

**CITY OF MARATHON, FLORIDA
RESOLUTION 2006-039**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, DENYING THE REQUEST BY GERARDO AND MARIA RUBIO, PURSUANT TO SECTION 9.5-523 OF THE CITY OF MARATHON CODE, FOR A VARIANCE TO SECTION 9.5-281 OF CITY CODE WHICH ESTABLISHES THE MINIMUM SIDE YARD FOR A PRINCIPAL STRUCTURE, AT PROPERTY LEGALLY DESCRIBED AS PART OF LOT 5, BLOCK 4, AND PART OF LOT 6, BLOCK 7, OF THE PALMS SUBDIVISION PLAT 2, HAVING REAL ESTATE NUMBER 00333060-000000 (the "Property")

WHEREAS, on February 21, 2006, the City of Marathon (the "City") Planning Commission (the "Commission") and on March 9, 2006, the City Council (the "Council"), conducted properly advertised public hearings (the "Public Hearings") regarding the request submitted by Gerardo and Maria Rubio (the "Applicant"), for a variance pursuant to Sections 9.5-523 of the City Code (the "Code");

WHEREAS, the purpose of the variance is to allow the Applicant to construct a single family residence that would reduce the required ten (10) foot minimum side yard from one (1) foot to five (5) feet (the "Proposed Use") at the Property; and

WHEREAS, the Council has duly considered the recommendation of the Commission, and the information and documentary evidence submitted by the Applicant and the members of the public, and does hereby find and determine as provided below.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The Applicant's request has been processed in accordance with the applicable provisions of the Code, and the Applicant has failed to demonstrate by competent substantial evidence that it meets the variance criteria set forth in Section 9.5-523 of the Code.

Section 3. In rendering its decision, the Council has:


- (a) Accorded procedural due process;
- (b) Observed the essential requirements of the law; and
- (c) Supported its decision by substantial competent evidence of record.

Section 4. The City Council hereby denies the variance application of Gerardo and Maria Rubio for a reduction in the required side yard setbacks at the property.

Section 5. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the City of Marathon, Florida, this 28th day of March, 2006.

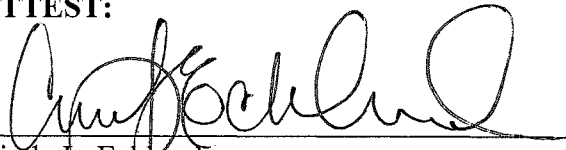
THE CITY OF MARATHON, FLORIDA



John Bartus, Mayor

AYES: Bull, Pinkus
NOES: Bartus
ABSENT: Mearns
ABSTAIN: Worthington

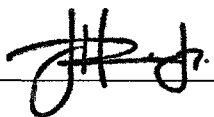
ATTEST:



Cindy L. Ecklund,
City Clerk

(City Seal)

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:



City Attorney