

**CITY OF MARATHON, FLORIDA
RESOLUTION 2006-141**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY GERARDO AND MARIA RUBIO, FOR A VARIANCE TO SECTION 9.5-281 OF CITY CODE WHICH ESTABLISHES THE MINIMUM SIDE YARD FOR A PRINCIPAL STRUCTURE, PURSUANT TO SECTION 9.5-523 OF THE CITY OF MARATHON CODE, AUTHORIZING A TWO (2) FOOT TO FIVE (5) FOOT VARIANCE TO THE MINIMUM TEN (10) FOOT SIDE YARD REQUIREMENT, AT PROPERTY LEGALLY DESCRIBED AS LOT 5, BLOCK 4, AND PART OF LOT 6, BLOCK 7 OF THE PALMS PLAT 2, HAVING REAL ESTATE NUMBER 00333060-000000; PROVIDING FOR PENALTIES FOR VIOLATIONS OF THE CONDITIONS OF APPROVAL; PROVIDING FOR A TERM OF THE APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on the 21st day of August, 2006, the City of Marathon (the “City”) Planning Commission (the “Commission”) and on the 22nd day of August, 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”); and

WHEREAS, the purpose of the variance is to allow the Applicant to construct a single family residence that would intrude the required ten (10) foot minimum side yard from Two (2) Foot To Five (5) Foot (the “Proposed Use”) at the property described in the application (the “Property”).

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

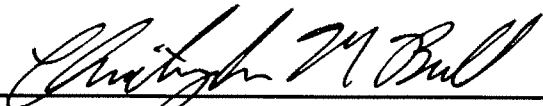
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby approves Development Order Number 2006-11, a copy of which is attached hereto as Exhibit “A”, granting a variance to Gerardo and Maria Rubio (Owners per Settlement Statement) for the Proposed Use.

Section 3. This development order shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the city of Marathon, Florida, this 12th day of September, 2006.


THE CITY OF MARATHON, FLORIDA



Christopher M. Bull, Mayor

AYES: Mearns, Pinkus, Tempest, Worthington, Bull
NOES: None
ABSENT: None
ABSTAIN: None

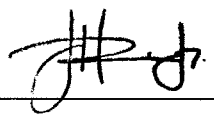
ATTEST:



Diane Clavier,
City Clerk

(City Seal)

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



City Attorney



CITY OF MARATHON, FLORIDA
VARIANCE
DEVELOPMENT ORDER # 2006-11

Doc# 1603980 09/20/2006 2:50PM
Filed & Recorded in Official Records of
MONROE COUNTY DANNY L. KOLHAGE

Doc# 1603980
BK# 2239 Pg# 247

A DEVELOPMENT ORDER APPROVING THE REQUEST SUBMITTED BY GERARDO AND MARIA RUBIO, FOR A VARIANCE TO SECTION 9.5-281 OF CITY CODE WHICH ESTABLISHES THE MINIMUM SIDE YARD FOR A PRINCIPAL STRUCTURE, PURSUANT TO SECTION 9.5-523 OF THE CITY OF MARATHON CODE, AUTHORIZING A TWO (2) FOOT TO FIVE (5) FOOT VARIANCE TO THE MINIMUM TEN (10) FOOT SIDE YARD REQUIREMENT, AT PROPERTY LEGALLY DESCRIBED AS PART OF LOT 5, BLOCK 4, AND PART OF LOT 6, BLOCK 7, OF THE PALMS PLAT 2, HAVING REAL ESTATE NUMBER 00333060-000000; PROVIDING FOR PENALTIES FOR VIOLATIONS OF THE CONDITIONS OF APPROVAL; PROVIDING FOR A TERM OF THE APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on the 21st day of August, 2006, the City of Marathon (the "City") Planning Commission (the "Commission") and on the 22nd day of August, 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 Section 9.5-523 of the City Code (the "Code"); and

WHEREAS, the purpose of the variance is to allow the Applicant to construct a single family residence that would intrude the required ten (10) foot minimum side yard from Two (2) Foot To Five (5) Foot (the "Proposed Use") at the property described in the application (the "Property").

FINDINGS OF FACT:

1. Based on the submitted site plan, the Side yard Setbacks will be no less than five (5) feet.
2. In accordance with Section 9.5-289 of the Code, the City Council considered and determined that the Applicant met the following criteria:
 - a. The proposed Side Yard Setbacks will be consistent with the community character of the surrounding area.
 - b. The proposed Side Yard Setbacks will not interfere with surrounding development.
 - c. The proposed Side Yard Setbacks will not be a safety hazard.

CONCLUSIONS OF LAW:

Based upon the above Findings of Fact, the City Council of the City of Marathon, Florida does hereby make the following Conclusions of Law:

1. The Application has been processed in accordance with the applicable provisions of the City Code, and will not be detrimental to the community as a whole; and
2. In rendering its decision as reflected in this Development Order, the City Council of the City of Marathon, Florida has:
 - (a) Accorded procedural due process; and
 - (b) Observed the essential requirements of the law; and
 - (c) Supported its decision by substantial competent evidence of record.

3. The Application for a Variance of the Side Yard Setbacks is hereby GRANTED.

RECORDING:

The Applicant shall at its sole cost and expense, record a certified copy of this Development Order in the Public Records of Monroe County, Florida within five (5) days of receipt of same from the City. The Applicant shall provide the City with proof of the recording of the Development Order in accordance with the provisions of this paragraph.

EFFECTIVE DATE:

The City Council shall sign this development order, and it shall not take effect for thirty (30) days following the date it is rendered/filed with the City Clerk. During that time, the variance approval granted herein shall be subject to appeal as provided in the City Code. An appeal shall stay the effectiveness of this development order until said appeal is resolved.

PASSED AND APPROVED by the City Council of the City of Marathon, Florida, this 12th day of September, 2006.


THE CITY OF MARATHON, FLORIDA



Christopher M. Bull, Mayor

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

ATTEST:

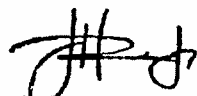


Diane Clavier,
City Clerk

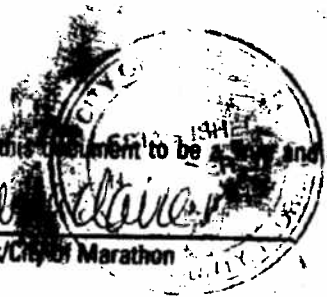

**MONROE COUNTY
OFFICIAL RECORDS**

(City Seal)

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



City Attorney

I certify this document to be a true and Correct Copy of the original.



City Clerk/City of Marathon
Date 9-20-06