

**RESOLUTION NUMBER 19-33**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA REGARDING APPLICATION VAR 20190058, FOR A VARIANCE TO THE REQUIREMENTS OF THE FORT MYERS BEACH LAND DEVELOPMENT CODE FOR THE PROPERTY LOCATED AT 3597 SHELL MOUND ROAD; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, applicant Laurie Carroll and Kimberly Staehle (“Applicants”), owners of the property located at 3597 Shell Mound Road (“Property”), are requesting a variance from Section 34-638 and Section 34-1174 of the Town of Fort Myers Beach Land Development Code (“LDC”); and

**WHEREAS**, the STRAP number for the Property is 29-46-24-W1-0110A.0010 and the legal description of the Property is attached as *Exhibit A*; and

**WHEREAS**, the Property is located in the ‘Residential Single-family’ zoning district of the Official Zoning Map and the ‘Low Density’ category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

**WHEREAS**, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on September 16, 2019, at which the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-84 of the LDC; and

**WHEREAS**, on November 4, 2019 the Town Council held a duly advertised 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 Section 34-1174(d)1(c) of the LDC, which requires roofed accessory structure to have the same side setback as is required for the principle building in that zoning district. The variance requested is to reduce the 7.5 feet setback to allow the encroachment of a tiki hut 3 feet into the side setback as shown on attached survey.
- B. A variance from Section 34-638(d)3(c)4(ii) LDC, which requires a residential roofed accessory structure to have a 10 feet setback from an artificial body of water. The variance requested is to reduce the 10 feet setback to allow the encroachment of a tiki hut 4.4 feet into the rear setback as shown on attached survey.

**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** the result of actions of the applicant taken after the adoption of the regulation in question.
- C. The variance granted **is not** 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. The applicant will be responsible to maintain stormwater impact on the neighboring property, as may be directed by the Town. Any stormwater improvements mandated by the Town shall be completed within 60 days of official notice by the Town.
2. Any violations of this approval and conditions shall be subject to \$500 per day per incident, appealable to the Special Magistrate.

**Effective Date.**

This Resolution shall take effect immediately upon adoption.

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

DULY PASSED AND ADOPTED ON THIS 4<sup>th</sup> DAY OF NOVEMBER, 2019.

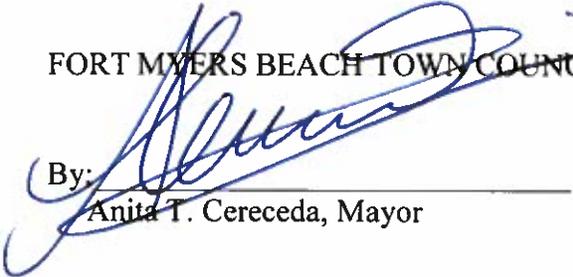
Anita Cereceda, Mayor      excused  
Rexann Hosafros            aye  
Joanne Shamp                aye

Ray Murphy, Vice Mayor    aye  
Bruce Butcher                aye

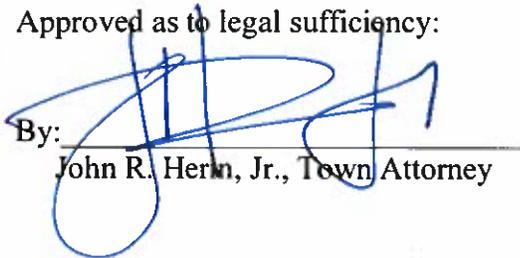
ATTEST:

FORT MYERS BEACH TOWN COUNCIL

By:   
Michelle D. Mayher, Town Clerk

By:   
Anita T. Cereceda, Mayor

Approved as to legal sufficiency:

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

**LEGAL DESCRIPTION**

**Lot 1, Block A, Shell Mound Park, according to the map or plat thereof as recorded in Plat Book 11, Page 4, Public Records of Lee County, Florida.**

**Property Appraiser Parcel I.D. No. 29-46-24-W1-0110A.0010**

Attachment: Exhibit A\_Legal Description (2019-184 : Resolution 19-33, VAR 20190058 Tiki Hut Setback)