

## RESOLUTION NUMBER 20-27

### **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA REGARDING APPLICATION VAR 20200058, FOR A VARIANCE TO THE REQUIREMENTS OF THE FORT MYERS BEACH LAND DEVELOPMENT CODE FOR THE PROPERTY LOCATED AT 147 MIRAMAR STREET; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, applicant Christine D. Maul (“Applicant”), owners of the property located at 147 Miramar 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 19-46-24-W4-0080B.0060 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/ DENIES** the following:

- A. A variance from Table 34-3 Dimensional Regulations in Conventional Zoning Districts, to allow a principal structure to encroach into the side setback. For a setback variance of 5 feet on the north side and 3.31 feet on the south side from the required 7.5 foot 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. *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 existing single-family residence as shown on the provided survey dated 07/21/2019 by LIS Land Surveying, LLC and provided site plan submitted on 06/25/2020. No deviations from the measurements of that survey greater than 0.1 feet shall be permitted.*
4. *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*

### **Effective Date.**

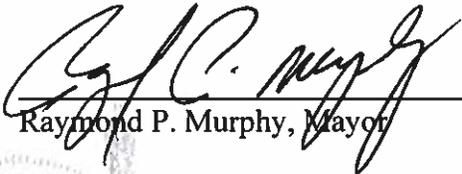
This Resolution shall take effect immediately upon adoption.

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 17<sup>th</sup> 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**

  
\_\_\_\_\_  
Raymond P. Murphy, Mayor

**ATTEST:**

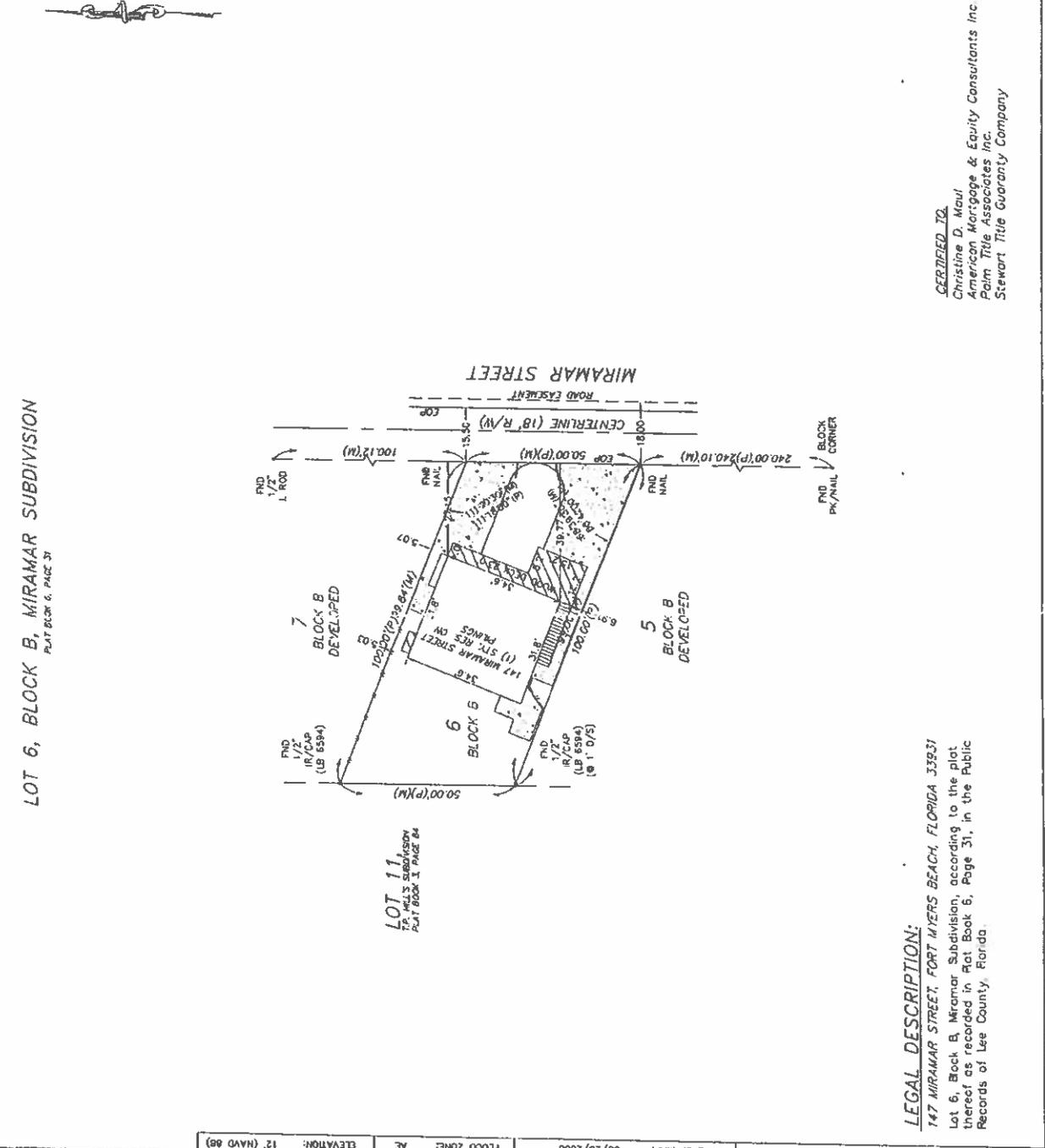
  
\_\_\_\_\_  
Michelle D. Mayher, Town Clerk

**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 17 day of August 2020.

BOUNDARY AND LOCATION SURVEY  
 I HEREBY CERTIFY THAT THIS SKETCH OF SURVEY WAS MADE UNDER MY PERSONAL SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF SAID SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 29-17 FLORIDA ADMINISTRATIVE CODE FURTHER, THIS DOCUMENT IS ELECTRONICALLY SIGNED AND SEALED PURSUANT TO SECTION 472.022, OF THE FLORIDA STATUTES AND CHAPTER 29-17 OF THE FLORIDA ADMINISTRATIVE CODE.



LOT 6, BLOCK B, MIRAMAR SUBDIVISION  
 PLAT BOOK 6, PAGE 31

LOT 11  
 72 WELLS SUBDIVISION  
 PLAT BOOK 3, PAGE 64

LEGAL DESCRIPTION:  
 147 MIRAMAR STREET, FORT MYERS BEACH, FLORIDA 33931  
 Lot 6, Block B, Miramar Subdivision, according to the plat thereof as recorded in Plat Book 6, Page 31, in the Public Records of Lee County, Florida

APPROVED  
 CHRISTINE D. MAUL  
 American Mortgage & Equity Consultants Inc.  
 Palm Title Associates Inc.  
 Stewart Title Guaranty Company

COMMUNITY / MAP NUMBER: 120673 / 120710554F DATE OF MAP: 08/28/2008 FLOOD ZONE: AC ELEVATION: 12' (HAYD 88)

**NOTES:**  
 1. THIS SKETCH DOES NOT REFLECT OR DETERMINE OWNERSHIP.  
 2. THE PUBLIC RECORDS HAVE BEEN CHECKED BY THIS FIRM.  
 3. BEARINGS ARE BASED ON PLAT OR DEED.  
 4. ELEVATIONS AS SHOWN ARE BASED ON N.A.M.S. 1988.  
 5. DISTANCES ARE BASED ON PLAT OR DEED.  
 6. ENCUMBRANCES ARE BASED ON PUBLIC RECORDS OF THE SURVEYING COUNTY.  
 7. NO DETERMINATION OF HAZARDOUS WASTE MATERIALS HAS BEEN MADE BY THIS FIRM.  
 8. LOCATION OF UNDERGROUND UTILITIES OR OBSTRUCTIONS HAS NOT BEEN DETERMINED BY THIS FIRM.  
 9. SURVEYOR'S LIABILITY IS LIMITED TO THE COST OF SURVEY.  
 10. THIS SURVEY IS PROTECTED BY COPYRIGHT AND ALL RIGHTS ARE RESERVED.  
 11. SURVEY WAS BASED ON INFORMATION PROVIDED BY CLIENT AND CLOSING DOCUMENTATION. SURVEYOR HAS NO LIABILITY FOR OTHER THAN THE SURVEY PARTY OR PARTIES IS PROVIDED OR UNLESS WRITTEN CONSENT OF THE SURVEYING PARTY.  
 12. THE FEMA FLOOD ZONE INFORMATION INDICATED HEREON IS BASED ON MAPS SUPPLIED BY THE SURVEYING PARTY. NO FLOOD INFORMATION HAS BEEN OBTAINED BY ANY OTHER SOURCE.

**LEGEND:**  
 (A) ARC LENGTH  
 A.C. AIR CONDITIONER  
 C.C. CABLE TV  
 (C) CALCULATED  
 C.B. CHORD BEARING  
 C.D. CHORD DISTANCE  
 C.M. CONIC MONUMENT  
 (D) DEED  
 (D.B.) DEED OF BELIEFS  
 E. ELEVATION  
 E.P. EDGE OF PAVEMENT  
 F.H. FIRE HYDRANT  
 (G) GROUND  
 G.W. GROUND WATER VALVE  
 L.R. LAMP  
 (M) MEASURED  
 (N) NAIL  
 (N.A.) NAIL AND DISK (NUMBER)  
 (N.T.) NOT TO SCALE  
 (N.R.) NOT RADIAL  
 O.R. OFFICIAL RECORD  
 P.B. PLAT BOOK  
 P.C. POINT OF CURVATURE  
 P.C.C. POINT OF COMPOUND CURVATURE  
 P.C.P. PERMANENT CONTROL POINT  
 P.I. POINT OF INTERSECT  
 P.O.B. POINT OF BEGINNING  
 P.O.C. POINT OF COMMENCEMENT  
 P.O.P. POWER POLE  
 P.P.C. POINT OF REVERSE CURVATURE  
 P.P.M. POINT OF TANGENCY  
 P.T. POINT OF TANGENCY  
 P.U. DRAINAGE AND PUBLIC UTILITY EASEMENT  
 R. RADIUS  
 R.A. RADIUS  
 R.M. RADIUS  
 R.W. RIGHT OF WAY  
 S.E. SECTION  
 S.P. SET 1/2" IRON ROD LB1478 LB2229  
 S.M. SIDEWALK BOX  
 T. TOWNSHIP  
 U.P. UTILITY PEDESTAL  
 W.A. WATER METER  
 W.P. WATER PUMP  
 T.M. TEMPORARY MONUMENT  
 T.B. TEMPORARY BENCHMARK  
 W.F. WIRE FENCE  
 W.P. WOOD POST  
 C.P. CONCRETE PAD  
 E. EXISTING ELEVATION