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

Ray Murphy, Vice Mayor

Aye

Rexann Hosafros Joanne Shamp Aye Aye Bruce Butcher

Aye

ATTEST:

FORT MYERS BEACH TOWN COUNCIL

Michelle Mayher, Town Clerk

Anita Cereceda, Mayor

Approved as to legal sufficiency:

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

OF
PART OF LOT 82 CASE SUBDIVISION
PLAT BOOK 1, PAGE 58
(AS AMENDED BY DEED BOOK 131, PAGES 300-304)
SECTION 29, TOWNISHIP AS GOUTH, PANGE 24 EAST,
TOWN OF PORT MYERS BEACH
LEE COUNTY, FLORIDA Numb), Chickeng D. Ja. ACTES (13.14) SQUART PATT, ACHI CHI LASS PROV. ESTED CHILL AND SERVICE-CHI VI DE CREADIN COUNTY, LINE, ANGEL CONDUM, LAS ACHI (A.Vie Bouele, PETT), ACHI CHI LES PROM. ESTED SEALEDWING SERVI-CHI-CHI TO THE AC COLUMN COLUMN, CONSTRUCTION SETTING, LAS FECTION. Dig Proposor is sublict to are scale had not made on see just to sublice or see see. Socie of facility of more of stronglood, proving Apols and the time for the facility of the second of of the sec THE EASTERLY 1/2 OF THE WESTERLY 1/2 OF LOT 83. CASES SUBONASION ACCORDING TO THE MAP OF PLAT THEREOF AS RECORDED. IN PLAT BOOK 1 AT PAGE 38, PUBLIC RECORDS OF LEE COUNTY, FLORIDA. метовория меторому и пота метой поментам нет поста ме<u>тов</u> Опетит нота FOR THE BEST OF A PRINCE CHAFT
STATE WAS A STATE THAT COMPANY CHAPT
STATE OF A STATE OF THAT COMPANY CHAPT
STATE OF THAT CHAPT
STATE OF TH WHICH JASS OF PLOOD JOIN IN, BACK FLAND ELMONDM OF 14, 16, 17 AND SOT (AND TYPE), THE SETURISTIC WICH FITTH FLADS INSLANDED AND WAS THE TOP TO THE PROPERTY AND THE FAMILY WAS THE FORE WAS COMMUNED AND A-SE-JOIN. MICHAEL F MY, WINT NOT LODATO. MICH. NICELATOR AND LANGED-WAY AND ACT The FELM ALOO SOM INTERNATION WHICHED ADDRESS & AND ON HAVE BLAN THE TORSEL COMPANIES. THE FLOOR INTERNATION AND IN VEHICLE ONLY BLAN STANDARD ASSAULTED CARRIES THAN TO COMMENCIAL AND WORK ON AMELICATION ADDRESSED OF LAST ALCOO MATERIALISM. AS RECORDED IN INSTRUMENT NO. 2017000080768: has bet let expend of the course, charterable comfin, last appropri (15 h) 16 promises a remain way to be cause on the cause of the cause * sines veryent biologist
 * sines veryent biologist
 * sines of toof odds.exp
 * service sines odds.exp
 * service Equinars & Enucemental Solentins - Buneyon 130+1 MoRREGOR BOLLEVARD, FORT HYBEB, FLOREDA. 23819 3860 ESTER LBWLK | CESmic AND STRAY SHIPS AND STRONG BUG, FF. INTER BOOK, FL. 12039 AND ADDRESS, 2000 EXTRON BUG, FF. INTER BOOK, FL. 12039 DAY OF LAST HILD INDEX, 06—20–17. ر 30 هو TOTAL DESCRIPTION OF THE CONTROL OF THE CONTROL OF A VIEW CONTROL OF A VIEW CONTROL OF THE CONTR PANCE, ANTA-TOTAL IL/W TO CO., PANCE, ANTA-TOTAL O/W TO COM DESCRIPTION: SP44349.DWC bulk reporter and union go 01-26-19 44349 SCW HAND STOSER USU/MB P.B. 14 PG. 21 CHELLING CHES 15 BAY WAR SUBDIVISION (UNRECORDED) THE CHANGE ,0° THE 1/4 OF LATE OF STREET, STR 6 COLY. CASE'S SUBDINGON P.B.1 PC, 34 43 AMOND IN SIDE BOOK 151 PA, 300 ii ii The Register Code Management and the Code Management of the Code Man VICINITY MAP NOT TO SCALE Eshibst A. Norrey Legal Description