

RESOLUTION NUMBER 19-14

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA REGARDING APPLICATION VAR 20190013, FOR A VARIANCE TO THE REQUIREMENTS OF THE FORT MYERS BEACH LAND DEVELOPMENT CODE FOR THE PROPERTY LOCATED AT 3860 ESTERO BOULEVARD; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, applicant Thomas VanderBie (“Applicant”), owner of the property located 3860 Estero Boulevard, is requesting a variance from Sec. 34-1174(b) of the Town of Fort Myers Beach Land Development Code (“LDC”), which does not allow accessory structures to be located closer to the street right-of-way than the principal building ; and

WHEREAS, the STRAP number for the subject property is 29-46-24-W2-00183.0020 and the legal description of the subject property (“Property”) is attached as *Exhibit A*; and

WHEREAS, the Property is located in the ‘Residential Conservation’ and ‘Environmentally Critical’ zoning district of the Official Zoning Map and the ‘Mixed Residential’ and ‘Recreation’ 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 noticed and held before the Local Planning Agency (LPA) on April 9, 2019, at which 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 Section 34-87 of the LDC.

WHEREAS, on May 6, 2019 the Town Council held a duly noticed 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 Section 34-87 of the LDC, and the Town Council determined it is in the best interest of the Town to approve the request.

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 **APPROVES** the following:

A variance (VAR) from Sec. 34-1174(b) of the LDC: No accessory use, building or structure shall be located closer to a street right-of-way line or street easement than the principal building. The variance will allow the construction of a pool 30 feet from the right of way, in front of the principal structure.

Recommended Findings and Conclusions:

In accordance with the requirements of Sections 34-84 and 34-87 of the LDC regarding consideration of eligibility for a variance, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

- A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is** 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 **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.

Conditions of Approval:

1. Applicant will maintain the vegetative buffer between the pool fence and the right-of-way property lines and the adjacent property.

Effective Date.

This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by Vice Mayor Murphy and seconded by Member Hosafros, and upon being put to a vote, the result was as follows:

DULY PASSED AND ADOPTED ON THIS 6th DAY OF MAY, 2019.


Anita Cereceda, Mayor Aye
Rexann Hosafros Aye
Joanne Champ Aye

Ray Murphy, Vice Mayor Aye
Bruce Butcher Aye

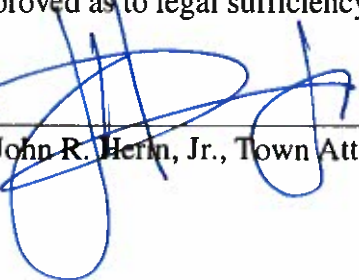
ATTEST:

FORT MYERS BEACH TOWN COUNCIL

By: 
Michelle Mayher, Town Clerk

By: 
Anita Cereceda, Mayor

Approved as to legal sufficiency:

By: 
John R. Hern, Jr., Town Attorney

