

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 02-28

WHEREAS, John Richard has requested a variance from the LDC Section 34-1744 to reduce the required street setback for a fence or wall from 5 feet to 0 feet and to increase the maximum height for a fence or wall from 3 feet to 10 feet; and,

WHEREAS, the subject property is located at 170 & 202 Crescent Street, Ft. Myers Beach, in S19-T46S-R24E, Lee County, FL.; and,

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 19-46-24-W4-0150E.0080 & 19-46-24-W4-0150E.0090, and the legal description is marked 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 May 14, 2002, and,

That the LPA recommends that the Town Council approve the requested variance subject to the following conditions:

1. Final design and construction drawings in accordance with this variance must be presented to the Town Manager within 6 months of Town council approval and prior to the issuance of any building permits.
2. The variance is limited to the final design approved by the Town Manager.
3. The fence design approved by the Town Manager must be constructed within one year from the date of approval of final design or the variance will be null and void.
4. The fence must be kept in good repair and any surface treatment must be maintained by the owner on a regular basis and kept free of graffiti and other markings not part of the approved design. Any damage to the fence must be repaired by the owner in a timely manner.
5. The variance will be effective only so long as the property continues to be used for residential purpose; 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. Final design and construction drawings of fence and landscaping, in accordance with this variance must be presented to the Town Manager within 6 months of Town council approval and prior to the issuance of any building permits.
2. The variance is limited to the final design approved by the Town Manager.
3. The fence design approved by the Town Manager must be constructed within one year from the date of approval of final design or the variance will be null and void.
4. The fence and landscaping must be kept in good repair and any surface treatment must be maintained by the owner on a regular basis and kept free of graffiti and other markings not part of the approved design. Any damage to the fence must be repaired by the owner in a timely manner.
5. The variance will be effective only so long as the property continues to be used for residential purpose.

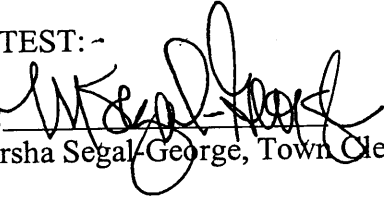
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

Howard Rynearson	aye
Daniel Hughes	aye
Bill Thomas	aye
W. H. "Bill" Van Duzer	aye
Terry Cain	aye

APPROVED this 24th day of June, 2002.

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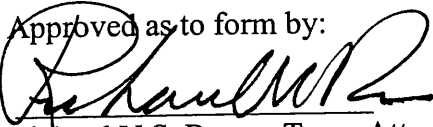
ATTEST:-

By:   
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By:   
Daniel Hughes, Mayor

Approved as to form by:

  
Richard V.S. Roosa, Town Attorney

## EXHIBIT "A"

### DESCRIPTION:

Lots 8, 9 and 10, Block E, of Crescent Park Addition, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 4, Page 46.

ALSO: That certain strip of land 12.67 feet wide between the roadway and the West side of the canal located in Block E, of Crescent Park Addition, and between the North line of Lot 10 extended to the canal and the South line of Lot 8 extended to the canal of said Block E, Crescent Park Addition, according to the map or plat of same recorded in the office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 4, Page 46, said strip of land being 12.67 feet wide by 100 feet deep lying Easterly from said Lots 8, 9 and 10 and between the roadway and canal.

ALSO: That certain vacated and closed 20 foot street or roadway in Block E of said Crescent Park Addition, according to the plat thereof, recorded in the office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 4, Page 46, lying between and bounded on the North by the North line of said Lot 10 and on the South by the South line of said Lot 8 and adjoining Lots 8, 9 and 10, block E, Crescent Park Addition, on the Easterly side thereof.

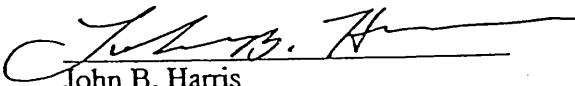
LESS: That portion of Lots 8, 9 and 10 taken for right-of-way for Crescent Street for the Lee County Department of Transportation Project No. 4965.

### THE ABOVE FURTHER DESCRIBED AS FOLLOWS:

Commencing at the centerline intersection of 3rd. Street and Crescent Street as shown on the Plat of Crescent Park Addition as recorded in Plat Book 4, Page 46, Public Records of Lee County, Florida; thence run S.00°20'20"E. along the centerline of said Crescent Street for 357.15 feet; thence run N.89°39'40"E. for 25.24 feet to the East right-of-way line of said Crescent Street per Lee County Department of Transportation Project No. 4965 and the point of beginning; thence continue N.89°39'20"E. for 119.93 feet; thence run S.00°20'20"E. for 149.79 feet (150.00 feet per plat); thence run S.89°39'40"W. for 122.07 feet to the aforesaid East right-of-way line of Crescent Street; thence run N.00°28'53"E. for 149.81 feet (150.00 feet per plat) to the point of beginning.

Said tract contains 18,125 square feet, more or less and is subject to easements, restrictions and reservations of record.

Bearings are based on the centerline of the above mentioned Crescent Street as being S.00°20'20"E.

  
John B. Harris  
P.S.M. #4631  
March 7, 2002

VAR 2002-00010

11-A-1