

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 02-37

WHEREAS, Jeanne Sanders, the property owner, petitioned for 2 variances to allow for an addition to an existing single-family residence. The 1st variance is from a 20 foot street setback to allow a 4 foot street setback per LDC Sections 34-715 and 34-2192(a) and the 2nd is from a 20 foot minimum rear yard setback to allow a 6 foot rear yard (west) setback per LDC Section 34-715; and,

WHEREAS, the subject property is located at 5266 Estero Blvd., Fort Myers Beach, in S33-T46S-R24E, Lee County, Florida and the applicant has indicated the property's current STRAP number is: 33-46-24-W1-00206.0310, and the legal description is attached as Exhibit A which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on September 17, 2002, when they recommended:

That the Town Council not approve the variances as requested but instead approve a reduction from the street setback to 7 feet and from the rear setback to 7 feet subject to the following conditions:

1. The variances are for street and rear yard setback reductions for a single-family residence in substantial compliance with the one-page "Site Plan, 5266 Estero Blvd", stamped received September 6, 2002, Community Development, except as modified by other conditions of approval.
2. The following minimum setbacks apply to any new structure placed on the property; street setback -7 feet and rear yard setback -7 feet.
3. If the building is voluntarily removed from the property, then any subsequent structure must comply with Land Development Code requirements.

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. The variances are for street and rear yard setback reductions for a single-family residence in substantial compliance with the one-page "Site Plan, 5266 Estero Blvd", stamped received September 6, 2002, Community Development, except as modified by other conditions of approval.
2. The following minimum setbacks apply to any new structure placed on the property.

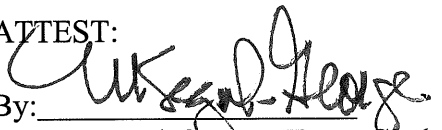
Street setback (northwest property line)	7 feet
Rear yard setback (southeast property line)	7 feet
East side yard setback (northeast property line)	20 feet
3. If the building is voluntarily removed from the property, then any subsequent structure must comply with Land Development Code requirements.
4. Prior to issuance of a building permit, a certified survey or sketch of description, or title insurance, showing proof of access from Estero Boulevard must be provided.

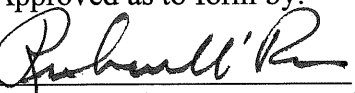
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

Howard Rynearson	<u>Aye</u>
Daniel Hughes	<u>Aye</u>
Bill Thomas	<u>Absent</u>
W. H. "Bill" Van Duzer	<u>Abstain</u>
Terry Cain	<u>Aye</u>

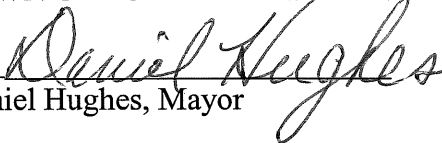
Adopted this 14th day of October, 2002.

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

DESCRIPTION:

VAR 2002-00014

Part of Lot 31, Block 6, Gulf Heights, as recorded in Plat Book 6, Page 39, Public Records of Lee County, Florida, described as follows:

Beginning at the most Northwesterly corner of the aforesaid Lot 31; thence run S.46°44'00"E. along the Northeasterly line of said Lot 31 for 43.30 feet; thence run S.43°44'50"W. (1.70 feet Northwesterly of and parallel to the Southeasterly line of said Lot 31) for 140.00 feet; thence run N.46°44'00"W. along the Southwesterly line of said Lot 31 for 43.30 feet to the most Southwesterly corner of said Lot 31; thence run N.43°44'50"E. along the Northwesterly line of said Lot 31 for 140.00 feet to the point of beginning.

Said tract contains 6,061.8 square feet, more or less and is subject to easements, restrictions and reservations of record.

TOGETHER WITH:

All rights, title and interest of the grantor in and to a 10 foot non-exclusive easement for walk and driveway purposes across the Westerly side of Lot 13, Block 6, and the East 10 feet of Lot 30, Block 6 of said Gulf Heights Subdivision; and TOGETHER WITH all rights, title and interest of the grantor in and to a perpetual easement for water rights from a well on Lot 17, Block 3, of said Gulf Heights Subdivision; SUBJECT TO, however, a certain easement for walkway purposes over the Easterly 5 feet of said Lot 30, Block 6, of said Gulf Heights, hereto reserved for the present and future owners of Lots 12 and 13, of Block 6, and Lots 15 to 20 inclusive, of Block 3 of said Gulf Heights Subdivision.

John B. Harris

John B. Harris
P.S.M. #4631
August 27, 2002

Applicant's Legal Checked

by Jm 9/5/02

TO: JERRY MURPHY-

RE - MUD 2002 - 00059

EXHIBIT A

COMM. DEV./
SUB. WRKS. CNTR.
SECOND FLOOR

02 AUG 27 PM 2:19

LEE COUNTY
RECEIVED

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 02-38

WHEREAS, Ostego Bay Construction, Inc., petitioned for an appeal from the administrative action of the Building Official; and,
WHEREAS, The action was based upon application of Section 6-472(1) of the Town Land Development code; and,
WHEREAS, the error is identified as classifying cabanas as a residential accessory.
WHEREAS, the act by the administrative official was not pursuant to an order, resolution, or directive of the town council directing him to perform such act; or an ordinance or other regulation or provision in Town code which provides a different appellate procedure; and,
WHEREAS a hearing was held and the council considered the recommendations and testimony of the staff, testimony from the applicant and from the public as to the effect the ruling will have when applied generally to this code.

IT IS THE FINDING of this council that the following exist:

1. The appeal is of a nature properly brought for decision, as there is no established procedure for handling the request other than through the appeal process (i.e., a variance or special exception, etc.).

NOW THEREFORE BE IT RESOLVED THAT THE ADMINISTRATIVE OFFICIAL'S DECISION IS REVERSED as follows:

1. The proposed "Cabanas" qualify for dry floodproofing as "non-residential" structures.

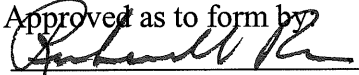
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

Howard Rynearson	<u>Aye</u>
Daniel Hughes	<u>Aye</u>
Bill Thomas	<u>Absent</u>
W. H. "Bill" Van Duzer	<u>Aye</u>
Terry Cain	<u>Aye</u>

Adopted this 14th day of October, 2002.

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