

RESOLUTION NUMBER 20-47

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA REGARDING APPLICATION VAR 20200036, FOR A VARIANCE TO THE REQUIREMENTS OF THE FORT MYERS BEACH LAND DEVELOPMENT CODE FOR THE PROPERTY LOCATED AT 5043 WILLIAMS DRIVE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, applicant James and Dawn Reichlin (“Applicant”), owner of the property located at 5043 Williams Drive (“Property”), is requesting a variance from Table 34-3 and Sec. 34-1174(b) of the Town of Fort Myers Beach Land Development Code (“LDC”); and

WHEREAS, the STRAP number for the Property is 28-46-24-W4-00500.0180 and the legal description of the Property is attached as *Exhibit A*; and

WHEREAS, the Property is located in the ‘Residential Single family’ zoning district of the Official Zoning Map and the ‘Low Density’ 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 October 13, 2020, 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 34-84 of the LDC; and

WHEREAS, on November 2, 2020 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 LDC 34-87, 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. A variance from Table 34-3 of the LDC – “Dimensional Regulations in Conventional Zoning Districts” - to allow a principal structure to encroach into all side setbacks, for a variance of 0.1 feet from the required 25 feet front setback requirement; for a variance of 4.8 feet from the required 25 feet rear/ waterbody setback requirement; for a variance of 0.6 feet from the 7.5 feet side setback requirement on the south side.
- B. A variance from Sec. 34-1174 (b) of the LCD – “Locational Regulations in Conventional Zoning Districts” - to allow an accessory structure to be located closer to the street right of way than the principal structure, for a variance of 0.1 feet from the required 25 feet front/ street setback.

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 Town Council makes the following findings and reaches 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 minimus 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 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. *Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and Land Development Code in effect at the time of permit approval, except as specifically modified herein.*
2. *The variances shall only apply to the single-family residence (rear, side and street setback) and the screen enclosure (street setback) as shown on the provided survey dated 6/20/19*

by CES Inc. No deviations from the measurements of that survey greater than 0.1 feet shall be permitted.

3. If the principal single-family residence is determined to be substantially damaged or subject to substantial improvement, the setback variances shall be null and void.
4. The applicant shall provide a letter from professional engineer indicating the improvements are inspected and comply with design plans and Florida Building Code.

Effective Date.

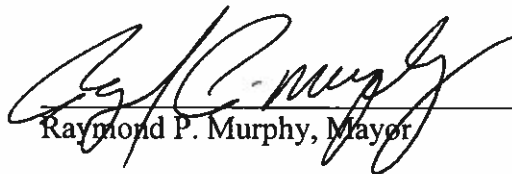
This Resolution shall take effect immediately upon adoption.

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

Raymond P. Murphy, Mayor	aye
Rexann Hosafros, Vice Mayor	aye
Dan Allers, Council Member	aye
Jim Atterholt, Council Member	aye
Bill Veach, Council Member	aye


ADOPTED this 2nd day of November 2020 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH, FLORIDA



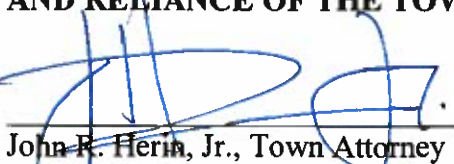
Raymond P. Murphy, Mayor

ATTEST:



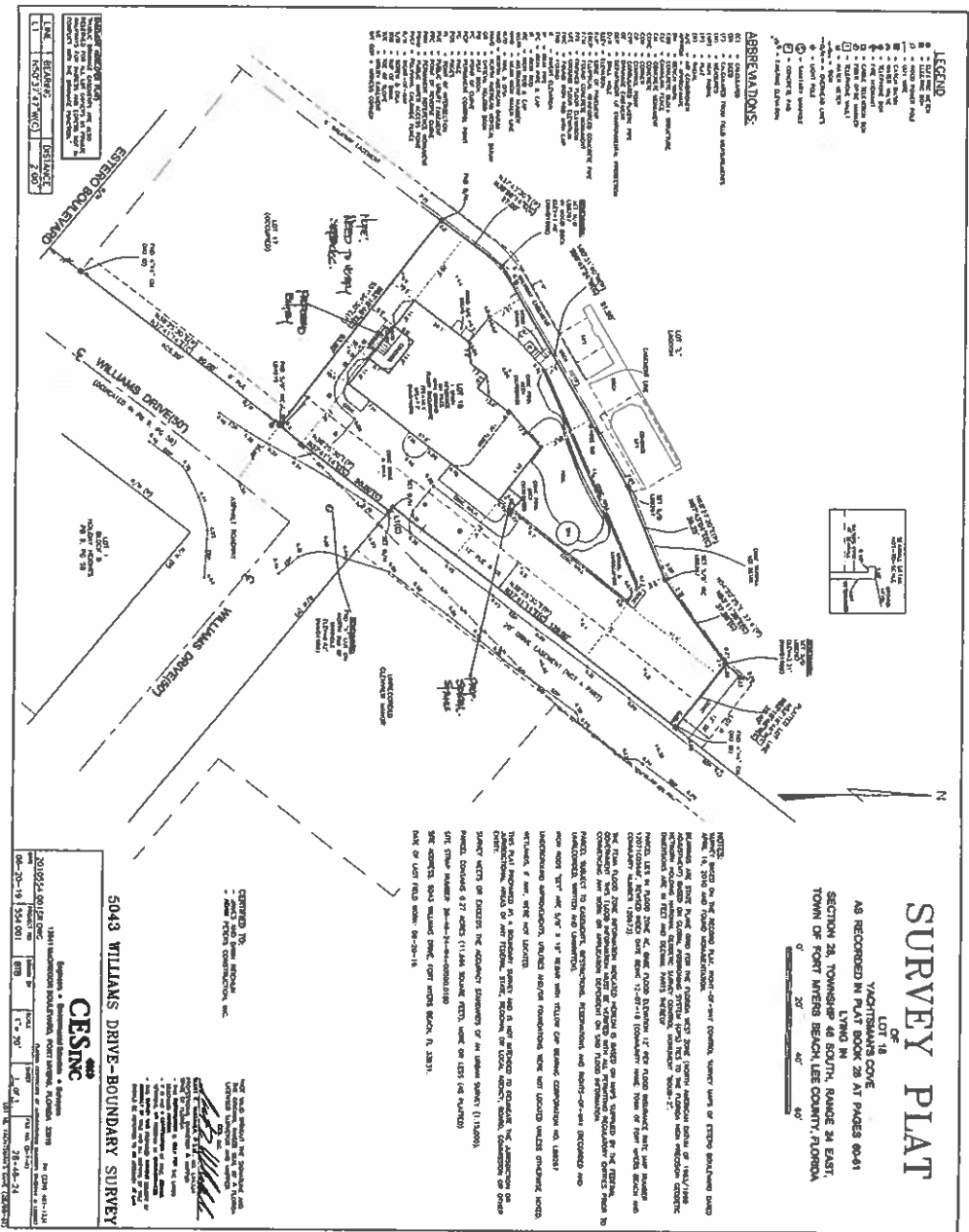
Amy Baker, Deputy Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA SOLELY:**

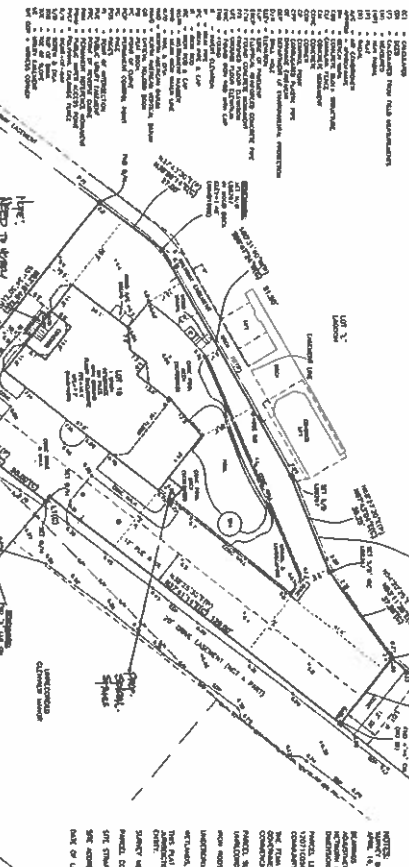


John F. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 4 day of November 2020.



NOTICE: THESE ARE THE ORIGINAL PLAT, NON-OF-RECORD, SURVEY MAPS OF THESE BOUNDARY SURVEYS, WITH ORIGINAL RECORDING INFORMATION, WHICH HAVE BEEN RECORDED IN THE PUBLIC RECORDS OF THE CLERK OF COUNTY RECORDS, TARRANT COUNTY, TEXAS, UNDER THE FOLLOWING RECORDING INFORMATION: RECORDING BOOK 28, PAGE 80-81. THESE SURVEY MAPS WERE PREPARED BY THE SURVEYOR AND ARE THE ORIGINAL RECORDS OF THE SURVEY. ANY REPRODUCTION OF THESE SURVEY MAPS WITHOUT THE WRITTEN PERMISSION OF THE SURVEYOR IS PROHIBITED. ANY CHANGES TO THESE SURVEY MAPS WITHOUT THE WRITTEN PERMISSION OF THE SURVEYOR ARE VOID. THESE SURVEY MAPS ARE SUBJECT TO THE SURVEYOR'S STANDARD CONDITIONS OF PRACTICE, WHICH ARE AVAILABLE UPON REQUEST. THESE SURVEY MAPS WERE PREPARED AND PLOTTED USING THE SURVEYOR'S STANDARD CONDITIONS OF PRACTICE, WHICH ARE AVAILABLE UPON REQUEST. THESE SURVEY MAPS WERE PREPARED AND PLOTTED USING THE SURVEYOR'S STANDARD CONDITIONS OF PRACTICE, WHICH ARE AVAILABLE UPON REQUEST. THESE SURVEY MAPS WERE PREPARED AND PLOTTED USING THE SURVEYOR'S STANDARD CONDITIONS OF PRACTICE, WHICH ARE AVAILABLE UPON REQUEST.



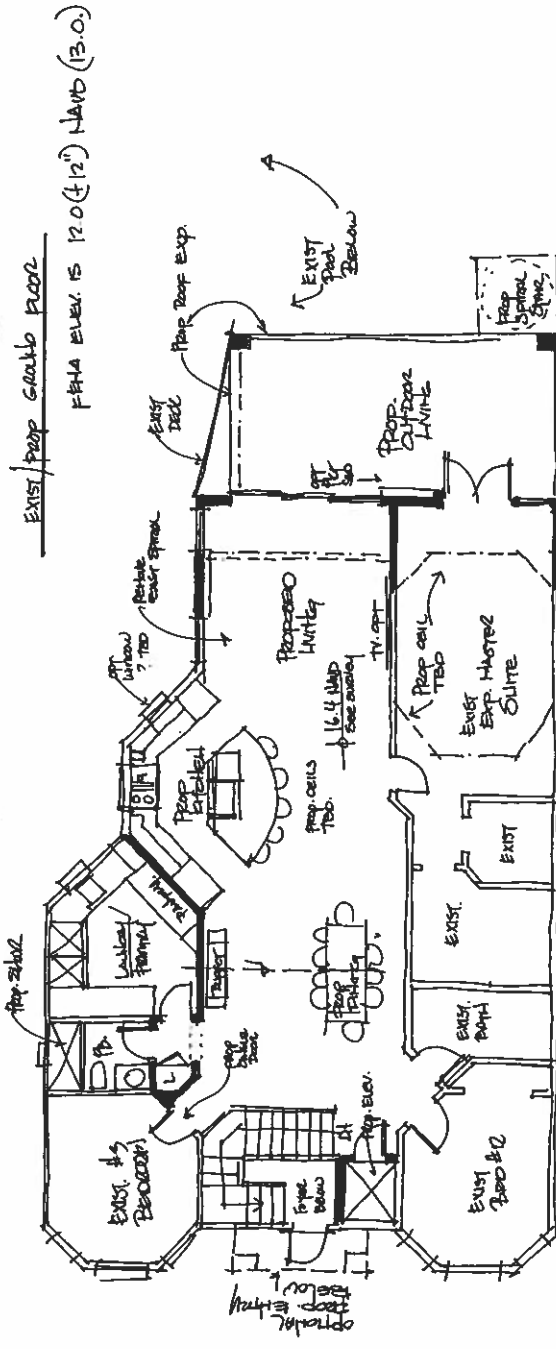
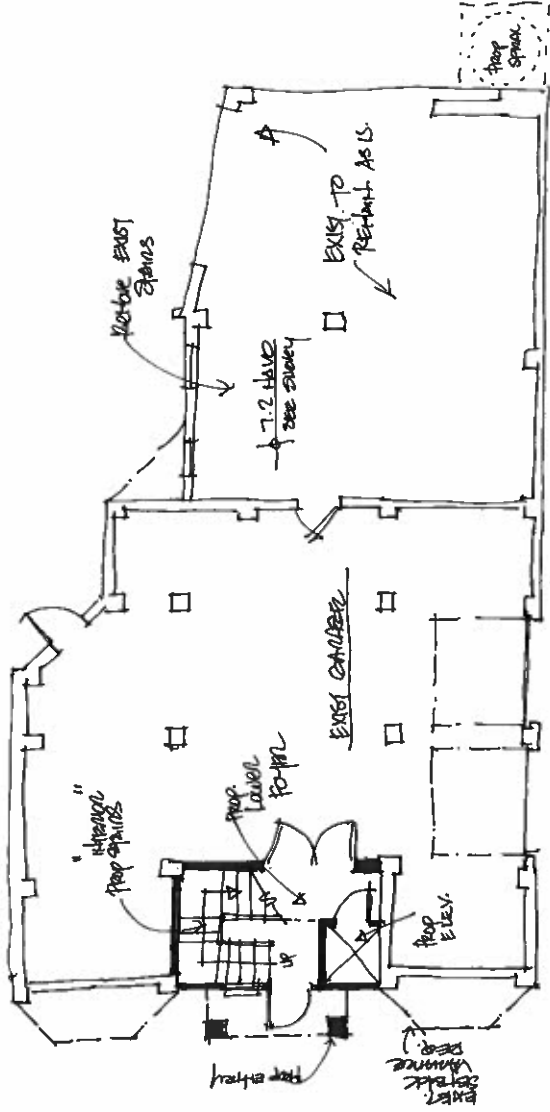
BEARING AND DISTANCE DATA

LINE	BEARING	DISTANCE
1	N 89° 01' 58" E	113.41'
2	S 89° 01' 58" W	113.42'
3	N 89° 01' 58" E	113.43'

CHERRY TREE
- 20' x 20' x 20' x 20' x 20'
- 10' x 10' x 10' x 10' x 10'

CORNER MARKS
- 4" x 4" x 4" x 4" x 4"
- 2" x 2" x 2" x 2" x 2"

NOTICE TO THE SURVEYOR
I, the undersigned, being the owner and holder of the above-described property, do hereby certify that the above-described survey and map were made and prepared by the undersigned, or by a competent surveyor, and that the same are true and correct, and that the same conform to the laws and regulations of the State of Texas, and that the same are subject to the surveyor's standard conditions of practice, which are available upon request.



EXIST / PROPOSED SECOND FLOOR

FEMA ELEV. IS 12.0 (12) HAWK (13.0)