



Fort Myers Beach Local Planning Agency

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

Agenda

Tuesday, September 13, 2022

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. Draft minutes August 9, 2022

V. PUBLIC HEARINGS

A. VAR 20220076 Variance to side yard setbacks for pool equipment
Approve/Approve with Conditions/Deny VAR20220076, 745 Matanzas Ct. The applicant is seeking a variance from LDC Sec. 34-638(d)(1)(g), current setbacks are 9-feet, applicant is requesting a variance of 5-feet to place pool equipment/ pad approximately 4-feet from the side property line.

VI. ADMINISTRATIVE AGENDA

VII. LPA MEMBERS ITEMS/REPORTS

VIII. LPA ATTORNEY ITEMS/REPORTS

IX. COMMUNITY DEVELOPMENT ITEMS/REPORTS

X. ITEMS FOR NEXT MONTHS AGENDA

XI. PUBLIC COMMENT

XII. 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**

Yellow Sheet Number: **2022-750**

1. **Requested Motion:**

Draft minutes August 9, 2022

Meeting Date: September 13, 2022

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**

APPROVAL OF MINUTES

3. **Requirement/Purpose:**

5. **Background:**

Attachments:

1. August 9 2022 LPA draft minutes

Financial Impact:

6. **Alternative Action**

7. **Staff Recommendations:**

8. **Recommended Approval:**



Fort Myers Beach Local Planning Agency

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

Minutes

Tuesday, August 9, 2022

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Members present: Vice Chair Jane Plummer, Anita Cereceda (via phone from Spain) Scott Safford, Patrick Vanasse and Karen Woodson.
Excused: Forrest Critser

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. Draft minutes June 14, 2022
LPA Member Safford moved to approve the minutes; second by LPA Member Vanasse.
Motion passed 5-0 with LPA Member Critser excused.

V. PUBLIC HEARINGS

- A. VAR 20210114 Approve/Approve with Conditions/Deny; 5155 Williams Drive to allow a garage and habitable space 5.5-feet and 7-feet --respectively-- closer to a side-yard property line than allowed-for under current LDC requirements.

The applicant is seeking variances from LDC Sec. 34-638 (Table 34-3), to allow a garage and habitable space closer to a side-yard property line

Town Attorney Herin, Jr. swore in those providing testimony. Ex parte communications: Vice Chair Plummer and LPA Member Safford disclosed a drive-by. No disclosure from other members. Vice Chair Plummer read the

title of the variance.

Jason Smalley from Planning and Zoning reviewed the variance request. LPA Member Safford questioned what the setback would have been under the previous code. Mr. Smalley replied that he would have to clarify because he reviewed the request under the existing code. LPA Member Cereceda requested clarification of the setback. Mr. Smalley replied that it would have required 13 feet under the current code because it was an addition to the primary structure. He noted the two variances were to expand the house. LPA Member Vanasse explained the 30% setback and noted that the applicant requested setbacks plus or minus two feet. Mr. Smalley appreciated LPA Member Vanasse's point but indicated that the living space in the rear of the house would still require a reasonably large variance request.

Applicant Marc Jones stated that he bought the home for his retirement. He thought the setback was 7.5 feet and explained how he intended to expand the back area and garage for new living areas. He stated that he did not think his neighbor objected to the expansion of the rear corner.

LPA Member Woodson questioned whether Mr. Jones would consider redesigning so there would not be such a large variance. Mr. Jones responded that there was no space to expand the house on the other side. He stated that his lot was pie-shaped and the front had more room. He noted there could be some design changes, but it would significantly affect the master bedroom and bath.

LPA Member Cereceda clarified that 30% was not an option because the variance request was just that. Town Attorney Herin, Jr. replied that LPA Member Vanasse was correct with his 30% analysis, but that was not before the LPA. LPA Member Cereceda suggested they table or continue the request to allow the applicant to come back with a new plan. She stated that the project did not meet the criteria for a variance request. Mr. Jones responded that he did not think there was a way to redesign the space to fit what they wanted in the building. He did not think it was an unreasonable request. Vice Chair Plummer stated that the LPA could not change the criteria for him and referred to the findings and conclusions in the report.

LPA Member Vanasse explained how the 30% setback applied to his property. After discussion, Mr. Jones agreed to work with the town planners on a redesign, but he did not want to have to hire an architect or engineer. LPA Member Vanasse recommended that Mr. Jones reviews the code when planning his changes. Town Attorney Herin, Jr. explained why hiring an architect or engineer would help the applicant with the design. Mr. Jones stated that he consulted with two contractors who reviewed the structure and felt the proposed changes were doable. LPA Member Cereceda commented that the LPA needed something on paper.

Public comment:

Scott DePaul, a next-door neighbor, was against any construction on the south side of the applicant's property. Vice Mayor Plummer stated that construction by the pool was not part of the applicant's plan.

Public comment closed.

LPA Member Cereceda moved to continue the hearing until November 8, 2022, at 9:00 a.m.; second by LPA Member Safford.

LPA Member Safford discussed the unintentional consequences of changing the setbacks and felt they had to consider amending the code again. Town Attorney Herin, Jr. suggested that the LPA direct staff to add the discussion to their next agenda. LPA Members Cereceda and Safford agreed with LPA Member Vanasse.

Motion passed 5-0 with LPA Member Critser excused.

**B. Comprehensive Plan amendment to adopt a Property Rights Element
Recommend transmittal and approval of the Property Rights Element
as an amendment to the Comprehensive Plan**

Community Development Planner Sarah Propst reviewed the property rights element and noted the language reflected the language of the law. Staff recommended that the LPA recommend approval of the property rights element to the Town Council. LPA Member Vanasse questioned the timing of the action. Planner Propst explained that the property rights element had to be adopted before they could process future amendments to the Comprehensive Plan.

LPA Member Vanasse moved to approve; second by LPA Member Safford. Motion passed 5-0 with LPA Member Critser excused.

**C. Newton Park CPD Amendment
Newton Park CPD Amendment to Conditions of Approval and Adoption
as an Ordinance**

Planner Propst reviewed the amendment. Newton Park requested the opportunity to serve alcohol without a special permit. She added that the department received two letters of objection from adjacent property owners. Staff recommended that the LPA recommend approval.

Town Attorney Herin, Jr. swore in those providing testimony. Ex parte communications: LPA Member Safford stated that he walked by the property almost daily. No disclosures from other members.

Planner Propst summarized the letters of objection. Town Attorney Herin, Jr. explained that alcohol was currently allowed on the property and the amendment would remove the special event permit requirement. LPA Member Cereceda noted that the amendment was consistent with what the LPA did at the Mound House but conceded that the Mound House was not germane to the discussion.

LPA Member Woodson stated that they were not discussing the sale of alcohol as the letters of objection indicated. LPA Member Safford addressed the letters and noted it was a policing issue. He felt there were not enough police to enforce the laws. He commented that the letters did not have anything to do with the amendment request.

No public comment.

LPA Member Woodson moved to approve and modify condition number 7 to allow the park to be operated similar to the changes made in recent years to the Mound House and consistent with the Town Council operational directions; second by LPA Member Safford.

Motion passed 5-0 with LPA Member Critser excused.

VI. HISTORIC PRESERVATION

A. 171 Egret St Request for Historical Recognition

171 Egret St, Request for historical recognition of a single-family structure, originally constructed in 1961 and subsequently remodeled.

Mr. Smalley noted the department received several applications and staff requested guidance regarding how the LPA would like to receive future applications. He reviewed the application and noted staff could not establish the scope of work on the structure or whether the structure met the requirements. The owner did not respond to requests for more information or to attend the meeting. LPA Member Vanasse questioned the status of the Historic Preservation Advisory Committee. LPA Member Safford stated that HPAC would typically review applications. He noted that Recognition designations required the home to be at least 50 years old. Town Attorney Herin, Jr. recommended that both applications be tabled so staff can verify that HPAC must review the applications before presenting them to the LPA.

LPA Member Safford moved to table both applications; second by LPA Member Vanasse

Motion passed 5-0 with LPA Member Critser excused.

B. 139 Palermo Cir Request for Historical Recognition

139 Palermo Cir, Request for historical recognition of a single-family structure, originally constructed in 1953 with multiple subsequent renovations.

LPA Member Safford moved to table the application; second by LPA Member Vanasse

Motion passed 5-0 with LPA Member Critser excused.

VII. ADMINISTRATIVE AGENDA

LPA Member Cereceda had to leave the meeting.

No agenda.

VIII. LPA MEMBERS ITEMS/REPORTS

LPA Member Vanasse made a motion, but before it was seconded, Town Attorney Herin, Jr. suggested that the LPA hear from Planner Propst regarding changes to the setbacks. Planner Propst explained the change between the first and second hearing to the Town Council. Vice Chair Plummer indicated that the change affected small lots that the LPA did not want. LPA Member Vanasse suggested looking at an administrative review, variance, or deviation process

where they could add tolerances and avoid a public hearing. Vice Chair Plummer suggested that the LPA address the topic in October. LPA Member Vanasse discussed staff helping applicants to come up with potential alternatives to their application rather than just saying no. He questioned whether they needed to hire more staff to offer a better service. Town Attorney Herin, Jr. responded that staff did spend time with applicants to come up with solutions to issues; however, the applicants did not always agree with the solutions. Mr. Smalley questioned how they would flex measurements on an existing structure. LPA Member Vanasse replied that his comments were not specific to any case or staff member, but the feelings he heard expressed were that Town Hall started with a no. He felt that it would be great if the perspective was changed to indicate that the town wanted to work with applicants to eventually come up with a yes. Town Attorney Herin, Jr. discussed a previous application that was continued by Town Council.

LPA Member Woodson stated that November 8 was election day and questioned changing their November meeting.

LPA Member Vanasse stated that the LPA still did not receive more detail regarding the budget and they would not have a chance to discuss anything before it went to Council. Vice Chair Plummer noted she would like to have the details so the LPA could understand the budget. LPA Member Vanasse stated that he would attend the budget meetings and voice his opinion as a resident. He questioned whether the LPA should have a say on some of the items coming up with the budget. LPA Members Safford and Woodson supported allowing LPA Member Vanasse to represent the LPA at the Town Council meeting.

Planner Propst stated that she would get the numbers for the LPA.
No items from other members.

IX. LPA ATTORNEY ITEMS/REPORTS

No items.

X. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

XI. ITEMS FOR NEXT MONTHS AGENDA

No specific items.

XII. PUBLIC COMMENT

No public comment.

XIII. ADJOURNMENT

LPA Member Safford moved to adjourn; second by LPA Member Woodson.

Motion passed 5-0 with LPA Member Critser excused.

The meeting was adjourned at 10:44 a.m.

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

Yellow Sheet Number: **2022-757**

1. Requested Motion:

Meeting Date: September 13, 2022

Approve/Approve with Conditions/Deny VAR20220076, 745 Matanzas Ct. The applicant is seeking a variance from LDC Sec. 34-638(d)(1)(g), current setbacks are 9-feet, applicant is requesting a variance of 5-feet to place pool equipment/ pad approximately 4-feet from the side property line.

Why the action is necessary:

The variance became necessary after the placement of the equipment was noticed on the opposite side of the home from where it was originally permitted. Due to the dimensions of the lot and the approved/ constructed location of the pool deck the equipment could not be located in the rear of the property and had to be installed on the side

What the action accomplishes:

The placement of the electrical panel on the right-hand side of the house made the placement of the pool equipment on the same side the most beneficial for the contractor, even though the original permits called for placement on the left-hand side of the house within the required setbacks.

2. Agenda:

PUBLIC HEARINGS

3. Requirement/Purpose:

Resolution

5. Background:

The applicant for 745 Matanzas Ct., has requested a variance from the Town's Land Development Code (LDC), Sec. 34-638(d)(1)(g) which requires primary structure setbacks for mechanical equipment placed in the street or side setbacks. Currently the LDC requires setbacks of nine-feet (9) from the side property line, the applicant has provided side-yard setbacks of 4.24-feet to the proposed equipment, a difference of approximately 5-feet. Lot widths have been determined based on a provided survey from the applicant and publicly accessible property data. The equipment was installed on the opposite side of the house from what was approved during the permit review. This error was noticed during inspections. The pool permit cannot be closed out until a variance is approved or the equipment is relocated.

Attachments:

1. VA20220076_745 Matanzas Ct_Pool Equipment Setback Variance_LPA
2. 12179282-745 Matanzas Ct- Variance
3. POOL-SURVEY-SIGNED

Financial Impact:

N/A

6. Alternative Action

7. Staff Recommendations:

8. Recommended Approval:

Daphnie Bercher, Community Services Administrator

Date: August 30, 2022

Jason Green, Community Development Services

Date: September 06, 2022

John R Herin Jr, Town Attorney

Date: September 07, 2022

Amy Baker, Town Clerk

Date: September 07, 2022



Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

TYPE OF CASE: Variance

CASE NUMBER: VAR20220076

CASE NAME: 745 Matanzas Court; to approve pool equipment closer to a side-yard property line than allowed-for under current LDC requirements.

LPA HEARING DATE: September 13, 2022

STAFF RECOMMENDATION: Deny reduction of equipment setbacks on the side of the home

**PREPARED/
SUBMITTED BY:** Jason Smalley/ Jason Green AICP

I. APPLICATION SUMMARY

Applicant/Owner: Jeffrey Spiro -- Applicant

Request: The applicant is seeking a variance from LDC Sec. 34-638(d)(1)(g), current setbacks are 9-feet, applicant is requesting a variance of 5-feet to place pool equipment/ pad approximately 4-feet from the side property line. The equipment was constructed in a location that is not consistent with the Town's LDC.

Subject property: See attached site plan

Physical Address: 745 Matanzas Court

STRAP #: 24-46-23-W3-0050C.008A

FLU: Low Density

Zoning: Residential Single-Family (RS)

Adjacent zoning and land uses:

North:	RESIDENTIAL SINGLE-FAMILY (RS) Single-Family Residences
South:	RESIDENTIAL SINGLE-FAMILY (RS) Single-Family Residences
East:	CANAL WATERWAY Open Space
West:	RESIDENTIAL SINGLE-FAMILY (RS) Single-Family Residences

II. BACKGROUND AND ANALYSIS

Background:

Jeffrey Spiro, the applicant for 745 Matanzas Ct., has requested a variance from the Town's Land Development Code (LDC), Sec. 34-638(d)(1)(g) which requires primary structure setbacks for mechanical equipment placed in the street or side setbacks. Currently the LDC requires setbacks of nine-feet (9) from the side property line, the applicant has installed pool equipment with a side-yard setback of 4.24-feet to the equipment, a difference from the required setback of approximately 5-feet. The equipment was installed by the contractor in the wrong location from what was shown on the pool permit. Lot widths have been determined based on a provided survey from the applicant and publicly accessible property data.

The house was built in 1956, with a building permit in 2006 to perform remodeling of the structure. The current owners bought the house in 2020.

Analysis:

The variance became necessary after the placement of the equipment was noticed on the opposite side of the home from where it was originally permitted. Due to the dimensions of the lot and the approved/ constructed location of the pool deck the equipment could not be located in the rear of the property and had to be installed on the side. The placement of the electrical panel on the right-hand side of the house made the placement of the pool equipment on the same side the most beneficial for the contractor, even though the original permits called for placement on the left-hand side of the house within the required setbacks. It appears the pool contractor and civil engineer for the project did not coordinate the location that was shown. If the current location of the installed equipment had been requested as part of the permit, it would have been denied due to failure to comply with the required setbacks.

The construction of the pool and equipment was reviewed for 40-percent lot coverage and impervious maximums and were found to meet the LDC requirements.

Neighborhood Compatibility:

The proposed setbacks of the equipment cannot be easily compared to the surrounding neighborhood. Many of the lots of similar dimensions to 745 Matanzas do not have pools or pool equipment evident from the street, so staff cannot make an assessment of whether other homes have met required setbacks. The neighborhood can be reasonably described as being established homes which may have had their equipment permitted under different or less restrictive codes, but few of the 'thin and long' parcels in the immediate area of this lot have pools, so comparison is limited.

The immediate question at-hand has to do with how the placement of the pool equipment will affect the enjoyment of neighbors' property. While the contractor has stated that modern equipment is quieter than legacy pumps and heaters, there is some amount of visual clutter the neighbor will be obligated to accept if the variance request is granted.

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 has stated that placement of the equipment on the south-side of the home is the only justifiable placement based on the engineer's determination that the gas-powered equipment cannot be placed under the wood access stairs on the north-side of the home. This doesn't constitute an "exceptional" or "extraordinary" condition of the site.

- 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.*

Following an on-site visit staff questioned whether an area on the north-side of the home near the pool deck could be utilized for the equipment, prior to completion of the pool deck some amount of the area in the rear of the property could have been feasibly designed to accommodate the gas-powered unit, or the customer could have chosen another type of fuel-unit that would have worked better for the limitations of the site's dimensions.

- 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 proposed placement would constitute the minimum required variance necessary to meet the needs of the applicant and minimum safety distances from the home and would not increase building heights and would only minimally obscure views of a waterway from the right of way.

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

While the placement of the equipment will be measurably closer to the southern neighbor, increasing visual clutter and possibly increasing noise, the granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Staff reminds the applicant that even if the equipment is allowed on the south-side of the home that the stormwater retention area which was approved during permitting review must be provided and existing trees must be retained or moved to avoid damage or loss of the plant material.

- 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.*

This variance request is not uncommon for existing structures designed under previous setback requirements of the LDC, changes to the code made this variance request necessary and further changes to the code would not be warranted to address this particular situation.

III. RECOMMENDATION

Staff has reviewed the request for a variance from LDC Sec. 34-638(d)(1)(g) to allow pool equipment closer to a side-yard setback on a lot adjacent to a waterbody. The equipment placement is not consistent with the criteria outlined in LDC Sec. 34-87.

Therefore, staff recommends **DENIAL** of VAR20220076, to place pool equipment 5-feet closer to a side-yard property line.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

This is a first part of 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 a complete Public Hearing application with required, supplemental information, exhibits and documents to zoningpermits@fmbgov.com. Please do not submit the instructions at the end of the application.

Site Address: 745 Matanzas Ct
STRAP Number: 24-46-23-W3-0050C.008A
Applicant: Jeffrey Spiro Phone: 239-703-7294
Contact Name: ashley@spiropools.com Phone: _____
Email: ashley@spiropools.com Fax: _____
Current Zoning District: _____
Future Land Use Map (FLUM) Category: Low density
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

PART I – General Information

A. Applicant*: Jeffrey Spiro Phone: 239-703-7294
**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: 5751 Halifax Ave. Unit 1, Fort Myers, 33912
Email: ashley@spiropools.com Fax: _____
Contact Name: Jeffrey Spiro Phone: 239-703-7294



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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: Jeffrey Spiro Phone: 239-703-7294
Address: 5751 Halifax Ave., unit 1, Fort myers, 33912
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: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☒ Variance from LDC Section ~~111~~ - 34-638(d)(1)(g)
- ☐ 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: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☐ 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: _____ Description: _____

PART IV - Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Jeffrey Spiro 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;



COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

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

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

_____	_____
_____	_____
_____	_____
_____	_____

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

_____	_____
_____	_____
_____	_____
_____	_____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

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 Town of Fort Myers Beach 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 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
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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

Signature

Title

Typed or Printed Name

Date

STATE OF _____ COUNTY OF _____

The foregoing instrument was certified and subscribed before me by means of ____ physical presence OR ☐ online notarization, this ____ day of _____, 20____, by _____, ☐ who is personally known to me OR ☐ who has produced _____ as identification.

Seal

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 24-46-23-W3-0050C.008A

Property Address: 745 Matanzas Ct

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 6-1.

☒ Yes. Property identified in subdivision: Island Shores

Book: 9 Page: 25 Unit: 2 Block: C Lot(s): 8

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 6-2.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 42.25' feet
Depth (please provide an average width if irregular in shape) 200' feet
Frontage on street: 135.5' feet. Frontage on waterbody: 55' feet
Total land area: 0.2 ac ☐ acres ☐ square feet

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

☐ Attach Area Location Map as Exhibit 6-3

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 6-4.
☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

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 6-6.
☐ Attach a map showing the surrounding property owners as Exhibit 6-7.
☐ 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 |



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

Please submit required applications, supplemental information, exhibits and documents to zoningpermits@fmbgov.com.

Application fees are set by resolution of the Town Council of the Town of Fort Myers Beach and must be paid before any materials submitted will be considered an application.

The applicant is responsible for the accuracy and completeness of this application. Time delays or additional expenses necessitated by submitting inaccurate or incomplete information will be the responsibility of the applicant. Decisions regarding requests to waive submittal requirements are at the discretion of the Community Development Director and may not be appealed.

All information submitted with the application becomes a part of the public record and will be a permanent part of the file.

All attachments and exhibits must be legible, suitable for recording, and of a size that will fit or conveniently fold into a letter size (8 ½ by 11) folder.

Explanatory Notes – Part I

- A. Applicant's name: The applicant may be the landowner or an authorized agent.
- B. Relationship of applicant to property: Indicate if the applicant is the property owner, and if so, the type of ownership. If the applicant is not the owner of the property, indicate the relationship of the applicant to the owner and submit a notarized authorization from the owner(s) to the applicant.
- C. Agent's name: If the applicant will have others representing him/her in processing the application, indicate name, address, and phone number.
- D. Other agents: Provide contact information for any other agents that may be involved in the request.

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

If waiver of any application requirement has been approved by the Community Development Director, attach a copy of the approval. Please request waivers prior to applying. Exhibit 3-1

Explanatory Notes – Part IV

- A. If the property owner is an individual or husband and wife, check the box and provide the information.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

- A. If there are multiple property owners exhibit 5-1, complete the disclosure form and include the names and mailing addresses of all persons or entities having an ownership interest in the property, including the names of all stockholders and trust beneficiaries. Disclosure is not required of any entity whose interests are solely equity interests that are regularly traded on an established securities market in the United States or another country.
- B. If more than one parcel is involved, submit a list of all property owners and their mailing addresses. Provide a map keyed to the list of property owners showing their interests. The applicant is responsible for the accuracy of the list and map Exhibit 5-2
- C. Where the property is a condominium or timeshare condominium, the application must be initiated by both the condominium association and no less than 75% of the total number of unit owners. To verify ownership, the list of property owners must be identified by unit number and/or timeshare period as applicable, along with proof that the owners who did not join in the application were given actual written notice of the application by the applicants, who must verify the list and the notice by sworn affidavit. Attach this affidavit as Exhibit 5-3.
- D. In addition, a letter of opinion from an attorney licensed to practice law in the State of Florida addressing the considerations in LDC Section 34-201(a)(1)b.3. must be attached as Exhibit 5-4.

Explanatory Notes – Part VI

- A. Include the street address of the subject property. List STRAP number. If more than one parcel is involved, list all STRAP numbers. If you don't know the STRAP number, you can look up the property in the records of the Lee County Property Appraiser at <http://www.leepa.org>. If the application includes only one or more undivided platted lots within a subdivision officially recorded in the Plat Books of Lee County, Florida, identify the property by lot number(s), block if applicable, subdivision unit if applicable, subdivision name, and plat book number and page number. If the property is not one or more undivided platted lots or is in an "unrecorded" subdivision, attach a metes and bounds legal description giving accurate bearings and distances for each course. If multiple parcels are involved, the metes and bounds legal description must describe the perimeter of the entire property subject to the request. The initial point in the description must be related to at least one established identifiable real property corner, such as a government corner or a recorded corner. The bearings used in the description must be clearly referenced to a well-established and monumented line. Exhibit 6-1
- B. Submit a Boundary Survey meeting the minimum technical standards for surveying set out in Chapter 61G17-6 of the Florida Administrative Code. Make sure that the surveyor is aware of any specific needs of the survey (location of Coastal Construction Lines, locations of existing structures, locations of easements, etc) that are relevant to your request. The perimeter boundary of the entire subject property should be indicated clearly with a heavy



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

line. Exhibit 6-2

- C. Provide the property dimensions or the approximate dimensions if the property is not a regular quadrilateral.
- D. Describe how to get to the property starting from either the Sky Bridge or the Big Carlos Pass Bridge (specify which). Exhibit 6-3
- E. If there are any deed restrictions or covenants that might affect the requested action, provide the information. Exhibit 6-4
- F. A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5
- G. Attach a list of the surrounding property owners within 500 feet of the perimeter of the area of the request. Also include two sets of mailing labels providing the names and addresses of the owners on this list, and a map showing the parcel boundaries within the 500-foot radius Exhibit 6-6. This information can be acquired for a small fee by requesting a "variance report" from the Map Sales Office at the Lee County Property Appraiser's Office. Contact information for the Property Appraiser can be found at <http://www.leepa.org>.
- H. Indicate the Future Land Use Map category or categories of the property as shown on the Fort Myers Beach Comprehensive Plan's Future Land Use Map, and whether the property is located in the "platted overlay" on the map.
- I. Indicate the current zoning of the property. In most cases the current zoning is shown on the official zoning map of the Town of Fort Myers Beach, as adopted by ordinance. If zoning actions affecting the subject property have been taken since March 2004, call Town Hall to verify the current zoning.

Explanatory Notes – Part IV & V

The applicant must sign and submit either of the affidavits in Part V & VI, as applicable.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

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.

Donna Payne
Signature

DONNA PAYNE
Printed Name

STATE OF FL COUNTY OF Montgomery

The foregoing instrument was certified and subscribed before me by means of X physical presence OR _____ online notarization, this 17 day of June, 2022, by

Donna Payne, ☒ who is personally known to me OR ☐ who has produced

_____ as identification.

(SEAL)

Bess Fuller
Notary Public Signature

PART V

Property Ownership (Multiple Owners)

☐ 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 5-1
- ☐ Attach map showing property owners interests as Exhibit 5-2 (for multiple parcels)
- ☐ For condominiums and timeshares see Explanatory Notes Part V - Exhibit 5-3
- ☐ Letter of Opinion - Exhibit 5-4

DISCLOSURE OF OWNERSHIP INTEREST

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

Page 27 of 34



Case # _____

Date Received: _____

Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

Supplement PH-B

Additional Required Information for a Variance Application

Sec 34.638
(d)(1)(g)

and part of a two-part application. This part requests specific
a variance. Include this form with the Request for Public

Wayne New Pool
Authorized Applicant: Jeffrey Spiro
LeePA STRAP Number: 24-46-23-W3-0050C.008A

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

Sec 34.638 (d)(1)(g)

Complete the narrative statements below for EACH variance requested.



Case # _____

Date Received: _____

PART I

Narrative Statements

Pool Equipment

Request for variance from Setback _____ (LDC Section number)

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

7.5 foot setback to pool equipment. Need a 2' variance for where the equipment sits.

Reasons for request

Explain why the variance is needed:

There is no where on the property that the equipment can be placed and stay within the proper setback, that wouldn't be violating a different code.



Case # _____

Date Received: _____

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

There is no real effect this will have. There is ample space between the homes and we use pentair equipment that runs very quietly as is.

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

This property has no side yard ability to stay within the setback. The electrical panel is on the side we put the equipment on, and there is already an AC unit on that side existing and next to the equipment.

[illegible]



Case # _____

Date Received: _____

PART 2 Submittal Requirements

All applications for a variance must be submitted electronically through our Iworq portal - [iworq \(talktomycity.com\)](http://iworq.talktomycity.com)

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
- Fee in the amount of \$1800.00 (residential)/Additional Variance \$500.00
- Variance (non-residential) \$2800.00/ Additional Variance \$700.00

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.



Case # _____

Date Received: _____

Site plan

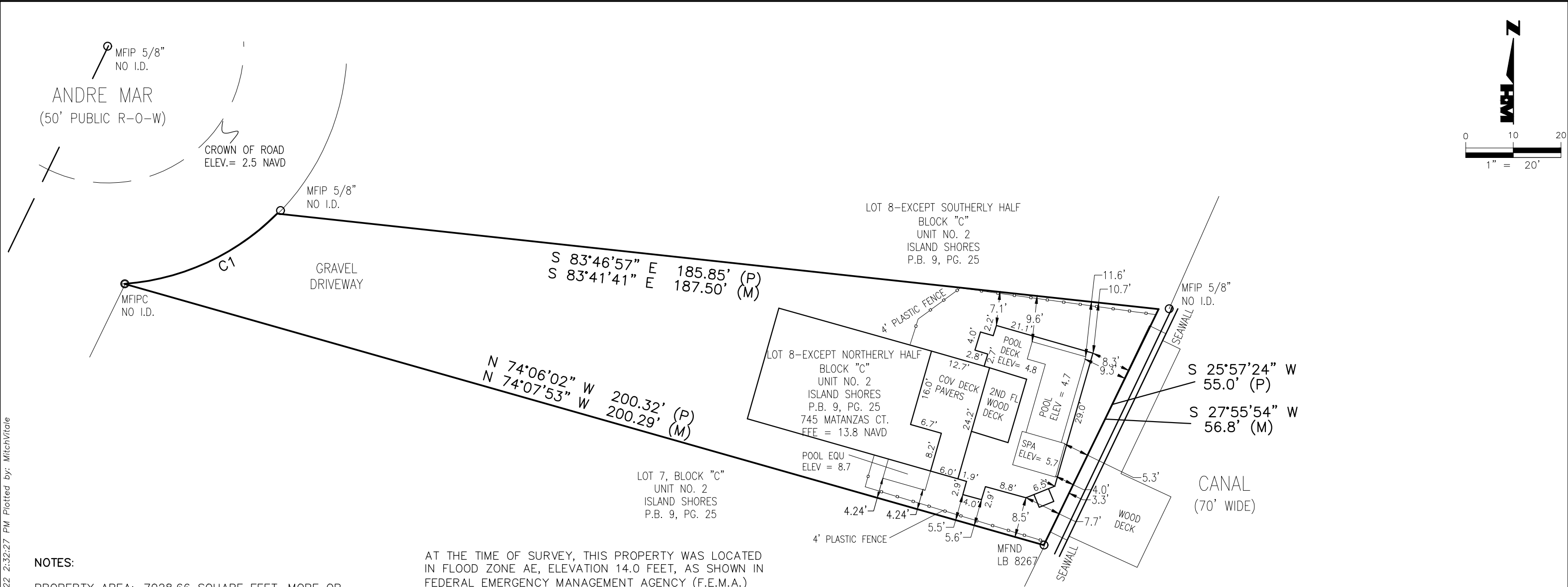
The site plan must show all existing structures on the site; all existing structures within 100 feet of the perimeter boundary of the site; and a clear illustration of the proposed variance.

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.

H:\2022\2022638\BOUNDARIES\745 Matanzas BOUND.dwg 6/24/2022 2:32:27 PM Plotted by: MitchVitale



NOTES:

PROPERTY AREA: 7028.66 SQUARE FEET, MORE OR LESS.

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

UNLESS A COMPARISON IS MADE, MEASURED COURSES ARE IDENTICAL TO PLAT VALUES.

BEARINGS SHOWN HEREON REFER TO THE SOUTH LINE OF LOT 8, AS BEING N74°06'02"W.

ABSTRACT OF TITLE HAS NOT BEEN REVIEWED BY SURVEYOR.

ELEVATIONS REFER TO THE NORTH AMERICAN VERTICAL DATUM OF 1988.

AT THE TIME OF SURVEY, THIS PROPERTY WAS LOCATED IN FLOOD ZONE AE, ELEVATION 14.0 FEET, AS SHOWN IN FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) FLOOD INSURANCE RATE MAP (F.I.R.M.) HAVING MAP NUMBER 12071C0554F, HAVING A F.I.R.M. INDEX DATE AUGUST 28, 2008.

THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CERTIFIED TO:

- SPIRO POOLS

I HEREBY CERTIFY THAT THIS POOL SPOT SURVEY OF THE HEREON DESCRIBED PROPERTY WAS PERFORMED UNDER MY DIRECTION ON 6/22/2022.

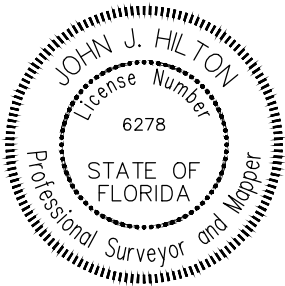
PROPERTY DESCRIPTION:

LOT 8, BLOCK C, ISLAND SHORES UNIT NO. 2, A SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 9, PAGE 25, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

LESS THAT PARCEL AS DESCRIBED IN INSTRUMENT NUMBER 2020000182383 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

- Symbol Description
- FFE = FINISHED FLOOR ELEVATION
 - FOUND IRON PIN

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION NUMBER LB 1772



CURVE	RADIUS	DELTA ANGLE	CHORD LENGTH	CHORD BEARING	ARC LENGTH
C1	50.00'	41°12'42"	35.19'	N 65°18'32" E	35.96'

REV-1 ADDED POOL EQUIPMENT TIE TO PROPERTY LINE- 7-11-11 JJH

BY _____ LS6278
JOHN J. HILTON STATE OF FLORIDA

POOL SPOT SURVEY

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

PARTY CHIEF/FIELD BOOK: D.F. 1166/36	DATE: 6-22-2022
DRAWN BY: MIT	DATE: 6-23-2022
SHEET # 1	OF SHEET 1
SEC-TWN-RGE 24-46-23,24	



6200 Whiskey Creek Dr.
Ft. Myers, FL. 33919
Phone: (239) 985-1200
Florida Certificate of
Authorization No.1772

LOT 8, BLOCK C
745 MATANZAS CT.

DRAWING NO. H-1977
PROJECT NO. 2022.638
FILE NAME: 745 Matanzas BOUND.dwg