

RESOLUTION 19-01  
RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH FLORIDA  
VAR 20180013 – Maser Pool Setback

WHEREAS, applicant White Aluminum, authorized agent for Gunther Maser and Judy Wright, is requesting a variance from Sec. 34-1174(d)(1)a, of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP number for the subject property is 34-46-24-W4-00200.0340 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property, 105 Albatross Street, Fort Myers Beach 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 duly noticed and held before the Local Planning Agency (LPA) on December 11, 2018; and

WHEREAS, at the hearing the LPA gave full and complete consideration to the request of the applicant, 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; and

WHEREAS, on January 10, 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 LDC 34-87; and

WHEREAS, 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 the RS zoning 5-ft. rear yard setback requirement Sec. 34-1174(d)(1)a, to allow the repair of a screen enclosure. The variance requested is to reduce the 5-ft. rear yard setback to allow the screen enclosure 1.97 ft. from the rear property line at the northwest corner, as shown on the attached survey dated 7/02/18.

**RECOMMENDED FINDINGS AND CONCLUSIONS:**

In accordance with the requirements of LDC Sections 34-84 and 34-87 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.

**CONDITION OF APPROVAL:**

1. Screened pool enclosures of the same type and location may be permitted as a replacement if damaged.

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

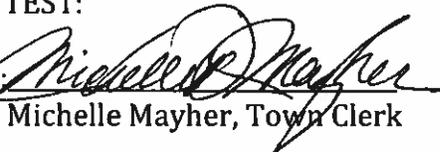
Tracey Gore, Mayor	aye	Joanne Shamp, Vice Mayor	aye
Anita Cereceda	aye	Bruce Butcher	aye
Dennis Boback	aye		

DULY PASSED AND ADOPTED THIS **10th** day of **JANUARY 2019**.

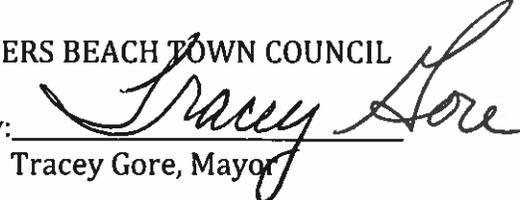
ATTEST:

FORT MYERS BEACH TOWN COUNCIL

By:

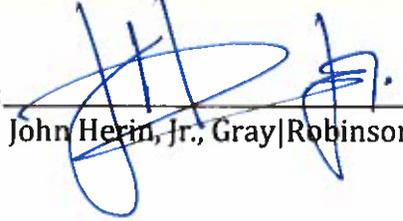
  
Michelle Mayher, Town Clerk

By:

  
Tracey Gore, Mayor

Approved as to legal sufficiency:

By:

  
John Herin, Jr., Gray|Robinson, Town Attorney



**BENCHMARK  
LAND SERVICES, INC.**

1807 J. & C. Boulevard  
Naples, Florida 34109  
L.B. # 7502

Tel. 238-581-0778  
Fax. 238-581-1195  
www.benchmarklandservices.com

# SKETCH OF BOUNDARY SURVEY

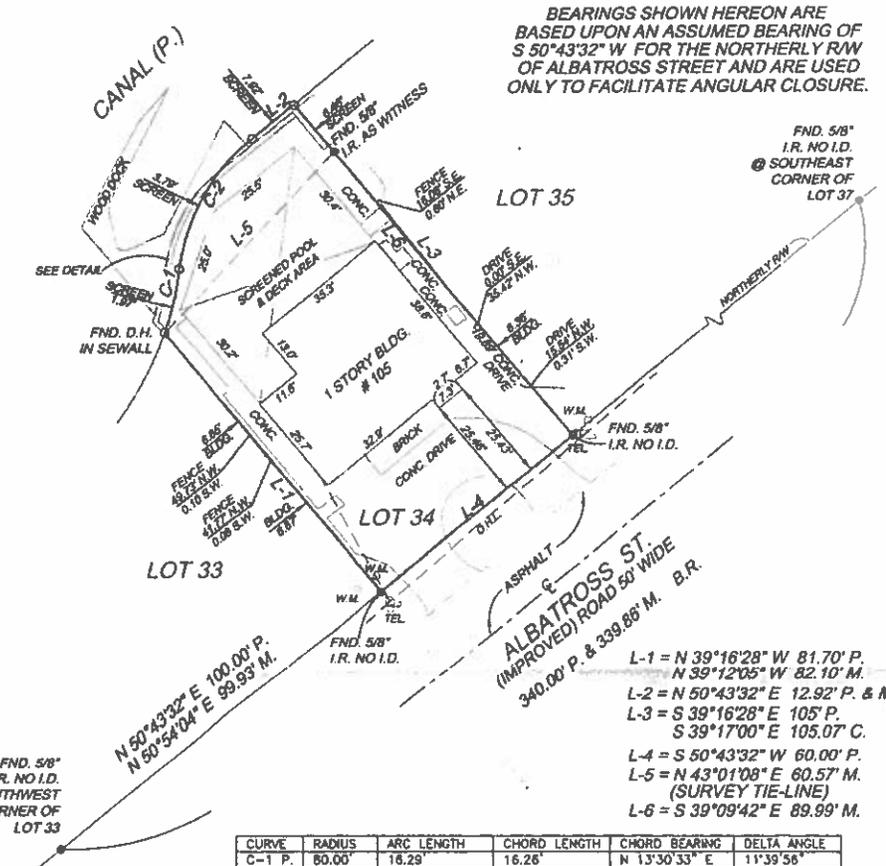
SURVEY #19577

<b>Property Address:</b> 105 Albatross Street Fort Myers Beach, FL 33931	<b>Certified To:</b> Gunther Meier and Judy Wright	<b>Flood Zone Information:</b> Community Number: 120673 Panel: 0567 Suffix: F Effective Date: 8/28/2008 Flood Zone: AE BFE: 12.0' N.A.V.D. 1988
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NO OTHER PERSON OR ENTITY MAY RELY ON THIS SURVEY.

**Legal Description As Furnished:**  
Lot 34, SANDPIPER VILLAGE, UNIT 1, as per the map or plat thereof on file and recorded in the office of the Clerk of Circuit Court of Lee County, Florida in Plat Book 9, Page 45, Public Records of Lee County, Florida.

<b>DATE OF SURVEY</b>	<b>DRAWN BY</b>
06/28/2018	M.P.
<b>COMPLETION DATE</b>	<b>CHECKED BY</b>
07/02/2018	K.S.



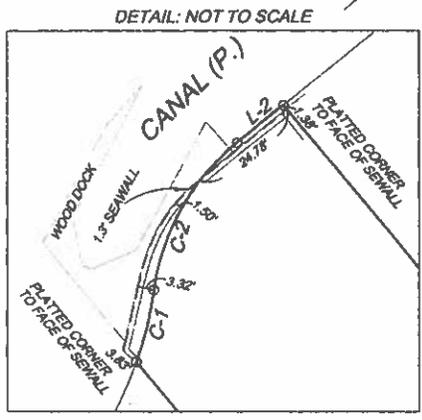
BEARINGS SHOWN HEREON ARE BASED UPON AN ASSUMED BEARING OF S 50°43'32" W FOR THE NORTHERLY R/W OF ALBATROSS STREET AND ARE USED ONLY TO FACILITATE ANGULAR CLOSURE.

FND. 5/8" I.R. NO I.D. @ SOUTHEAST CORNER OF LOT 37

FND. 5/8" I.R. NO I.D. @ SOUTHWEST CORNER OF LOT 33

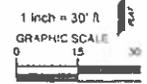
- L-1 = N 39°16'28" W 81.70' P.  
N 39°12'05" W 82.10' M.
- L-2 = N 50°43'32" E 12.92' P. & M.
- L-3 = S 39°16'28" E 105' P.  
S 39°17'00" E 105.07' C.
- L-4 = S 50°43'32" W 60.00' P.
- L-5 = N 43°01'08" E 60.57' M.  
(SURVEY TIE-LINE)
- L-6 = S 39°09'42" E 89.99' M.

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C-1 P.	80.00	16.29	16.26	N 13°30'33" E	11°39'58"
C-1 M.	80.00	16.10	16.07	N 13°24'31" E	11°31'48"
C-2 P.	50.00	37.57	36.69	S 29°12'02" W	43°02'57"
C-2 C.	50.00	37.57	36.69	S 29°12'02" W	43°02'57"



1. LEGAL DESCRIPTION PROVIDED BY OTHERS, NO EXAMINATION OF TITLE MADE BY SURVEYOR. THE LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR EASEMENTS OR OTHER RECORDED ENCUMBRANCES NOT SHOWN ON THE PLAT.
2. THIS CERTIFICATION IS ONLY FOR THE LANDS DESCRIBED. IT IS NOT A CERTIFICATION OF TITLE, ZONING, EASEMENTS OR FREEDOM FROM ENCUMBRANCES, OR RIGHTS-OF-WAY.
3. UNDESIRABLE PORTIONS OF FENCES, FOUNDATIONS OR OTHER IMPROVEMENTS WERE NOT LOCATED. WALL TIES ARE TO THE FACE OF THE WALL AND ARE NOT TO BE USED TO RECONSTRUCT BOUNDARY LINES.
4. NOT VALID WITHOUT THE SIGNATURE OR ORIGINAL PRINTED NAME OF A FLORIDA LICENSED SURVEYOR AND MAPPER. ONLY VISIBLE ENCUMBRANCES LOCATED.
5. THIS SURVEY IS EXTENDED FOR USE BY THOSE TO WHOM IT IS CERTIFIED.
6. ONLY IMPROVEMENTS SHOWN WERE LOCATED, PRIOR OWNERSHIP NOT DETERMINED.
7. DIMENSIONS ARE BY MEASUREMENT AND OCCASIONALLY THROUGH. NO IMPROVEMENTS WERE MADE TO FENCE PLAT BOUNDARIES.
8. FENCES SUBJECT TO EASEMENTS, RESTRICTIONS, ASSIGNATIONS, AND RIGHT-OF-WAYS OF RECORD.
9. BEARING LOCATION OF EASEMENTS OR RIGHTS-OF-WAY OF RECORD, OTHER THAN THOSE ON RECORD PLATS, IS REQUIRED. THE INFORMATION MAY BE PROVIDED TO THE SURVEYOR AND MAPPER, PER FLORIDA STATUTE 44-17-02 (BARR) OF THE FLORIDA ADMINISTRATIVE CODE.
10. ADDITIONS OR OMISSIONS TO SURVEY MAPS OR INSTRUMENTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
11. IT IS THE RESPONSIBILITY OF THE OWNER AND/OR CONTRACTOR TO VERIFY FLOOD ZONE INFORMATION AND BUILDING RESTRICTIONS PRIOR TO ANY CONSTRUCTION.
12. ELEVATIONS SHOWN HEREON ARE BASED UPON N.A.V.D. 1988.

**POINTS OF INTEREST:**



I hereby certify that A Survey of the hereon described property was made under my direction and meets the Minimum Technical Standards as per Chapter 5J-17.051 & .052 F.A.C., pursuant to section 472.027, Florida Statutes.

*Kenneth Sarrio* 07/02/2018  
KENNETH SARRIO  
Professional Surveyor and Mapper PSM No. 6348 State of Florida

<p><b>1.A. MISSING REFERENCE</b></p> <p>C. CALCULATED</p> <p>CATV CABLE BY FRONT</p> <p>C.L.E. COUNTY UTILITY EMBT</p> <p>D.E. DRAINAGE BASINMENT</p> <p>D.H. DRILL HOLE</p> <p>E.L.E. ELECTRIC BOX</p> <p>E.N.C. ENCLOSURE</p> <p>E.L.W. EDGE OF WATER</p> <p>F.N.D. FOUND</p> <p>G.D. IDENTIFICATION</p> <p>I.R.C. IRON ROD CAPTIVE</p> <p>I.R. IRON ROD</p>	<p><b>1.P. ROW FENCE</b></p> <p>A.E. ACCESS EASEMENT</p> <p>E.S. EGRESS DRIVE</p> <p>F.S. FENCE / BARBED EASEMENT</p> <p>L.C.L.U.E. LEE COUNTY UTILITY EMBASIMENT</p> <p>M. FIELD MARKERS</p> <p>M.E. LAND MAINTENANCE EMBASIMENT</p> <p>M.S.D. MAIL &amp; DRIP</p> <p>O.N.L. OVERHUNG LINE</p> <p>R. PLAT</p> <p>P.C. POINT OF CURVATURE</p> <p>P.C.C. POINT OF COMPOUND CURVATURE</p> <p>P.C.P. PERMANENT CONTROL POINT</p> <p>P.F. POWER POLE ON WALL</p>	<p><b>1.R. POINT OF INTERSECTION</b></p> <p>P.L.S. PROFESSIONAL LAND SURVEYOR</p> <p>P.T. POINT OF TANGENCY</p> <p>P.O.B. POINT OF BEGINNING</p> <p>P.P.C. PERMANENT</p> <p>P.P.O. POINT OF REVERSE CURVATURE</p> <p>P.P.A.L. PERMANENT REFERENCE MONUMENT</p> <p>P.U.L. PUBLIC UTILITY BASINMENT</p> <p>R.W. RIGHT OF WAY</p> <p>G.U.E. OWNER TREE UTIL. SERV. UTIL. EMBT.</p> <p>T.A.M. TEMPORARY BENCH MARK</p> <p>T.B. TELEPHONE FACILITIES</p> <p>T.O.B. TOP OF BENT</p>	<p><b>1.U.E. UTILITY BASINMENT</b></p> <p>W.M. WATER METER</p> <p>R. RAIN</p> <p>N.R. NON-RADIAL</p> <p>C.V.B. CONC. VALLEY BUTTER</p> <p>S.D. STORM DRAIN</p> <p>C.M. CONCRETE MONUMENT</p> <p>C.D. CLEAN OUT</p>	<p><b>1.W.P. EDGE OF PAVEMENT</b></p> <p>W.V. WATER VALVE</p> <p>P.P. POWER POLE</p> <p>W.M. WALL</p> <p>C.B. CATCH BASIN</p> <p>E.P.H. EXISTING FINE HYDRANT</p>	<p><b>1.W.M. WATER METER</b></p> <p>B.M. BENCHMARK</p> <p>L.P.P. LAMP POST</p> <p>C.L. CEMENT LINE</p> <p>P.L. PLANT</p>
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