town Council **APPROVES** the following:

- a. A variance from s. 34-638(b), which requires a 20 foot setback from the rear property line to allow an 11 foot setback; and

- b. A variance from LDC s. 34-638(d)(3), which requires a 25 foot setback from a non-seawalled waterbody to allow a 14.5 foot waterbody setback.

2. Findings and Conclusions of Law.

- a. There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or the request is for a diminimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy;
- b. The conditions justifying the variance 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 that 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 conditions or circumstances on the specific piece of 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 Council Member Cereceda, seconded by Council Member Gore, and upon being put to a vote the results was as follows:

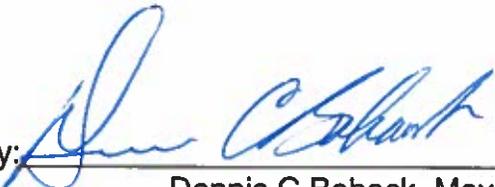
Dennis Boback, Mayor	absent
Rexann Hosafros, Vice Mayor	aye
Anita Cereceda	aye
Tracey Gore	aye
Joanne Shamp	aye

DULY PASSED AND ADOPTED this 21st day of February, 2017.

ATTEST:

FORT MYERS BEACH TOWN COUNCIL

By: 
Michelle D. Mayher, Town Clerk

By: 
Dennis C. Boback, Mayor

Approved as to legal sufficiency


Peterson Law Group, Town Attorney

Exhibits

A: Legal Description

Exhibit A

This Warranty Deed

Made this 7th day of May, 2007 by
MARK SCAROLA A/K/A MARK M. SCAROLA AND
NOREEN SCAROLA A/K/A NOREEN R. SCAROLA,
HUSBAND AND WIFE

hereinafter called the grantor, to
REBECCA J. DUFFEY, TRUSTEE of REBECCA J.
DUFFEY REVOCABLE TRUST DATED NOVEMBER 28,
2001

whose post office address is:
3725 ALBERT LANE
LONG GROVE, IL 60047

hereinafter called the grantee:
(Whenever used herein the term "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)
Witnesseth, that the grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in LEE County, Florida, viz:
The Trustee under the above stated Trust is hereby granted the power to protect, conserve and to sell convey, or to lease, or to encumber, or otherwise to manage and dispose of the real property described in this deed.

Unit J, FLAMINGO HARBOUR CONDOMINIUM, according to the Declaration of Condominium thereof, on file and recorded in Official Record Book 1357, Page 1089, as amended, Public Records of Lee County, Florida, together with all appurtenances thereto appertaining and specified in said Declaration of Condominium.

Subject to covenants, restrictions, easements of record and taxes for the current year.

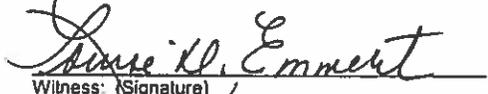
Parcel Identification Number: 34-46-24-W1-022J0.0000

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anyway appertaining To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2006

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:



Witness: (Signature)
Print Name: Louise D. Emmert



Witness: (Signature)
Print Name: Rebecca J. Duffey



MARK SCAROLA A/K/A MARK M. SCAROLA
21421 WIDGEON TERRACE
FT. MYERS BEACH, FL 33931



NOREEN SCAROLA A/K/A NOREEN R. SCAROLA
21421 WIDGEON TERRACE
FT. MYERS BEACH, FL 33931

State of FL
County of LEE

The foregoing instrument was acknowledged before me this 7th day of May, 2007, by MARK SCAROLA A/K/A MARK M. SCAROLA AND NOREEN SCAROLA A/K/A NOREEN R. SCAROLA, HUSBAND AND WIFE, who is personally known to me or who had produced Florida Deed as identification.



NOTARY PUBLIC (signature) Louise D. Emmert
Print Name:
My Commission Expires:
Stamp/Seal:

Prepared by:
Donna Roseto
Sunbelt Title Agency
23421 Walden Center Drive
Bonita Springs, FL 34134
File Number: 7952070094

