

**1. Requested Motion:** Motion to approve/deny the Administrative Setback Variance, Case # ADM2014-0001. **Meeting Date:** May 19, 2014

**Why the action is necessary:** To allow Town Council to approve or deny an Administrative Setback Variance.

**What the action accomplishes:** Allows an ADA Pool Lift at 602 Estero Boulevard to be placed 18 feet from the side property line, encroaching 2 feet into the required side setback.

**2. Agenda:**

Consent  
 Administrative

**3. Requirement/Purpose:**

Resolution  
 Ordinance  
 Other

**4. Submitter of Information:**

Council  
 Town Staff  
 Town Attorney

**5. Background:** The 2012 Florida Accessibility Code for Building Construction Section 242.2 Swimming Pools requires that at least two accessible means of entry shall be provided for swimming pools. ADA chair lifts are an acceptable accessible means of entry. A.M. Barnes, applicant, wishes to install an ADA Pool Lift as part of their accessibility requirement however the proposed location will encroach 2 feet into the required 20 foot side setback. The proposed location is the only location available for installation of the lift. The applicant seeks Administrative Approval to place the lift at the proposed location.

**6. Alternative Action:** Deny the Administrative Setback Variance.

**7. Management Recommendations:** Approve the Administrative Setback Variance.

**8. Recommended Approval:**

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Parks & Recreation Director	Town Clerk
						

**9. Council Action:**

Approved     Denied     Deferred     Other

**ADMINISTRATIVE APPROVAL  
TOWN OF FORT MYERS BEACH FLORIDA  
ADM2014-0001**

WHEREAS, the applicant, A. M. Barnes Group, Inc., has requested an administrative setback variance for the property at 602 Estero Boulevard, to allow an ADA pool chair lift to be placed 18 feet from the side property line where 20 feet is otherwise required; and

WHEREAS, the application lists STRAP Number 24-46-23-W4-02200.00CE, which is currently owned by Cane Palm Beach Condominium Association, Inc., a registered Florida corporation; and

WHEREAS, the parcel is legally described in the attached Exhibit A; and

WHEREAS, the subject property is located in the Residential Multifamily (RM) zoning district and is in the Mixed Residential Future Land Use Map (FLUM) category; and

WHEREAS the 2012 Florida Accessibility Code for Building Construction Section 242.2 Swimming Pools requires that at least two accessible means of entry shall be provided for swimming pools, including at least one complying with Section 1009.2 (pool lifts) or 1009.3 (sloped entries); and

WHEREAS, ADA chair lifts are an acceptable accessible means of entry; and

WHEREAS, the proposed location is the only location around the existing pool where it is possible to install an ADA chair lift; and

WHEREAS, the Town Council makes the following findings of fact:

1. There are no apparent deleterious effects upon the adjoining property owners;
2. The modifications will not have an adverse impact on the public health, safety and welfare; and
3. The modifications will be the minimum required.

NOW, THEREFORE, IT IS HEREBY DETERMINED that:

1. The application for Administrative Approval for relief in the RM zoning district from the Town of Fort Myers Beach Land Development Code Sec. 34-1174(d)(1)c requirement for residential accessory buildings and structures to meet the same side setback as the building it serves to allow a side setback of 18 feet where 20 feet is otherwise required.

\_\_\_\_\_  
Date

ATTEST:

By: \_\_\_\_\_  
Anita T. Cereceda, Mayor

By: \_\_\_\_\_  
Michelle D. Mayher, Town Clerk

Exhibit A

Lots 15 and 16, LESS that part of said Lot 15 heretofore conveyed by instrument recorded in O.R. Book 32, page 131, of that certain subdivision known as UNIT NO. 3, ISLAND SHORES, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 9, at page 27,

Beginning at the northeast corner of Lot 15 of ISLAND SHORES UNIT NO. 3, according to the map or plat thereof recorded in the public records of Lee County, Florida, in Plat Book 9, page 27, the same being the corner formed by the intersection of the east boundary line of said Lot 15 and the southerly boundary of Estero Boulevard and lying adjacent to Lot 14; thence run northwesterly along the southerly boundary line of Estero Boulevard and the northerly boundary line of said Lot 15 a distance of 55 feet; thence run southwesterly parallel to the easterly boundary line of said Lot 15 (being the line dividing Lots 14 and 15), a distance of 65 feet; thence run southeasterly parallel to the northerly boundary line of said Lot 15, which is also the southerly boundary line of Estero Boulevard, a distance of 55 feet; thence run northeasterly along the easterly boundary line of said Lot 15, a distance of 65 feet to the point of beginning, together with a driveway easement consisting of a strip 15 feet in width measured southeasterly to northwesterly and running in length from the southerly boundary of Estero Boulevard 65 feet southwesterly and lying immediately adjacent to the parcel hereinabove described on the northwesterly side thereof. Subject to a Public Walkway easement consisting of 5 feet off the southeasterly side of the above described parcel (being a 5 foot strip located adjacent to Lot 14);

**SUBJECT TO existing easements, restrictions and reservations of record and taxes for the calendar year 1977 and subsequent years.**





# Town of Fort Myers Beach

## COMMUNITY DEVELOPMENT DEPARTMENT

### APPLICATION for ADMINISTRATIVE ACTION

This is a two part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit *two paper copies* and *one digital/electronic copy* of all required applications, supplemental information, exhibits and documents.

PROJECT NUMBER: ADM2014-0001 DATE: 2/12/2014  
4-16-2014

Site Address: 602 Estero Blvd.

STRAP Number: 24-46-23-W4-02200.00CE

Applicant: A.M. Barnes Group Inc Phone: 433-5575

Contact Name: Katie Phone: \_\_\_\_\_

Email: Katie@BarnesPools.net Fax: 433-1523

Current Zoning District: \_\_\_\_\_

Future Land Use Map (FLUM) Category: \_\_\_\_\_

FLUM Density Range: \_\_\_\_\_ Platted Overlay:  YES  NO

ACTION REQUESTED

SUPPLEMENTAL FORM REQUIRED

- |  |                          |
|--|--------------------------|
| <input type="checkbox"/> Amendment to Planned Development        | AA-A                     |
| <input type="checkbox"/> Commercial Antenna                      | AA-B                     |
| <input type="checkbox"/> Consumption on Premises (COP)           | AA-C                     |
| <input type="checkbox"/> Forced Relocation of Business           | AA-D                     |
| <input type="checkbox"/> Interpretation of Land Development Code | AA-E                     |
| <input type="checkbox"/> Minimum Use Determination               | AA-F                     |
| <input checked="" type="checkbox"/> Setback Variance             | AA-G                     |
| <input type="checkbox"/> Accessory Apartment Determination       | AA-H                     |
| <input type="checkbox"/> Other – cite LDC Section: _____         | attach on separate sheet |

**PART I – General Information**

A. Applicant\*: A.M. Barnes Group Inc Phone: 433-5575

*\*Applicant must submit a statement under oath that he/she is the authorized representative of the property owner. Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

Applicant Mailing Address: 16261 Old US 41

Email: katie@barnespools.net Fax: 433-1523

Contact Name: Katie Phone: \_\_\_\_\_

B. Relationship of Applicant to subject property:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Owner*                                | <input type="checkbox"/> Land Trust*                    | <input type="checkbox"/> Partnership*        |
| <input type="checkbox"/> Corporation*                          | <input type="checkbox"/> Association*                   | <input type="checkbox"/> Condominium*        |
| <input type="checkbox"/> Subdivision*                          | <input type="checkbox"/> Timeshare Condo*               | <input type="checkbox"/> Contract Purchaser* |
| <input checked="" type="checkbox"/> Authorized Representative* | <input type="checkbox"/> Other* (please indicate) _____ |  |

*\*Applicant must submit a statement under oath that he/she is the authorized representative of the property owner. Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

C. Authorized Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: K. Scott & Katie Barnes Phone: 433-5575

Address: 16261 Old US 41

Email: Katie@BarnesPools.net Fax: \_\_\_\_\_

D. Nature of Request: To install ADA Chair Lift within Setback - It is the only place it can properly be placed.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

E. Is this request specific to a particular tract of land?

YES\*       NO      *\*If yes, complete PART II of this form*

**PART II – Property Information**

A. Is the action requested a result of a Code Violation or Notice of Violation?

YES  NO If yes, please provide the date of notice: \_\_\_\_\_

Specific nature of the Violation: \_\_\_\_\_

B. Property Owner(s): Cane Palm Beach Condo Phone: 463-3222

Property Owner Mailing Address: 600 Estero Blvd. 33931

Email: jan@canepalmbeach.com Fax: \_\_\_\_\_

C. Legal Description:

STRAP: 24-46-23-W4-02200.00CE

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County?  No. Attach a legible copy of the legal description.

Yes. Property identified in subdivision: Cane Palm Beach Condo

Book: 1317 Page: 91 Unit: \_\_\_\_\_ Block: \_\_\_\_\_ Lot(s): \_\_\_\_\_

D. Subject Property Dimensions:

Width (please provide an average width if irregular in shape) \_\_\_\_\_ feet

Depth (please provide an average width if irregular in shape) \_\_\_\_\_ feet

Frontage on street: \_\_\_\_\_ feet. Frontage on waterbody: \_\_\_\_\_ feet

Total land area: \_\_\_\_\_  acres  square feet

E. Boundary Survey:

Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida.

F. Property Restrictions (check applicable):

There are no deed restrictions and/or covenants on the subject property.

There are deed restrictions and/or covenants on the subject property. Please attach a separate document listing the restrictions and/or covenants and including a narrative statement detailing how the restrictions/covenants may affect the request.

PART III

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Eugene D. Harms swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that

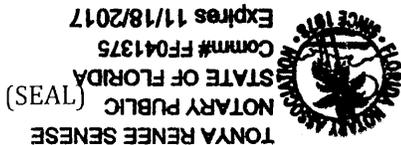
The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Eugene D. Harms  
Signature of owner or authorized agent

3/25/14  
Date

STATE OF FLORIDA)  
COUNTY OF LEE)

The foregoing instrument was sworn to (or affirmed) and subscribed before me on \_\_\_\_\_ (date) by Eugene Harms (name of person providing oath or affirmation), who is personally known to me or who has produced DL RF0548761 (type of identification) as identification.



Tonya Renee Senese  
Signature  
Tonya Renee Senese  
Printed Name

PART III

AFFIDAVIT

APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, K Scott Barnes (name), as V.P. (title) of A.M. Barnes Group Inc (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the County in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

A. M. Barnes Group Inc

Name of Entity (corporation, partnership, LLP, LLC, etc)

*K. Scott Barnes*  
Signature

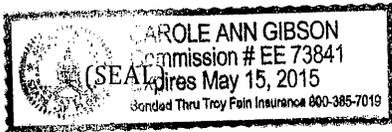
VP  
Title

K Scott Barnes  
Typed or Printed Name

2/12/2014  
Date

STATE OF FLORIDA)  
COUNTY OF LEE)

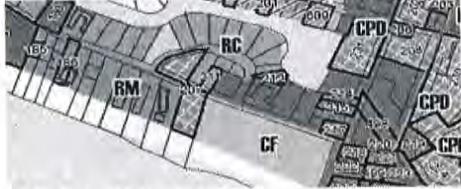
The foregoing instrument was sworn to (or affirmed) and subscribed before me on \_\_\_\_\_ (date) by K Scott Barnes (name of person providing oath or affirmation), who is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.



*Carole Gibson*  
Signature

Carole Gibson  
Printed Name

**Town of Fort Myers Beach**  
Department of Community Development



Zoning Division

**Supplement AA-G**

**Additional Required Information for an Administrative Setback Variance (LDC Section 34-268)**

This is the second part of a two-part application. This part requests specific information for an administrative setback variance. Include this form with the Request for Administrative Action form.

1. Section of LDC from which a setback variance is sought:

2. Intent: Explain exactly what is proposed and why the administrative setback variance is needed.

*To install ADA chairlift.*

**3. Justification: Explain why the administrative variance should be approved (refer to at least one condition specified in LDC Section 34-268)**

*Lift is required by law & this location is only available location to place within requirements.*

**Additional Submittal Requirements**

1. Site plan, to scale, indicating buildings and easements on the property, the proposed structure(s) or addition(s) for which the variance is sought, and any adjacent structures that could be affected. The location of the variance must be clearly indicated on the site plan.
2. An original copy of a survey must be submitted showing the setbacks of existing structures on the subject property.
3. (optional) Photographs of the subject property, copies of applicable permits or other approvals, affidavits from adjacent owners expressing no objection.