



Fort Myers Beach Local Planning Agency

Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931

Agenda

Tuesday, October 13, 2020

9:00 AM

ORDER OF BUSINESS

- I. CALL TO ORDER
- II. INVOCATION
- III. PLEDGE OF ALLEGIANCE
- IV. REORGANIZATION OF LPA MEMBERS
 - A. Selection of Chair
 - B. Selection of Vice Chair
- V. APPROVAL OF MINUTES
 - A. Draft Minutes for September 10, 2020
- VI. PUBLIC HEARINGS
 - A. VAR20200038 167/177 Hercules Dr. and 4050 Bayside
Approve/ Approve with condition/ Deny VAR20200038 at parcels 167/177 Hercules Dr. and 4050 Bayside Rd to allow a relief from LDC Sec.34-1744 for location and height of a wall within front yard and waterbody setback. **WITHDRAWN BY APPLICANT**
 - B. VAR20200052: Accessory Structure Setback Variance
Approve/ Approve with condition/ Deny VAR20200052 at a Parcel 4690/4700 Estero Boulevard to Allow a Relief From LDC Sec.34-1174 for Accessory Structures to be Located Closer to the Street ROW than a Principal Structure.
 - C. VAR20200036: Setback variance
Approve/ Approve with condition/ Deny VAR20200036 at a Parcel 5043 Williams Drive to Allow a Relief from LDC Table 34-3 for a Principal Structure Setback and from Sec. 34-1174 for an Accessory Structure Setback.
- VII. ADMINISTRATIVE AGENDA

VIII. LPA MEMBERS ITEMS/REPORTS**IX. LPA ATTORNEY ITEMS/REPORTS****A. Sunshine Law, Ethics, Public Records****Sunshine Law, Ethics, Public Records, and Voting Conflicts****X. COMMUNITY DEVELOPMENT ITEMS/REPORTS****XI. ITEMS FOR NEXT MONTHS AGENDA****XII. PUBLIC COMMENT****XIII. ADJOURNMENT**

NOTE: THIS MEETING IS TELEVISED LIVE ON COMCAST CHANNEL 98.

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.



For special accommodations, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202



Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the Town Clerk's Office.

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.

**Town of Fort Myers Beach
Agenda Item Summary**

Blue Sheet Number: **2020-56**

1. **Requested Motion:**

Meeting Date: October 13, 2020

Draft Minutes for September 10, 2020

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

APPROVAL OF MINUTES

3. **Requirement/Purpose:**

5. **Background:**

Attachments:

1. Draft LPA Minutes 9.10.2020

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**



Local Planning Agency

2525 Estero Boulevard
Fort Myers Beach, FL33931

Regular Meeting

~ Minutes ~

Thursday, September 10, 2020 9:00 AM

Council Chambers

DRAFT

I. Call to Order

The meeting was called to order at 9:16 AM by

1. Roll Call

Members present: Chair Megan Heil, Forrest Critser, Dan Hughes, Scott Safford and Karen Swanbeck.

Excused: Jane Plummer

II. Invocation

Chair Heil.

III. Pledge of Allegiance

IV. Approval of Minutes

1. Local Planning Agency - Regular Meeting - Jul 21, 2020 9:00 AM

MOTION: LPA Member Safford moved to approve the minutes; second by LPA Member Hughes.

VOTE: Motion approved; 5-0 with LPA Member Plummer excused.

MOTION: LPA Member Safford moved to change the agenda by moving the Ostego Drive Variance request to the second Public Hearing item; second by LPA Member Hughes.

VOTE: Motion approved; 5-0 with LPA Member Plummer excused.

RESULT: ACCEPTED

V. Public Hearings

1. LDC Text Amendment Sec. 34-639.- Permitting Survey Requirements

Recommend Approval / Denial of Proposed text amendments to LDC Sec. 34-639 Regarding Permitting Survey Requirements

Director of Community Development Services Jason Green reviewed the background of the text amendment.

Director Green clarified the following strikethrough: (23) ~~If the value of the permitted construction is less than \$10,000.00~~Fences that are clearly within the applicant's property boundary and any errors are solely the responsibility of the owner. After discussion, he added an X to the Foundation Survey box in Chart 1 for Room Additions (microphone did not pick up the entire conversation). LPA Members agreed with adding the X.

LPA Member Hughes requested that the following addition be changed to: (3) Swimming pools and spas, ~~addition of and other impervious surfaces~~. Director Green made the change.

Chair Heil questioned Substantial Compliance on Page 9. She felt the term was too broad and open to interpretation. Director Green replied that it was up to the professional engineer to sign off on substantial compliance and their license was on the line.

MOTION: LPA Member Critser moved to approve the staff's recommendations and changes to the room addition and the foundation setback survey; second by LPA Member Swanbeck.

VOTE: Motion approved; 5-0 with LPA Member Plummer excused.

2. VAR20200069- 253 Ostego LLC Street SetbackVariance

Approve/ Approve with Condition/ Deny VAR20200069, for an accessory structure located at 253 Ostego Dr., a variance from front setback requirement per LDC Sec. 34-1174.

Town Attorney Herin, Jr. swore in those providing testimony. Ex parte communications: LPA Member Critser - site visit and LPA Member Safford - site visit and spoke to applicant. No disclosure from other members. Town Attorney Herin, Jr. stated the public hearing was properly advertised.

Peter Albert, owner of the property, reviewed his request for a variance.

Planner Bhutada utilized PowerPoint for her presentation, which was included in the packet of information. She noted that staff recommended approval with conditions.

No public comment.

MOTION: LPA Member Hughes moved to recommend approval of VAR20200069 finding that it met findings and conclusions as set forth on Page 215 of the staff report and subject to the conditions of the report set forth on Page 217; second by LPA Member Critser.

VOTE: Motion approved; 5-0 with LPA Member Plummer excused.

3. VAC 20200053- Petition to Vacate a Portion of Ibis St

Approve/ Approve with condition/ Deny Vacating a portion of the plat identified as Ibis Street R/W located generally between 281 Ibis St and 290 Ibis St

No ex parte communications.

Attorney Beverly Grady from Roetzel and Andress distributed the notice of publication and the letter sent to surrounding property owners. She discussed a color-coded plat of Ibis Street that illustrated previous vacations except for the remnant at 281 Ibis. She noted that the remnant would continue to serve as the driveway and the neighbor supported the request.

Planning Services Planner Kalyani Bhutada utilized PowerPoint for her presentation, which was included in the packet. She noted the vacation would not affect adjacent properties and staff recommended approval of the request. She added a condition that the applicant must allow a 10-foot easement for utilities. Director Green indicated a water main was located on the property. Attorney Grady stated that they would work with the Town concerning the easement. She indicated that all other utilities certified that they did not have equipment in the area.

Chair Heil noted that the vacation issue came up due to a recent fence permit application.

No public comment.

MOTION: LPA Member Hughes moved to recommend vacating a portion of Ibis Street as set forth on the application subject to the conditions of approval as set forth on Page 80 and 81 of the packet and subject to the 10-foot easement for Town utilities consisting of water, stormwater and existing gas line and removal of the first condition; second by LPA Member Safford.

VOTE: Motion approved; 5-0 with LPA Member Plummer excused.

4. VAC20200074 - Vacation Portions of School St. Right-of-Way

Vacation of a portion of Town right-of-way on School Street and Bay Road.

Director Green stated that he would present the School Street and Bay Road vacation requests together but they would vote on each request separately. He reviewed the background of the requests. Town Attorney Herin stated that it was part of a land swap to consolidate the parcels around Bay Oaks and it was part of the redevelopment plan. He provided details of the requests and noted that everything was approved.

Town Manager Hernstadt utilized a color-coded survey to describe the land swap.

LPA Member Safford questioned whether the historic cottage would be moved to the area. Director of Lee County Parks & Recreation Jesse Lavender replied that he had not heard anything in a year.

LPA Member Hughes received clarification regarding completed projects in Condition 1 on Page 14. Town Manager Hernstadt indicated that they could

modify the condition if requested. He stated that the scope of the LPA was to determine whether the action conformed with the Town's regulations in terms of vacating the right-of-way. The fact that it was tied to a project was secondary to the vacation request. Town Attorney Herin agreed to provide more details concerning the contingency and reversion clause before it went to Town Council.

No public comment.

MOTION: LPA Member Hughes moved to recommend approval of VAC20200074 School Street with Condition 1; second by LPA Member Safford.

VOTE: Motion approved; 5-0 with LPA Member Plummer excused.

5. VAC20200072 - Vacating a Portion of Bay Road Right-of-Way

Vacation of a portion of Town right-of-way on School Street and Bay Road.

This item was discussed under VAC20200074. The findings were the same.

No public comment.

MOTION: LPA Member Critser moved to recommend approval for VAC20200072 Bay Road including Condition 1; second by LPA Member Safford.

VOTE: Motion approved; 5-0 with LPA Member Plummer excused.

VI. Administrative Agenda

MOTION: Chair Heil moved to table the Historic Preservation Board until next month; second by LPA Member Safford.

VOTE: Motion approved; 5-0 with LPA Member Plummer excused.

VII. LPA Members Items/Reports

•Chair Heil questioned whether they needed to call a special session to discuss the short-term rental issue. Town Attorney Herin replied that the LPA would be notified when the document was drafted. LPA Members agreed with holding a special session.

No items from other members.

•LPA Member Critser agreed to attend the September 21, 2020 Town Council meeting.

VIII. LPA Attorney Items/Reports

No items.

IX. Community Development Items/Reports

No items.

X. Items for next months agenda

Historic Preservation Board conversation.

XI. Public Comment

No public comment.

XII. Adjournment

The meeting was closed at 11:06 AM

DRAFT

**Town of Fort Myers Beach
Agenda Item Summary**

Blue Sheet Number: **2020-40**

1. Requested Motion:

Meeting Date: October 13, 2020

Approve/ Approve with condition/ Deny VAR20200038 at parcels 167/177 Hercules Dr. and 4050 Bayside Rd to allow a relief from LDC Sec.34-1744 for location and height of a wall within front yard and waterbody setback.

Why the action is necessary:

The Local Planning Agency provides a recommendation to the Town Council regarding variance requests.

What the action accomplishes:

Approving the variance requests will allow a six feet tall brick wall to be located within front and waterbody setback.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Recommendation to Town
Council

5. Background:

Attachments:

1. Staff report LPA_Rev2.docx
2. Exhibit A Survey
3. Exhibit B Site Plan
4. Exhibit C Application
5. Exhibit D Aerial
6. Exhibit E Zoning map
7. Exhibit F LPA Notification Letter (10-13-2020)
8. Exhibit G Dissent Letters
9. Exhibit H Support Letters

Financial Impact:

6. Alternative Action

Approve with conition

7. Staff Recommendations:

8. Recommended Approval:

Jason Green, Community Development
Services

Date: October 07, 2020

John R Herin Jr, Town Attorney

Date: October 07, 2020

Amy Baker, Deputy Town Clerk

Date: October 07, 2020



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR 20200038

CASE NAME: 177 Hercules Drive- Fence Variance

LPA HEARING DATE: October 13, 2020 at 9.00 AM

**STAFF
RECOMMENDATION:** Approve with Conditions at 177 Hercules Drive

**PREPARED/
SUBMITTED BY:** Kalyani Bhutada/ Jason Green, AICP

I. APPLICATION SUMMARY

Applicant: Allen Shanosky (owner)/ John Passidomo (agent)

Request: The applicant is seeking a relief from Sec. 34-1744 Location and Height of Fences and Walls. A relief from subsection (b)(1) to allow a brick wall to be taller than 48 inches within 25 feet street/ front setback and subsection (b)(3) for a brick wall to be located within 25 feet of waterbody, to allow a wall portion above 48 inches to be more than 25% opaque. The request applies to three parcels, adjacent to each other, owned by the applicant.

Subject property: See attached survey and legal description, Exhibit A

Physical Address: 167/177 Hercules Dr. and 4050 Bayside Rd.

STRAP #: 29-46-24-W2-0060B.0170; 29-46-24-W2-0050E.0070; 29-46-24-W2-0050D.0120

FLU: Low Density

Zoning: Residential Single-family (RS)

Current use(s): Single/ multi- family and vacant

Adjacent zoning and land uses:

All three subject parcels are adjacent to each other and are surrounded by single family residences, zoned Residential Single- family (RS) (Exhibit D and E). Northeast of 177 Hercules Dr. is Estero Bay and 4050 Bayside Rd. on the southwest side which is also

located at southeast intersection of Bayside Rd. and Gulf Island Dr. 167 Hercules Dr. is located southwest of 4050 Bayside Rd. All the three parcels have a total street frontage of 246 feet on Hercules Dr.

II. BACKGROUND AND ANALYSIS

Background:

The subject parcels are platted, Lot 17, Block B in Hercules Park subdivision, Lot 7, Block D, and Lot 12 of Block E in Gulf Island Manor subdivision. Allen & Cynthia Shanosky, owner of all three subject parcels, owns 177 Hercules Dr. (12,136±s.f.) for over two decades and bought adjacent lots at 167 Hercules Dr. (4286±s.f.) and 4050 Bayside Rd (4050±s.f.) in 2018. All of the parcels are located north of the Hercules Dr. in RS zoning district on the land use map and Low Density on future land use map. The applicant has indicated that all three lots will be combined and redeveloped in the future.

The applicant has requested a variance from location and height of a brick wall in the front yard and within waterbody setback. The applicant has submitted the above request due to safety issues aroused by improvements at the adjacent fishing pier and the park. The request is to allow a six (6) foot tall brick wall along the front/ ROW property line located within 25 feet of waterbody setback. The applicant's plan reflects the proposed brick wall location and design (Exhibit B).

The applicant has provided following for requested relief sought from:

Sec. 34-1744(b)(1) of the Land Development Code provides that any fence or wall located in the front yard (between a street Right of Way or easement and the minimum required street setback or built to line) shall not exceed 48" of height as measured from the existing elevation of the abutting property. Sec. 34-1744(b)(3) of the Land Development Code provides that within 25' of a body of water, those portion of the fence that exceed 48" in height cannot be more than 25% opaque (as viewed from perpendicular to the fence).

Analysis:

The subject parcels differ in size and shape to parcels in the neighborhood, in the same zoning district. Most of the parcels in the neighborhood are uniform with a few odd shaped parcels are found including the subject parcels.

177 Hercules Dr. is a waterfront lot and a residence was built in 1952. The residence is encroaching into front setback approximately three feet. 167 Hercules Dr. and 4050 Bayside Rd are inland lots and a residence on 167 Hercules Dr. was built in 1947 and is encroaching on to 4050 Bayside Rd. The residence is a non-conforming due to setback and density. Per LeePA, it is a duplex residence encroaching into the front setback approximately 10 feet.

Staff found no previous variance request for the property. The applicant is requesting to install a permanent brick wall along the front property line of the three parcels without a vegetative buffer. The applicant has indicated that the existing non-conforming fence on 167 Hercules Dr. and 4050 Bayside Rd. would be removed upon installation of a brick wall.

An existing six (6) foot tall combination of PVC and chain link fence is located within approximately 20 feet from the front property line. Staff found a fence permit 2007-01974, in the database, that was approved by the Town for the five (5) foot tall PVC fence to be

located at least 25 feet from the front property line and a permit for existing chain link fence is not found in Town records. Staff determines that the existing fence is not built as per the approved location and height.

LDC Sec. 34-1744 (b) determines location and height of the fence and walls. The applicant is requesting a variance from subsection 1 and 3 that was adopted under Ordinance 19-16 is reproduced below:

*(1) Front yards. Any fence or wall located in a front yard (between a street right-of-way or easement and the minimum required street setback or build-to line) shall not exceed **48 inches** in height, except as provided in subsection (b)(4) below. This division does not excuse any fence wall from compliance with any lesser height required to meet vehicle visibility requirements (see [§34-3131](#) of this chapter) at traffic access points.*

*(3) Near waterbodies. Within 25 feet of a body of water, those portions of a fence, wall or hedges that exceed **48 inches** in height cannot be more than 25 percent opaque (as viewed from perpendicular to the fence).*

Per applicant, the recent improvements at the fishing pier and adjoining park at the end of Hercules Dr. has raised concern. 177 Hercules Dr. has 160 feet of street frontage and is located directly adjacent to the park. However, staff finds that 167 Hercules Dr and 4050 Bayside Rd are at approximately 160 feet distance from the park and may not require six (6) foot tall fence/ wall. A 48-inch-tall fence shall be sufficient and the LDC permits a 48-inch tall fence/wall in the front yard.

Staff found existing dense vegetation on the property line of 177 Hercules Dr. which obstruct the view from ROW and the lot portion directly adjacent to the park has a landscape buffer of up to 3 foot tall hedges. The staff has received dissent email from the adjacent property owners that express concern regarding obstructed view corridor to the Matanzas Pass. Additionally, the applicant has submitted support letters.

Comprehensive Plan Compatibility:

All three-subject properties are located within Low Density future land use. Comprehensive Plan Policy 4-B-3 Low Density is “designed for existing subdivisions with an established low-density character (primarily single-family homes). For new development, the maximum density is 4 dwelling units per acre,...”

The proposed brick wall, if designed and constructed properly, will fail in a flood event however the material has changed from PVC fence (original application) to brick wall which may create harmful debris and cause severe damage in the case of a flood event. The flood zone for this location is AE 10 and AE 11.

Neighborhood Compatibility:

In a review of aerial photography of the neighborhood, staff found the homes appear to have variety of setbacks. However, most of the structures appear to encroach into front setback. Staff found no fence taller than 4 foot in the front yard within the neighborhood. The proposed wall will obstruct the view corridor to the Matanzas Pass.

Findings and Conclusions:

LDC Sec. 34-87 sets forth the required findings and conclusions for the approval of a variance:

- a. *That there **are**/are not exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request **is**/is not for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.*

Staff finds that the public facility is located at the end of Hercules Dr. and directly adjacent to 177 Hercules Dr., approximately 40 feet shore perpendicular from the seawall. Staff also finds that the portion of the lot (40 feet from the seawall) directly adjacent to the park may require fencing. However, staff does not support a relief from 25% opacity threshold within waterbody setback.

- b. *That the conditions justifying the variance are/**are not** the result of actions of the applicant taken after the adoption of the regulation in question.*

Staff finds that the conditions presented to justify the variance are not result of the actions of the applicant. In 2018, Hercules Drive Pier Construction has improved the public facility and it may be affecting the adjacent private properties. However staff recommends maintaining a landscape buffer between a ROW property line and a brick wall.

- c. *That the variance granted **is**/is not the minimum variance that will relieve that applicant of an unreasonable burden caused by the application of the regulation in question to his property.*

Staff finds that the six foot tall brick wall compliant with the design criteria for fence within the waterbody setback will provide the safety to the applicant's desire.

- d. *That the granting of the variance will/**will not** be injurious to the neighborhood or otherwise detrimental to the public welfare; and*

Staff finds that the variance will not be injurious and detrimental to the neighborhood. However, the staff does not support six (6) foot privacy wall within 25 feet of water body setback due to the obstruction to the scenic corridor. Additionally a brick wall creates visual impacts which may be detrimental and can be enhanced by a landscaping buffer.

- e. *That the conditions or circumstances on the specific piece of property for which the variance is sought are/**are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.*

Staff finds the conditions and circumstance of the subject property are not so general as to make an amendment to the setback requirements appropriate.

III. RECOMMENDATION

Staff finds that 167 Hercules Dr. and 4050 Bayside Rd can be secured by a four (4) foot or less tall fence, which can be approved under a fence permit. However, 177 Hercules Dr. is directly adjacent to the public facility and has requested a six (6) foot tall fence/ wall. A variance to the 6 foot tall wall shall meet the design criteria for fence above 48 inches within the waterbody setback. Additionally, staff determines that the landscape shall be located within the property lines and not encroach into the public Right of Way of Hercules Dr.

Staff finds there is a hardship, or exceptional or extraordinary conditions or circumstances present at 177 Hercules Dr. that warrant the variance requested. The improved condition at the fishing pier creates a hardship for right to privacy on the adjacent lots.

Staff recommend **APPROVAL WITH CONDITIONS** of the variance from Sec. 34-1744 Location and Height of Fences and Walls, to allow a six (6)foot tall brick wall in the front yard, up to 100 feet shore perpendicular from the seawall, of a waterfront lot 177 Hercules Dr. from the required 48-inch-tall fence/ wall height requirement and compliant with the design criteria for fence within waterbody setback.

IV. 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. *Approval of this variance does not give the developer an undeniable right to permit approval. Development or redevelopment of the subject property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and Land Development Code in effect at the time of permit approval, except as specifically modified herein.*
3. *A driveway is proposed to be removed on 177 Hercules Dr. as shown on the site plan, sheet SK2 by MHK Architecture and Planning. However, restoration of the right-of-way shall be the responsibility of the property owner at Town's discretion and require a driveway/ROW permit.*
4. *The variance is for six (6) foot tall wall at 177 Hercules Dr., along the front property line (Hercules), up to 75 feet measured perpendicular from the seawall. The fence shall comply with the design criteria for fence within 25 feet waterbody setback.*
5. *Applicant will provide a continuous vegetative buffer of, at least 5 feet wide, between the brick wall 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 wall and the ROW property boundary of the subject property prior to the issuance of a certificate of completion for the wall on the subject property*
6. *Protected trees/ vegetation within the public ROW may not be harmed during or after the construction of the fence.*

Staff Report Exhibits:

- A – Legal Description/Survey
- B – Site Plans
- C – Complete Application
- D – Aerial
- E – Zoning Map
- F – Letter to Adjacent Property Owners
- G – Letter of Dissents
- F –Letter of Support

MAP OF BOUNDARY & TOPOGRAPHIC SURVEY
OF A PORTION OF LOT 17, BLOCK B, HERCULES PARK AND
LOT 12, BLOCK D & LOT 7, BLOCK E, GULF ISLAND MANOR
LYING IN SECTION 29, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
FORT MYERS BEACH, FLORIDA

LINE TABLE	
LINE	BEARING (M) DISTANCE (M)
L1	N46°40'35"E 10.20'
L2	S52°38'14"E 97.71'
L3	N58°25'28"W 99.87'
L4	S42°49'30"E 21.04'
L5	S47°10'08"W 49.81'
LINE	BEARING (P) DISTANCE (P)
L1	N47°21'10"E 10.00'
L2	S52°21'26"E 97.83'
L3	N58°00'50"W 100.00'
L4	S42°38'50"E 21.42'
L5	S47°21'10"W 50.00'

SURVEYOR'S NOTES

1. BEARINGS AND COORDINATES SHOWN HEREON ARE GRID BEARINGS BASED UPON THE NORTH AMERICAN DATUM OF 1983. 2011 ADJUSTMENT (NAD83/NSRS 2011) FLORIDA WEST ZONE. DISTANCES SHOWN ARE GROUND DISTANCES MEASURED IN FEET.
2. NO UNDERGROUND IMPROVEMENTS OR FOUNDATIONS WERE LOCATED UNDER THE SCOPE OF THIS SURVEY.
3. THIS PARCEL LIES WITHIN F.I.R.M. ZONE "TOWN OF FORT MYERS, BEACH", BASED ON LEE COUNTY WEB SITE Leesphn 2.0.
4. BOUNDARY INFORMATION SHOWN HEREON IS BASED UPON THE RECORD PLAT AND LEGAL DESCRIPTION PROVIDED. NO SEARCH OF THE PUBLIC RECORD WAS PERFORMED BY THIS SURVEYOR. THERE MAY BE OTHER SETBACKS AND/OR EASEMENTS NOT KNOWN TO THIS SURVEYOR.
5. THE STREET ADDRESS IS:
167 & 177 HERCULES DRIVE & 4050 BAYSIDE ROAD
FORT MYERS BEACH, FLORIDA 33931
6. ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988). ELEVATIONS ARE BASED UPON BENCHMARK TIES TO THE TRIMBLE REAL-TIME KINEMATIC (RTK) GLOBAL POSITIONING SYSTEM (GPS) REFERENCE NETWORK.
7. PARCEL SURVEYED CONTAINS 0.51 ACRES, MORE OR LESS.

LEGAL DESCRIPTION (PROVIDED BY CLIENT)

LOT 17, BLOCK B, HERCULES PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN PLAT BOOK 5, PAGE 22, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, LESS THAT PORTION OF LOT 17, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWESTERLY CORNER OF LOT 17, BLOCK B, HERCULES PARK SUBDIVISION, THENCE RUN NORTHERLY ALONG THE WESTERLY LINE OF SAID LOT 17 A DISTANCE OF 10 FEET; THENCE RUN EASTERLY IN A DIRECT LINE TO THE SOUTHEASTERLY CORNER OF SAID LOT 17; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 17, TO THE POINT OF BEGINNING.

AND
LOT 12, BLOCK D, GULF ISLAND MANOR SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN PLAT BOOK 8, PAGE 68, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, ALSO, ALL THAT CERTAIN PROPERTY LYING BETWEEN SAID LOT 12, BLOCK D, OF SAID GULF ISLAND MANOR AND LOTS 6 AND 7 OF BLOCK E, GULF ISLAND MANOR, AND BOUNDED FURTHER BY A NORTHEASTERLY PROLONGATION IN A STRAIGHT LINE OF THE SOUTHWESTERLY SIDE OF SAID LOT 12, BLOCK D AND THE EASTERN MOST LINE OF GULF ISLAND MANOR.

LOT 7, BLOCK E, GULF ISLAND MANOR, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 8, PAGE 68, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

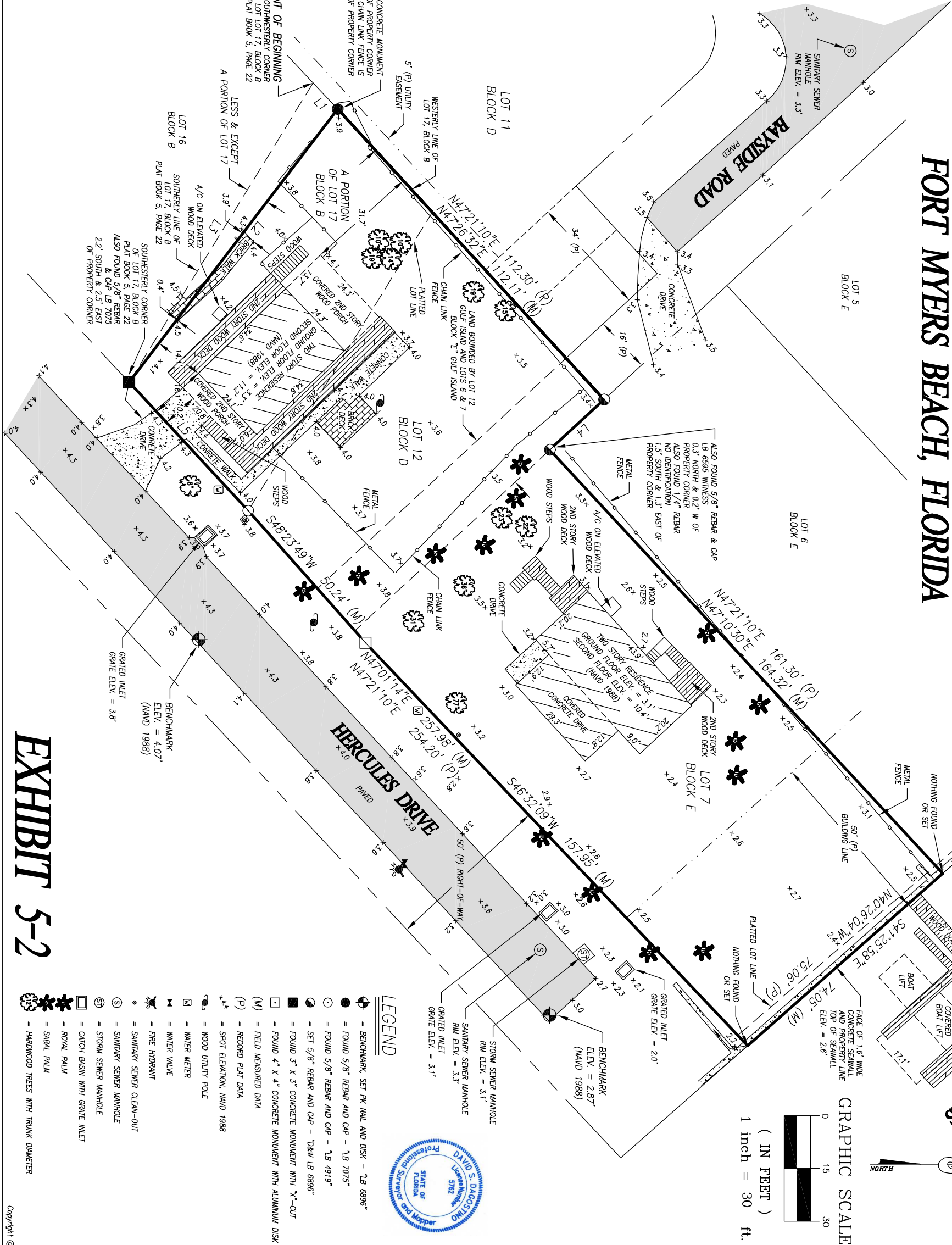
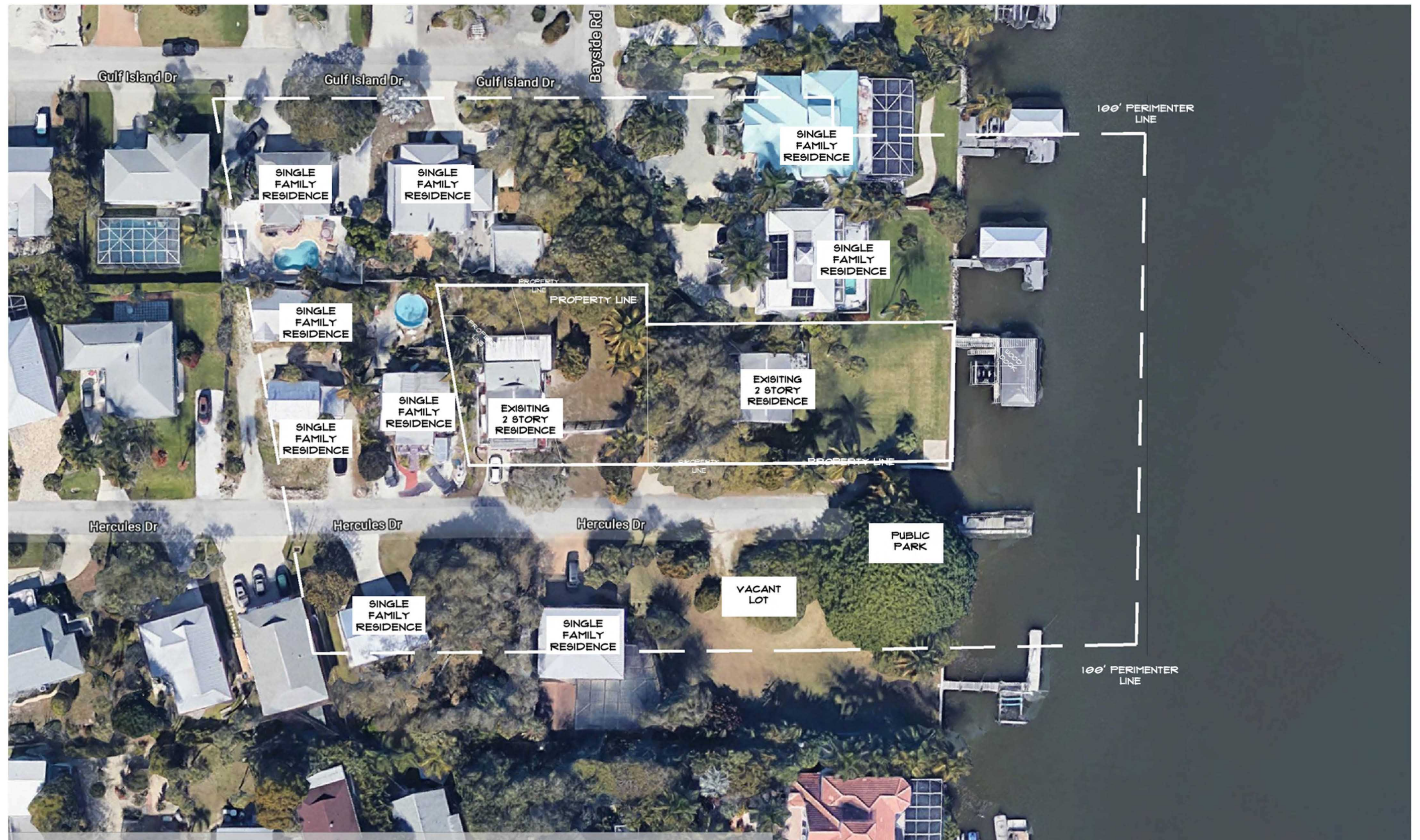


EXHIBIT 5-2

Copyright ©

This map prepared by: DAVID S. DAGOSTINO, PSM	COMPUTER FILE: 18454.DWG	DRAWING SCALE: 1"=30'	DRAWN BY: TIM	CERTIFIED TO: ALAN SHANOSKY	JOB NO.: 18-454
CERTIFICATE OF AUTHORIZATION NO. LB 6896 NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER	SURVEY DATE: 12-10-18	REVISION DATE:	CHECKED BY: DSD		SHEET NO.: 1 OF 1
Professional Surveyor & Mapper Flc. License No. 5762	SIGNATURE DATE: 01/15/19	REVISED BY:	FIELD BOOK: 081/24		

D&W DAGOSTINO & WOOD, INC.
Professional Surveying & Mapping
5415 Jaeger Road Suite A Naples, FL 34109
Phone: (239) 352-6085 Website: www.dwsurveys.com

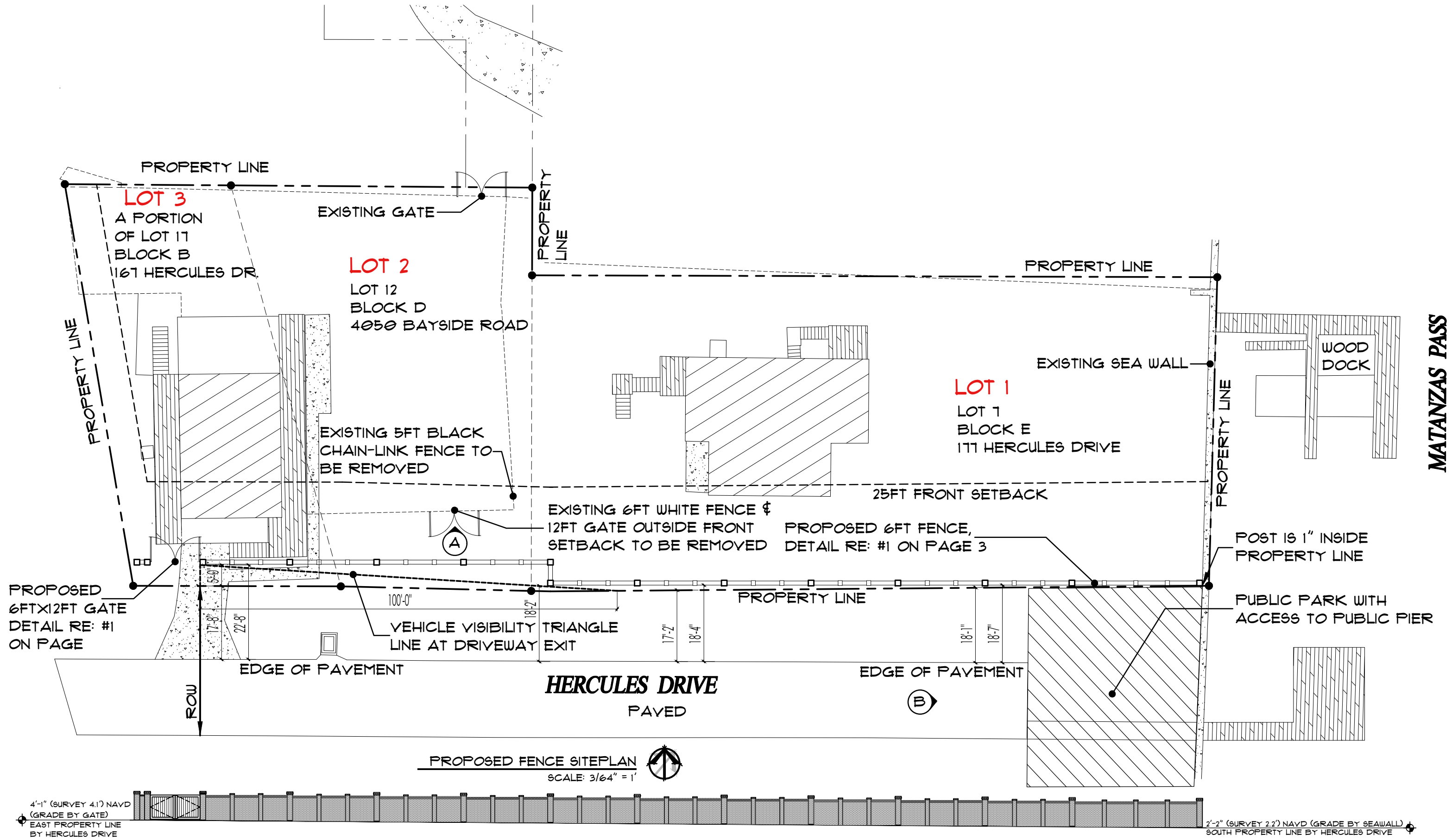


167 : 177 Hercules Drive
Fort Myers Beach, Florida

975 6TH AVE S. SUITE 200
NAPLES FLORIDA 34102
PHONE: (239) 331-7092
WWW.MHKAP.COM

MHK ARCHITECTURE & PLANNING

SKI
Page 17 of 154

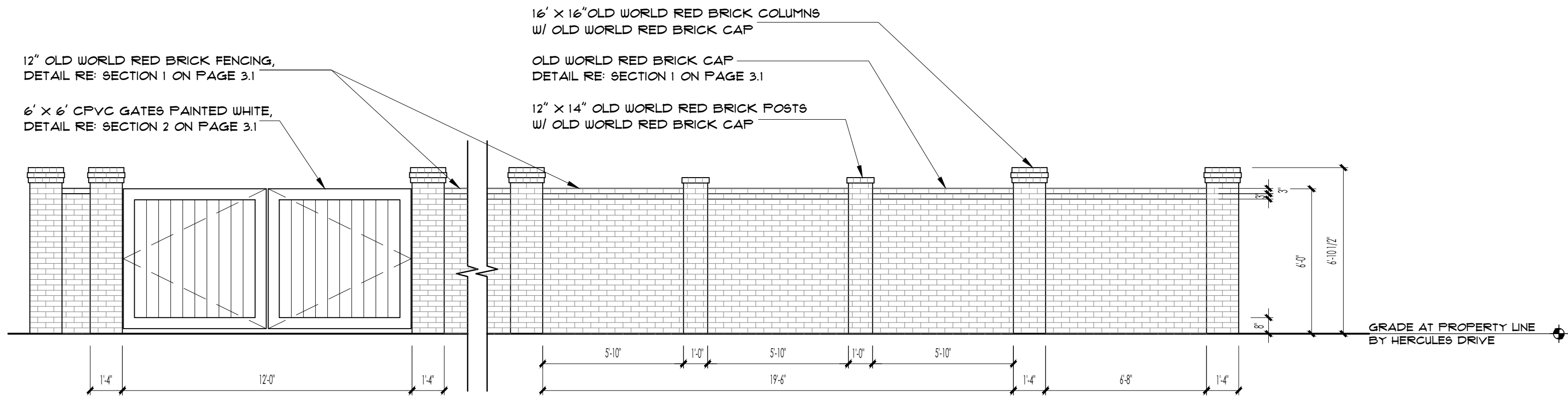


4050 Bayside Rd : 161 : 177 Hercules Dr
Fort Myers Beach Florida

9756TH AVE S SUITE 200
NAPLES FLORIDA 34102
PHONE: (239) 331-7092
WWW.MHKAP.COM

MHK ARCHITECTURE & PLANNING

SK2
08.27.2020



HERCULES DRIVE PROPOSED EXTERIOR FENCE DETAIL
SCALE: 1/4" = 1'

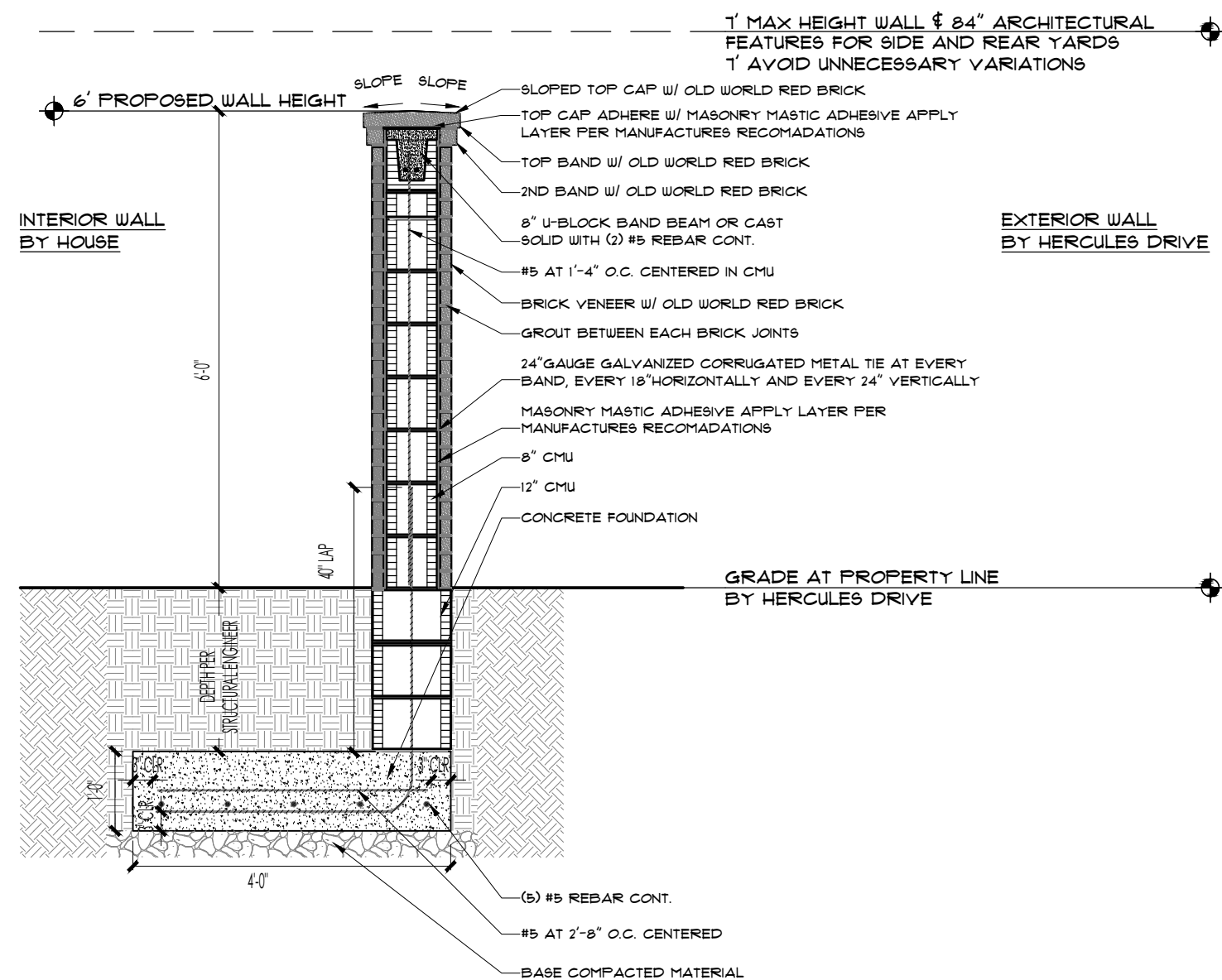
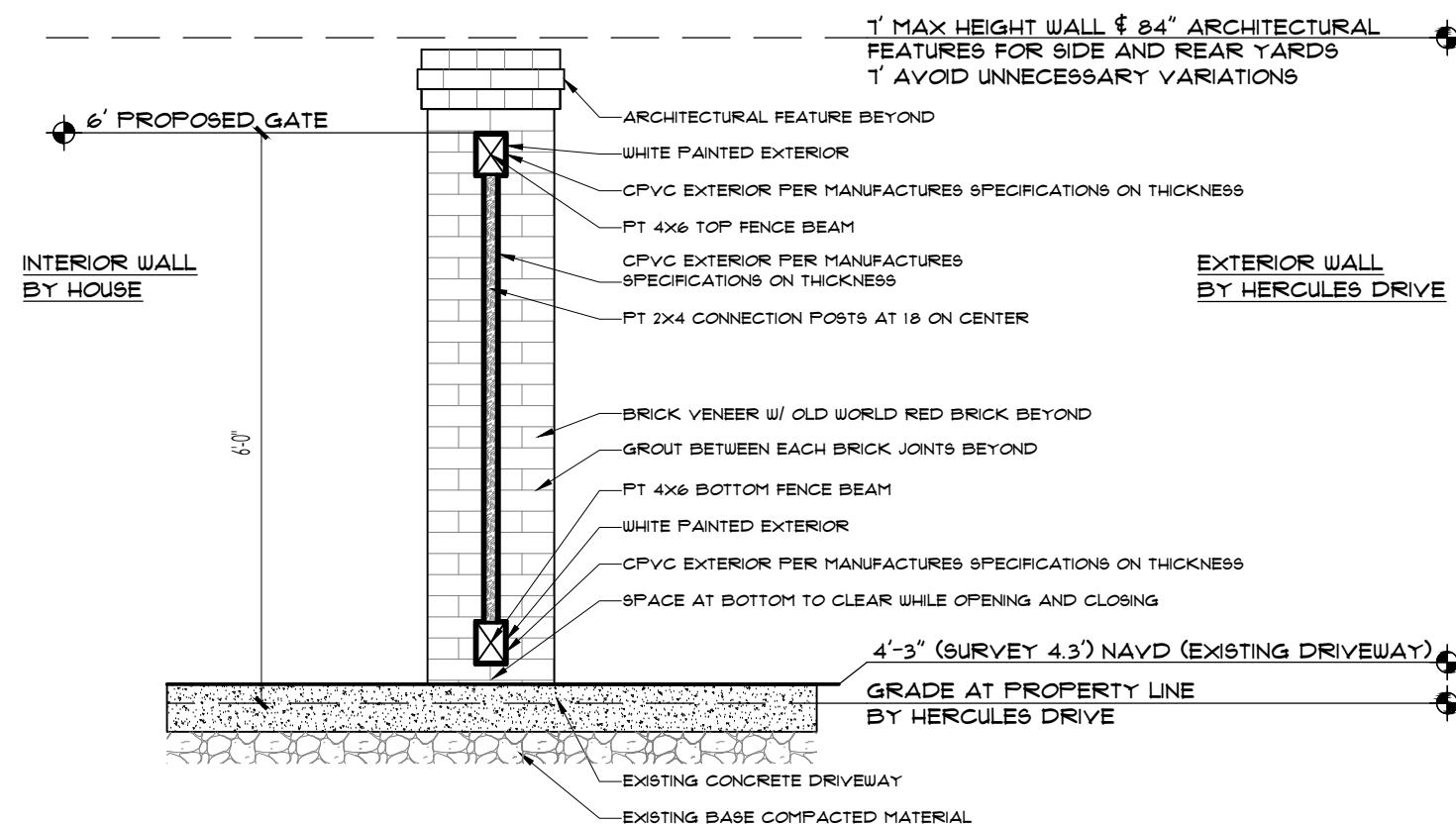
1

4050 Bayside Rd : 167 : 177 Hercules Dr
Fort Myers Beach Florida

975 6TH AVE S SUITE 200
NAPLES FLORIDA 34102
PHONE: (239) 331-7092
WWW.MHKAP.COM

MHK ARCHITECTURE & PLANNING

SK3
08.27.2020



4050 Bayside Rd : 167 : 177 Hercules Dr
Fort Myers Beach Florida

975 6TH AVE. S. SUITE 200
NAPLES FLORIDA 34102
PHONE: (239) 331-7092
WWW.MHKAP.COM

MHK ARCHITECTURE & PLANNING

SK 3.1
08.27.2020



A--HERCULES 6FT WHITE FENCE & GATE



B--BAYSIDE 5FT BLACK FENCE & GATE



C--NORTH 4FT DECORATIVE FENCE



D--PUBLIC PARK

167 : 177 Hercules Drive
Fort Myers Beach Florida

975 6TH AVE. S. SUITE 200
NAPLES FLORIDA 34102
PHONE: (239) 331-7092
WWW.MHKAP.COM

MHK ARCHITECTURE & PLANNING

SK4
Page 27 of 34

PROJECT NUMBER:

DATE:



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

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 *one ORIGINAL paper copy, fourteen (14) copies* of all required applications, supplemental information, exhibits and documents. Please do not print and copy the instructions at the end of the application. In addition to application fees, the applicant is required to pay for (2) sets of mailings to neighboring property owners within 500', and all advertising fees.

Site Address: 177 and 167 Hercules Dr., and 4050 Bayside Rd.

STRAP Number: 29-46-24-W2-0050E.0070, 29-46-24-W2-0060B.0170, and 29-46-24-W2-0050D.0120

Applicant: Allen Shanosky Phone: (908) 208-6233

Contact Name: Allen Shanosky Phone: _____

Email: allenshanosky@gmail.com Fax: N/A

Current Zoning District: RS, Residential Single-family

Future Land Use Map (FLUM) Category: Low Density

FLUM Density Range: 4 dua Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED

SUPPLEMENTAL FORM REQUIRED

☐ Special Exception

PH-A

☒ Variance

PH-B

☐ Conventional Rezoning

PH-C

☐ Planned Development ☐ Commercial ☐ Residential

PH-D

☐ Master Concept Plan Extension

PH-E

☐ Appeal of Administrative Action

PH-F

☐ Vacation of Platted Right-of-way and Easement

PH-G

☐ Other – cite LDC Section: _____

attach on separate sheet

PROJECT NUMBER:

DATE:

PART I – General Information

A. Applicant*: Allen Shanosky Phone: (908) 208-6233

**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: 81 Seton Hall Drive, Freehold, New Jersey 07728

Email: allenshanosky@gmail.com

Fax: N/A

Contact Name: Allen Shanosky

Phone: (908) 208-6233

B. Relationship of Applicant to subject property:

☒ Owner*

☐ Land Trust*

☐ Partnership*

☐ Corporation*

☐ Association*

☐ Condominium*

☐ Subdivision*

☐ Timeshare Condo*

☐ Contract Purchaser*

☐ Authorized Representative* ☐ 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 name of Agent authorized to receive correspondence Agents

Name: John M. Passidomo

Phone: (239) 261-9300

Address: 821 Fifth Avenue South, Naples, Florida 34102

Email: jmpassidomo@napleslaw.com

Fax: (239) 261-9782

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

Name: Matthew H. Kragh

Phone: (239) 919-2873

Address: 975 6th Avenue South, Suite 200 , Naples, Florida 34102

Email: mkragh@mhkap.com

Fax: (239) 649-0523

Name: _____

Phone: _____

Address: _____

Email: _____

Fax: _____

PROJECT NUMBER: _____

DATE: _____

Name: _____

Phone: _____

Address: _____

Email: _____

Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

☐ Special Exception

☒ Variance from LDC Section 34 - 1744(1) and (3)

☐ Conventional Rezoning from _____ to _____

☐ Planned Development

☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD

☐ Amendment. List the project number: _____

☐ Extension/reinstatement of Master Concept Plan. List project number: _____

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers

Please indicate any specific submittal items that have been waived by the Director for the request.
Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: _____

Description: _____

Code Section: _____

Description: _____

Code Section: _____

PROJECT NUMBER:

DATE:

Description: _____

PART IV – Property Ownership

☒ Single Owner (individual or husband and wife)

Name: Allen and Cynthia Shanosky Phone: (908) 208-6233

Mailing Address: 81 Seton Hall Drive, Freehold, New Jersey 07728

Email allenshanosky@gmail.com Fax: N/A

☐ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

☐ Complete Disclosure of Interest Form (see below)

☐ Attach list of property owners as Exhibit 4-1

☐ Attach map showing property owners interests as Exhibit 4-2 (for multiple parcels)

☐ For condominiums and timeshares see Explanatory Notes Part IV (Page 11)

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 29-46-24-W2-0050E.0070, 29-46-24-W2-0060B.0170, and 29-46-24-W2-0050D.0120

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership

Allen Shanosky, 81 Seton Hall Dr., Freehold, NJ 07728

100% as Tenants by the Entireties

Cynthia Shanosky, 81 Seton Hall Dr., Freehold, NJ 07728

100% as Tenants by the Entireties

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

PROJECT NUMBER:

DATE:

Name, Address and Office

Percentage of Stock

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

PROJECT NUMBER:

DATE:

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of Contract:

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name

Address

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature



Allen Shanosky

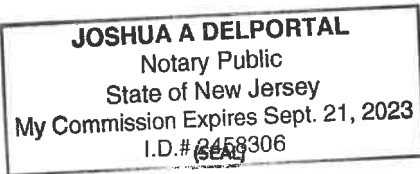
Printed Name

PROJECT NUMBER:

DATE:

STATE OF NEW JERSEY)
COUNTY OF MONMOUTH)

Subscribed and sworn to (or affirmed) before me by means of (✓) physical presence or ()
online notarization, this 28th day of March, 2020, by Allen Shanosky.



[Signature]
Notary Public Signature
Joshua A. DelPorta
Notary Printed Name

Personally Known _____ or Produced Identification ✓

Type of Identification Produced: FLDL, us Passport My Commission Expires: 09/21/2023

PART V – Property Information

A. Legal Description:

STRAP: 29-46-24-W2-0050E.0070, 29-46-24-W2-0060B.0170, and 29-46-24-W2-0050D.0120

Property Address: 177 and 167 Hercules Dr., and 4050 Bayside Rd.

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 as Exhibit 5-1.

☒ Yes. Property identified in subdivision: Gulf Island Manor Subdivision

Book: 8 Page: 68 Unit: _____ Block: D, E Lot(s): 12, 7

Hercules Park: Book 5, Page 22, Block B, Lot 17

B. 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. Attach and label as Exhibit 5-2.

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 86 feet

PROJECT NUMBER:

DATE:

Depth (please provide an average width if irregular in shape) 268 feet

Frontage on street: 208.19' feet. Frontage on waterbody: 74.05' feet

Total land area: 0.507 ☒ acres ☐ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):

South of Sky Bridge.

☒ Attach Area Location Map as Exhibit 5-3

E. Property Restrictions (check applicable):

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

☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 5-4.

☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 5-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

☒ Attach a list of surrounding property owners within 500 feet as Exhibit 5-6.

☒ Attach a map showing the surrounding property owners as Exhibit 5-7.

☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

☒ Low Density

☐ Marina

☐ Mixed Residential

☐ Recreation

☐ Boulevard

☐ Wetlands

☐ Pedestrian Commercial

☐ Platted Overlay

H. Zoning (see official Zoning Map):

☒ RS (Residential Single-family)

☐ CF (Community Facilities)

☐ RC (Residential Conservation)

☐ IN (Institutional)

PROJECT NUMBER:

DATE:

- ☐ RM (Residential Multifamily)
- ☐ RPD (Residential Planned Development)
- ☐ CM (Commercial Marina)
- ☐ CO (Commercial Office)
- ☐ CB (Commercial Boulevard)
- ☐ CR (Commercial Resort)
- ☐ CPD (Commercial Planned Development)

- ☐ BB (Bay Beach)
- ☐ EC (Environmentally Critical)
- ☐ DOWNTOWN
- ☐ SANTOS
- ☐ VILLAGE
- ☐ SANTINI

PART VI

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Allen Shanosky 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;

PROJECT NUMBER:

DATE:

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.


Signature of owner or authorized agent

3/28/20
Date

STATE OF NEW JERSEY)
COUNTY OF MONMOUTH)

Subscribed and sworn to (or affirmed) before me by means of (☒ physical presence or
() online notarization, this 28th day of March, 2020, by Allen Shanosky.

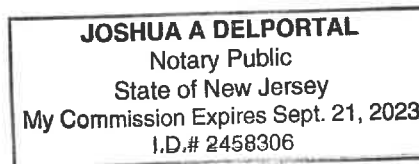

Notary Public Signature

(SEAL)

Joshua A. DelPorta
Notary Printed Name

Personally Known _____ or Produced Identification ☒

Type of Identification Produced: FL DL, US Passport My Commission Expires: 09/21/2023



PROJECT NUMBER:

DATE:

PART VII

AFFIDAVIT

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

I, _____ (name), as _____ (title)
of _____ (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.

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

Signature

Title

Typed or Printed Name

Date

**STATE OF FLORIDA)
COUNTY OF LEE)**

Subscribed and sworn to (or affirmed) before me this _____ day of _____,
20_____, by _____, as (title) _____ on behalf of
(company name) _____.

Notary Public Signature

(SEAL)

Revised 1/6/2017

Town of Fort Myers Beach
2525 Estero Blvd., Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Permits@FortMyersBeachFL.gov Fax: 239-765-0909

Page 11 of 15

PROJECT NUMBER:

DATE:

Notary Printed Name

Personally Known _____ or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: _____

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

This is the second part of a two-part application. This part requests specific information for a variance. Include this form with the Request for Public Hearing form.

Case Number:
Project Name:
Authorized Applicant: Allen Shanosky
LeePA STRAP Number: 29-46-24-W2-0050E.0070, 29-46-24-W2-0060B.0170, and 29-46-24-W2-0050D.0120

Current Property Status:	
Current Zoning: RS	
Future Land Use Map (FLUM) Category: Low Density	
Comp Plan Density:	Platted Overlay? ☐ Yes ☐ No

Variance is requested from:

LDC Section Number	Title of Section or Subsection
Sec. 34-1744(b)(1) and (b)(3)	Location and height of fences and walls

Complete the narrative statements below for EACH variance requested.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART I
Narrative Statements

Request for variance from 34-1744(1) and (3) **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:

Please see attached sheet.

Reasons for request

Explain why the variance is needed:

Please see attached sheet.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Explain the possible effect the variance, if granted, would have on surrounding properties:

Please see attached sheet.

Explain the hardship (what is unique about the property) that justifies relief from the regulation:

Please see attached sheet.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.

Please see attached sheet.

PART I
Narrative Statements

Request for variance from Sec. 34-1744(1) and (3).

Explain the specific regulation contained in this section from which relief is sought:

Sec. 34-1744(b)(1) of the Land Development Code provides that any fence or wall located in the front yard (between a street right of way or easement and the minimum required street setback or build to line) shall not exceed 48" of height as measured from the existing elevation of the abutting property. Sec. 34-1744(b)(3) of the Land Development Code provides that within 25' of a body of water, those portions of fence that exceed 48" in height cannot be more than 25% opaque (as viewed from perpendicular to the fence).

Reasons for request.

Explain why the variance is needed:

The variance of 2 feet of additional height in the front yard fence is needed to provide a reasonable degree of safety, security and privacy for the Subject Property arising out of changed circumstances in the surrounding area triggered by the recent expansion of a public fishing pier and the creation of an accompanying public park, waterfront viewing area and public seating capacity to accommodate 32 people at the street terminus adjacent to the Subject Property. The lack of onsite restroom facilities in the newly created waterfront park has caused the occasional predictable result. "No parking" restrictions have proven difficult to enforce and the recent conversion of an open swale to a filled and sodded culvert in the public right of way adjacent to the Subject Property has created an inviting public parking opportunity thereby encouraging visitors from outside the immediate area at all hours of the day and night. The variance proposes to strike a balance between the public's interest in enjoying the public resource and the private property owner's interest in procuring a degree of protection from an unreasonable intrusion into the homeowner's right to enjoy the peace and quiet of their single family home.

Explain the possible effect the variance, if granted, would have on surrounding properties:

The proposed fence has been attractively designed to fit into its surroundings. The proposed additional two feet of height of the fence will not impair visual accessibility within 25' of a body of water from adjacent single family homes or public right of way because the Subject Property has existing mature landscaping which greatly exceeds the height of the proposed fence in that area.

The variance will therefore have no adverse effect on surrounding properties. Removal of an existing non-conforming 6' fence in the front yard of the Subject Property upon approval of the variance will enhance the Subject Property's aesthetic appeal.

Explain the hardship (what is unique about the property) that justifies relief from the regulation:

Mr. and Mrs. Shanosky have maintained a personal residence on the Subject Property for 22 years without any prior consideration of requesting permission to install a fence in their front yard. The hardship that justifies relief from the regulation is the effect of activity drawn to the newly created waterfront park adjacent to their home by the recent intensification of amenities on the public property, the installation of tables and significant seating on the pier, and the creation of adjacent right of way parking capacity to encourage visitors from outside the area to visit the waterfront park. This is an exceptional or extraordinary condition not commonly found to this scale in other single family neighborhoods thereby justifying the variance. Where there are two other public waterfront parks at street ends there are open stormwater swales in the public right of way to discourage public parking and, in one instance, a 6 foot fence to provide privacy for the adjacent homeowner and, in no case, tables and seating on the pier.

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.

The proposed variance is the minimum required to relieve the applicant of an unreasonable burden imposed on the Subject Property as a result of its proximity to the adjacent waterfront park. This is an exceptional condition justifying the variance and a condition which was not caused in any way by the applicant, but rather imposed on the applicant as a result of the town's laudable desire to create a public benefit for the community at large. Granting the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare because the proposed 24 inches of additional fence height is mitigated by the fence's attractive design. The conditions or circumstances for which the variance is sought are peculiar to the Subject Property and not of so general or recurring nature as to make it more reasonable or practical to amend the regulation in question which, as generally applied, creates an appropriate balance between public and private interests. Here, a variance is required to restore that balance.

This instrument Prepared by and return to:
RICHARD TO. COTTER, P.A.
ECHOLS & COTTER
6100 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA 33931

4651834

Property Appraiser's Identification
#26-46-24-W2-0050E.0070

Grantee S.S. # _____ and _____

SPACE ABOVE THIS LINE FOR RECORDING DATA

Documentary Fee \$41.00
Intangible Tax Pd.
\$ CHARLIE GREEN, CLERK, LEE COUNTY
By Joanne Miller Deputy Clerk

THIS SPECIAL WARRANTY DEED, made the 24th day of May, A.D. 1999 by

NATIONSBANK, N.A., Trustee, of the James O. Cain Revocable Trust Agreement dated August 12, 1982 herein called the Grantor, to

ALLEN E. SHANOSKY and CYNTHIA A. SHANOSKY, Husband and Wife whose post office address is: 81 Seton Hall Drive, Freehold, NJ 07728, hereinafter called the Grantees:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH, that said Grantor, for and in consideration of the sum of TEN AND No/100'S (\$10.00) Dollars, and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys, and confirms unto the grantee all that certain land situate in LEE County, State of Florida, viz:

Lot 7, Block E., GULF ISLAND MANOR, according the map or plat thereof as recorded in Plat Book 8, Page 68, Public Records of Lee County, Florida.

TOGETHER, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND, the Grantor hereby covenants with said Grantees that as far as is known to the Grantor the Grantor is /are lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land, and hereby specially warrants the title and will defend the same against the lawful claims of persons claiming by, through or under the Grantor only; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 1998.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

William J. Norris
Witness 1 Signature as to NATIONSBANK, N.A. Trustee

Kathy S. Bright
NATIONSBANK, N.A. Trustee
4501 Tamiami Trail North, Naples, FL 34103

Clayssa J. Norris
Typeprint name of Witness 1

Carina B. Guillard
Witness 2 Signature as to NATIONSBANK, N.A. Trustee

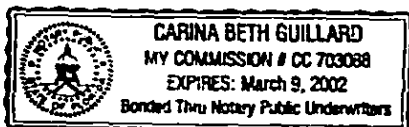
Carina B. Guillard
Typeprint name of Witness 2

**STATE OF FLORIDA
COUNTY OF LEE**

Execution of the foregoing instrument was acknowledged before me this 24th day of May, 1999, by Kathy S. Bright Assistant Vice President of NATIONSBANK, N.A., Trustee, who is/are personally known to me or who () has produced _____ as identification.

Signature of Notary Public
Type/Print Name of Notary
Commission Number
Commission Exp. Date

Carina B. Guillard
Carina B. Guillard
CC 703088
3-9-2002



DR3129 PG2537

CHARLIE GREEN, CLERK
LEE COUNTY, FL
1999 JUN 10 PM 3:54

Prepared by and return to:

Harvey Rollings, Esq.
Jones, Haber & Rollings
1633 SE 47th Terrace
Cape Coral, FL 33904
239-542-0700
File Number: **41275**

Parcel Identification No. **29-46-24-W2-0060B0170 and 29-46-24-W2-0050D.0120**

[Space Above This Line For Recording Data]

Warranty Deed

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

This Indenture made this 3rd day of August, 2018 between **Chandra Spary, a married woman, Individually and as Trustee of the Chandra Spary Trust dated March 14, 2013, with full power and authority to protect, conserve, sell, convey, lease, encumber, and to otherwise manage and dispose of said real property pursuant to F.S. 689.073, whose post office address is 1721 S.E. 47th Terrace, Cape Coral, FL 33904 of the County of Lee, State of Florida, grantor*, and Allen Shanosky and Cynthia Shanosky, husband and wife whose post office address is 81 Seton Hall Drive, Freehold, NJ 07728 of the County of Monmouth, State of New Jersey, grantee*,**

Witnesseth that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations 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:**

Lot 17, Block B, HERCULES PARK SUBDIVISION, according to the map or plat thereof on file and recorded in Plat Book 5, Page 22, Public Records of Lee County, Florida, LESS that portion of Lot 17, described as follows: Beginning at the Southwesterly corner of Lot 17, Block B, HERCULES PARK SUBDIVISION, thence run Northerly along the Westerly line of said Lot 17 a distance of 10 feet; thence run Easterly in a direct line to the Southeasterly corner of said Lot 17; thence Westerly along the Southerly line of said Lot 17, to the point of beginning.

Lot 12, Block D, Gulf Island Manor Subdivision, according to the map or plat thereof, recorded in Plat Book 8, Page 68, Public Records of Lee County, Florida. ALSO, all that certain property lying between said Lot 12 of Block D, of said Gulf Island Manor and Lots 6 and 7 of Block E, Gulf Island Manor, and bounded further by a Northeasterly prolongation in a straight line of the Southwesterly side of said Lot 12, Block D and the Eastern most line of said Gulf Island Manor.

Subject to taxes for 2018 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

Grantor warrants that at the time of this conveyance, the subject property is not the Grantor's homestead within the meaning set forth in the constitution of the state of Florida, nor is it contiguous to or a part of homestead property.

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 or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Witness Name: Henry Rollings

Witness Name: DONNA PAVESE

Chandra Spary, Individually and as Trustee of the (Seal)
Chandra Spary, Individually and as Trustee of the
Chandra Spary Trust dated March 14, 2013

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this 3rd day of August, 2018 by Chandra Spary, Individually and as Trustee of the Chandra Spary Trust dated March 14, 2013, who ☐ is personally known or ☒ has produced a driver's license as identification.

[Notary Seal]

Donna M. Pavese
Notary Public

Printed Name: Donna M. Pavese

My Commission Expires: _____



Exhibit 5-3



Hercules Drive



By
MAR 31 2020



4050 Bayside Dr : 167 : 177 Hercules Dr
Fort Myers Beach Florida

PROPOSED 1.5 ACRE 200
FOOT CROWN 200
WIDE 200' CROWN
WIDE 200' CROWN

MHK ARCHITECTURE & PLANNING

SKI
02/26/2010

177 Hercules Dr

Variance



Tue Jun 23 2020 12:48:48 PM.



Town of Fort Myers Beach

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Case Number: VAR20200038

Case Name: 177 Hercules Drive- A Wall Height Variance

Applicant: Allen Shanosky (owner)/ John Passidomo (agent)

Location: 167-177 Hercules Drive and 4050 Bayside Rd

STRAP #: 29-46-24-W2-0060B.0170; 29-46-24-W2-0050E.0070;
29-46-24-W2-0050D.0120

Zoning: Residential Single- family (RS)

Request: The applicant is seeking relief from Sec. 34-1744 Location and Height of Fences and Walls to allow a brick wall height to be more than 48 inches within 25 feet front/ street setback and to allow a fence, within 25 feet of waterbody setback, portion above 48 inches to be more than 25% opaque.

Staff Report: Direct inquiries to:
Kelly Bhutada, Planner at 239-765-0202 Ext. 1310
Fort Myers Beach Town Hall
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Notice is hereby given that the Local Planning Agency of the Town of Fort Myers Beach will hold a public hearing at a meeting beginning at **09:00 AM on October 13, 2020** regarding the case listed above. This hearing will take place at Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Florida, 33931.

At this hearing the Local Planning Agency of the Town of Fort Myers Beach will review the case and make a recommendation to Town Council on this matter. If any person need a verbatim record of the proceedings, please make their own arrangements. You may appear in person, through counsel, or through an authorized agent and provide testimony, legal argument, or other evidence to become a participant in the hearing.

Copies of the staff report are available for viewing at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you need reasonable accommodation, contact Town Hall at 239-765-0202.

From: [Nancy Hodson](#)
To: [Kalyani Bhutada](#); [danatfmbeach@yahoo.com](#); [heilmegan@gmail.com](#); [Karen@teamswanbeck.com](#); [jbprealtor@aol.com](#); [SmithT1159@yahoo.com](#)
Subject: Re: Variance 20200038
Date: Monday, July 20, 2020 12:45:34 PM

Our residence is located at 148 Hercules Dr and we would like to go on record as **strongly opposing** Mr Shanosky's application for a variance to erect a fence on his property that exceeds the current town codes. We realize that he has the right to privacy on his own property but feel that the fence he is requesting permission to build *far exceeds* what is actually necessary to accomplish this. It would at the same time appear as a rather long *barrier wall* which would obstruct much of the view of the back bay. It would also send the message that the property owners are inhospitable amongst a very friendly and congenial neighborhood.

We who live on Hercules Dr are thankful for and very proud of our beautiful new pier and enjoy it as a peaceful and serene respite from which to admire sunrises, the water and the boats passing by.

In making your decision, please do take into consideration our, and our neighbors', feelings and concerns.

Thank you.

John & Nancy Hodson

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

From: [Nancy Hodson](#)
To: [Kalyani Bhutada](#); [danatfmbeach@yahoo.com](#); [heilmegan@gmail.com](#); [Karen@teamswanbeck.com](#); [jbprealtor@aol.com](#); [SmithT1159@yahoo.com](#)
Subject: Fwd: Shanosky's request for variance
Date: Monday, July 20, 2020 12:48:14 PM

On Fri, Jul 17, 2020 at 6:11 AM <cwhitten@metrocast.net> wrote:

Hello John and Nancy, Thank you for reminding us about the upcoming meeting regarding Mr. Shanosky's fence. We also object to this request. Building a fence higher and closer to the street will look like some kind of fortress and take away from the beauty of our lovely street. All fences should be in compliance with our town's building codes. We will not be in town the day of the meeting. Kindly pass this on so our voices are heard as well since this is our neighborhood and we want to keep it looking as beautiful as ever.

Sincerely,

Carl and Connie Whitten

On 07-16-2020 3:12 PM, Nancy Hodson wrote:

Greetings from HOT & SULTRY FMB!!

We're hoping that you'll support us in objecting to Mr Shanosky's request for a variance to build a fence along his two contiguous properties facing the back bay. We feel that it would be a glaring barrier since other neighboring fences are built in compliance with our town's building codes. It would also be obtrusive to our view of the back bay. We also haven't forgotten Mr Shanosky's objection to & obstructive actions to prevent a replacement dock being re-built despite all other Hercules residents' strong desire to have our dock back! Of course, you may feel differently and have the right to do so.

If you wish, you may send us an email at : johnandnancyhodson@gmail.com stating your opinion or contact City Hall directly.

Be Safe & Be Well!

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

Kalyani Bhutada

From: Erik Henrikson <henrikson.erik@gmail.com>
Sent: Thursday, July 30, 2020 8:38 AM
To: Kalyani Bhutada
Subject: Case - VAR 20200038

Hello -

We are in receipt of the “notice of property owners within 500 feet” for this variance case and hearing scheduled for August 11.

I have serious concerns not only for the variance itself but due to the fact that 99% of the people affected are not here August 11 and may have not even received this notice — especially the 3 neighbors most directly affected on Bayside Rd.

Would you please contact me at your earliest convenience my phone number is: 202-315-8197

Thank you,

Erik Henrikson
151 Mandalay Rd.
FMB

From: [Nancy Hodson](#)
To: [Kalyani Bhutada](#); [danatfmb@yahoo.com](#); [heilmegan@gmail.com](#); [Karen@teamswanbeck.com](#); [jbprealtor@aol.com](#); [SmithT1159@yahoo.com](#); [info@thegypsyinn.com](#)
Subject: Fwd: 177 Hercules Drive - Fence Variance
Date: Monday, July 20, 2020 12:21:11 PM

From: [dennis9355@aol.com](#)
Date: July 16, 2020 at 1:06:16 PM EDT
To: [johnandnancyhodson@gmail.com](#)
Subject: 177 Hercules Drive - Fence Variance

Good afternoon Nancy,
We are sending you and John this E-mail in hopes that you can print it out and deliver to the appropriate people at the Fort Myers Beach Town Hall as we are not in Florida right now due to the pandemic.

We received a letter a few days ago from the Town of Fort Myers Beach pertaining to Case Name: 177 Hercules Drive - Fence Variance as we own the property at 156 Hercules Drive which is within 500 feet of the subject property.

The purpose of this E-mail is to state as clearly as we can that we are adamantly opposed to allowing this variance.
The Town of Ft Myers Beach has rules in place for fences and this application seeks to skirt these rules.
Additionally, this fence would significantly restrict our view of the back bay from our house.

We placed a call into Kelly Bhutada with Community Development on Tuesday July 14th and left her a voice message stating our strong objection to this variance.
Should anyone at the Town of Ft Myers Beach need to reach us, our cell phone number is (315) 345-4646.

Thank you,
Dennis & Carol Hennessy

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

From: [Nancy Hodson](#)
To: [Kalyani Bhutada](#); [danatfmbeach@yahoo.com](#); [heilmegan@gmail.com](#); [Karen@teamswanbeck.com](#); [jbprealtor@aol.com](#); [SmithT1159@yahoo.com](#); [info@thegypsyinn.com](#)
Subject: Fwd: Meeting July 21, 2020. Thanks John
Date: Monday, July 20, 2020 12:30:40 PM

----- Forwarded message -----

From: **June Hazen** <junehazen@aol.com>
Date: Sat, Jul 18, 2020 at 12:45 PM
Subject: Meeting July 21, 2020. Thanks John
To: Nancy Hodson <johnandnancyhodson@gmail.com>

RE: Var20200038

Case Name: 167-177 Hercules Drive & 4050 Bayside Road
Strap #: 29-46-24-W2-0060B.0170; 29-46-24-W2-0050E.0070; 29-46-24-W2-0050D/0120 Zoning:
ResidentialSingle-Family(RS)
To: LOCALPLANNINGAGENCYOFTHETOWNOFFORTMYERS Beach
,FLORIDA: Var20200038
Case Name: 167-177 Hercules Drive & 4050 Bayside Road
Strap #: 29-46-24-W2-0060B.0170; 29-46-24-W2-0050E.0070; 29-46-24-W2-0050D/0120 Zoning:
ResidentialSingle-Family(RS)
To: LOCALPLANNINGAGENCYOFTHETOWNOFFORTMYERSBEACH
,FLORIDA

JULY 21, 2020.

In regards to the Request from Allen Shanosky for a Height of Fences & Walls to allow a fence height to be more than 48" within 25 feet front/street setback and to allow a fence portion above 48" to be more than 25% Opaque, Please vote NO.

JULY 21, 2020.

In regards to the Request from Allen Shanosky for a Height of Fences & Walls to allow a fence height to be more than 48" within 25 feet front/street setback and to allow a fence portion above 48" to be more than 25% Opaque,PLEASE VOTE NO

Changing the setback and fence height for the walls and fence Mr. Shanosky is proposing will change the landscape of our beautiful street and block the view of the bay for many residents. We are curious as to why Mr. Shanosky wants to build a fortress when there isn't even one existing fence now.

PLEASE VOTE NO WITHOUT EXCEPTIONS.

We give John Hodson, of 149 Hercules Drive, authorization, to read this letter at the Plan Commission meeting at 9 am on July 21, 2029.

Barry and June Hazen
145 Hercules Drive
Fort Myers Beach , Florida 33931

Email. junehazen@aol.com
Phone. 201-704-6571

From: [Nancy Hodson](#)
To: [Kalyani Bhutada](#); heilmegan@gmail.com; Karen@teamswanbeck.com; jbprealto@aol.com; SmithT1159@yahoo.com; danatfmbeach@yahoo.com
Subject: Fwd: Fence Variance
Date: Monday, July 20, 2020 12:41:05 PM

Town of Fort Myers Beach,

RE:Case #VAR20200038

We are writing to **OPPOSE** the fence variance for Allen Shanosky.

We own the home at 140 Hercules Dr. We frequently walk to the Bay to enjoy the views on our Hercules pier. A two lot long high fence will block the views of the Bay for all the neighbors who also walk on the street.

There is no justification for a fence this high and long to be built in this location. We have a beautiful street. A fence like this will create a barrier to views of the Bay and an eyesore on our street.

Mr. Shanosky has not given justification for any hardship he may suffer to modify the code.

Please DENY his variance.

Sincerely,

Al & Mary Warren

140 Hercules Dr

Fort Myers Beach

Note: Florida has a very broad public records law. Most communication(s) to or from Fort

To whom it may concern,

I am writing this to express my enthusiastic support for the Shanosky's recent variance application. Tina and I are next door neighbors to the subject property. Prior to the new pier, the trespassing and late-night noise was unacceptable. Since the new pier, park and seating it has only gotten worse. The shanosky's are unfairly forced to be the "first line of defense" for our neighborhood. I only wish this fence was built prior to our boat being stolen by 3 individuals who were parked at the pier for three hours unnoticed. All the while, traversing the Shanosky's yard to gain access to our property. I am sure that if Allen & Cindee we're home that weekend they would have called the authorities but we feel they should not have that burden.

Truly yours,
Jason Quilling

A handwritten signature in black ink, appearing to be 'J. Quilling', written over a light blue horizontal line.

From: Judi Cloyd <judicloyd@gmail.com>
Subject: VAR 20200038
Date: August 13, 2020 at 10:02:39 AM EDT
To: kbhutada@fmbgov.com
Cc: allen shanosky <allenshanosky@gmail.com>

Kelly,

This letter is in response to a Variance applied for by Allen Shanosky regarding his property at 177 Hercules Dr. in Ft. Myers Beach.

We live at 172 Gulf Island Dr. and our property borders Bayside Drive. We have absolutely no objection to the variance being requested by Mr. Shonosky regarding the Location and Height of Fences and Walls. We are in total support of this request and know it will be built to enhance the property and the neighborhood. It will also provide security for our house and all of Gulf Island Manor.

Thank you for your consideration in this matter.

Judi and Drennan Cloyd

--

JudiCloyd@gmail.com

JudiAtTheLake.com

(C) 573-480-7376

(O) 573-693-1300

(F) 573-693-1303

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3287 Bagnell Dam Blvd Lake Ozark, MO 65049

Office-573-693-1300

Osage Beach~Fax-573-693-1303

Lake Ozark~Fax-573-693-9846

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From: Diane Rogge <drogge@cherryhillfab.com>
Subject: Hercules Drive Fence at Allan Shanosky
Date: August 11, 2020 at 8:35:48 AM EDT
To: "council@fmbgov.com" <council@fmbgov.com>

Good Morning Council,

I write to you this morning for I am out of town for work and cannot attend the Meeting this morning .

I am Allen's bordering neighbor , 3 houses from Bay .

I believe every person has a right to protect their home and property.

Since the pier has been constructed I have watched the increased traffic . People coming down street just to look at pier and turning around in Mr Shanosky's drive way. Taking down mail box on multiple occasions and then zooming off accelerating quickly at his yard and past my house.

People jumping off pier and then swimming to Mr Shanosky's pier to climb up out of water and onto his pier . Walking thru his yard.

There are no bathrooms , the Shanosky's is the bathroom! His beautiful land scaping is the closest "thing" to use.

We have had to call police on trespassers on his property.

I very recently had an encounter with a well dressed man on pier . I asked him to please move his car off my neighbor's property . I was told " fu###ing white women" He was in Mercedes with other cars and people. Not fishing ! I have reason to believe it may have been drug related.

Trash left at pier and the new "park area " to blow into his yard.

Hercules drive has changed tremendously since the pier has been erected. I now lock my doors, worry about theft , my animals and my granddaughter. Allen is right next to the pier and should be able to feel safe at his home and when not home that there will not be people trespassing.

Diane Rogge
163 Hercules Dr
443-845-5344

From: Rocky STEIMLE <srbsnbs@yahoo.com>
Subject: Fence Variance
Date: July 20, 2020 at 6:28:56 PM EDT
To: allenshanosky@gmail.com

My name is Rocky Steimle, 138 Gulf Island Drive, and I am Secretary of the GIMA (Gulf Island Manors Association). I am writing to go on record that I am in full support of the requested variance by Allen Shanosky.

I have reviewed the plans, am very aware of the neighbor hood and the neighbors, on Hercules, Gulf Island Drive and Bayside Road and fully believe that the requested fence and landscaping would be a beautiful and welcomed addition to the neighborhood.

Thank you,
Rocky

Sent from my iPhone

From: Cynthia Shanosky <shanosky@optonline.net>
Subject: Fwd: Your site plans
Date: July 29, 2020 at 1:30:06 PM EDT
To: Allen Shanosky <allenshanosky@gmail.com>

Cynthia Shanosky
908-208-6232
Shanosky@optonline.net

Begin forwarded message:

From: Marge Shanosky <margeshanosky@gmail.com>
Date: July 29, 2020 at 11:29:57 AM EDT
To: Allen <shanosky@optonline.net>
Subject: Your site plans

We approve wholeheartedly the planning for the site owned by Allen and Cynthia Shanosky.

They have hired an award winning architectural firm to design the site and home with compatibility to the style of coastal south Florida. We support this project which will be part of Gulf Island Manor Assoc. subdivision, of which we are members for thirty-three years.

Sincerely

Donald and Margaret Shanosky

From: "Engle, Mary G." <mgengle@uky.edu>
Subject: fence variance
Date: July 21, 2020 at 1:12:23 PM EDT
To: allen shanosky <allenshanosky@gmail.com>

Dear Cindee and Allen,

Having received the notice from the town of Ft Myers Beach regarding your application for a fence variance, I would like to see an approval of that request. I think it would help define our GIMA neighborhood and would also resolve any question about what is private property vs what is public property. I am confident that anything you do will add to the esthetics of the property as well as everything you've done to date has been in good taste.

Sincerely,
Mary Gail Engle
177 Mandalay Rd.
Ft Myers Beach, FL

From: Jeff <jeff@garthandrews.com>
Subject: Complement on proposed fence design
Date: July 20, 2020 at 8:52:26 AM EDT
To: "Allenshanosky@gmail.com" <Allenshanosky@gmail.com>

We would like to complement you on your well-designed fence in relation to the surrounding properties. Your selection of materials and colors will be a wonderful complement to be enjoyed from both sides of the fence.

Jeff and Melanie Andrew 3909 Estero Blvd.

Sent from my iPhone

Sent from my iPhone

NELSON, McPHERSON, SUMMERS & SANTOS, L.C.
ATTORNEYS AT LAW
P.O. BOX 1287

STAUNTON, VIRGINIA 24402-1287

12 NORTH NEW STREET

THOMAS R. NELSON (1899-1980)
RICHARD F. MCPHERSON (1925-2002)
FRANK L. SUMMERS (RETIRED)
VICTOR M. SANTOS
THOMAS P. MCPHERSON
JOHN C. WIRTH
B. SPENCER CROSS

TELEPHONE (540) 885-0346

FACSIMILE (540) 885-2039

WEB SITE: www.nmssl.com

JESSICA L. ROBINSON
DANIEL E. MOWRY
COURTNEY A. DYMOND

July 28, 2020

To Whom it May Concern

Re: Application by Allen & Cindee Shanosky
for construction of fence

Dear Sir or Madam:

My wife and I are members of the Gulf Island Manor Association (the Association) and have a home located at 3991 Bayside Road at its intersection with Gulf Island Drive. Mr. and Mrs. Shanosky's property is part of the Association and they have access from their property to the street directly in front of our home.

We not only support but welcome the construction of the proposed fence along Hercules to better include the Shanoskys as part of the Association and enhance their interaction with the neighborhood.

If you have any questions please do not hesitate to call.

Sincerely yours,



Victor M. Santos

cc: allenshanosky@gmail.com
jmpassidomo@napleslaw.com

VMS: kac

From: Robin Gornto <robin.gornto@icloud.com>

Subject: Hercules fence

Date: July 20, 2020 at 11:41:31 AM EDT

To: RayMurphy@fmbgov.com

Cc: rexannhosafros@fmbgov.com, allersD@fmbgov.com, atterholtj@fmbgov.com, veachb@fmbgov.com

Dear Mr. Mayor & Town Council,

I am writing in support of Allen & Cindee Shanoski's request to erect a fence at their Hercules Drive property. It is the last property on the street and adjacent to the public dock access. I, too, would want a fence if my property were next to a public dock and I believe everyone has a right to protect their property.

Thank for your service, thank you for making the town mask mandatory & thank you for listening to my plea on behalf of the Shanoski's.

Robin & Mack Gornto
158 Mandalay Road
Fort Myers Beach, FL 33931
859-699-9407

From: [Judi Cloyd](#)
To: [Kalyani Bhutada](#)
Cc: [allen shanosky](#)
Subject: VAR 20200038
Date: Thursday, August 13, 2020 10:05:04 AM

Kelly,

This letter is in response to a Variance applied for by Allen Shanosky regarding his property at 177 Hercules Dr. in Ft. Myers Beach.

We live at 172 Gulf Island Dr. and our property borders Bayside Drive. We have absolutely no objection to the variance being requested by Mr. Shonosky regarding the Location and Height of Fences and Walls. We are in total support of this request and know it will be built to enhance the property and the neighborhood. It will also provide security for our house and all of Gulf Island Manor.

Thank you for your consideration in this matter.

Judi and Drennan Cloyd

--

JudiCloyd@gmail.com

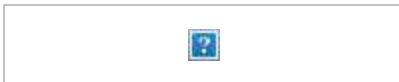
JudiAtTheLake.com

(C) [573-480-7376](tel:573-480-7376)

(O) [573-693-1300](tel:573-693-1300)

(F) [573-693-1303](tel:573-693-1303)

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[3287 Bagnell Dam Blvd Lake Ozark, MO 65049](#)

[Office-573-693-1300](#)

[Osage Beach~Fax-573-693-1303](#)

[Lake Ozark~Fax-573-693-9846](#)

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Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

**Town of Fort Myers Beach
Agenda Item Summary**

Blue Sheet Number: **2020-36**

1. Requested Motion:

Meeting Date: October 13, 2020

Approve/ Approve with condition/ Deny VAR20200052 at a Parcel 4690/4700 Estero Boulevard to Allow a Relief From LDC Sec.34-1174 for Accessory Structures to be Located Closer to the Street ROW than a Principal Structure.

Why the action is necessary:

The Local Planning Agency provides a recommendation to the Town Council regarding variance requests.

What the action accomplishes:

Approving the variance request will allow the accessory structures to be constructed in the front yard and closer to the street ROW than principal structure.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Recommendation to Town
Council

5. Background:

The applicant, Ms. Claudia Metcalfe, is seeking a variance (VAR) from LDC Sec. 34-1174(b) for an accessory structure to be located closer to street Right of Way than the principal structure to allow construction of a detached garage, a storage room, an elevated pool/deck and a tiki hut to be approximately 60 feet from the right-of-way property line as shown on the site plan.

The subject lot was developed in 1940 and the residence, like many houses in this subdivision were constructed to the rear of the buildable area to take advantage of beach views. Due to the location in which the house was constructed the rear yard is small and the code does not allow residential accessory structure within the EC zoning district. Varying setback on the side of the house leaves little space for accessory structures behind or to the side of the house. The proposed location of the accessory structures exceeds the 25-foot principal structure setback but is forward of the home.

The applicant/agent has indicated that the existing vegetation on the property will be maintained which will help block the view from Estero Blvd. The vegetative buffer is a condition of approval in the staff report.

Attachments:

1. Staff report LPA
2. Exhibit A Survey
3. Exhibit B Site Plan
4. Exhibit C Application
5. Exhibit D Support Letter
6. Exhibit E Variance Report
7. Exhibit F LPA_Notification Letter(10-13-20)
8. Exhibit G Elevation drawing

Financial Impact:

6. **Alternative Action**

Approve with conditions

7. **Staff Recommendations:**

8. **Recommended Approval:**

Jason Green, Community Development
Services

Date: October 07, 2020

John R Herin Jr, Town Attorney

Date: October 07, 2020

Amy Baker, Deputy Town Clerk

Date: October 07, 2020



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR 20200052

CASE NAME: 4690/4700 Estero Blvd- Accessory Structure Setback Variance

LPA HEARING DATE: October 13, 2020 at 9.00 AM

STAFF RECOMMENDATION: Approve with conditions

**PREPARED/
SUBMITTED BY:** Kelly Bhutada/ Jason Green, AICP

I. APPLICATION SUMMARY

Applicant: Claudia Metcalfe (owner)/ Fred Drovdlc (agent)

Request: The applicant is seeking a variance (VAR) from LDC Sec. 34-1174(b) for accessory structures to be located closer to the street right of way (ROW) than the principal structure to allow construction of a detached garage, a storage room, an elevated pool/ deck, tiki hut and other (attached exhibit G) to be approximately 60 feet from the right-of-way property line.

Subject property: See attached survey and legal description, Exhibit A

Physical Address: 4690/ 4700 Estero Boulevard

STRAP #: 29-46-24-W3-008J0.0030

FLU: Mixed Residential

Zoning: Residential Conservation (RC) and
Environmentally Critical (EC)

Current use(s): Multi- family Residential

Adjacent zoning and land uses:

East and southwest of the parcel is individually owned single-family residences, zoned Residential Conservation (RC). North of the parcel is Estero Boulevard ROW and then developed lots zoned Residential Multi-family (RM). Northwest of the property is 20 feet drive access easement for the beach pedestrian. South of the parcel is the beach and Gulf of Mexico.

II. BACKGROUND AND ANALYSIS

Background:

The subject property is a platted, lot 3, 4 & 6, Block J, Hyde Park Subdivision, and the subject parcel lies within SFHA flood zone VE with base flood elevation of 16 feet. Per LeePA, the subject parcel is developed with a one-duplex unit closer to the gulf and one single-family dwelling unit closer to the ROW of Estero Blvd. The subject lot is a conforming lot with average lot dimension of 121± feet wide by 179± feet deep and is non-conforming due to density and setback.

The 20,000± square foot lot is located south of Estero Blvd and is a gulf fronting lot which underlays RC and EC district on the land use map and Mixed Residential on the future land use map. Ms. Claudia Metcalfe, owner of the said parcel have requested a variance to the required front setback to allow construction of accessory structures including detached garage, storage room, an elevated pool/ deck and tiki hut area in the front yard as shown on the site plan, Exhibit B.

This staff report presents applicant's request to approve a variance to construct an accessory structures closer to the ROW of Estero Blvd than the principal structure in the RC zoning district, a variance from LDC Sec. 34-1174(b). The accessory structure like detached garage, storage shed, pool and tiki hut in the residential zoning districts are required not to be placed closer to the ROW than the principal structure; 7.5 ft. from the side property lines and 5 feet from the seawalled natural body of water. The applicant is proposing accessory structures to be constructed at approximately 60 feet from the ROW of Estero Blvd.

Analysis:

The subject property is RC zoned on the northern portion and zoned EC on the southern portion, adjacent to the beach. The EC zoning district is delineated by the 1978 Coastal Control Construction Line (CCCL), no construction may occur seaward of the CCCL, in the EC zoning district. The residence was built in 1940 and the current owner/ applicant bought the property in August 2013. Per the provided survey, the structure was built across the CCCL and the rear deck is encroaching in to the EC district approximately 2.8 feet.

The subject property is a waterfront lot and is subject to the following setbacks: 25 ft. front yard setback, 7.5 ft. from side property lines, and 50 ft. from mean high water line along Gulf of Mexico. Existing duplex unit conform to these setbacks. However, a single-family unit is located closer to the ROW and do not conform to the setback requirement for RC district.

The subject parcel consists of three (3) lots in Hyde Park subdivision and is irregular in size to parcels in the neighborhood, in the same zoning district. This house, like many houses in this subdivision were constructed to the rear of the buildable area to take advantage of beach views. Due to the location in which the house was constructed the rear yard is small and the code does not allow residential accessory structure within the EC zoning district. Varying setback on the side of the house leaves little space to construct a pool behind or to the side of the house. The proposed location of the accessory structures exceeds the 25-foot front setback but is forward of the principal structure.

The duplex unit is setback at 126.75 feet from front/ ROW property line and there is existing vegetation on the property that will be maintained and enhanced, per applicant, which will

block the view from Estero Blvd. The vegetative buffer is a condition of approval. Staff found no previous variance on the parcel.

Comprehensive Plan Compatibility:

Staff finds that the reduction in the setback to construct a residential improvement in an older subdivision without increasing density is consistent with "POLICY 4-B-4 MIXED RESIDENTIAL: designed for older subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and mobile home and RV parks. This category will ensure that Fort Myers Beach retains a variety of neighborhoods and housing types..."

Neighborhood Compatibility:

In a review of aerial photography of the neighborhood, staff found that many of the homes are constructed near the CCCL to take advantage of the beach view. A pool variance was approved at a parcel that is five blocks away to allow a pool in front of the house. The applicant has received a support letter from the neighbors at 4660 and 4730 Estero Boulevard, the properties directly adjacent, Exhibit D.

Findings and Conclusions:

LDC Sec. 34-87 sets forth the required findings and conclusions for the approval of a variance:

*a. That there **are**/are not exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is/is not for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.*

The applicant provided the following explanation:

The Applicant's request is de minimis in nature and will only allow for the development of a private pool and open-air tiki hut that will be accessory to the single-family dwelling unit, or the principal structure. The Property is also unique as it was first developed in the year 1940 as part of the HYDE PARK subdivision (BLK J PB 7 PG 20 LOTS 3 4 + 6).

Staff finds that the residence was constructed at the very back of the property, leaving very little space behind the house and somewhat narrow side yard.

*b. That the conditions justifying the variance are/**are not** the result of actions of the applicant taken after the adoption of the regulation in question.*

The applicant provided the following explanation:

The variance request is not the result of action taken by the current property owner, who acquired the property in 2013. The principal structure itself was constructed in 1940 prior to the creation of the code section which the Applicant is seeking relief.

Staff finds that the conditions presented to justify the variance are not the result of the actions of the applicant. The existing structure location leaves little space for the accessory structure in the side or rear yard and the applicant was not responsible for the construction of the house.

c. That the variance granted **is/is not** the minimum variance that will relieve that applicant of an unreasonable burden caused by the application of the regulation in question to his property.

The applicant provided the following explanation:

Yes, the requested variance is the minimum to relieve the applicant of the code requirement. The variance is the distance between the front building line of the house and the farthest extent of the pool/deck area as depicted on the site plan. The setback from Estero Blvd. is maintained as a minimum of 25 feet. The Applicant is not seeking any additional relief or variances.

Staff finds that the accessory structures will be located approximately 60 feet from the ROW property line and will meet the front setback of 25 feet. A side yard setback of 7.5 feet will be maintained as shown in the site plan.

d. That the granting of the variance **will/will not** be injurious to the neighborhood or otherwise detrimental to the public welfare; and

The applicant provided the following explanation:

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. As previously noted, the Applicant has provided letters of no objection from the property owners directly to the north and south of the subject property. The pool and tiki hut will be setback a minimum of 25-feet from Estero Blvd. and will be screened by existing vegetation along the right-of-way.

Staff finds that the variance will not be injurious to the neighborhood and detrimental to the public welfare. Enhancement of the existing landscaping and the distance off the ROW will minimize the visual impact of the proposed improvements.

e. That the conditions or circumstances on the specific piece of property for which the variance is sought **are/are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

The applicant provided the following explanation:

This variance request is not uncommon for Gulf side properties located on Estero Blvd. as many of the existing structures were built before modern land development codes and state and federal coastal building regulations. However, it is the decision of the Council to amend the regulations to allow pool and residential accessory structures in the front yard between principal structures and street right-of-way.

Staff finds the conditions and circumstance of the subject property is fairly general and recurring for the gulf fronting non-conforming single-family or two family residences on the island and an alternative policy for non- conforming building shall be amended to recognize the age of the building and limitation on variation of setbacks.

III. RECOMMENDATION

Staff finds there is a hardship, or exceptional or extraordinary conditions or circumstances present that warrant the variance requested. The existing condition of the location of the duplex unit closer to the CCCL create a hardship for future improvements and require them to be located in front of the property.

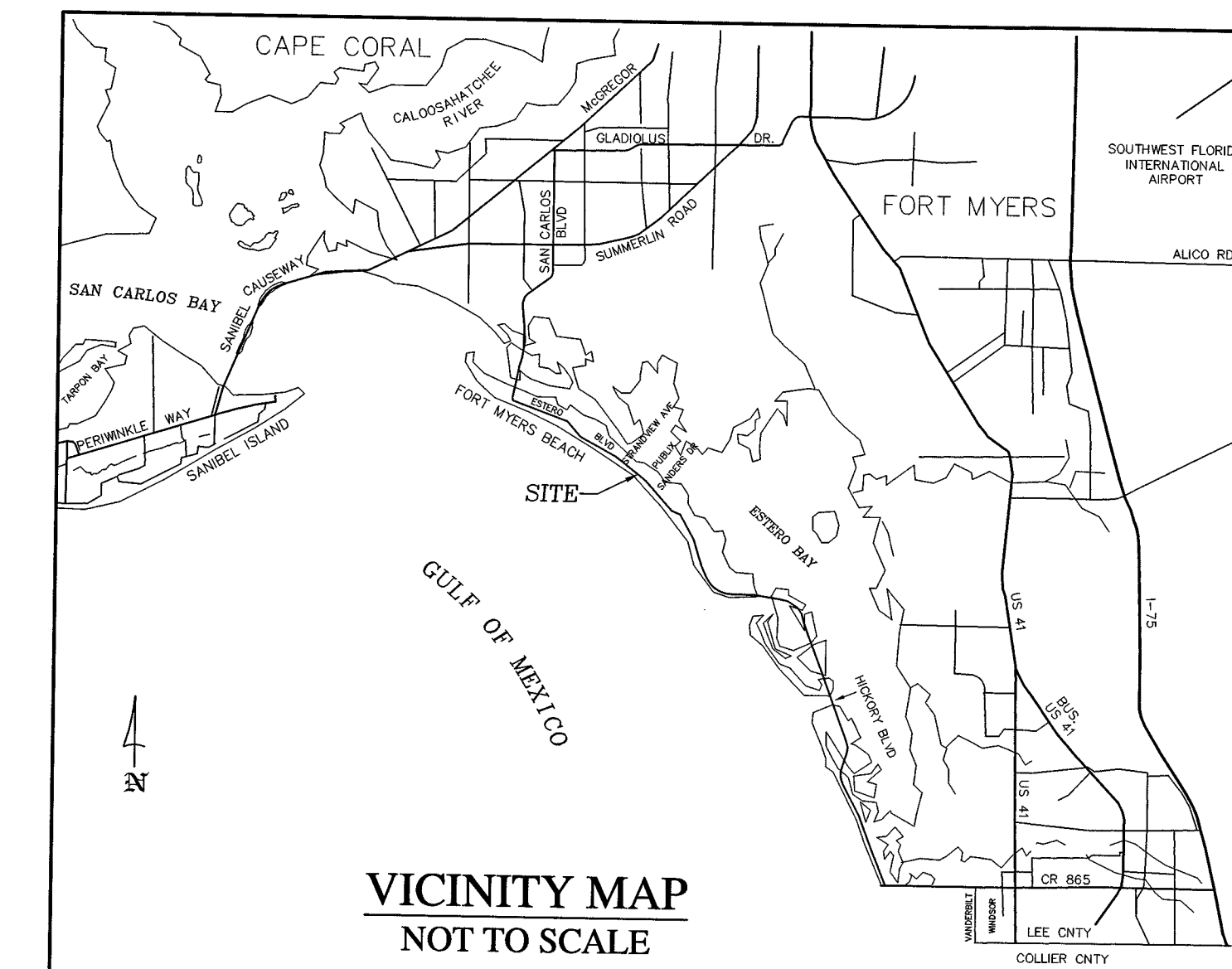
Therefore, staff recommends **APPROVAL WITH CONDITION** of the variances from LDC Sec. 34-1174(b) to allow accessory structures to be closer to a street ROW line or street easement than the principal building.

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. *Approval of this variance does not give the developer an undeniable right to permit approval. Development or redevelopment of the subject property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and Land Development Code in effect at the time of permit approval, except as specifically modified herein.*
3. *The variances shall only apply to the proposed accessory structure location as shown on the provided site plan dated 05/11/2020 by Kuk Architecture and Design. No deviations from the measurements of that site plan greater than 0.1 feet shall be permitted.*
4. *A type B landscape buffer, per LDC Sec.10-416, shall be installed and maintained adjacent to single-family uses and right-of-way to mitigate visual impacts.*
5. *Total height of the any structure is limited to the height of the existing principal structure.*
6. *The roofed accessory structure shall not be located closer than the swimming pool/hot tub to the right-of-way of Estero Boulevard.*

Staff Report Exhibits:

- A – Legal Description and Survey
- B – Site Plan
- C – Application
- D – Letter of Support from Neighbor
- E – Variance Report
- F – Letter to Adjacent Property Owners
- G – Elevation Drawing



VICINITY MAP
NOT TO SCALE

- ABBREVIATIONS:
- P.B. = PLAT BOOK
 - P.C. = POINT OF CURVE
 - P.T. = POINT OF TANGENCY
 - P.I. = POINT OF INTERSECTION
 - I.P. = IRON PIPE
 - I.R. = IRON ROD & CAP
 - C.M. = CONCRETE MONUMENT
 - P.C.P. = PERMANENT CONTROL POINT
 - P.R.M. = PERMANENT REFERENCE MONUMENT
 - CONC. = CONCRETE
 - E.O.P. = EDGE OF PAVEMENT
 - M. = MEASURED
 - FND. = FOUND
 - N/D. = NAIL AND DISK
 - ELEV. = ELEVATION
 - P.U.E. = PUBLIC UTILITY EASEMENT
 - COR. = CORNER
 - P. = PLAT
 - A/C. = AIR CONDITIONER
 - D.B. = DEED BOOK
 - O.R. = OFFICIAL RECORD BOOK
 - P.S. = PAGE
 - F. = FIELD
 - C. = CALCULATED
 - FF. = FINISH FLOOR
 - I.E. = INVERT ELEVATION
 - R.C.P. = REINFORCED CONCRETE PIPE
 - C.B. = CATCH BASIN
 - M.H. = MANHOLE
 - PK. = PARKER KALON
 - Q.H. = OVERHEAD LINES
 - D. = DEED
 - N.A.V.D. = NORTH AMERICAN VERTICAL DATUM
 - N.G.S.V.D. = NATIONAL GEODETIC VERTICAL DATUM
 - B.F.E. = BASE FLOOD ELEVATION
 - DNR = DEPARTMENT OF NATURAL RESOURCES COASTAL CONSTRUCTION CONTROL LINE MAPS DATED 5-30-81
 - MAP = LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE
 - ECL = EROSION CONTROL LINE
 - GP = DEP-GENERAL PERMIT LINE
 - P.O.B. = POINT OF BEGINNING

- LEGEND
- STORM MANHOLE
 - ELECTRIC BOX
 - WOOD POWER POLE
 - CONCRETE POWER POLE
 - WIRE
 - CATCH BASIN
 - IRRIGATION VALVE
 - WATER VALVE
 - SANITARY MANHOLE
 - TELEPHONE BOX
 - FIRE HYDRANT
 - CABLE TELEVISION BOX
 - TRANSFORMER
 - WATER METER
 - SIGN
 - EXISTING ELEVATION
 - MAILBOX
 - CABBAGE PALM

PERPENDICULAR TIES TO THE COASTAL CONSTRUCTION CONTROL LINE

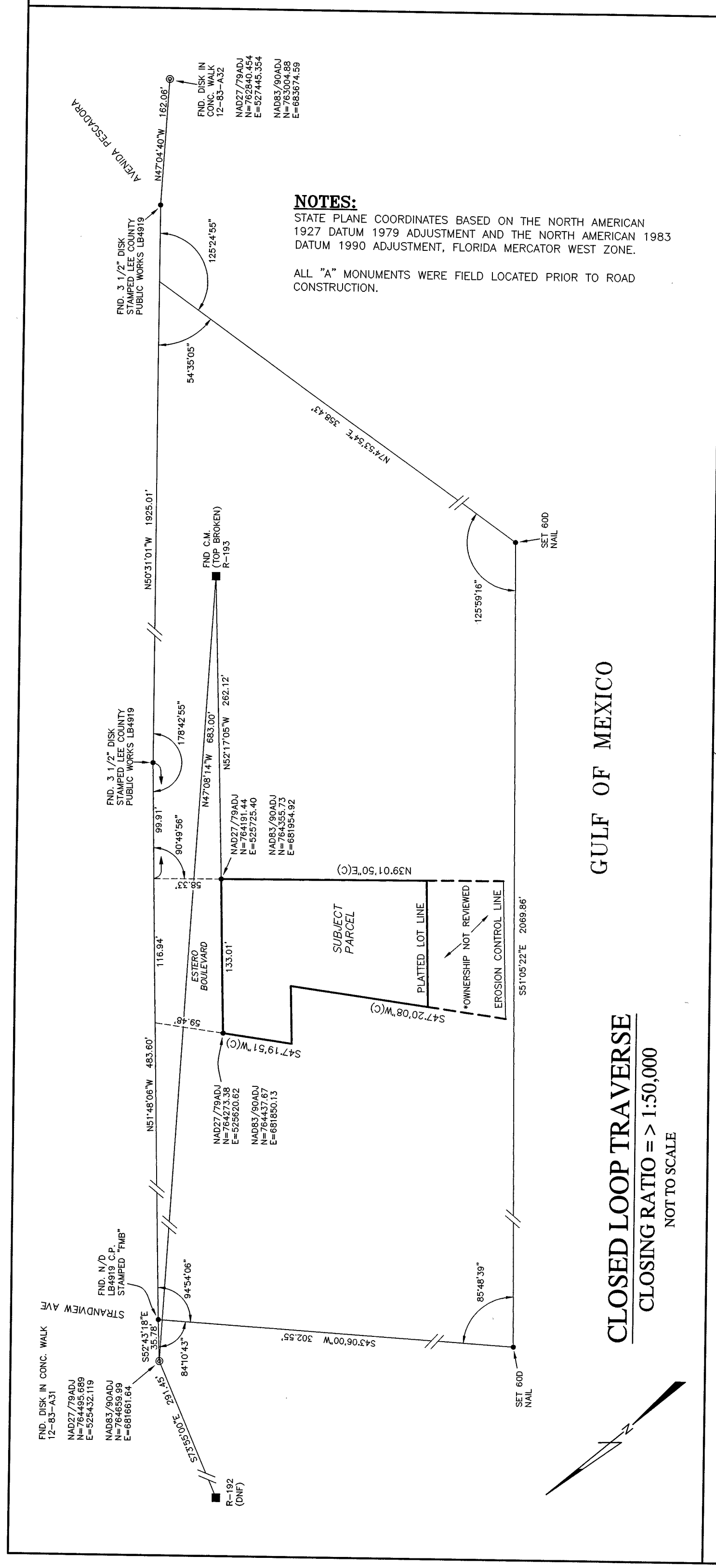
1 = 245.2'	5 = 258.3'	9 = 275.3'	13 = 291.1'
2 = 251.2'	6 = 246.6'	10 = 284.4'	14 = 301.1'
3 = 251.6'	7 = 262.6'	11 = 285.7'	15 = 301.8'
4 = 257.6'	8 = 266.1'	12 = 277.3'	16 = 291.8'
		17 = 240.7'	18 = 230.7'

PERPENDICULAR TIE REFERENCE POINT

PERPENDICULAR DISTANCE FROM APPROXIMATE SEASONAL HIGH WATER LINE TO COASTAL CONSTRUCTION CONTROL LINE

A = 335'

B = 340'

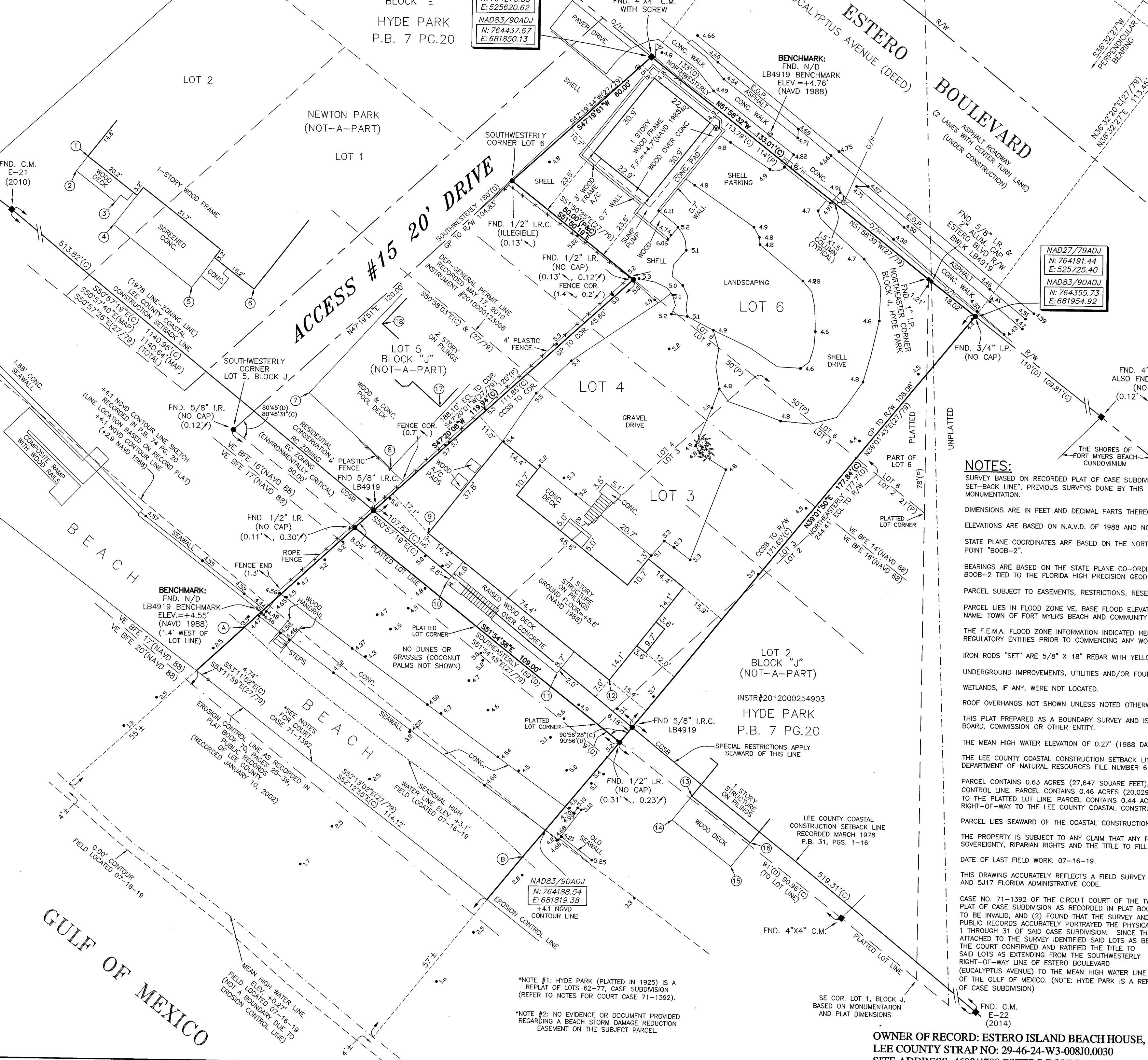


NOTES:

STATE PLANE COORDINATES BASED ON THE NORTH AMERICAN 1927 DATUM 1979 ADJUSTMENT AND THE NORTH AMERICAN 1983 DATUM 1990 ADJUSTMENT, FLORIDA MERCATOR WEST ZONE.

ALL "A" MONUMENTS WERE FIELD LOCATED PRIOR TO ROAD CONSTRUCTION.

CLOSED LOOP TRAVERSE
CLOSING RATIO = 1:50,000
NOT TO SCALE



NOTES:

SURVEY BASED ON RECORDED PLAT OF CASE SUBDIVISION (PLAT BOOK 1, PAGE 58), THE "EROSION CONTROL LINE" (PLAT BOOK 70, PAGE 25), THE "LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE", PREVIOUS SURVEYS DONE BY THIS FIRM, TITLE COMMITMENT BY STEWART TITLE GUARANTEE COMPANY WITH COMMITMENT NUMBER: 1-11-1415-MB (UNDATED) AND FOUND MONUMENTATION.

DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF.

ELEVATIONS ARE BASED ON N.A.V.D. OF 1988 AND NGS BENCHMARK G-245.

STATE PLANE COORDINATES ARE BASED ON THE NORTH AMERICAN DATUM OF 1983/1990 ADJUSTMENT, FLORIDA MERCATOR WEST ZONE AS SHOWN AND NOTED HEREON HOLDING NGS CONTROL POINT "BOOB-2".

BEARINGS ARE BASED ON THE STATE PLANE CO-ORDINATE GRID NORTH AMERICAN DATUM (NAD) OF 1983/1990 ADJUSTMENT, FLORIDA MERCATOR WEST ZONE HOLDING NGS CONTROL POINT BOOB-2 TIED TO THE FLORIDA HIGH PRECISION GEODETIC NETWORK AND AS NOTED OTHERWISE.

PARCEL SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS- OF-WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).

PARCEL LIES IN FLOOD ZONE VE, BASE FLOOD ELEVATION OF 14', 15', 17' AND 20' (NAVD 1988). THIS INFORMATION TAKEN FROM FLOOD INSURANCE RATE MAP 12071C0566F, COMMUNITY NAME: TOWN OF FORT MYERS BEACH AND COMMUNITY NUMBER: 120673, PANEL EFFECTIVE 8-28-2008 AND INDEX DATE 12-07-2016.

THE F.E.M.A. FLOOD ZONE INFORMATION INDICATED HEREON IS BASED ON MAPS SUPPLIED BY THE FEDERAL GOVERNMENT. THIS FLOOD INFORMATION MUST BE VERIFIED WITH ALL PERMITTING REGULATORY ENTITIES PRIOR TO COMMENCING ANY WORK OR APPLICATION DEPENDENT ON SAID FLOOD INFORMATION.

IRON RODS "SET" ARE 5/8" X 18" REBAR WITH YELLOW CAP BEARING CORPORATION NO. LB8267.

UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR FOUNDATIONS WERE NOT LOCATED UNLESS OTHERWISE NOTED.

WETLANDS, IF ANY, WERE NOT LOCATED.

ROOF OVERHANGS NOT SHOWN UNLESS NOTED OTHERWISE.

THIS PLAT PREPARED AS A BOUNDARY SURVEY AND IS NOT INTENDED TO DELINEATE THE JURISDICTION OR JURISDICTIONAL AREAS OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY.

THE MEAN HIGH WATER ELEVATION OF 0.27' (1988 DATUM) WAS EXTENDED FROM DEP TIDE INTERPOLATION POINT IDENTIFICATION 100229 AND IS SHOWN FOR REFERENCE ONLY.

THE LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE AS SHOWN ON MAPS PREPARED FOR STATE OF FLORIDA DEPARTMENT OF NATURAL RESOURCES FILE NUMBER 617-0275 DATED MARCH 1978 IS RECORDED IN PLAT BOOK 31 AT PAGES 1-16.

PARCEL CONTAINS 0.63 ACRES (27,647 SQUARE FEET), MORE OR LESS FROM ESTERO BOULEVARD RIGHT-OF-WAY TO THE EROSION CONTROL LINE. PARCEL CONTAINS 0.46 ACRES (20,029 SQUARE FEET), MORE OR LESS FROM ESTERO BOULEVARD RIGHT-OF-WAY TO THE PLATTED LOT LINE. PARCEL CONTAINS 0.44 ACRES (19,261 SQUARE FEET), MORE OR LESS FROM ESTERO BOULEVARD RIGHT-OF-WAY TO THE LEE COUNTY COASTAL CONSTRUCTION SETBACK LINE.

PARCEL LIES SEAWARD OF THE COASTAL CONSTRUCTION CONTROL LINE WHICH WILL REQUIRE ADDITIONAL PERMITTING.

THE PROPERTY IS SUBJECT TO ANY CLAIM THAT ANY PART OF SAID LAND IS OWNED BY THE STATE OF FLORIDA BY RIGHT OF SOVEREIGNTY, RIPARIAN RIGHTS AND THE TITLE TO FILLED-IN LANDS, IF ANY.

DATE OF LAST FIELD WORK: 07-16-19.

THIS DRAWING ACCURATELY REFLECTS A FIELD SURVEY WHICH COMPLIES WITH THE REQUIREMENTS OF SECTION 62B-33.0081 AND 5117 FLORIDA ADMINISTRATIVE CODE.

CASE NO. 71-1392 OF THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT, LEE COUNTY, FLORIDA, FOUND (1) THE PLAT OF CASE SUBDIVISION AS RECORDED IN PLAT BOOK 1 AT PAGE 58 OF THE PUBLIC RECORDS OF SAID LEE COUNTY TO BE INVALID, AND (2) FOUND THAT THE SURVEY AND AFFIDAVIT AS SHOWN IN DEED BOOK 131 AT PAGE 300 OF SAID PUBLIC RECORDS ACCURATELY PORTRAYED THE PHYSICAL LOCATION OF LOTS 1 THROUGH 31 OF SAID CASE SUBDIVISION. SINCE THE AFFIDAVIT AND STATEMENTS ATTACHED TO THE SURVEY IDENTIFIED SAID LOTS AS BEING BEACH FRONT LOTS, SAID LOTS AS EXTENDING FROM THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD (EUCALYPTUS AVENUE) TO THE MEAN HIGH WATER LINE OF THE GULF OF MEXICO. (NOTE: HYDE PARK IS A REPLAT OF CASE SUBDIVISION).

*NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CES, INC.

SCOTT C. WHITAKER, P.S.M., NO. 154324
PROFESSIONAL SURVEYOR & MAPPER
STATE OF FLORIDA

THIS CERTIFICATION IS ONLY FOR THE LANDS DESCRIBED HEREON.

- IT IS NOT A CERTIFICATION OF TITLE, ZONING, SETBACKS, OR FREEDOM OF ENCUMBRANCES.

- THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF ABSTRACT OF TITLE AND ALL MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW.

OWNER OF RECORD: ESTERO ISLAND BEACH HOUSE, LLC
LEE COUNTY STRAP NO: 29-46-24-W3-008J0.0030
SITE ADDRESS: 4690/4700 ESTERO BOULEVARD

4690/4700 ESTERO BOULEVARD

CES INC
Engineers • Environmental Scientists • Surveyors
13041 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919
PH (239) 481-1331
FAX (239) 481-1331

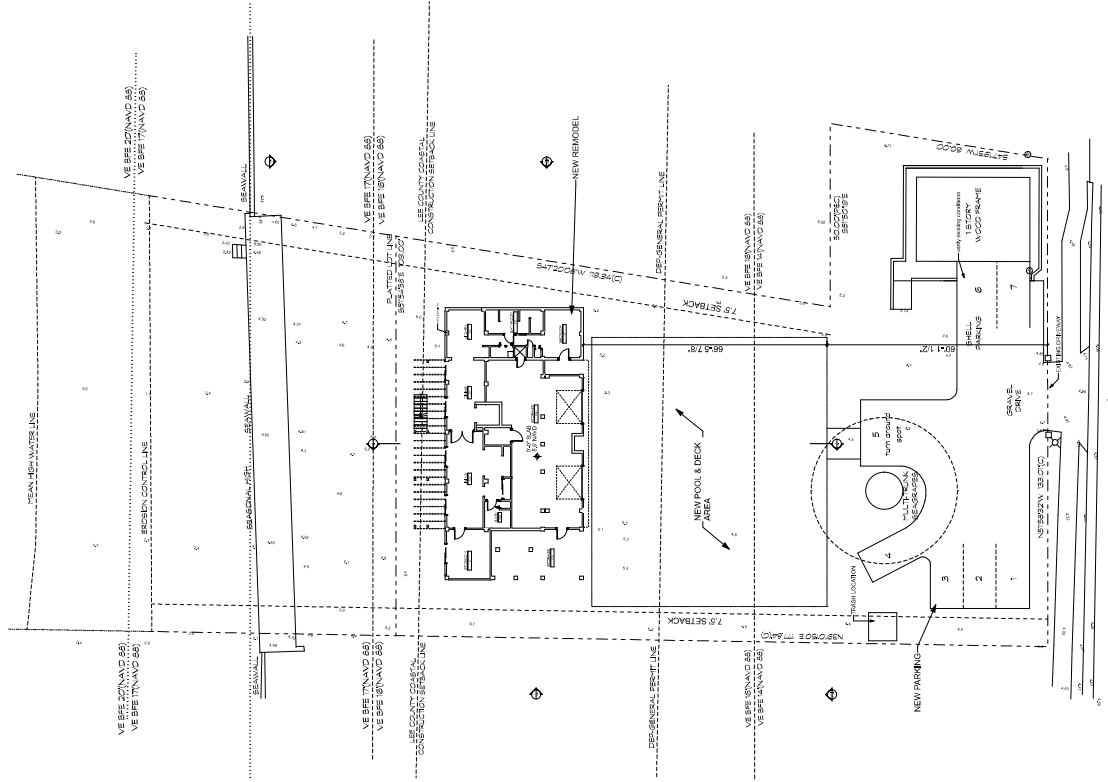
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBERS EB32664 & LB8267

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)
07-16-19	582.001	CAM/BTB	1" = 20'	1 OF 1	29-46-24



KUKK ARCHITECTURE & DESIGN, P.A.
1300 Third Street South • Suite 2000 • Naples, FL 34102
TEL: (239) 763-4999
www.kukkarchitecture.com

THE METCALFE RESIDENCE
The Proposed Plans For
4680 ESTERO BLVD.
PORT MYERS BEACH, FL



1 Site Plan
SCALE 1/8" = 1'-0"

ESTERO BOULEVARD

EXISTING TOTAL AC - 3,766 SQ. FT.
EXISTING GROUND FLOOR AC - 1,420 SQ. FT.
EXISTING 1ST FLOOR AC - 2,546 SQ. FT.

PROPOSED AREA CALCULATIONS

AC SPACE	
EXISTING GROUND FLOOR AC	1,420
PROPOSED FIRST FLOOR AC	2,552
NON AC SPACE	3,972 SQ. FT.
EXISTING STORAGE	1,325
	1,325 SQ. FT.
	5,297 SQ. FT.

PROJECT NUMBER:

DATE:



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

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 *one ORIGINAL paper copy, fourteen (14) copies* of all required applications, supplemental information, exhibits and documents. Please do not print and copy the instructions at the end of the application. In addition to application fees, the applicant is required to pay for (2) sets of mailings to neighboring property owners within 500', and all advertising fees.

Site Address: 4700 Estero Blvd., Fort Myers Beach, FL 33931

STRAP Number: 29-46-24-W3-008J0.0030

Applicant: Claudia Metcalfe Phone: 239-910-4060

Contact Name: Claudia Metcalfe Phone: 239-910-4060

Email: claudiafunck@hotmail.com Fax: N/A

Current Zoning District: Residential Conservation (RC)

Future Land Use Map (FLUM) Category: Mixed Residential (MR)

FLUM Density Range: 6 du/acre Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED

☐ Special Exception

☒ Variance

☐ Conventional Rezoning

☐ Planned Development ☐ Commercial ☐ Residential

☐ Master Concept Plan Extension

☐ Appeal of Administrative Action

☐ Vacation of Platted Right-of-way and Easement

☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A

PH-B

PH-C

PH-D

PH-E

PH-F

PH-G

attach on separate sheet

PROJECT NUMBER:

DATE:

PART I – General Information

A. Applicant*: Claudia Metcalfe Phone: 239-910-4060

**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: 4700 Estero Blvd., Fort Myers, FL 33931

Email: claudiafunck@hotmail.com Fax: N/A

Contact Name: Claudia Metcalfe Phone: 239-910-4060

B. Relationship of Applicant to subject property:

- | | | |
|---|---|--|
| ☒ Owner* | ☐ Land Trust* | ☐ Partnership* |
| ☐ Corporation* | ☐ Association* | ☐ Condominium* |
| ☐ Subdivision* | ☐ Timeshare Condo* | ☐ Contract Purchaser* |
| ☐ Authorized Representative* ☐ 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 name of Agent authorized to receive correspondence Agents

Name: Lindsay F. Robin, MPA Phone: 239-908-3079

Address: Waldrop Engineering, 1514 Broadway #201, Fort Myers FL 34195

Email: lindsay.robin@waldropengineering.com Fax: 239-405-7899

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

Name: Fred Drovdlc, AICP Phone: 239-344-0000

Address: Waldrop Engineering, 1514 Broadway #201, Fort Myers, FL 34195

Email: fred.drovdlc@waldropengineering.com Fax: 239-405-7899

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PROJECT NUMBER:

DATE:

Name: _____

Phone: _____

Address: _____

Email: _____

Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

☐ Special Exception

☒ Variance from LDC Section 34-1174(b) - Location and setbacks generally

☐ Conventional Rezoning from _____ to _____

☐ Planned Development

☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD

☐ Amendment. List the project number: _____

☐ Extension/reinstatement of Master Concept Plan. List project number: _____

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers N/A

Please indicate any specific submittal items that have been waived by the Director for the request.
Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: _____

Description: _____

Code Section: _____

Description: _____

Code Section: _____

PROJECT NUMBER:

DATE:

Description: _____

PART IV – Property Ownership

☒ Single Owner (individual or husband and wife)

Name: SAME AS APPLICANT

Phone: _____

Mailing Address: _____

Email _____

Fax: _____

☐ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

☐ Complete Disclosure of Interest Form (see below)

☐ Attach list of property owners as Exhibit 4-1

☐ Attach map showing property owners interests as Exhibit 4-2 (for multiple parcels)

☐ For condominiums and timeshares see Explanatory Notes Part IV (Page 11)

DISCLOSURE OF OWNERSHIP INTEREST

SEE ATTACHED.

STRAP: 29-46-24-W3- 008J0.00300

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership

Claudia Metcalfe

100%

4700 Estero Blvd.

Fort Myers Beach, FL 33931

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

PROJECT NUMBER:

DATE:

Name, Address and Office

Percentage of Stock

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

PROJECT NUMBER:

DATE:

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of Contract:

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name

Address

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature

Claudia Metcalfe

Printed Name

PROJECT NUMBER:

DATE:

**STATE OF FLORIDA)
COUNTY OF LEE)**

Subscribed and sworn to (or affirmed) before me this _____ day of _____,
20_____, by _____.

Notary Public Signature

(SEAL)

Notary Printed Name

Personally Known _____ or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: _____

PART V – Property Information

A. Legal Description:

STRAP: 29-46-24-W3- 008J0.00300

Property Address: 4700 Estero Blvd., Fort Myers Beach, FL 33931

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 as Exhibit 5-1.

☒ Yes. Property identified in subdivision: Hyde Park

Book: 7 Page: 20 Unit: _____ Block: J Lot(s): 3 4 + 6

B. Boundary Survey: SEE PLAT.

☐ 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. Attach and label as Exhibit 5-2.

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 100+/- feet

PROJECT NUMBER:

DATE:

Depth (please provide an average width if irregular in shape) 175+/- feet

Frontage on street: 150+/- feet. Frontage on waterbody: 100+/- feet

Total land area: 0.45+/- ☒ acres ☐ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):

The Property is generally located 200 feet south of Strandview Avenue on the south
side (Gulf side) of Estero Boulevard in the Town of Fort Myers Beach, Florida.

☒ Attach Area Location Map as Exhibit 5-3

E. Property Restrictions (check applicable):

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

☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 5-4.

☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 5-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

☒ Attach a list of surrounding property owners within 500 feet as Exhibit 5-6.

☒ Attach a map showing the surrounding property owners as Exhibit 5-7.

☒ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

☐ Low Density

☐ Marina

☒ Mixed Residential

☐ Recreation

☐ Boulevard

☐ Wetlands

☐ Pedestrian Commercial

☐ Platted Overlay

H. Zoning (see official Zoning Map):

☐ RS (Residential Single-family)

☐ CF (Community Facilities)

☒ RC (Residential Conservation)

☐ IN (Institutional)

PROJECT NUMBER:

DATE:

- | | |
|--|--|
| ☐ RM (Residential Multifamily) | ☐ BB (Bay Beach) |
| ☐ RPD (Residential Planned Development) | ☐ EC (Environmentally Critical) |
| ☐ CM (Commercial Marina) | ☐ DOWNTOWN |
| ☐ CO (Commercial Office) | ☐ SANTOS |
| ☐ CB (Commercial Boulevard) | ☐ VILLAGE |
| ☐ CR (Commercial Resort) | ☐ SANTINI |
| ☐ CPD (Commercial Planned Development) | |

PART VI SEE ATTACHED.

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Claudia Metcalfe 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;

PROJECT NUMBER:

DATE:

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.

Signature of owner or authorized agent

Date

**STATE OF FLORIDA)
COUNTY OF LEE)**

Subscribed and sworn to (or affirmed) before me this _____ day of _____,
20_____, by _____.

Notary Public Signature

(SEAL)

Notary Printed Name

Personally Known _____ or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: _____



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

This is the second part of a two-part application. This part requests specific information for a variance. Include this form with the Request for Public Hearing form.

Case Number: To be provided by Staff
Project Name: 4700 Estero Blvd. Variance
Authorized Applicant: Waldrop Engineering, P.A.
LeePA STRAP Number: 29-46-24-W3-008J0.0030

Current Property Status: Residential
Current Zoning: Residential Conservation (RC)
Future Land Use Map (FLUM) Category: Mixed Residential (MR)
Comp Plan Density: 6 du/ac Platted Overlay? ☐ Yes ☒ No

Variance is requested from:

LDC Section Number

Title of Section or Subsection

side (Gulf side) of Estero Boulevard in the Town of Fort Myers Beach, Florida.

Complete the narrative statements below for EACH variance requested.

PART I
Narrative Statements

Request for variance from LDC 34-1174(b) **(LDC Section number)**

Explain the specific regulation contained in this section from which relief is sought:
LDC Section 34-1174(b) restricts all roofed and non-roofed accessory uses, buildings or structures from being located closer to a street right-of-way than the principal building.

Reasons for request

Explain why the variance is needed:
Please refer to the attached Request Narrative, which outlines the variance request in detail.

Explain the possible effect the variance, if granted, would have on surrounding properties:
Please refer to the attached Request Narrative, which outlines the variance request in detail.
This variance would not have any impact on surrounding properties.

Explain the hardship (what is unique about the property) that justifies relief from the regulation:

The principal structure was constructed in 1940.
Please refer to the attached Request Narrative, which outlines the variance request in detail.

PART 2 Submittal Requirements

All applications for a variance must submit fourteen (14) copies of this application form and all applicable exhibits.

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

“Variance is requested from...” Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

PROJECT NUMBER:

DATE:

PART VI

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Claudia Metcalfe 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;

PROJECT NUMBER:

DATE:

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.

Signature of owner or authorized agent

Date

**STATE OF FLORIDA)
COUNTY OF LEE)**

Subscribed and sworn to (or affirmed) before me this _____ day of _____,
20_____, by _____.

Notary Public Signature

(SEAL)

Notary Printed Name

Personally Known _____ or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: _____

PROJECT NUMBER:

DATE:

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 29-46-24-W3- 008J0.00300

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership

Claudia Metcalfe

100%

4690/4700 Estero Blvd.

Fort Myers Beach, FL 33931

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

PROJECT NUMBER:

DATE:

Name, Address and Office

Percentage of Stock

Estero Island Beach House, LLC

100%

4690 Estero Blvd.

Fort Myers Beach, FL 33931

Claudia Metcalfe

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

PROJECT NUMBER:

DATE:

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of Contract:

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name

Address

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature

Claudia Metcalfe

Printed Name

PROJECT NUMBER:

DATE:

**STATE OF FLORIDA)
COUNTY OF LEE)**

Subscribed and sworn to (or affirmed) before me this _____ day of _____,
20_____, by _____.

Notary Public Signature

(SEAL)

Notary Printed Name

Personally Known _____ or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: _____

4700 Estero Blvd. Variance

May 11, 2020

PREPARED FOR:
Claudine Metcalfe
4690/4700 Estero Blvd.
Fort Myers Beach, FL 33931

SUBMITTED TO:
Town of Fort Myers Beach Planning Division
2525 Estero Blvd.
Fort Myers Beach, FL 33931



May 7, 2020

Town of Fort Myers Beach
Planning and Zoning Division
2525 Estero Boulevard
Fort Myers, Florida 33931

**RE: 4690/4700 Estero Boulevard
Variance Application**

Sarah Probst:

On behalf of Claudia Metcalfe ("Applicant") Waldrop Engineering is pleased to submit the enclosed variance petition relating to locating residential accessory uses between the principal use (single-family residence) and the street right-of-way (Estero Blvd.) at 4690/ 4700 Estero Blvd. ("Property").

The Property is a 0.45± acre parcel with an existing single-family residence and guest house, both of which were constructed in 1940. The Property is generally located 200 feet south of Strandview Avenue on the south side (Gulf side) of Estero Boulevard in the Town of Fort Myers Beach, Florida. An aerial exhibit depicting the project location is attached to this application.

HISTORY/BACKGROUND:

The Subject Property is zoned Residential Conservation (RC) and is within the Mixed Residential (MR) future land use category. The principal structure was constructed in 1940 within feet of the 1978 Coastal Construction Control Line (CCCL) resulting in a deficient space for locating a pool in the rear of the principal structure. Due to the design of the residence the side yards also lack sufficient area for locating accessory uses and structures.

The Applicant intends on constructing a pool and accessory open-air "tiki" structure in the front yard of the principal structure for private use.

REQUEST:

The Applicant is requesting the following variance from the zoning regulations set forth in the Rural Agricultural zoning district:

1. Variance from Land Development Code LDC Section 34-1174(b), which restricts all roofed and non-roofed accessory uses, buildings or structures from being located closer to a street right-of-way than the principal building; whereas the Applicant is requesting to locate a pool and open-air accessory "tiki" structure between the principal structure and the street right-of-way. The pool and accessory structure will be setback a minimum of 25-feet from the Estero Boulevard street right-of-way. The project will be in compliance with all other setbacks and code requirements for accessory structures.

JUSTIFICATION:

The single-family home and guest house located at 4690/4700 Estero Blvd. were constructed in 1940. During that time pools were not as common as they are today so it was not contemplated to locate a swimming pool in the rear of the house. The house was constructed to provide a rear setback appropriate to the time of development and to maximize proximity to the gulf waters. The CCCL was established in 1978 creating a build-to-line that reduced the useable area in the rear of the property leaving inadequate room for an accessory structure.

The current property owner, the Applicant, wishes to construct a swimming pool and a small open-air tiki hut in what is considered between the front of the principal structure and the street right-of-way.

As shown on the attached Variance Site Plan, the location of the pool and accessory structure are setback from Estero Blvd in compliance with the land development code requiring a minimum of 25-feet front yard setback for any structure. Due to the setback and existing vegetation along the perimeter of the property, the improvements will not be visible from Estero Blvd. and therefore will not cause any concern for public health, safety and welfare or negatively impact the viewshed from Estero Blvd. The Applicant has also secured letters of no objection from the property owners directly to the north and south of the Property. Furthermore, this request has been granted for other Properties along Estero Blvd., which have successfully located pools between the principal structure and street right-of-way, recently a variance at 3860 Estero Blvd in case number 2019-0013.

It is important to note that all other setbacks, height and other development requirements will be in compliance with the existing RC Zoning District development standards. The variance request is based on solid design and engineering principals and provides for appropriate design flexibility of the subject property due to the time in which the property was developed, more than 80 years ago.

VARIANCE CRITERIA:

The following is a detailed analysis of this request's compliance with the variance review criteria set forth in LDC Section 34-87:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a de minimis variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;

The Applicant's request is de minimis in nature and will only allow for the development of a private pool and open-air tiki hut that will be accessory to the single-family dwelling unit, or the principal structure. The Property is also unique as it was first developed in the year 1940 as part of the HYDE PARK subdivision (BLK J PB 7 PG 20 LOTS 3 4 + 6).

2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;

The variance request is not the result of action taken by the current property owner, who acquired the property in 2013. The principal structure itself was constructed in 1940 prior to the creation of the code section which the Applicant is seeking relief.

3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;

Yes, the requested variance is the minimum to relieve the applicant of the code requirement. The variance is the distance between the front building line of the house and the farthest extent of the pool/deck area as depicted on the site plan. The setback from Estero Blvd. is maintained as a minimum of 25 feet. The Applicant is not seeking any additional relief or variances.

4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;

The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. As previously noted, the Applicant has provided letters of no objection from the property owners directly to the north and south of the subject property. The pool and tiki hut will be setback a minimum of 25-feet from Estero Blvd. and will be screened by existing vegetation along the right-of-way.

5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

This variance request is not uncommon for Gulf side properties located on Estero Blvd. as many of the existing structures were built before modern land development codes and state and federal coastal building regulations. However, it is the decision of the Council to amend the regulations to allow pool and residential accessory structures in the front yard between principal structures and street right-of-way.

Based upon the above analysis, the Applicant respectfully requests approval of this variance petition. The approval will uphold the intent of the Land Development Code and Comprehensive Plan. The request complies with the variance review criteria, and will not negatively impact compatibility, public health, safety or welfare.

If you have and further questions, please feel free to contact me directly at (239) 405-7777, ext. 2232, or lindsay.robin@waldropengineering.com.

Sincerely,

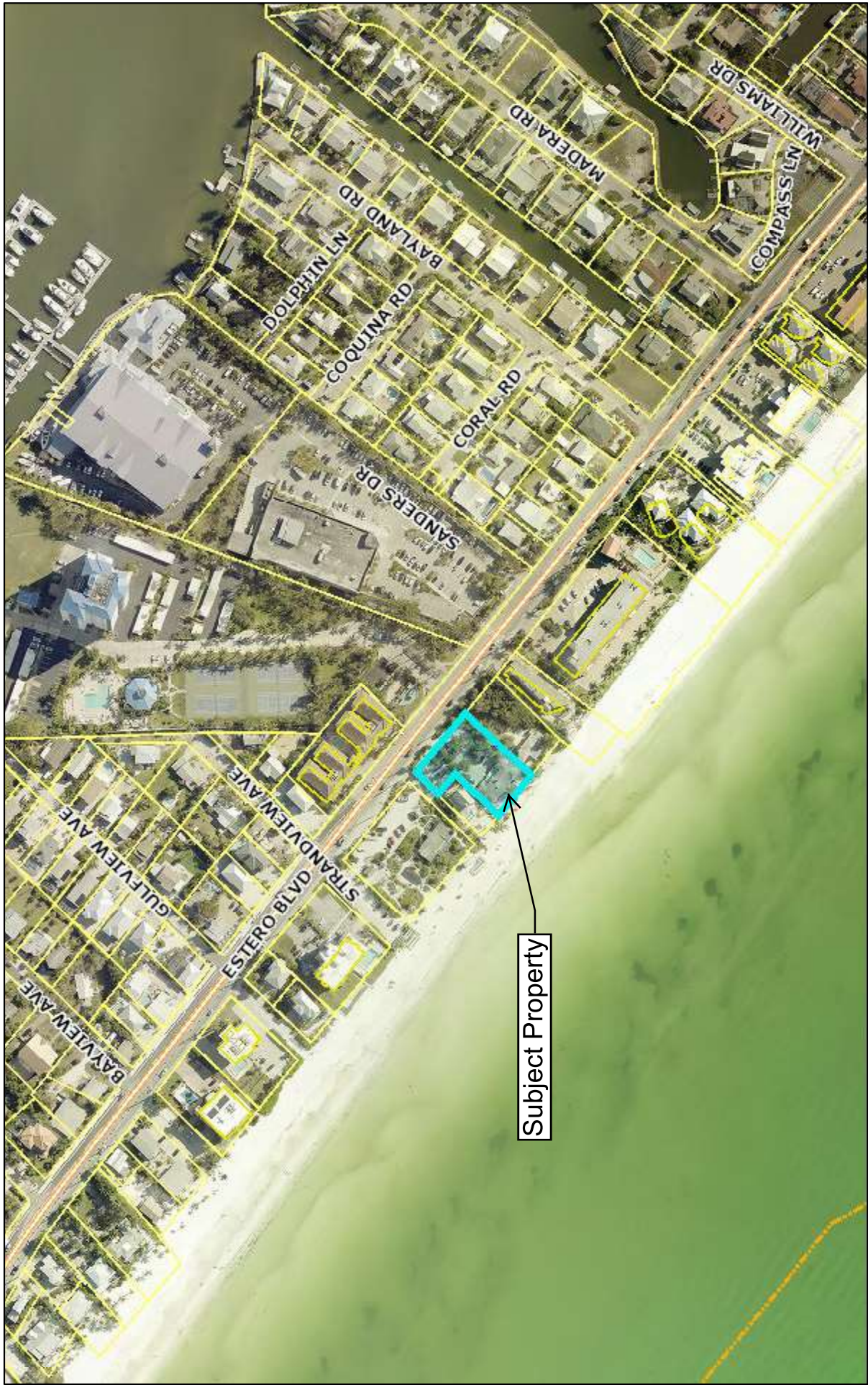
WALDROP ENGINEERING, P.A.



Lindsay F. Robin, MPA
Project Planner

cc: Claudia Metcalfe

AERIAL MAP



April 10, 2020

Air Photos: 2019 Hi-Res (4 inch)

--- County Boundary

Major Roads Medium

I - 75

US 41

Other Highways

Parcels Near

CONDO BUILDING

PARCEL

0 150 300 600 ft

0 40 80 160 m

This map is NOT a legal land survey and should not be used or relied upon as such.

No warranties, express or implied, are provided with the data, use, accuracy or interpretation.

PROJECT NUMBER:

DATE:

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 29-46-24-W3- 008J0.00300

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership

Claudia Metcalfe

100%

4690/4700 Estero Blvd.

Fort Myers Beach, FL 33931

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

PROJECT NUMBER:

DATE:

Name, Address and Office

Percentage of Stock

 Estero Island Beach House, LLC

100%

4690 Estero Blvd.

Fort Myers Beach, FL 33931

Claudia Metcalfe

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

PROJECT NUMBER:

DATE:

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of Contract:

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name

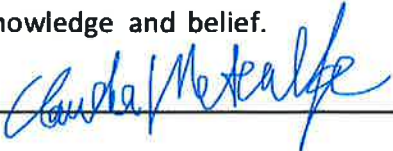
Address

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature



Claudia Metcalfe

Printed Name

PROJECT NUMBER:

DATE:

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 23rd day of June,
20 20, by Claudia Metcalfe.



[Signature]
Notary Public Signature

Jessica K. Linn
Notary Printed Name

Personally Known X or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: 04/16/2022



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

This is the second part of a two-part application. This part requests specific information for a variance. Include this form with the Request for Public Hearing form.

Case Number:
Project Name:
Authorized Applicant:
LeePA STRAP Number:

Current Property Status:
Current Zoning:
Future Land Use Map (FLUM) Category:
Comp Plan Density: _____ Platted Overlay? ☐ Yes ☐ No

Variance is requested from:

LDC Section Number

Title of Section or Subsection

Complete the narrative statements below for EACH variance requested.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

PART I
Narrative Statements

Request for variance from _____ (LDC Section number)

Explain the specific regulation contained in this section from which relief is sought:

Reasons for request

Explain why the variance is needed:

Explain the possible effect the variance, if granted, would have on surrounding properties:

Explain the hardship (what is unique about the property) that justifies relief from the regulation:

PART 2 Submittal Requirements

All applications for a variance must submit fourteen (14) copies of this application form and all applicable exhibits.

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

“Variance is requested from...” Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question;
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare;
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

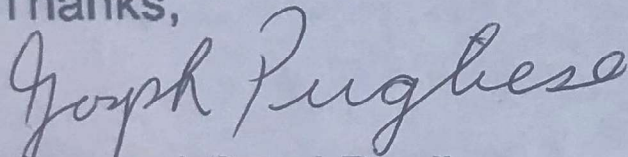
Ms. Sarah Propst
Town of Fort Myers Beach
2525 Estero Blvd.
Fort Myers Beach, FL 33931

RE: 4700 Estero Blvd. – Metcalfe Variance

Dear Ms. Propst:

I own the property located at 4660 Estero Blvd. immediately adjacent to the above referenced property. I am aware of the recent variance filed to locate their pool and accessory structure in front of their home. I have no objection to the proposal and support their request.

Thanks,

A handwritten signature in cursive script, appearing to read "Joe and Carol Pugliese".

Joe and Carol Pugliese
4660 Estero Blvd.

Ms. Sarah Propst
Town of Fort Myers Beach
2525 Estero Blvd.
Fort Myers Beach, FL 33931

RE: 4700 Estero Blvd. – Metcalfe Variance

Dear Ms. Propst:

We own the property located at 4730 Estero Blvd. immediately adjacent to the above referenced property. We are aware of the recent variance filed to locate their pool and accessory structure in front of their home. We have no objection to the proposal and support their request. If you have any questions, you can call or email us at 239-290-5971 or brougraff@gmail.com

Thanks,



Paul Rougraff



Barbara Rougraff



PUBLIX SUPER MARKETS INC
EXPENSE PAYABLES LEASE TEAM
PO BOX 32018
LAKELAND FL 33802

PATEK JEWELL D H TR
4841 ESTERO BLVD
FORT MYERS BEACH FL 33931

PAINE JOSEPH C + KAREN M
4839 ESTERO BLVD
FORT MYERS BEACH FL 33931

MDR BEACH PROPERTIES LLC
5917 US 36 E
GREENVILLE OH 45331

MAHER MARGARITA
913 NORTH ST
FORT MYERS BEACH FL 33931

MESIROW BUNNIE R TR
4838 CORAL RD
FORT MYERS BEACH FL 33931

LETTERI LONNE M TR
4830 CORAL RD
FORT MYERS BEACH FL 33931

SCHLOTTMAN DAVID + CHERI
4850 CORAL RD
FORT MYERS BEACH FL 33931

FLICK SONDR A C
4821 CORAL RD
FORT MYERS BEACH FL 33931

MACLEOD ROBERT M
4811 CORAL RD
FORT MYERS BEACH FL 33931

LETTERI LONNE M TR
4830 CORAL RD
FORT MYERS BEACH FL 33931

SEASIDE CONDO
ASSOCIATION
4770 ESTERO BLVD
FORT MYERS BEACH FL 33931

SHORES OF FT MYERS BEACH CONDO
ASSOCIATION
5 GLEN FOREST
SAINT LOUIS MO 63124

OCEAN HARBOR CONDO OF
CONTINENTAL GROUP
6300 PARK OF COMMERCE BLVD
BOCA RATON FL 33487

BENT PALMS OF FORT MYERS BEACH
4852 ESTERO BLVD
FORT MYERS BEACH FL 33931

BOCKER VIRGIL TR
100 GULFVIEW AVE
FORT MYERS BEACH FL 33931

DOCBONE PROPERTIES 4502 LLC
15941 NELSONS CT
FORT MYERS FL 33908

ROSSI LAURA
5333 SHADOW CREEK DR
BOARDMAN OH 44512

COOPER & COMPANY LLC
PO BOX 501
HOWELL MI 48844

HUTSON GEORGE ALLEN + ALLISON
726 E LEHIGH DR
NEWPORT TN 37821

OCEANIC BLUE RETREATS LLC
3431 PINE RIDGE RD STE 101
NAPLES FL 34109

JP ADVANTA INVESTMENTS LLC
5780 SPANISH OAKS LN
NAPLES FL 34119

LOUDERMILK JAMES D + ROSEMARIE
15788 SILVERADO CT
FORT MYERS FL 33908

BOURASSA OLGA K TR
247 MIRAMAR ST
FORT MYERS BEACH FL 33931

MENDOZA JORGE L & ARLINA I
15133 SW 62ND ST
MIAMI FL 33193

ANDERSON CAROL A +
4202 PRAIRIEWEST DR
CHAMPAIGN IL 61822

FUNK MICHAEL T +
1214 SUMMIT AVE
LOUISVILLE KY 40204

POWERS NADA F + ROBERT M
4601 ESTERO BLVD
FORT MYERS BEACH FL 33931

DIGENIS HELEN L
3908 ZARING MILL CT
LOUISVILLE KY 40241

LONG STEVEN + MARCIA
6171 S VICKERYVILLE RD
SHERIDAN MI 48884

TOWN OF FORT MYERS BEACH
FINANCE DEPT
2525 ESTERO BLVD
FORT MYERS BEACH FL 33931

ROUGRAFF PAUL M + BARBARA L
122 CARICA RD
NAPLES FL 34108

PUGLIESE JOSEPH A
4660 ESTERO BLVD
FORT MYERS BEACH FL 33931

STRANDVIEW TOWER CONDO
SENTRY MGMT INC
2180 W STATE ROAD 434 STE 5000
LONGWOOD FL 32779

WHITE CAP CONDOMINIUM ASSN INC
12230 CHATEAU CT
FISHERS IN 46037

COUTO FERNAND + IRENE A
773 ARNOLD ST
SUDBURY ON P3E 6H1
CANADA

ERLANDER JAMES C TR
4770 ESTERO BLVD UNIT 102
FORT MYERS BEACH FL 33931

SEASIDE VACATIONS FT MYERS LLC
1005 NORTH WATER ST
BAY CITY MI 48708

ANDERSON BETTY J TR
BRIAN ANDERSON
7945 PERRY LAKE RD
CLARKSTON MI 48348

PROVENZALE DONALD J + DANIELLE
8S051 CREEK DR
NAPERVILLE IL 60540

TEUSINK PHILIP R + KAREN R
47 S KENSINGTON PL
SPRINGFIELD OH 45504

MANDOLINI ANTHONY M TR
6597 NICHOLAS BLVD UNIT 1101
NAPLES FL 34108

EVANS GREGORY W + REGINA M
14530 AUTUMN WOOD DR
WESTFIELD IN 46074

MCKEON JOHN J
6 BERGIN CT
WOLCOTT CT 06716

FLIS WANDA SOPHIA
1133 FORESTVALE DR
BURLINGTON ON L7P 3G6
CANADA

BAKKE ROBERT
4735 FREMONT AVE S
MINNEAPOLIS MN 55419

BAKKE ELIZABETH LEE + ROBERT W
4735 FREMONT AVE S
MINNEAPOLIS MN 55419

GRILLO STEVEN G
16 SMALLBROOK CIR
RANDOLPH NJ 07869

LLB INVESTMENT GROUP LLC
940 NW 201ST TER
PEMBROKE PINES FL 33029

HUSEBY LINDA +
913 S 12TH ST
MONTEVIDEO MN 56265

ALVERO CAESAR & ALICIA M
21346 33RD AVE
BAYSIDE NY 11361

LIOTTA SALVATORE + CONCETTA
6 OAK BROOK CLUB DR APT J101
OAK BROOK IL 60523

ZUFFELATO EUGENE S + EMMA
260 MIDLAND DR
ORANGE CT 06477

KLECZKA FRANK M
4805 SUNNYSIDE DR
MILWAUKEE WI 53208

BAKKE ROBERT
4735 FREMONT AVE S
MINNEAPOLIS MN 55419

1765 MCCRAITH PROPERTIES LLC
20 BURRSTONE RD
NEW YORK MILLS NY 13417

LLB INVESTMENT GROUP LLC
8432 NW 93RD ST
MEDLEY FL 33166

MATHESON ROBERT R + JORJA L
2935 W COMMERCE RD
MILFORD MI 48380

ANTHONY J ROSS LLC +
13259 SHERBURNE CIR #2201
BONITA SPRINGS FL 34135

SEBASTIAN R A + JOAN M +
1912 WOODLAND AVE
PARK RIDGE IL 60068

ANDERSON ORION D + MARY M TR
12108 BOAT SHELL DR
MATLACHA ISLES FL 33991

TEGENKVIST ANDERS & HELENE
FLYGARVAGEN 48
JARFALLA 175 69
SWEDEN

DAHLE TORALV & GERTRUDE S TR
4770 ESTERO BLVD #308
FORT MYERS BEACH FL 33931

GLORIA NOWACZYK TRUST +
606 S CHARLETON ST
WILLOW SPRINGS IL 60480

ZUCKWEILER STEVEN W + JEAN M
532 LAKEWOOD CT
WINDSOR CO 80550

IRZYK PAMELA KIM YAGI
637 HENRY ST
FOLSOM CA 95630

L JOHNSON PROPERTIES LLC
550 25TH AVE N
SAINT CLOUD MN 56303

ROBERTSON MICHAEL R + GAIL TR
7 GLENVIEW MANOR DR
FORT MYERS BEACH FL 33931

TRUDEL DAVID R + JUDITH B TR
1807 SETTLERS RESERVE WAY
WESTLAKE OH 44145

REIMSCHISEL REALTY INC
970 N MAIN ST
BLUFFTON IN 46714

SIMONKA MEREDITH V
104 WARWICK RD
WEST WINDSOR NJ 08550

CROWLEY CHRISTOPHER J &
5300 RIVERWALK TRAIL
COMMERCE TWP MI 48382

LLB INVESTMENT GROUP LLC
940 NW 201ST TER
PEMBROKE PINES FL 33029

FRANCIS DARRELL A + MARY E
410 HAWTHOREN AV
SOUTH MILWAUKEE WI 53172

PHYLLIS JANE EDWARDS TRUST
1102 N TOPPER RD
MOUNT PULASKI IL 62548

COFFMAN JOHN STEPHEN &
1926 ANGEL VIEW DR
GREENWOOD IN 46143

MARACH DEBORAH A TR
322 BRANCHWOOD CT
SCHAUMBURG IL 60193

OSTENDORF DONALD T &
27530 RICHVIEW CT
BONITA SPRINGS FL 34135

ISH JANE M L/E
4770 ESTERO BLVD #504
FORT MYERS BEACH FL 33931

FRANCIS DARRELL + MARY
410 HAWTHORNE AVE
SOUTH MILWAUKEE WI 53172

SWANSON RICKY L + LISA M
4558 SILVERTHORN DR
JACKSONVILLE FL 32258

DIDION KENNETH W & SHARON J TR
29910 SEQUOIA TRAIL
WESTLAKE OH 44145

SIMONKA GEORGE H & ANDREA
5 OAKEN LANE
MERCERVILLE NJ 08619

LOSTRITTO DONALD
61 MERWIN CIR
CHESHIRE CT 06410

TUEL LARRY L +
1768 NW 122ND ST
CLIVE IA 50325

BALDRIDGE RYAN F
KAREN BALDRIDGE
2041 PAINTED PALM DR
NAPLES FL 34119

CAMPBELL BRIAN + NANCY
221 HILLBROOK DR
SHEPHERDSVILLE KY 40165

D & H GERMAN LAUNDRY SERVICE L
KOEHLER INTERNATIONAL INC
949 TAMIAMI TRL STE 208
PORT CHARLOTTE FL 33953

BALDRIDGE KAREN ANN
2337 BUTTERFLY PALM DR
NAPLES FL 34119

SOYKA JOHN & JO ANN
6358 SAINT ANDREWS CIRCLE S
FORT MYERS FL 33919

SHELLEY MARY J
1211 S DUCHESNE DR
SAINT CHARLES MO 63301

CLUGH THOMAS ENTERPRISES LLC
1623 EAST 430 SOUTH
LAFAYETTE IN 47909

OSTENDORF DONALD T &
27530 RICHVIEW CT
BONITA SPRINGS FL 34135

BLANCO PETER JR TR 1/2 INT +
4560 ESTERO BLVD #201
FORT MYERS BEACH FL 33931

DAVIS THOMAS F
4560 ESTERO BLVD #202
FORT MYERS BEACH FL 33931

ESPINOLA DAVID M + LUCIA M
15 RINZEE RD
DRACUT MA 01826

SCHOCK NORMAN F TR +
806 BANNOCK DR
DUNDEE IL 60118

DAWSON JOSEPH E +
4560 ESTERO BLVD #301
FORT MYERS BEACH FL 33931

KEITH STEVEN R + KIMBRA A
4749 FONTANA RD
WEST BEND WI 53095

DAVIS DENNIS
4560 ESTERO BLVD #303
FORT MYERS BEACH FL 33931

WILSON SUSAN
1655 PLACE DES RAVINS
ORLEANS ON K1C 6H3
CANADA

PREFERRED ASSETS INC
121 MOHR DRIVE
MANKATO MN 56001

STEVENS JAMES B + BARBARA P
4560 ESTERO BLVD #402
FORT MYERS BEACH FL 33931

BYERLE BRUCE A + ANNE E
4560 ESTERO BLVD #403
FORT MYERS BEACH FL 33931

MINERS MARGARET A TR
PO BOX 130
LABELLE FL 33975

CHAMBRE DIANE D TR
4560 ESTERO BLVD #501
FORT MYERS BEACH FL 33931

TIEZZI DANIEL TR
608 FOOT HILLS RD
HIGGANUM CT 06441

BURWINKEL WILLIAM J + BETH A
710 MT HOPE AVE #4
CINCINNATI OH 45204

DANGELO DANIEL A + JUNE E
677 ERIE AVE
N TONAWANDA NY 14120

BONFIGLIO FRANK L +CATARINA TR
4560 ESTERO BLVD #602
FORT MYERS BEACH FL 33931

KOMENDAREK EDWIN + MARILYN
30 NEWTON AVE
NORWICH NY 13815

MARSHALL + ILSLEY TRUST CO TR
PO BOX 2980
MILWAUKEE WI 53201

MAMCK VENTURES LLC
401 COMPTON CT
ALLEN TX 75013

BERECZ VICTOR G JR +
4560 ESTERO BLVD #702
FORT MYERS BEACH FL 33931

BURWINKEL WILLIAM + BETH A
710 MOUNT HOPE AVE APT 4
CINCINNATI OH 45204

BERGMANN MARY B TR
3225 E BRADFORD DR
BLOOMFIELD HILLS MI 48301

RAY HAROLD L & APRIL L
10 FOREST BAY LN
CICERO IN 46034

WARNER H JACK TR
12344 N LEDGES DR
ROSCOE IL 61073

KETRING ENTERPRISES LLC
10473 S 50W
PENDLETON IN 46064

RAY HAROLD L & APRIL L
10 FOREST BAY LN
CICERO IN 46034

ZINK DAVID C TR
20 TERRY CT
JACKSONVILLE IL 62650

PRASSE MARJORIE J TR
4633 ESTERO BLVD #202
FORT MYERS BEACH FL 33931

SIGLER JAY L & JENNIFER L
10200 S 575 W
FORTVILLE IN 46040

LST & KEES LLC
12285 BERAGIO PL
ALPHARETTA GA 30004

HENDERSON JAMES + KERRIE
10738 S 575 W
PENDLETON IN 46064

PAOLI DEVELOPMENT ASSN LLP
1263 SHADOW OAK DR
MALVERN PA 19355



Town of Fort Myers Beach

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Case Number: VAR20200052

Case Name: 4690/4700 Estero Blvd- Accessory Structure Setback Variance

Applicant: Claudia Metcalfe (Owner)/ Lindsay Robin (agent)

Location: 4690/ 4700 Estero Blvd STRAP #: 29-46-24-W3-008J0.0030

Zoning: Residential Conservation (RC) and Environmentally Critical (EC)

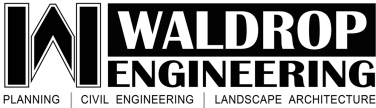
Request: The applicant is seeking relief from Town's LDC Sec. 34-1174(b) for an accessory structure to be located closer to street Right of Way than the principal structure to allow construction of a detached garage, a storage room, an elevated pool/ deck and a tiki hut to be approximately 60 feet from the right-of-way property line.

Staff Report: Direct inquiries to:
Kelly Bhutada, Community Development, at 239-765-0202 Ext. 1310
Fort Myers Beach Town Hall
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Notice is hereby given that the Local Planning Agency of the Town of Fort Myers Beach will hold a public hearing at a meeting beginning at **09:00 AM on October 13, 2020** regarding the case listed above. This hearing will take place at Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Florida, 33931.

At this hearing, the Local Planning Agency of the Town of Fort Myers Beach will review the case and make a recommendation to Town Council on this matter. If any person needs a verbatim record of the proceedings, please make their own arrangements. You may appear in person, through counsel, or through an authorized agent and provide testimony, legal argument, or other evidence to become a participant in the hearing.

Copies of the staff report are available for viewing at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you need reasonable accommodation, contact Town Hall at 239-765-0202.





**Town of Fort Myers Beach
Agenda Item Summary**

Blue Sheet Number: **2020-39**

1. Requested Motion:

Meeting Date: October 13, 2020

Approve/ Approve with condition/ Deny VAR20200036 at a Parcel 5043 Williams Drive to Allow a Relief from LDC Table 34-3 for a Principal Structure Setback and from Sec. 34-1174 for an Accessory Structure Setback.

Why the action is necessary:

The Local Planning Agency provides a recommendation to the Town Council regarding variance requests.

What the action accomplishes:

Approving the variance requests will allow the existing house and pool screen enclosure to be remodeled/updated within the existing footprint.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Recommendation to Town
Council

5. Background:

The parcel is located within Residential Single-family (RS) zoning district. The principal structure was built in 1998 and the current owner, James and Dawn Reichlin, bought the property in 2002. The variance requests are from the rear yard and water setback requirement of 25 feet to allow a setback of 20.2 feet for the primary structure, from the side yard setback requirement of 7.5 feet to allow a setback of 6.9 feet for wooden stairs and entry deck, and from the street setback requirement of 25 feet to allow a setback of 24.9 feet for the primary structure and 24.4 feet for the pool screen enclosure.

Staff finds that the lot is oddly shaped, becoming much narrower at one end. The shape of the lot makes meeting front and rear setbacks more difficult. Additionally, the setback encroachments is in existence for 20 years and is not result of actions of the applicant. Granting a variance is de minimis and would not negatively impact the neighborhood.

Attachments:

1. Staff Report LPA
2. Exhibit A Survey
3. Exhibit B Application
4. Exhibit C Notice to Property Owners LPA Variance(10-13-20)

Financial Impact:

6. Alternative Action

Approve with conditions

7. Staff Recommendations:

8. Recommended Approval:

Date: October 07, 2020

Jason Green, Community Development
Services

Date: October 07, 2020

John R Herin Jr, Town Attorney

Date: October 07, 2020

Amy Baker, Deputy Town Clerk



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20200036

CASE NAME: 5043 Williams Dr. waterbody, front and side yard setback variance

LPA HEARING DATE: October 13, 2020 at 9.00 AM

STAFF RECOMMENDATION: Approve

**PREPARED/
SUBMITTED BY:** Kelly Bhutada/ Jason Green AICP

I. APPLICATION SUMMARY

Applicant/Owner: James and Dawn Reichlin

Request: The applicant is seeking variances from Table 34-3 for the primary structure and Sec. 34-1174(b) for the pool enclosure. The variance requests are from the rear yard and water setback requirement of 25 feet to allow a setback of 20.2 feet for the primary structure, from the side yard setback requirement of 7.5 feet to allow a setback of 6.9 feet for wooden stairs and entry deck, and from the street setback requirement of 25 feet to allow a setback of 24.9 feet for the primary structure and 24.4 feet for the pool screen enclosure.

Subject property: See attached survey

Physical Address: 5043 Williams Dr.

STRAP #: 28-46-24-W4-00500.0180

FLU: Low Density

Zoning: Residential Single Family (RS)

Current use(s): Single-Family Dwelling

Adjacent zoning and land uses:

North:	RESIDENTIAL SINGLE FAMILY (RS) Canal, Single-family residence
South:	RESIDENTIAL SINGLE FAMILY (RS) Single-family residence
East:	RESIDENTIAL SINGLE FAMILY (RS) Single-family residence
West:	RESIDENTIAL SINGLE FAMILY (RS) Single-family residence

II. BACKGROUND AND ANALYSIS

Background:

James and Dawn Reichlin, the applicant/owners of 5043 Williams Drive, are requesting variances from the rear/waterbody setback, the side setback and the street/ front setback. The variances requested are for encroachment of principal structure by 4.8 feet in the rear yard, 0.6 feet on the side yard and 0.1 feet in the front yard as well as encroachment of the enclosed pool by 0.6 feet along the street frontage/ front yard. The required setbacks are 25 feet from rear property line, 7.5 feet side property line and 25 feet front/ ROW property line.

The house was built in 1998 with a major renovation occurring in 2000. The applicants bought the said property in May of 2002 and wish to make renovations and repairs to the home. The renovations that are proposed would not increase the nonconformity. However, because the house does not meet the setbacks, structural repairs and renovations require a variance.

Analysis:

This property is oddly shaped, at the southern end the lot is approximately 94 feet deep and narrowing on the northern end to approximately 29 feet deep. The house meets the majority of the setbacks and the proposed renovations would not change the current setback distances.

Neighborhood Compatibility:

In a review of aerial photography of the neighborhood, staff found the homes to generally be consistent in their setbacks along Williams Drive and from the canal. Glenview Manor Drive, which runs along the northern end of the property, does not have any homes located along the western side of the road because there is inadequate land between the right of way and the canal to accommodate homes.

Findings and Conclusions:

LDC Sec. 34-87 sets forth the required findings and conclusions for the approval of a variance:

- a. *That there **are**/are not exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request **is**/is not for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.*

Per the survey, the lot is oddly shaped, becoming much narrower at one end. The shape of the lot makes meeting front and rear setbacks more difficult.

- b. *That the conditions justifying the variance are/**are not** the result of actions of the applicant taken after the adoption of the regulation in question.*

The house was last substantially altered in 2000, prior to the applicants purchasing the home. The applicants were unaware that the home was in violation of the setbacks.

- c. *That the variance granted **is**/is not the minimum variance that will relieve that applicant of an unreasonable burden caused by the application of the regulation in question to his property.*

The applicant is requesting a variance that will accommodate the existing house which they are renovating. They are not requesting any additional encroachment into the front, side or rear setbacks.

- d. *That the granting of the variance will/**will not** be injurious to the neighborhood or otherwise detrimental to the public welfare; and*

The setback encroachments have been in existence for 20 years. Granting a variance would not negatively impact the neighborhood.

- e. *That the conditions or circumstances on the specific piece of property for which the variance is sought are/**are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.*

While non-conforming structures are not unique in the Town of Fort Myers Beach, staff finds the conditions and circumstance of the subject property are general and recurring for the non-conforming buildings on the island and an alternative policy for non- conforming building shall be amended to recognize the age of the building and limitation on variation of setbacks.

III. RECOMMENDATION

Staff finds the existing conditions and location of the single-family residence, warrants the variance requested. The covered rear deck has been in place since 2000 and the front encroachment appears to have come into being at the same time.

Therefore, staff recommends **APPROVAL WITH CONDITIONS** of VAR20200036, for a single-family residence to be 20.2 feet from the seawall/rear property line, 6.9 feet from the southern side property line and 24.9 feet from the street property line and for the pool screen enclosure to be located 24.4 feet from the street property line.

IV. CONDITIONS OF APPROVAL

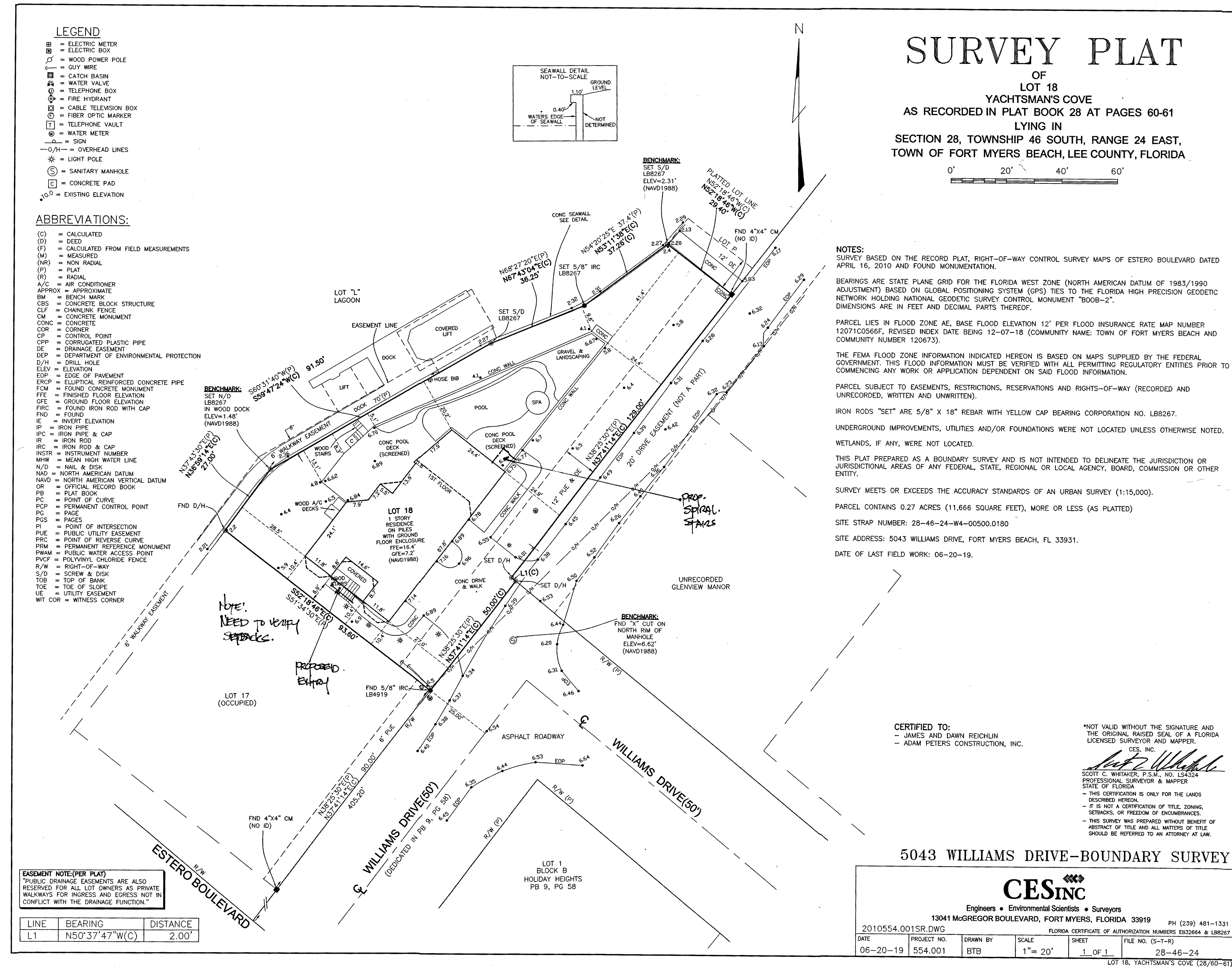
1. *Approval of this variance does not give the developer an undeniable right to permit approval. Development or redevelopment of the subject property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and Land Development Code in effect at the time of permit approval, except as specifically modified herein.*
2. *The variances shall only apply to the single-family residence (rear, side and street setback) and the screen enclosure (street setback) as shown on the provided survey dated 6/20/19 by CES Inc. No deviations from the measurements of that survey greater than 0.1 feet shall be permitted.*
3. *If the principal single-family residence is determined to be substantially damaged or subject to substantial improvement, the setback variances shall be null and void.*

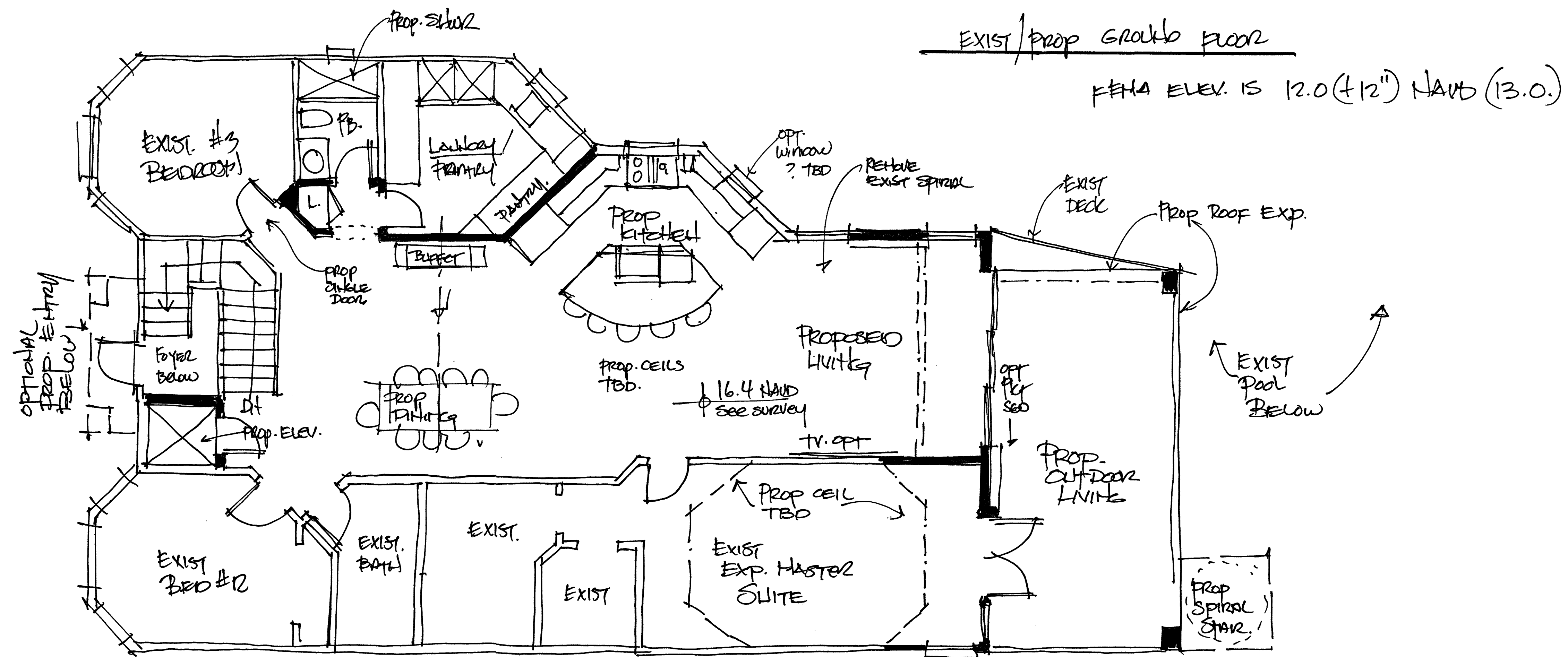
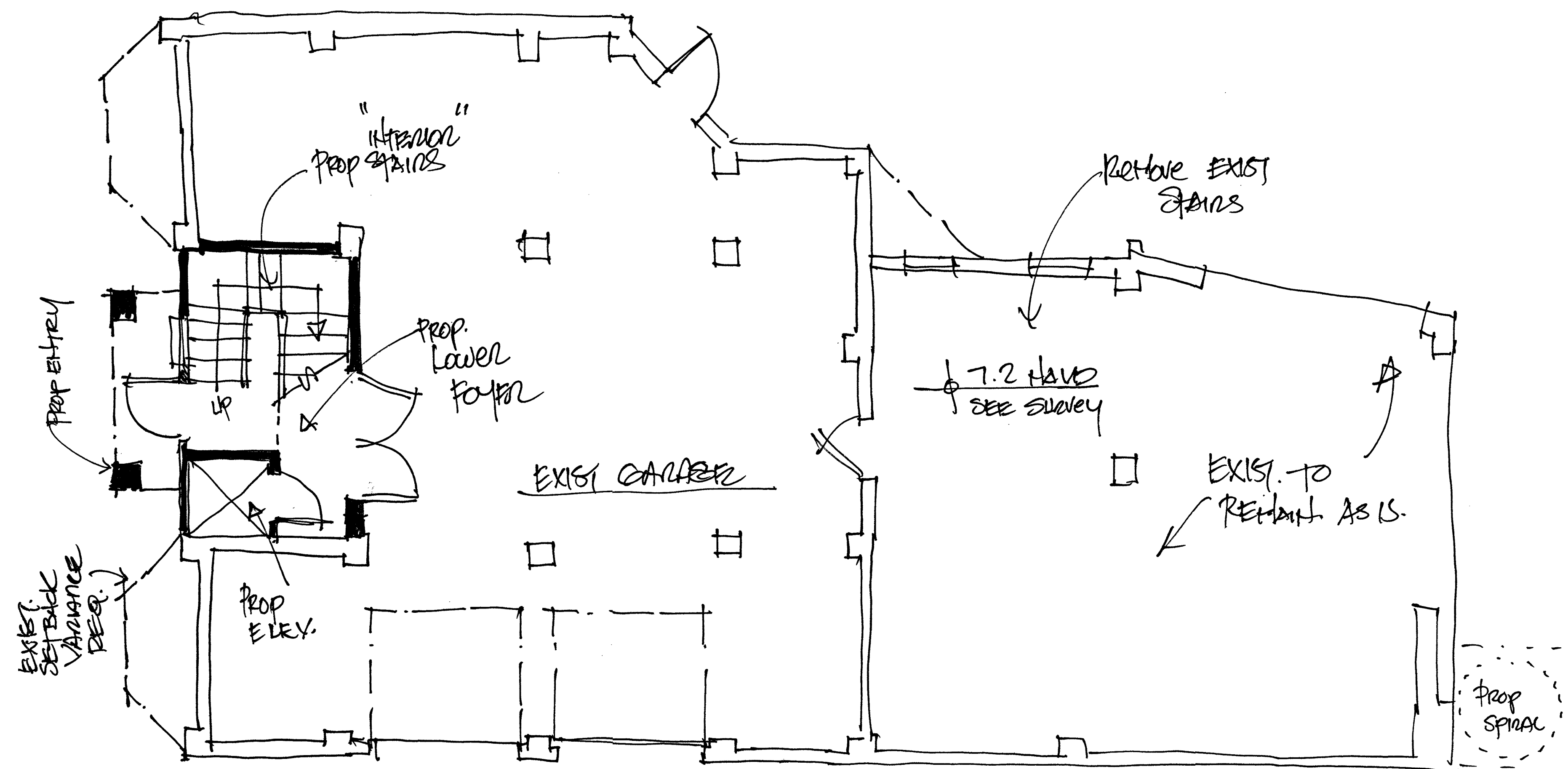
Staff Report Exhibits:

A – Survey

B – Complete Application

C – Letter to Adjacent Property Owners





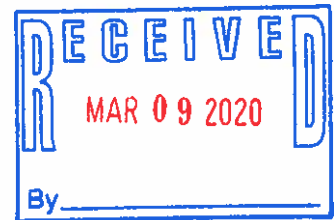
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EXIST./PROP. MAIN FLOOR

REICHLIN REMODEL



VAR 20200036



PROJECT NUMBER:

DATE:



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

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 *one ORIGINAL paper copy, fourteen (14) copies* of all required applications, supplemental information, exhibits and documents. Please do not print and copy the instructions at the end of the application. In addition to application fees, the applicant is required to pay for (2) sets of mailings to neighboring property owners within 500', and all advertising fees.

Site Address: 5043 Williams drive, Ft. Myers Beach, FL 33931
 STRAP Number: 28-46-24-W4-00500.018
 Applicant: James & Dawn Reichlin Phone: 440-371-3945
 Contact Name: Dawn Reichlin Phone: 440-366-0591
 Email: dreichlin@elyriapp.com Fax: _____
 Current Zoning District: RS-1
 Future Land Use Map (FLUM) Category: _____
 FLUM Density Range: _____ Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED

- ☐ Special Exception
- ☒ Variance
- ☐ Conventional Rezoning
- ☐ Planned Development ☐ Commercial ☐ Residential
- ☐ Master Concept Plan Extension
- ☐ Appeal of Administrative Action
- ☐ Vacation of Platted Right-of-way and Easement
- ☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

- PH-A
- PH-B
- PH-C
- PH-D
- PH-E
- PH-F
- PH-G
- attach on separate sheet

Revised 1/6/2017

Town of Fort Myers Beach
 2525 Estero Blvd., Fort Myers Beach, Florida 33931
 Phone: 239-765-0202 Permits@FortMyersBeachFL.gov Fax: 239-765-0909

Page 1 of 15

PROJECT NUMBER:

DATE:

PART I - General Information

A. **Applicant***: James Reichlin Phone: 440-371-3945

**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: 199 Overbrook Road, Elyria, Ohio 44035

Email: jreichlin62@yahoo.com Fax: _____

Contact Name: _____ Phone: 440-371-3945

B. **Relationship of Applicant to subject property:**

- | | | |
|---|---|--|
| ☒ Owner* | ☐ Land Trust* | ☐ Partnership* |
| ☐ Corporation* | ☐ Association* | ☐ Condominium* |
| ☐ Subdivision* | ☐ Timeshare Condo* | ☐ Contract Purchaser* |
| ☐ Authorized Representative* ☐ 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 name of Agent authorized to receive correspondence Agents

Name: Self Phone: _____

Address: _____

Email: _____ Fax: _____

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

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PROJECT NUMBER: _____

DATE: _____

Name: _____

Phone: _____

Address: _____

Email: _____

Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

☐ Special Exception

☒ Variance from LDC Section _____ - _____

☐ Conventional Rezoning from _____ to _____

☐ Planned Development

☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD

☐ Amendment. List the project number: _____

☐ Extension/reinstatement of Master Concept Plan. List project number: _____

☐ Appeal of Administrative Action

☐ Vacation ☐ Right-of-Way ☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers

Please indicate any specific submittal items that have been waived by the Director for the request.
Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: _____

Description: _____

Code Section: _____

Description: _____

Code Section: _____

PROJECT NUMBER:

DATE:

Description: _____

PART IV – Property Ownership

☒ Single Owner (individual or husband and wife)

Name: James & Dawn Reichlin Phone: 440-371-3945

Mailing Address: 199 Overbrook Road, Elyria, Ohio 44035

Email: jreichlin62@yahoo.com Fax: _____

☐ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

☐ Complete Disclosure of Interest Form (see below)

☐ Attach list of property owners as Exhibit 4-1

☐ Attach map showing property owners interests as Exhibit 4-2 (for multiple parcels)

☐ For condominiums and timeshares see Explanatory Notes Part IV (Page 11)

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 28-46-24-W4-00500-.0180

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage Ownership

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

PROJECT NUMBER:

DATE:

Name, Address and Office

Percentage of Stock

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

PROJECT NUMBER:

DATE:

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office	Percentage of Stock
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of Contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature

Printed Name

PROJECT NUMBER:

DATE:

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this _____ day of _____,
20_____, by _____.

Notary Public Signature

(SEAL)

Notary Printed Name

Personally Known _____ or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: _____

PART V – Property Information

A. Legal Description:

STRAP: 28-46-24-W4-00500-.0180

Property Address: 5043 Williams Drive, Ft. Myers Beach, FL 33931

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 as Exhibit 5-1.

☐ Yes. Property identified in subdivision: _____

Book: _____ Page: _____ Unit: _____ Block: _____ Lot(s): _____

B. 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. Attach and label as Exhibit 5-2.

C. Property Dimensions:

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

Revised 1/6/2017

Town of Fort Myers Beach
2525 Estero Blvd., Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Permits@FortMyersBeachFL.gov Fax: 239-765-0909

Page 7 of 15

PROJECT NUMBER:

DATE:

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

Frontage on street: 179 feet. Frontage on waterbody: 192.01 feet

Total land area: .27 ☒ acres ☐ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):

☐ Attach Area Location Map as Exhibit 5-3

E. Property Restrictions (check applicable):

- ☒ There are no deed restrictions and/or covenants on the subject property.
- ☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 5-4.
- ☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 5-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

- ☐ Attach a list of surrounding property owners within 500 feet as Exhibit 5-6.
- ☐ Attach a map showing the surrounding property owners as Exhibit 5-7.
- ☐ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

- | | |
|---|--|
| ☐ Low Density | ☐ Marina |
| ☒ Mixed Residential | ☐ Recreation |
| ☐ Boulevard | ☐ Wetlands |
| ☐ Pedestrian Commercial | ☐ Platted Overlay |

H. Zoning (see official Zoning Map):

- | | |
|---|--|
| ☐ RS (Residential Single-family) | ☐ CF (Community Facilities) |
| ☐ RC (Residential Conservation) | ☐ IN (Institutional) |

Revised 1/6/2017

Town of Fort Myers Beach
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Phone: 239-765-0202 Permits@FortMyersBeachFL.gov Fax: 239-765-0909

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PROJECT NUMBER:

DATE:

- | | |
|--|--|
| ☐ RM (Residential Multifamily) | ☐ BB (Bay Beach) |
| ☐ RPD (Residential Planned Development) | ☐ EC (Environmentally Critical) |
| ☐ CM (Commercial Marina) | ☐ DOWNTOWN |
| ☐ CO (Commercial Office) | ☐ SANTOS |
| ☐ CB (Commercial Boulevard) | ☐ VILLAGE |
| ☐ CR (Commercial Resort) | ☐ SANTINI |
| ☐ CPD (Commercial Planned Development) | |

PART VI

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, James Reichlin 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;

PROJECT NUMBER:

DATE:

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

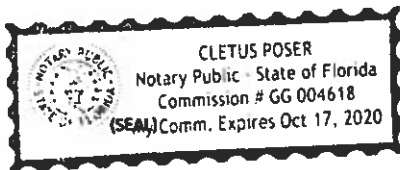
The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.


Signature of owner or authorized agent

3/06/2020
Date

STATE OF FLORIDA)
COUNTY OF LEE)

Subscribed and sworn to (or affirmed) before me this 6 day of MARCH,
20 20, by JAMES M REICHLIN.




Notary Public Signature

CLETUS POSER
Notary Printed Name

Personally Known _____ or Produced Identification ☒

Type of Identification Produced: OH AR LIC My Commission Expires: 10-17-2020

PROJECT NUMBER:

DATE:

PART VII

AFFIDAVIT

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

I, _____ (name), as _____ (title)
of _____ (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.

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

Signature

Title

Typed or Printed Name

Date

**STATE OF FLORIDA)
COUNTY OF LEE)**

Subscribed and sworn to (or affirmed) before me this _____ day of _____,
20_____, by _____, as (title) _____ on behalf of
(company name) _____.

Notary Public Signature

(SEAL)

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PROJECT NUMBER:

DATE:

Notary Printed Name

Personally Known _____ or Produced Identification _____

Type of Identification Produced: _____ My Commission Expires: _____

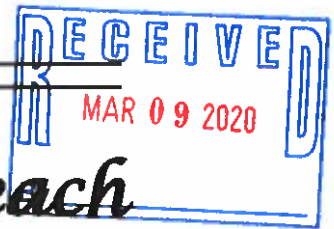
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Case #
Planner

Date Received
Date of Sufficiency/Completeness



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

This is the second part of a two-part application. This part requests specific information for a variance. Include this form with the Request for Public Hearing form.

Case Number:
Project Name: JAMES & DAWN REICHLIN
Authorized Applicant:
LeePA STRAP Number: 28-46-24-W4-00500.0180

Current Property Status:	
Current Zoning: RS-1	
Future Land Use Map (FLUM) Category:	
Comp Plan Density:	Platted Overlay? ☐ Yes ☐ No

Variance is requested from:

LDC Section Number

Title of Section or Subsection

VARIANCE FROM SET BACK REQUIREMENTS FOR FRONT AND REAR YARD IN TABLE 34-2.

Complete the narrative statements below for EACH variance requested.

Case # _____
Planner: _____

Date Received _____
Date of Sufficiency/Completeness _____

PART I
Narrative Statements

Request for variance from _____ (LDC Section number)

Explain the specific regulation contained in this section from which relief is sought:

The current waterbody setback to the main structure is 25 ft. The building was built at _____ 20 feet

Reasons for request

Explain why the variance is needed:

Need to correct an existing setback condition which currently in non-compliance- we would like to do some interior/exterior improvements/repairs to the existing house.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Explain the possible effect the variance, if granted, would have on surrounding properties:

House has had this set back since it was last renovated in or around 2000.

We do not feel any neighbors have a problem with this condition, we have not heard any complaints in 20 yrs.

Explain the hardship (what is unique about the property) that justifies relief from the regulation:

The structure was built according to the required setbacks at that time. Would like to renovate the existing conditions.

The house sits on an oddly shaped lot.

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Explain how the property qualifies for a variance. Direct this explanation to the guidelines for decision-making in LDC Section 34-87.

The existing building is 20.2' away from the nearest body of water. According to current setback requirement it has to be 25'0". We would like to renovate the existing building in the future so we want the building to comply with setbacks- see attached survey. So we are requesting a reduction to 20' from 25' only in the rear setback. *As the house is on an oddly shaped lot.*

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completion _____

PART 2

Submittal Requirements

All applications for a variance must submit fourteen (14) copies of this application form and all applicable exhibits.

Required Items

- Public Hearing Request Form
- Supplemental form PH-B
- Site Plan (to scale) including the current use of all existing structures on the site, and those on adjacent properties within 100 feet of the perimeter; and a clear illustration of the proposed variance

Guide to filing PH-B Additional Required Information for a Variance Application

Cover page

Case Number will be inserted by Community Development staff.

Project Name must be the same as the name used on the Request for Public Hearing form.

Applicant must be the same as on the Request for Public Hearing form.

STRAP numbers must be the same as on the Request for Public Hearing form.

Current status of property must be the same as on the Request for Public Hearing form.

"Variance is requested from..." Provide the section number and title of each section of the Fort Myers Beach Land Development Code from which a variance is being sought.

Narrative statements

If the application is for multiple variances, complete all of the narrative statements for each variance that is requested.

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Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

Site plan

The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

LDC Section 34-87

The guidelines for decision-making regarding a request for a variance are as follows:

1. Whether there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or whether the request is for a *de minimis* variance under circumstances or conditions where rigid compliance is not necessary to protect public policy;
2. Whether the exceptional or extraordinary conditions justifying the variance are or are not the result of actions of the applicant taken after the adoption of the regulation in question;
3. Whether the requested variance is the minimum variance to relieve the applicant of an unreasonable burden caused by the application of the regulation in question; *yes*
4. Whether granting the variance would be injurious to the neighborhood or otherwise detrimental to the public welfare; *no*
5. Whether the conditions or circumstances of the specific piece of property or the intended use of the property for which the variance is sought are of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question. *no*

The house sits on an oddly shaped lot.



Town of Fort Myers Beach

NOTICE TO PROPERTY OWNERS WITHIN 500 FEET

Case Number: VAR20200036

Case Name: 5043 Williams Dr. Waterbody, Side and Street Setback Variance

Applicant: James and Dawn Reichlin

Location: 5043 Williams Dr. STRAP #: 28-46-24-W4-00500.0180

Zoning: Residential Single Family (RS)

Request: Variances from Table 34-3 for the primary structure and Sec. 34-1174(b) for the pool enclosure. The variance requests are from the rear yard and water setback requirement of 25 feet to allow a setback of 20.2 feet for the primary structure, from the side yard setback requirement of 7.5 feet to allow a setback of 6.9 feet for wooden stairs and entry deck, and from the street setback requirement of 25 feet to allow a setback of 24.9 feet for the primary structure and 24.4 feet for the pool screen enclosure.

Staff Report: Direct inquiries to:
Kelly Bhutada, Community Development, at 239-765-0202 ext. 1310
Fort Myers Beach Town Hall
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Notice is hereby given that the Local Planning Agency of the Town of Fort Myers Beach will hold a public hearing at a meeting beginning at **9:00 AM on October 13, 2020** regarding the case listed above. This hearing will take place at Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Florida, 33931.

You may appear in person, through counsel, or through an authorized agent and provide testimony, legal argument, or other evidence to become a participant in the hearing.

At this hearing the Local Planning Agency of Fort Myers Beach will review the case and make a recommendation to the Town Council on this matter. If any person should desire to have verbatim record of the proceedings, which record indicates the testimony and evidence presented, that person will have to make arrangements on their own.

Copies of the staff report are available for viewing at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you need reasonable accommodation, contact Town Hall at 239-765-0202.

**Town of Fort Myers Beach
Agenda Item Summary**

Blue Sheet Number: **2020-54**

1. Requested Motion:

Meeting Date: October 13, 2020

Sunshine Law, Ethics, Public Records, and Voting Conflicts

Why the action is necessary:

Ensure that new and holdover members of the LPA comply with the requirements of the Sunshine Law, Public Records Law, Ethics and Voting Conflict Law.

What the action accomplishes:

Inform new and holdover members of the LPA on the requirements of the Sunshine Law, Public Records Law, Ethics and Voting Conflict Law.

2. Agenda:

LPA ATTORNEY
ITEMS/REPORTS

3. Requirement/Purpose:

State law.

5. Background:

With the appointment of new members to the LPA and as part of the annual organizational meeting of the LPA, staff conducts a brief discussion on the requirements of the Sunshine Law, Public Records Law, Ethics and Voting Conflict Law.

Attachments:

Financial Impact:

N/A

6. Alternative Action

7. Staff Recommendations:

8. Recommended Approval:

Jason Green, Community Development
Services

Date: October 07, 2020

John R Herin Jr, Town Attorney

Date: October 07, 2020

Amy Baker, Deputy Town Clerk

Date: October 07, 2020