

**RESOLUTION NO. 2009-11**

**A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, MAKING FINDINGS OF FACT AND GRANTING A NON-USE VARIANCE TO THE PROPERTY OWNER OF 11515 NE 9 AVENUE, BISCAYNE PARK, FLORIDA, ALLOWING VARIANCES FROM THE VILLAGE OF BISCAYNE PARK CODE OF ORDINANCES TO ALLOW AN ENCROACHMENT OF 27.18 FEET INTO THE FRONT SETBACK FOR A FOUR FOOT HIGH CHAIN LINK FENCE; PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the owner of the property located at 11515 NE 9 Avenue, Biscayne Park, Florida ("Petitioner") has requested a variance from the Code to allow a 4' high chain link to encroach the front setback by 27'18"; and

WHEREAS, the Planning and Zoning Board met to review this request and recommended approval of the property owner's request; and

WHEREAS, the Village Commission has heard the request, evidence and testimony and hereby finds the following to be true:

1. There are special circumstances or conditions affecting the property which are such that the strict application of the provisions of the Village Code would deprive the Applicant from the reasonable use of his land;
2. The non-use variance is necessary for the preservation and enjoyment of a substantial property right of the Applicant;
3. The granting of the non-use variance would not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated; and
4. The non-use variance proposed is the minimum variance which makes possible the reasonable use of the property;

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, THAT:**

**Section 1.** The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and hereby made a specific part of this Resolution upon adoption hereof.

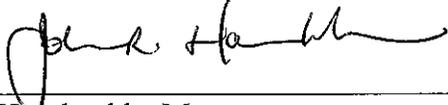
**Section 2.** The non-use variance to allow a variance from the Village of Biscayne Park Code of Ordinances to allow a 27'18" encroachment into the front setback for a 4' high chain link fence, is hereby approved, consistent with the diagram attached hereto as Exhibit "A" and incorporated herein with the condition that a hedge must be placed and maintained in front of the fence to shield the view of the fence from the roadway.

**Section 3.** The Applicant is responsible for recording this Resolution in the Public Records of Miami-Dade County, Florida and shall bear the costs thereof.

**Section 4.** This Resolution shall become effective upon adoption.

PASSED AND ADOPTED this   7th   day of   April  , 2009.

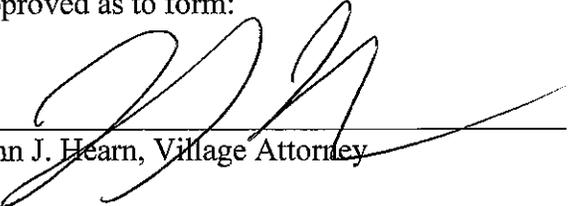
**The foregoing resolution upon being  
Put to a vote, the vote was as follows:**

  
\_\_\_\_\_  
John Hornbuckle, Mayor

Attest:

  
\_\_\_\_\_  
Ann Harper, Village Clerk

Approved as to form:

  
\_\_\_\_\_  
John J. Hearn, Village Attorney

Mayor Hornbuckle   yes    
Vice Mayor Mallette   yes    
Commissioner Bernard   yes    
Commission Morris   yes    
Commissioner Anderson   NO

**RESOLUTION NO. 2009-11**

**A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, MAKING FINDINGS OF FACT AND GRANTING A NON-USE VARIANCE TO THE PROPERTY OWNER OF 11515 NE 9 AVENUE, BISCAYNE PARK, FLORIDA, ALLOWING VARIANCES FROM THE VILLAGE OF BISCAYNE PARK CODE OF ORDINANCES TO ALLOW AN ENCROACHMENT OF 27.18 FEET INTO THE FRONT SETBACK FOR A FOUR FOOT HIGH CHAIN LINK FENCE; PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the owner of the property located at 11515 NE 9 Avenue, Biscayne Park, Florida ("Petitioner") has requested a variance from the Code to allow a 4' high chain link to encroach the front setback by 27'18"; and

WHEREAS, the Planning and Zoning Board met to review this request and recommended approval of the property owner's request; and

WHEREAS, the Village Commission has heard the request, evidence and testimony and hereby finds the following to be true:

1. There are special circumstances or conditions affecting the property which are such that the strict application of the provisions of the Village Code would deprive the Applicant from the reasonable use of his land;
2. The non-use variance is necessary for the preservation and enjoyment of a substantial property right of the Applicant;
3. The granting of the non-use variance would not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated; and
4. The non-use variance proposed is the minimum variance which makes possible the reasonable use of the property;

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, THAT:**

**Section 1.** The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and hereby made a specific part of this Resolution upon adoption hereof.

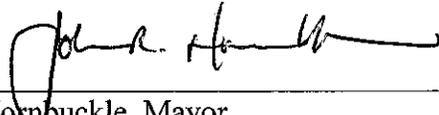
**Section 2.** The non-use variance to allow a variance from the Village of Biscayne Park Code of Ordinances to allow a 27'18" encroachment into the "side" front setback for a 4' high chain link fence, is hereby approved, consistent with the diagram attached hereto as Exhibit "A" and incorporated herein with the condition that a hedge must be placed and maintained in front of the fence to shield the view of the fence from the roadway.

**Section 3.** The Applicant is responsible for recording this Resolution in the Public Records of Miami-Dade County, Florida and shall bear the costs thereof.

**Section 4.** This Resolution shall become effective upon adoption.

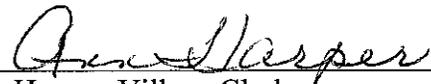
PASSED AND ADOPTED this \_\_\_7th\_\_\_ day of \_\_\_April\_\_\_, 2009.

**The foregoing resolution upon being Put to a vote, the vote was as follows:**

  
\_\_\_\_\_  
John Hornbuckle, Mayor

Mayor Hornbuckle \_\_\_yes\_\_\_  
Vice Mayor Mallette \_\_\_yes\_\_\_  
Commissioner Bernard \_\_\_yes\_\_\_  
Commission Morris \_\_\_yes\_\_\_  
Commissioner Anderson \_\_\_no\_\_\_

Attest:

  
\_\_\_\_\_  
Ann Harper, Village Clerk

Approved as to form:

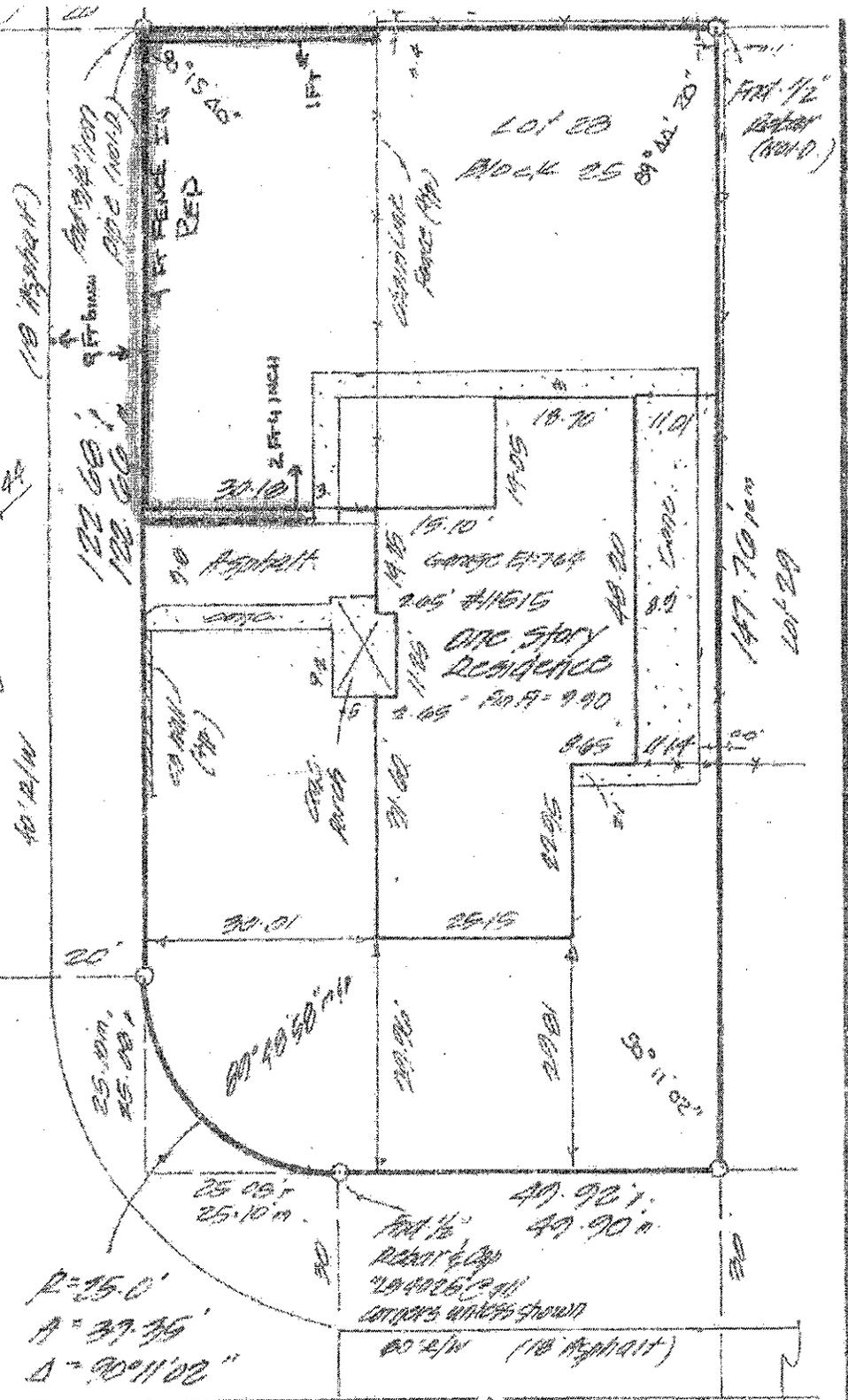
  
\_\_\_\_\_  
John J. Hearn, Village Attorney

Handed Foot

New fence



N. E. 9th Avenue



**PROPERTY ADDRESS:**

11515 NE 9<sup>TH</sup> AVENUE  
BISCAYNE PARK, FLORIDA

$R = 25.0'$   
 $A = 37.75'$   
 $\Delta = 90^{\circ} 11' 00''$

N. E. 115<sup>TH</sup> AVENUE

**LEGEND**

- A = ARC
- A.E. = ANCHOR EASEMENT
- A/C = AIR CONDITIONER
- ASPH. = ASPHALT
- BLK. = BLOCK
- B.M. = BENCH MARK
- BCH. = BROWARD COUNTY RECORDS
- B.S.L. = BUILDING SET BACK LINE
- CL. = CENTER LINE

- DN. = DRILLED HOLE
- EL. = ELEVATION
- EP. = EDGE OF PAVEMENT
- EW. = EDGE OF WATER
- EMT. = EASEMENT
- F.B. = FIELD BOOK
- FO. = FOUND
- F.P. & L. = FLORIDA POWER & LIGHT
- I.P. & E. = INGRESS/EGRESS EASEMENT

- I.E. = INTERMEDIATE EASEMENT
- ND. = NAIL & DING
- NT. = NAIL & TAG
- OR. = ORANGE
- OH. = OVERHEAD
- O.S.B. = OFFICIAL RECORD BOOK & PAGE
- P. = PLAT
- P. = PLAT BOOK

- P.C. = POINT OF COMMENCEMENT
- P.P. = POWER POLE
- P.P.M. = PERMANENT REFERENCE MON.
- PAV. = PAVEMENT
- R. = RADIAL
- R.P. = RADIIUS POINT
- R.O.W. = RIGHT-OF-WAY
- S.B.T. = SOUTHERN BELL TELEPHONE
- S.T.L. = SET (IN) IRON BOX CAP 4577