

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 18-18
VAR2017-0008 – Selley Pool Setback

WHEREAS, applicant Mathew Uhle, authorized agent for Jeremy and Victoria Selley, is requesting a variance from Sec. 34-638(b) Min. Setbacks Table 34-3 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP number for the subject property is 29-46-24-W1-0020B.0350 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property, 3188 Shell Mound Blvd, Fort Myers Beach is located in the 'Residential Conservation' zoning district of the Official Zoning Map and the 'Mixed Residential' category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on June 12, 2018; and

WHEREAS, at the hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-87.

WHEREAS, on August 7, 2018 the Town Council held a duly advertised public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by LDC 34-87; and

WHEREAS, the Town Council determined it is in the best interest of the Town to deny the requested variance, but approve a variance subject to conditions.

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Fort Myers Beach, Florida, as follows:

Determination.

Based upon the recommendations, testimony, and evidence presented by the applicant, Town staff, and interested parties, the Town Council **DENIES** the requested Variance, but **APPROVES** a Variance subject to the following three (3) conditions:

1. A variance (VAR) from the RC zoning 25-ft. front yard setback requirement Sec. 34-1174(b), to allow the construction of a pool and screen enclosure. The variance granted, is to reduce the 25-ft. front setback by 6.2 ft. to allow a 18.8 ft. front setback. Which will allow the screen enclosure be no closer to the right-of-way than the existing primary structure.

RECOMMENDED FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the LPA recommended approval and forwarded the matter to the Town Council, which now makes the following findings and reaches the following conclusions as to the Variance with conditions:

- A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the variance with conditions approved are for a *de minimis* variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- C. The variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.
- D. The granting of the variance with conditions **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.
- E. The conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

FURTHER CONDITIONS OF APPROVAL:

- 1. Applicant will provide a vegetative buffer between the pool enclosure and the right-of-way property line maintained six (6) feet in height adding a minimum of seven (7) new trees and leaving the existing vegetation intact.
- 2. Parking is not permitted within the right-of-way.

The foregoing Resolution was adopted by the Town Council upon a motion by Mayor Gore with second by Vice Mayor Shamp, and upon being put to a vote, the result was as follows:

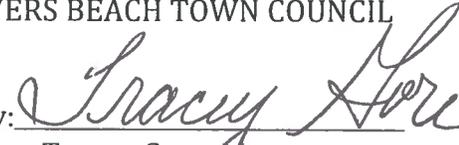
Tracey Gore, Mayor	Aye	Joanne Shamp, Vice Mayor	Aye
Anita Cereceda	Excused	Bruce Butcher	Aye
Dennis Boback	Nay		

DULY PASSED AND ADOPTED THIS 7th day of AUGUST, 2018.

ATTEST:

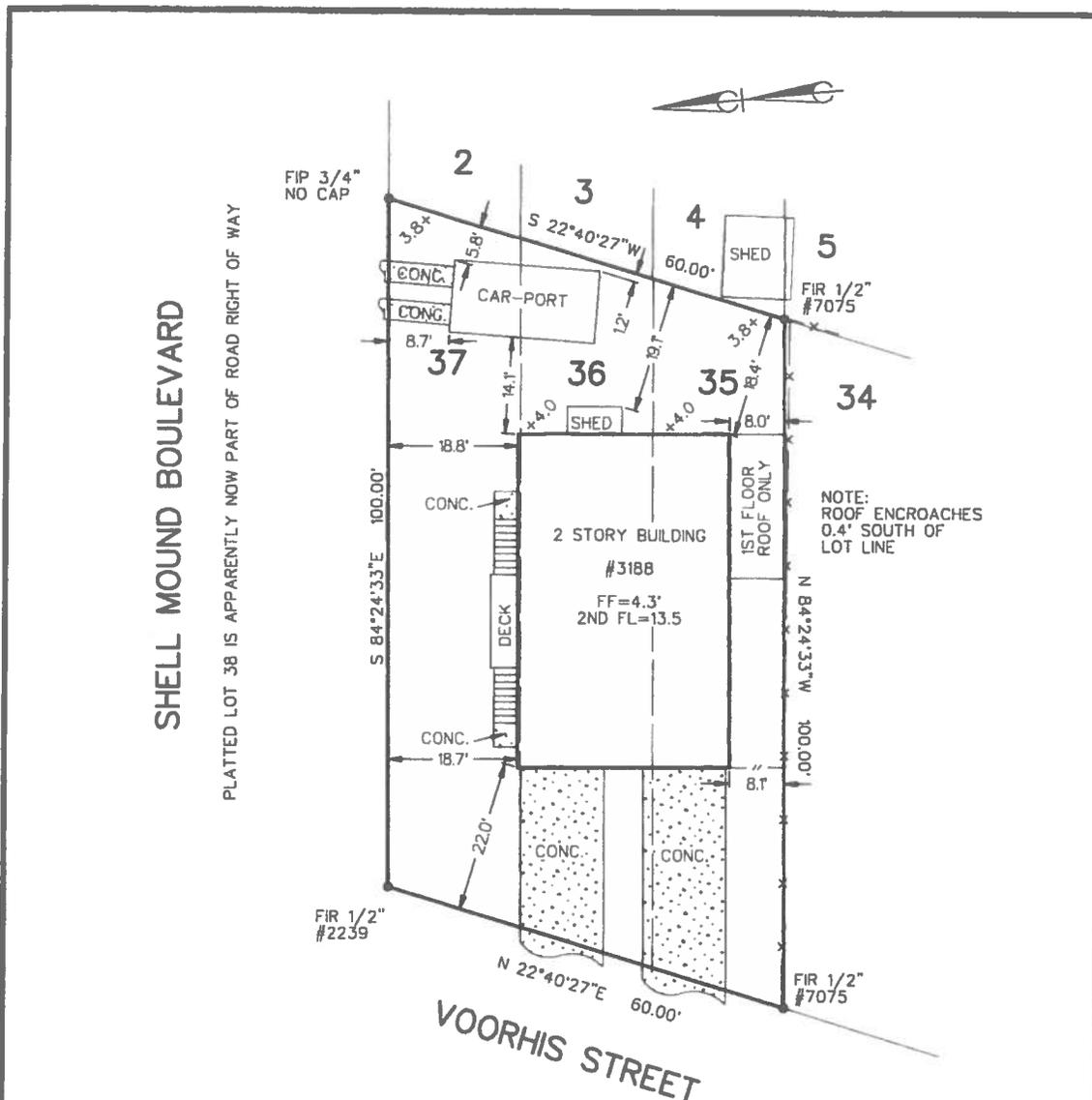
FORT MYERS BEACH TOWN COUNCIL

By: 
Michelle Mayher, Town Clerk

By: 
Tracey Gore, Mayor

Approved as to legal sufficiency:

By: 
Peterson Law Group, Town Attorney



BOUNDARY SURVEY

LOTS 35, 36 & 37, BLOCK B
 EUCALYPTUS PARK
 PLAT BOOK 4, PAGE 34
 LEE COUNTY, FLORIDA

CERTIFIED TO:
 JEREMY SELLEY

BASIS FOR BEARINGS: SHELL MOUND BLVD. - ASSUMED		SCALE: 0 20	SURVEY DATE: 11/09/16
COMMUNITY NUMBER 120673	MAP & PANEL NUMBER 12071C0558	DATE OF SURVEY 8/28/08	FRM ZONE AE
<p>FR = FOUND IRON ROD FP = FOUND IRON PIPE FDH = FOUND DRILL HOLE FCM = FOUND CONCRETE MONUMENT SR = SET IRON ROD 1/2" LB #7075 PUE = PUBLIC UTILITY EASEMENT PU & DE = PUBLIC UTILITY & DRAINAGE EASEMENT SMOB = SET NAL & DISK LB #7075 PRM = PERMANENT REFERENCE MONUMENT FMOB = FOUND NAL & DISK POB = POINT OF BEGINNING FE, COR = FENCE CORNER CONC = CONCRETE * = NOT FIELD MEASURED LME = LAKE MAINTENANCE EASEMENT DE = DRAINAGE EASEMENT</p>		<p>LEGEND</p> <p>+0.0 = EXISTING ELEVATION □ = UTILITY RISER ○ = UTILITY POLE ⊙ = FIRE HYDRANT [] = CATCH BASIN (P) = PLAT (F) = FIELD (D) = DEED (C) = COMPUTED</p> <p>—x— = WIRE FENCE — — = WOOD FENCE</p> <p>NAVD = NORTH AMERICAN VERTICAL DATUM OF 1988</p>	<p>THIS SURVEY IS HEREBY CERTIFIED CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM FROM ENCUMBRANCES. NO UNDERGROUND STRUCTURES HAVE BEEN LOCATED BY THIS SURVEY. ANY REFERENCE TO UNDERGROUND STRUCTURES IF ANY IS APPROXIMATE, UNLESS OTHERWISE SHOWN ALL FIELD MEASURED DIRECTIONS AND DISTANCES ARE IN SUBSTANTIAL AGREEMENT WITH THE DIRECTIONS & DISTANCES OF RECORD FOR THE PARCEL SURVEYED. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER. NO ABSTRACT OF TITLE WAS PROVIDED. EASEMENTS SHOWN ARE FROM THE RECORD PLAT OR DEED ONLY. CONTRACTOR MUST VERIFY WITH CITY OR COUNTY THERE ARE NO OTHER EASEMENTS OR BUILDING SETBACK REQUIREMENTS BURDENING THE PROPERTY PRIOR TO PERMITTING AND CONSTRUCTION.</p> <p>ERIC C. DAVIS</p> <p>C.E. DAVIS, CERTIFICATE NO 4839 -OR- ERIC C. DAVIS, PSM # 5544 LB #7075</p>

<p>DAVIS SURVEYING INC. WWW.DAVISLANDSURVEYS.COM</p>	4536 SE 16th PLACE SUITE 3 CAPE CORAL, FLORIDA 33904 TEL (239) 549-6454	COPYRIGHT 2016 - DAVIS SURVEYING, INC. THIS SURVEY MAY NOT BE REPRODUCED OR USED BY OTHER THAN THE CERTIFIED TO PARTIES ABOVE. NOT VALID FOR PERMITTING OR CONSTRUCTION WITHOUT WRITTEN CONTRACT WITH SURVEYOR.	JOB NUMBER <p style="font-size: 24pt; font-weight: bold;">16-2111</p>
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