
RESOLUTION NUMBER 20-28

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA REGARDING APPLICATION VAR 20200021, FOR A VARIANCE TO THE REQUIREMENTS OF THE FORT MYERS BEACH LAND DEVELOPMENT CODE FOR THE PROPERTY LOCATED AT 5619 LEWIS STREET; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, applicant Paul Clark (“Applicant”), owner of the property located at 5619 Lewis Street (“Property”), is requesting a variance from Table 34-3 of the Town of Fort Myers Beach Land Development Code (“LDC”); and

WHEREAS, the STRAP number for the Property is 33-46-24-W2-00001.0090 and the legal description of the Property is attached as *Exhibit A*; and

WHEREAS, the Property is located in the ‘Residential Conservation’ zoning district of the Official Zoning Map and the ‘Mixed Residential’ category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on July 21, 2020, at which the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-84 of the LDC; and

WHEREAS, on August 17, 2020 the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by LDC 34-87, and the Town Council determined it is in the best interest of the Town to approve the request.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Determination.

Based upon the recommendations, testimony, and evidence presented by the applicant, Town staff, and interested parties, the Town Council **APPROVES** the following:

- A. A variance from Table 34-3 Dimensional Regulations in Conventional Zoning Districts, to allow a principal structure to encroach into all side setback. For a variance of 22 feet from the required 25 feet front setback requirement. For a variance of 18.7 feet from the required 20 feet rear setback requirement. For a variance of 5.4 feet on the right side from the required 7.5 feet side setback requirement.

Recommended Findings and Conclusions:

In accordance with the requirements of Sections 34-84 and 34-87 of the LDC regarding consideration of eligibility for a variance, the Town Council makes the following findings and reaches the following conclusions:

A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is** for a de minimus variance under circumstances or conditions where rigid compliance is not essential to protect public policy.

B. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.

C. The variance granted **is** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.

D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

E. The conditions or circumstances on the Property for which the variance is sought **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

Conditions of Approval

1. *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 existing single-family residence as shown on the provided survey dated 10/14/2019 by Reliable Land Surveying. No deviations from the measurements of that survey greater than 0.1 feet shall be permitted.*
3. *If the single-family residence is determined to be substantially damaged or subject to substantial improvement, then this setback variance shall be null and void*
4. *Stormwater shall be adequately managed on the lot and not create adverse condition.*
5. *The applicant shall provide a letter from professional engineer indicating the improvements are inspected and comply with design plans and Florida Building Code.*

Effective Date.

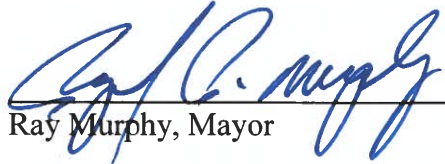
This Resolution shall take effect immediately upon adoption.

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

DULY PASSED AND ADOPTED on this 17th day of August, 2020.

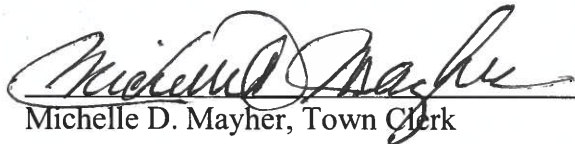
Ray Murphy, Mayor	Aye
Rexann Hosafros, Vice Mayor	Aye
Dan Allers, Council Member	Aye
Jim Atterholt, Council Member	Aye
Bill Veach, Council Member	Aye

TOWN OF FORT MYERS BEACH



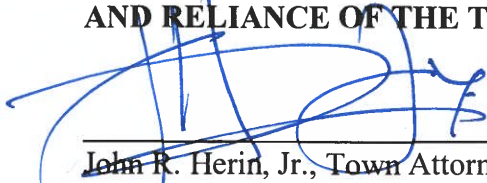
Ray Murphy, Mayor

ATTEST:



Michelle D. Mayher, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**



John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 21st day of August 2020.

Reliable Land Surveying, Inc.

Mailing Address: P.O. Box 1589, Ft. Myers, FL 33902 Street Address: 13010 Palm Beach Blvd., Ft. Myers, FL 33905
 Toll Free Fax: (888) 215-9098 Email: info@reliablelandsurveying.com
 Phone: (239) 340-3318 www.reliablelandsurveying.com
 Certificate of Authorization No. LB 7373

- LEGEND:**
- BBB = BASIS OF BEARINGS
 - CSP = COVERED SCREENED PORCH
 - (D) = PER DEED
 - DE = DRAINAGE EASEMENT
 - EDFL = ESTIMATED DRAIN FIELD LOCATION
 - FCH = FOUND CONCRETE FOUNDMENT
 - FDH = FOUND DRILL HOLE
 - FF = FINISH FLOOR ELEVATION
 - FIP = FOUND IRON PIPE
 - FIR = FOUND IRON ROD
 - FMD = FOUND NAIL & DISK
 - FM = FOUND NAIL
 - FMBT = FOUND NAIL & TAB
 - GF = GARAGE FLOOR ELEVATION
 - I = INSIDE PROPERTY
 - ICV = IRRIGATION CONTROL VALVE
 - LHE = LAKE MAINTENANCE EASEMENT
 - (M) = AS MEASURED
 - O/S = OFF SET
 - (P) = PER PLAT
 - PC = POINT OF CURVE
 - PUE = PUBLIC UTILITY EASEMENT
 - SEP = APPROXIMATE LOCATION OF SEPTIC TANK
 - SHET = SET HUB & TACK
 - SIR = SET 1/2" IRON ROD & CAP STAMPED "LB 7373"
 - SN&D = SET NAIL & DISK STAMPED "LB 7373"
 - SWIR = SET 1/2" IRON ROD & CAP STAMPED "WIT. COR. LB 7373"
 - S/W = SEAWALL
 - TBM = TEMPORARY BENCH MARK
 - TBB = APPROXIMATE TOP BANK
 - TUE = TECHNOLOGIST UTILITY EASEMENT
 - UE = UTILITY EASEMENT
 - VE = VALLEY GUTTER
 - X = OUTSIDE PROPERTY

Notes:

- 1) Parcel was surveyed from information supplied by the client or the clients agent.
- 2) Easements as shown hereon are from the recorded plat. Any other easement (s) pertaining to the hereon described parcel must be furnished to the surveyor by the client or the clients agent per Florida Administrative code 5J-17.052(2)(d).
- 3) This certification is only for the parcel described. It is not a certification of title, zoning, easement, freedom of encumbrance, ownership, or rights-of-ways.
- 4) Parcel subject to easements, restrictions, reservations, and rights-of-ways of record. Abstract not reviewed.
- 5) Additions or deletions to survey maps or reports by other than the signing party or parties is prohibited without the written consent of the signing party or parties.
- 6) The survey depicted hereon is not valid without the signature and original raised seal of a Florida licensed surveyor and mapper.
- 7) Wall locations, when shown, are approximate and based on field observed surface evidence, unless otherwise noted.
- 8) Septic and/or drain field locations, when shown, are approximate and based on surface evidence, subsurface probes, or a combination thereof.
- 9) Underground utilities, structures and/or improvements other than those shown, if any, were not located.
- 10) The survey depicted hereon may not be communicated or relied on by any party to which it has not been certified without the prior written consent of the signing party.

- = WATER METER
- = STORM DRAIN
- = UTILITY BOX/RISER
- = LIGHT POLE
- = POWER POLE
- = FIRE HYDRANT
- = WATER VALVE
- = FENCE LINE
- = CONCRETE
- = OVERHEAD LINE
- = ELEVATION

Certified To: Paul G. Clark
 Revision:
Boundary Survey
W.O.# 19-2090
Date: 14 OCT 2019
 DRAWN BY: DMK

Parcel Description:

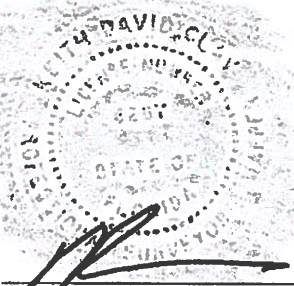
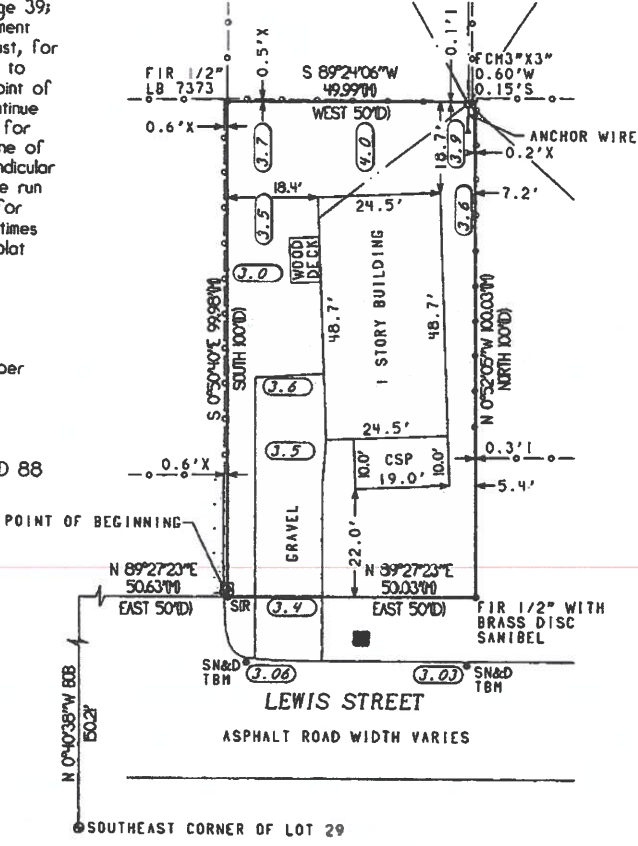
Commencing at the Southeast corner of Lot 29, Block 4, Gulf Heights Subdivision, as recorded in the Public Records of Lee County, Florida, in Plat Book 6, Page 39; thence run North along the westerly line of Government Lot 2, Section 33, Township 46 South, Range 24 East, for 150.21 feet; thence run East on a line perpendicular to said West line of said Lot 2 for 50 feet to the Point of Beginning of the lands herein described; thence continue East perpendicular to said West line of said Lot 2, for 50 feet; thence run North parallel with said West line of said Lot 2, for 100 feet; thence run West, perpendicular to said West line of said Lot 2 for 50 feet; thence run Southerly parallel to said West line of said Lot 2, for 100 feet, to the Point of Beginning; and being sometimes referred to as Lot 5, Lazy Acres, an unrecorded plat prepared by surveyor Carl E. Johnson, Fort Myers, Florida, in August 1956.

Flood Zone Information:

Parcel lies in Flood Zone AE Base Elevation - 13' as per FIRM # 12071C 0566 F, Dated: 8/28/08.

Elevation Information:

The Elevations as shown here are based on the NAVD 88 Datum.



Keith David Clay
 Registered Surveyor & Mapper
 Certificate No. 6267