

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 14-11  
VAR2013-0005 – 30 Gulf Beach Road Variance

WHEREAS, William E. Whitley, authorized agent for Nancie Lumpkins, owner of property located at 30 Gulf Beach Road, Fort Myers Beach, Florida has requested the following variances from:

1. LDC Section 34-1174(b) to allow an accessory structure (in-ground pool) closer to the street right of way line than the primary structure with a 5' street setback.
2. LDC Section 34-3234(a)(1) to allow an existing dwelling to be elevated to meet the Base Flood Elevation at the current rear setback of 6.9 feet, where 20 feet is otherwise required; and

WHEREAS, the subject property is located in the Boulevard Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, the STRAP number for the subject property is 30-46-24-W2-0020B.0410 and the legal description is attached as *Exhibit A*; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on February 11, 2014, regarding the request for a variance from the required street setback for a pool; and

WHEREAS, after the February LPA meeting, it was discovered that a rear setback variance was needed to elevate the existing house, due to the increase in height; and

WHEREAS, a public hearing was held before the LPA on April 8, 2014, regarding the rear setback variance; and

WHEREAS, at the hearings, the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the file, and the testimony of all interested persons, as required by the Fort Myers Beach Land Development Code Section 34-87;

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on April 21, 2014, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolutions 2014-002 and 2014-006, the 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.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

The Town Council **APPROVES** the requested variances from the following sections:

1. A variance from LDC Section 34-1174(b) to allow an accessory structure (in-ground pool) closer to the street right of way line than the primary structure with a 5' street setback.
2. A variance from Section 34-3234(a)(1) to allow an existing dwelling to be elevated to meet the Base Flood Elevation at the current rear setback of 6.9 feet, where 20 feet is otherwise required.

**CONDITIONS OF APPROVAL:**

1. The location of the pool shall be as shown on the attached *Exhibit B*. No overhang or other structure may encroach in this setback. No pool cage shall be permitted.
2. The elevation of the existing structure shall be accomplished using the existing pilings and a 6.9' rear setback. If the structure is demolished or removed, this variance will be null and void. Any new structure must comply with the required setbacks at the time of redevelopment, or must seek a new variance from the requirements of the LDC at that time.

**FINDINGS AND CONCLUSIONS:**

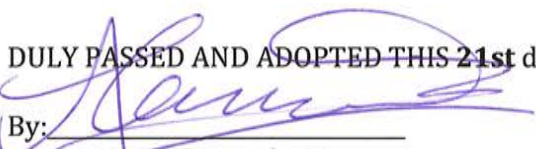
In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding approval of variance requests, the Town Council reaches the following findings and conclusions:

- 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.

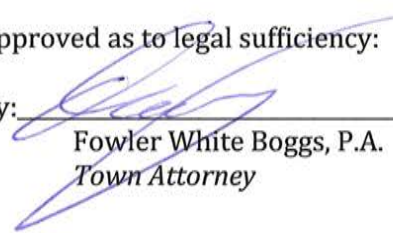
The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Stockton and seconded by Council Member Andre, and upon being put to a vote, the result was as follows:

Anita Cereceda, Mayor	AYE	Dan Andre, Vice Mayor	AYE
Rexann Hosafros	AYE	Alan Mandel	AYE
Summer Stockton	AYE		

DULY PASSED AND ADOPTED THIS ~~21st~~ day of APRIL, 2014.

By:   
Anita Cereceda, Mayor

Approved as to legal sufficiency:

By:   
Fowler White Boggs, P.A.  
Town Attorney

ATTEST:  
By:   
Michelle Mayher  
Town Clerk

EXHIBIT A

Prepared by and Return Recorded Original to:

Charles R. Meador, Jr., Attorney at Law  
2085 Estero Boulevard  
Fort Myers Beach, FL 33931  
Telephone: (239) 463-6619  
Facsimile: (239) 463-6454

Property Appraiser Parcel I.D. No. 30-46-24-W2-0020B.0410  
Grantee Taxpayer I.D. No. \_\_\_\_\_  
Documentary Stamp Tax on Transfer: \$7700

Reserved For Recorder

(STATUTORY FORM - Section 689.02, F.S.)

### WARRANTY DEED

THIS WARRANTY DEED, made this 20 day of May, A.D. 2013, between THEODORE A. RECKWERDT and JOELLYN RECKWERDT, Husband and wife, whose post office address is 30 Gulf Beach Road, Fort Myers Beach, FL 33931, hereinafter called Grantor, and NANCIE LEE LUMPKINS, a married person, whose post office address is 16730 Piney Point Road, Piney Point, MD 20674, hereinafter called Grantee.

WITNESSETH, That said Grantor, for and in consideration of the sum of Ten and No/100's Dollars (\$10.00), and other good and valuable consideration, to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said Grantee, and Grantee's heirs and assigns forever, the following described land, situate, lying and being in Lee County, Florida, to-wit:

Lots 41, 42 and 43, Block "B", WINKLER SUBDIVISION, according to the plat thereof recorded in Plat Book 8, Page 45, Public Records of Lee County, Florida.

LESS AND EXCEPT THE FOLLOWING:

Begin at the Northwest corner of Lot 43, Block "B", WINKLER SUBDIVISION, Plat Book 8, Page 45, Lee County Records; thence run Easterly along the Northerly line of said Lot 43 and Lots 42 and 41, said Block "B", 126.80 feet to Northeast corner of said Lot 41; thence Southerly along the Easterly line of said Lot 41, 75.0 feet; thence Westerly, parallel to the Northerly line of said Lots 41, 42 and 43, 97.56 feet, more or less, to a point on the West line of said Lot 43; thence run North along said West line of Lot 43, 80.50 feet, more or less, to the Point of Beginning.

SUBJECT TO easements, restrictions and reservations of record and taxes for the current

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and subsequent years.

and said Grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

\*"Grantor" and "Grantee" are used for singular and plural, as context requires.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Signed in the presence of:

[Signature]  
CHARLES R. MEADOR JR

#1 Witness Name - print or type

[Signature]  
PAULA TOWELL

#2 Witness Name - print or type

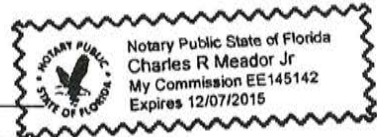
[Signature] (SEAL)  
THEODORE A. RECKWERDT

[Signature] (SEAL)  
JOELLYN RECKWERDT

STATE OF FLORIDA  
COUNTY OF CLAY

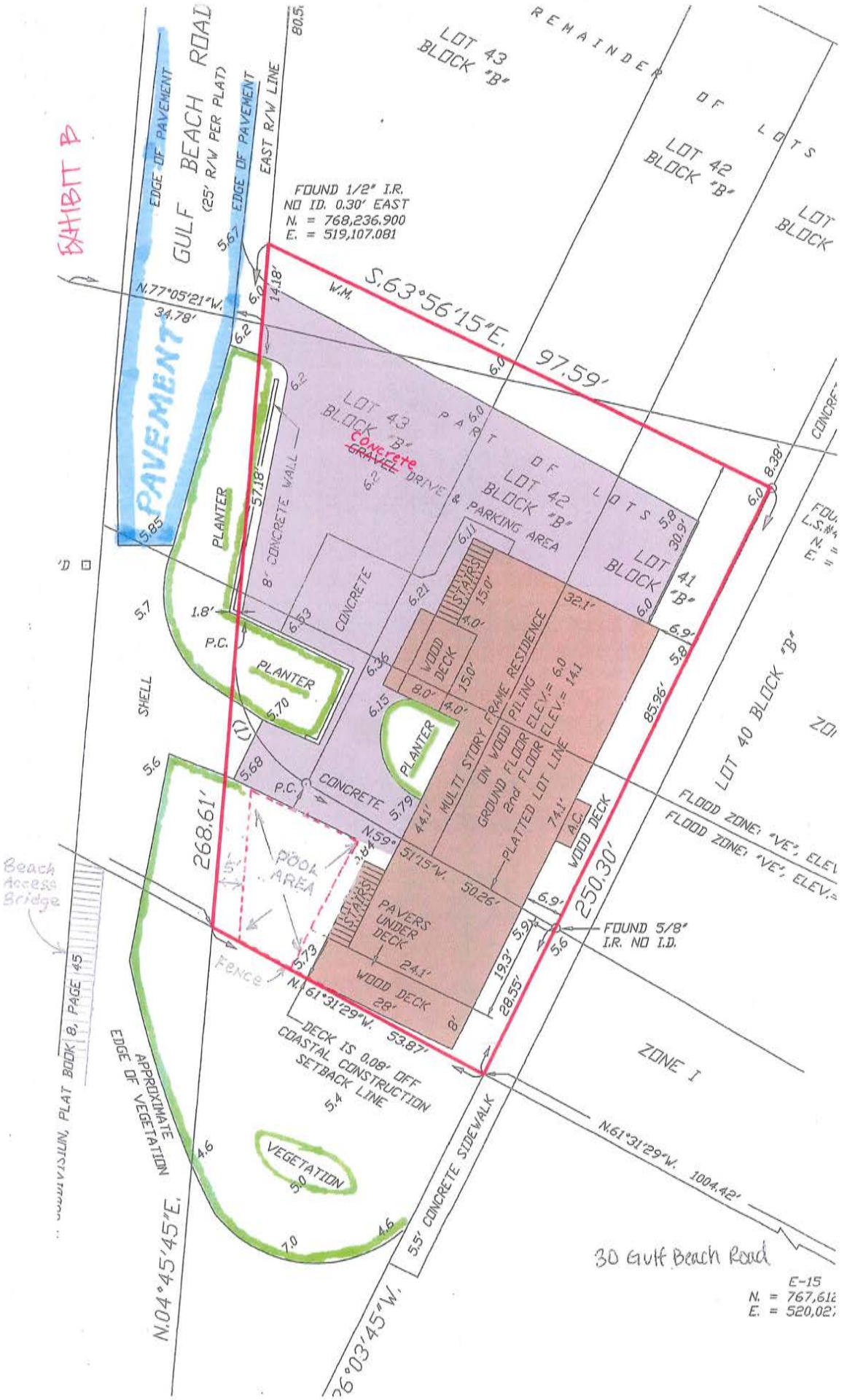
EXECUTION OF the foregoing instrument was acknowledged before me this 20 day of May, 2013, by THEODORE A. RECKWERDT and JOELLYN RECKWERDT, Husband and wife, who is (CHECK ONE OF THE FOLLOWING AS APPLICABLE)  personally known to me, or  who has produced (PERSONALLY KNOWN) as identification.

[Signature]  
NOTARY PUBLIC - SIGNATURE ABOVE  
NOTARY NAME - CHARLES R. MEADOR JR.  
COMMISSION NO. - \_\_\_\_\_  
COMMISSION EXP. DATE - \_\_\_\_\_  
(Notary Name/Commission No./Exp. Date - typed or printed)



(Notary Seal)

**EXHIBIT B**



E-15  
N. = 767,612  
E. = 520,021