

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 97- 37

WHEREAS, Jane B. Plummer, the property owner petitioned for three(3) variances in the RS-I (Residential Single-Family) district as follows; (1) a variance from the side setback currently allowed of 15 feet to allow 2 feet from Shell Mound Avenue; (2) a variance from the required waterbody setback of 5 feet from a sea walled canal to allow a 0 foot setback; (3) a variance from the 3 foot fence height requirement to allow a 6 foot fence along Shell Mound Ave.; and,

WHEREAS. the subject property is located at 310 Madison Court, Fort Myers Beach, Florida, and is described more particularly as:

LEGAL DESCRIPTION: In Section 29, Township 46 South, Range 24 East, Lee County, Florida:

Lot 32 and the West Half of Lot 33, Block D, SHELL MOUND PARK SUBDIVISION, as recorded in Plat Book 11, Page 4, of the Public Records of Lee County, Florida.

WHEREAS. the applicant has indicated the property's current STRAP number is: 29-46-24-W1-0110D.0320; 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/~~not~~ 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/~~not~~ 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 ~~DISAPPROVED~~/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. The variance request to allow a 6 foot fence along Shell Mound Avenue is approved.
2. The variance request to allow a 0 foot setback from the sea walled canal is approved with the condition that the sidewalk around the pool, that will be located between the pool and the sea wall, will not contain steel bar or rebar of the type used "with footers" and that the pool will be located 5 feet from the sea wall.
3. The variance request as to the side setback from Shell Mound Avenue is approved with the condition that the pool will be located 15 feet from the right-of-way.

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

Anita T. Cereceda	<u>aye</u>
Ted FitzSimons	<u>aye</u>
William (Rusty) Isler	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

APPLICATION DULY DENIED/GRANTED this 20th day of October, 1997.

ATTEST:

TOWN OF FORT MYERS BEACH

By: Marsha Segal-George  
Marsha Segal-George, Town Clerk

By: Anita T. Cereceda  
Anita T. Cereceda, Mayor

Approved as to form by:

Richard V.S. Roosa  
Richard V.S. Roosa, Town Attorney