
RESOLUTION NUMBER 20-44

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA REGARDING APPLICATION VAR20200069, FOR A VARIANCE TO THE REQUIREMENTS OF THE FORT MYERS BEACH LAND DEVELOPMENT CODE FOR THE PROPERTY LOCATED AT 253 OSTEGO DRIVE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, applicant 253 Ostego LLC (“Applicant”), owner of the property located at 253 Ostego Dr (“Property”), is requesting a variance from Sec.34-1174(b) of the Town of Fort Myers Beach Land Development Code (“LDC”); and

WHEREAS, the STRAP number for the Property is 19-46-24-W4-00402.0220 and the legal description of the Property is attached as *Exhibit ‘A’*; and

WHEREAS, the Property is located in the ‘Residential Conservation’ 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 September 10, 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 October 5, 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 Sec. 34-1174(b) that determines no accessory use, building or structure shall be located closer to a street right-of-way line or street easement than the principal building to allow the construction of a pool 5 feet from the right of way of Ostego Dr. and approximately 15 feet from the Edge of Pavement.

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 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. *Nothing in the approval of this variance, including any of the attached conditions, may be construed as a variance or deviation from the provisions of LDC Chapter 6, Article IV Floodplain regulations. Approval of this variance does not exempt the subject property from any provisions of the LDC with the exception of the approved variance.*
2. *The variances shall apply to this property as shown on the provided plan dated 07/29/2019 by LIS Engineering Land Surveying. No deviations from the measurements of that plan greater than 0.1 feet shall be permitted.*
3. *Applicant will provide a continuous vegetative buffer between the pool fence and the right-of-way property lines. A hedge buffer consisting of double staggered rows of shrubs meeting the standards of LDC Sec. 10-420 shall be planted between the pool and the eastern boundary of the subject property prior to the issuance of a certificate of completion for the pool on the subject property*
4. *The applicant will ensure that the site visibility triangle is not compromised for other vehicles due to the vegetation.*

Effective Date.

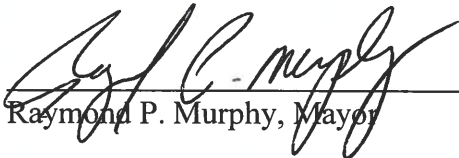
This Resolution shall take effect immediately upon adoption.

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

DULY PASSED AND ADOPTED on this 5^h day of October, 2020.

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

TOWN OF FORT MYERS BEACH



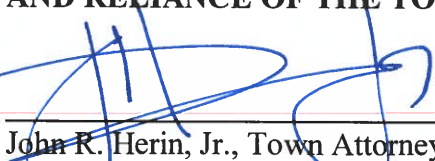
Raymond P. Murphy, Mayor

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 ONLY:**



John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 7 day of October 2020.

Exhibit "A"

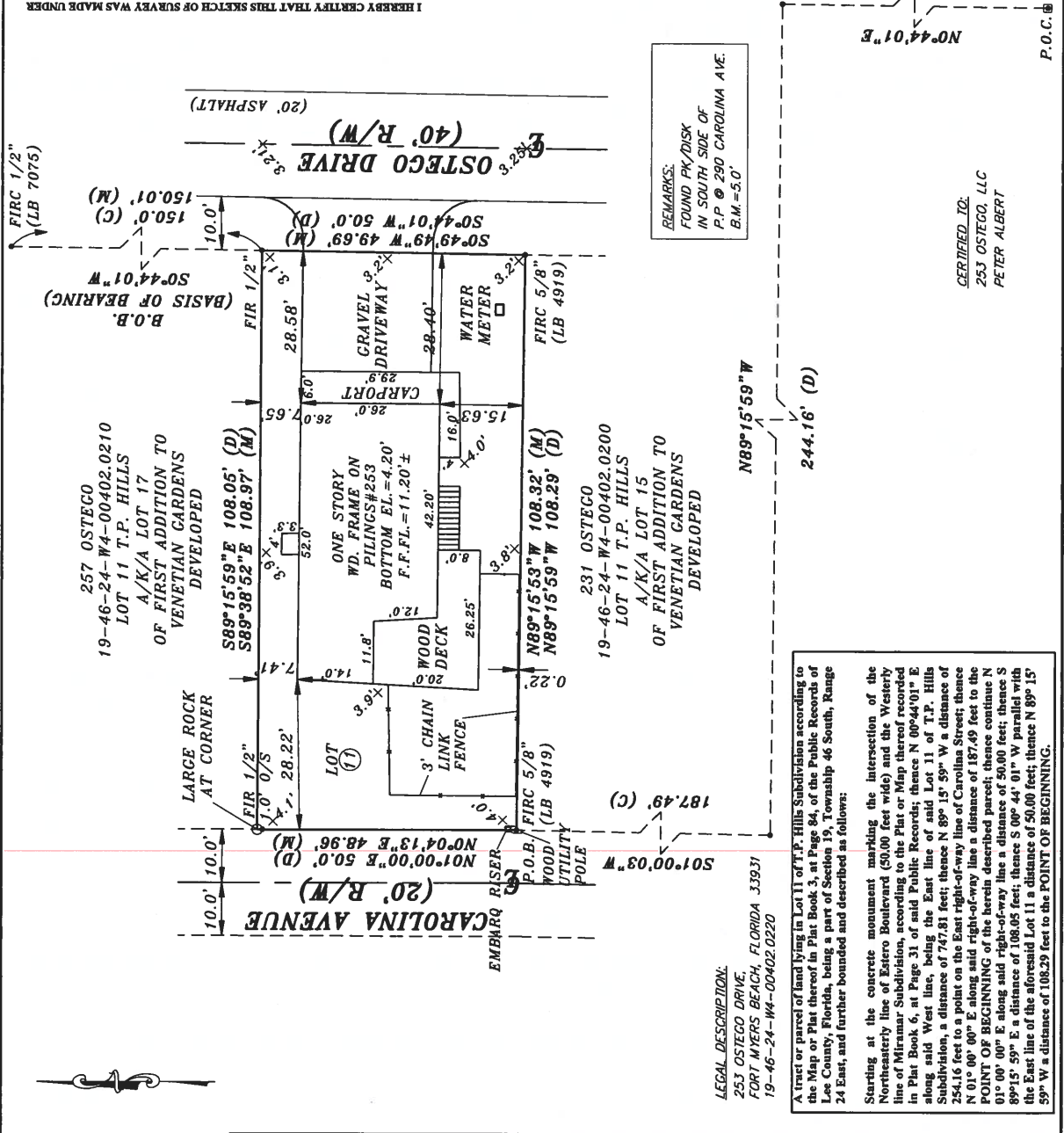
SHEET: 1 OF 1	DATE: 05-21-19
LIS JOB NO	22939
SCALE	1" = 30'
DRAWN BY	C. WHITED
CREW CHIEF	C. CORDISCO
FIELD SURVEY	05-16-19

LIS Land Surveying, LLC
 21430 Palm Beach Blvd., Suite 2064
 Ft. Lauderdale, FL 33320
 2572 West State Road 426, Suite 2064
 Ocala, FL 32765
 321-244-0402 321-244-9419 (Fax)
 LB1057

REGISTERED LAND SURVEYOR, NO. 2239
 STATE OF FLORIDA
 BILL L. HAYTT, JR.
 DATE SIGNED 05.10.2019
 VOID ONLY WITH EMBOSSED SEAL

BOUNDARY SURVEY & TOPO ELEVATIONS

I HEREBY CERTIFY THAT THIS SKETCH OR SURVEY WAS MADE UNDER MY PERSONAL SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF SAID SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 1S-17, FLORIDA ADMINISTRATIVE CODE FURTHER, THIS DOCUMENT IS ELECTRONICALLY SIGNED AND SEALED PURSUANT TO SECTION 472.01, OF THE FLORIDA STATUTES AND CHAPTER 1S-17 OF THE FLORIDA ADMINISTRATION CODE.



COMMUNITY / MAP NUMBER:	120673 / 12071C0554F
DATE OF MAP:	08-28-08
FLOOD ZONE:	AE
ELEVATION:	10

- NOTES:**
- THIS SKETCH DOES NOT REFLECT OR DETERMINE OWNERSHIP
 - DESCRIPTION AS FURNISHED BY CLIENT AND SEARCH BY THIS FIRM
 - BEARINGS ARE BASED ON PLAT OR DEED
 - ELEVATIONS AS SHOWN ARE BASED ON N.A.V.D. 1988
 - ENCUMBRANCES ARE BASED ON PLAT OR DEED
 - THERE MAY BE OTHER ENCUMBRANCES NOT SHOWN HEREON WHICH ARE SHOWN IN THE PUBLIC RECORDS OF THE GOVERNING COUNTY
 - NO DETERMINATION OF HAZARDOUS WASTE MATERIALS HAS BEEN MADE BY THIS FIRM
 - LOCATION OF UNDERGROUND UTILITIES OR STRUCTURES NOT SHOWN UNLESS OTHERWISE NOTED
 - EXISTING AND EXISTING ADJACENT OWNERS AND REPORTS BY OTHER THAN THE SURVEYING PARTY OR PARTIES IS PART OF THE WRITTEN CONSENT OF THE SURVEYING PARTY AND MUST BE WRITTEN CONSENT OF THE SURVEYING PARTY AND MUST BE WRITTEN BY ANOTHER SOURCE
 - THE FIRM FLOOD ZONE INFORMATION INDICATED HEREON IS BASED ON MAPS SUPPLIED BY THE CLIENT AND MUST BE CHECKED BY ANOTHER SOURCE
- ABBREVIATIONS:**
- A/C - AIR CONDITIONER
 - B.L. - BUILDING SETBACK LINE
 - C - CABLE TV
 - C.B. - CATCH BASIN
 - CB - CHORD BEARING
 - CH - CHORD DISTANCE
 - C.M. - CONC. MONUMENT
 - C.M.E. - CURVATURE MONUMENT EASEMENT
 - D.E. - DRAINAGE EASEMENT
 - D.E.L. - DRAINAGE EASEMENT LINE
 - ELEV. - ELEVATION
 - E.O.P. - EDGE OF PAVEMENT
 - BM. - BENCH MARK
 - FOUN. - FOUNDATION
 - IR. - IRON ROD
 - G.W. - GUY WIRE
 - (M) - MEASURED
 - N&T.V.D. - NASSAU & TAYLOR VERTICAL DATUM (1988)
 - N.T.S. - NOT TO SCALE
 - (NR) - NOT RADIAL
 - O.R. - OFFICIAL RECORD
 - P.B. - PLAT BOOK
 - P.C. - POINT OF CURVATURE
 - P.C.C. - POINT OF COMPOUND CURVATURE
 - P.C.P. - POINT OF CURVATURE POINT
 - P.C. - POINT OF INTERSECTION
 - P.C. - POINT OF COMMENCEMENT
 - P.O.B. - POINT OF BEGINNING
 - P.R.C. - POINT OF REVERSE CURVATURE
 - P.R.M. - PERMANENT REFERENCE MONUMENT
 - P.T. - POINT OF TANGENCY
 - P.U.E. - PUBLIC UTILITY EASEMENT
 - (R) - RADIAL
 - RANGE - RANGE
 - RIGHT OF WAY
 - SET I.R. - SET 1/2\"/>

REMARKS:
 FOUND PK/DISK
 IN SOUTH SIDE OF
 P.P @ 290 CAROLINA AVE.
 B.M. = 5.0'

CERTIFIED TO:
 253 OSTEGO, LLC
 PETER ALBERT