

RESOLUTION NUMBER 19-12

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA REGARDING APPLICATION VAR 20190018, FOR A VARIANCE TO THE REQUIREMENTS OF THE FORT MYERS BEACH LAND DEVELOPMENT CODE FOR THE PROPERTY LOCATED AT 4185 BAY BEACH LANE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, applicant Waterside Master Association, Inc. (“Applicant”), owner of the property located 4185 Bay Beach Lane, is requesting a variance from Sec. 34-638(d)(3) of Fort Myers Beach Land Development Code (“LDC”), which requires a minimum setback of twenty-five (25) feet from a non-seawalled natural body of water for pools; and

WHEREAS, the STRAP number for the subject property is 03-47-24-W3-00014.14CE and the legal description of the subject property (“Property”) is attached as *Exhibit A*; and

WHEREAS, the Property is located in in the ‘Bay Beach’ zoning district of the Official Zoning Map and the ‘Mixed Residential’ 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. 34-638(d)(3) of the LDC, which requires a minimum setback of twenty-five (25) feet from a non-seawalled natural body of water for pools, to reduce the setback to 9.7’ feet in order to allow the extension of the existing pool deck of an existing pool.

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. Additional mangroves will be planted within any voids in the existing buffer prior to certificate of completion of the pool.
2. Development of the pool may not impact the existing mangroves. Damage or destruction of the mangroves will require replacement and appropriate permitting and through the Florida Department of Environmental Regulation.
3. No direct discharge of stormwater or pool water will be permitted directly into Estero Bay.
4. The location, setback and square footage of the pool will not change as a result of this approval.

Effective Date.

This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by Member Shamp and seconded by Vice Mayor Murphy, 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
Rexann Hosafros Aye
Joanne Shamp Aye

Ray Murphy, Vice Mayor Aye
Bruce Butcher Aye

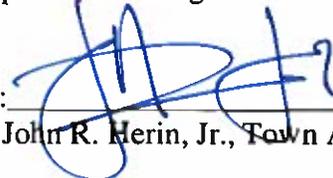
ATTEST:

FORT MYERS BEACH TOWN COUNCIL

By: 
Michelle Mayher, Town Clerk

By: 
Anita Cereceda, Mayor

Approved as to legal sufficiency:

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



BENCHMARK LAND SERVICES, INC.

1807 J. & C. Boulevard Naples, Florida 34108 L.S. # 7532 Tel. 239-691-0778 Fax. 239-691-1195 www.benchmarklandservices.com

SKETCH FOR SPECIFIC PURPOSE

SURVEY #17759

Property Address: 4186 Bay Beach Lane Ft. Myers, Florida 33931

Certified To: Waterside I & II Condominium

Flood Zone Information: Community Number: 120673 Panel: 0087 Subic: F Effective Date: 8/29/2006 Flood Zone: VE BFE: 13 N.A.V.D.

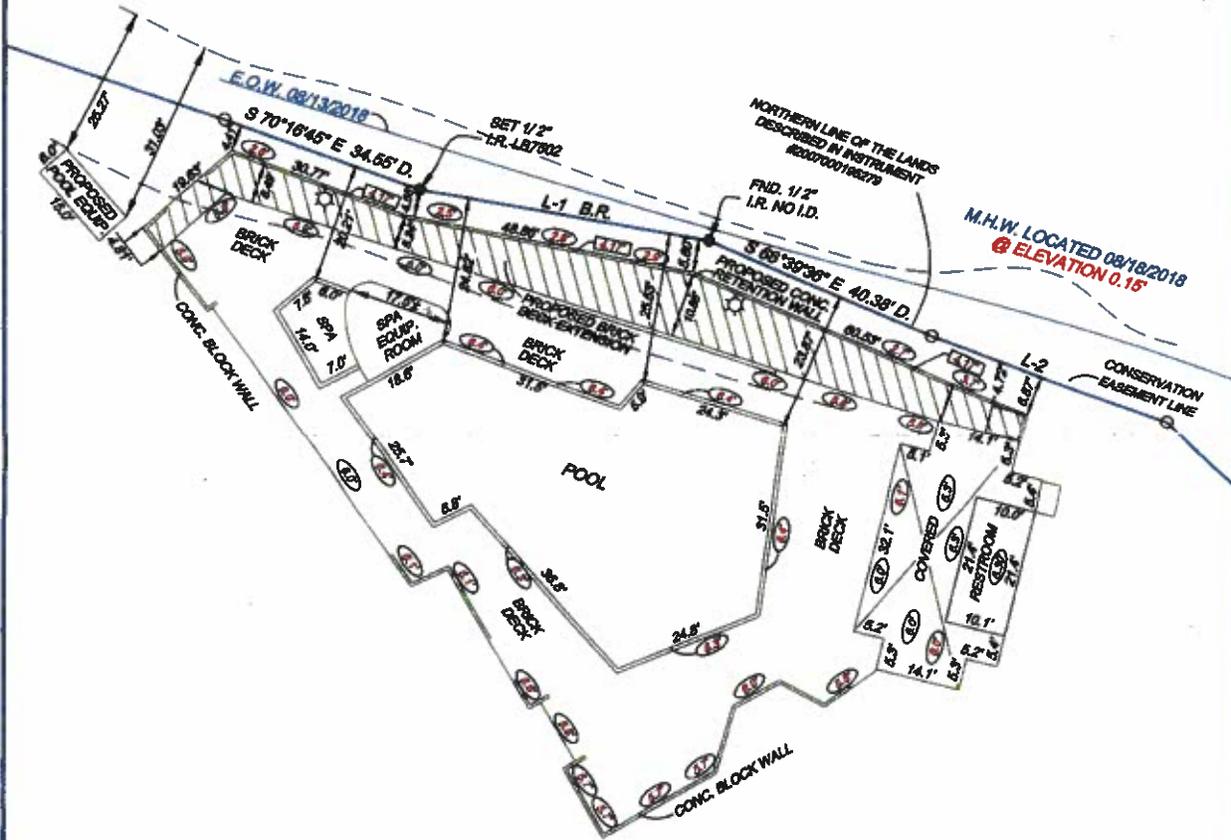
NO OTHER PERSON OR ENTITY MAY RELY ON THIS SURVEY.

Legal Description As Furnished:

Legal Description per Instrument #2007000195279, Lee County, Florida

Table with columns: DATE OF SURVEY, DRAWN BY, COMPLETION DATE, CHECKED BY, ADDED TOPIC, ADDED MEAN HIGH WATER, SITE PLAN FOR POOL EQUIPMENT.

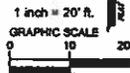
L-1 = S 80°11'28" E 48.81' D. & M. BASIS OF BEARINGS L-2 = S 69°41'01" E 41.76' D.



THE SPECIFIC PURPOSE OF THIS SURVEY IS TO SHOW THE RELATIONSHIP OF THE IMPROVEMENTS AROUND THE POOL AREA TO THE NORTHERN LINE OF THE LANDS DESCRIBED IN INSTRUMENT #2007000195279, LEE COUNTY, FLORIDA.

- 1. LEGAL DESCRIPTION PROVIDED BY CLIENT... 2. THIS INFORMATION IS ONLY FOR THE LANDS DESCRIBED... 3. UNDISCLOSED PORTIONS OF PROPOSED... 4. NOT VALID WITHOUT THE SIGNATURE... 5. THIS SURVEY IS DESIGNED FOR... 6. THIS SURVEY IS SUBJECT TO... 7. SUBSEQUENT AND IN FIELD AND ORIGINAL... 8. WHEN LOCATION OF SUBMITTER... 9. THIS SURVEY IS NOT A GUARANTEE... 10. IT IS THE RESPONSIBILITY OF THE... 11. THIS SURVEY IS NOT A GUARANTEE... 12. THIS SURVEY IS NOT A GUARANTEE...

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 6J-17.051 & .052 F.A.C., pursuant to section 472.027, Florida Statutes.

Kenneth Barrio 09/06/2018 Professional Surveyor and Mapper PSM No. 6348 State of Florida

Legend table with columns: SYMBOL, DESCRIPTION, SYMBOL, DESCRIPTION, SYMBOL, DESCRIPTION, SYMBOL, DESCRIPTION.