

RESOLUTION NUMBER 23-190

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING WITH CONDITIONS VARIANCE VAR20230162, TWO VARIANCES FROM LDC TABLE 34-3 TO DECREASE THE REQUIRED SIDE YARD SETBACK BY 2.18 FEET FROM THE REQUIRED 10 FEET AND TO DECREASE THE REQUIRED WATERBODY SETBACK BY 14.39 FEET FROM THE REQUIRED 25 FEET, IN THE RC ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 21391 WIDGEON TERRACE; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, Todd Plaisted, owner of the property situated at 21391 Widgeon Terrace, is requesting two variances from LDC Table 34-3 which requires accessory structures including swimming pools associated with a single-family home waterfront lot in the RC zoning district to provide a minimum 10-foot side setback for lots 100 feet wide or greater and a 25-foot setback from the mean high water line; and

WHEREAS, the STRAP number for the subject property is 34-46-24-W1-022M0.0010; and

WHEREAS, the Property is located in the "Mixed Residential" category of the Future Land Use Map of the Comprehensive Plan and the "Residential Conservation" zoning district of the Official Zoning Map 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 February 13, 2024, and at said hearing 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 34-87 of the LDC. The LPA voted to recommend approval with conditions of the variance; and

WHEREAS, on March 4, 2024, 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 34-87 of the LDC; and

WHEREAS, the Town Council determined it is in the best interest of the Town to approve with conditions the request.

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

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicant did meet its burden of proof that the requested Variance does meet the requirements of the Town Comprehensive Plan and LDC and approving with conditions the Variance is in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, interested parties and public, the Town Council APPROVES WITH CONDITIONS these two variances from LDC Table 34-3 requires accessory structures including swimming pools associated with a single-family home waterfront lot in the RC zoning district to provide a minimum 10-foot side setback for lots 100 feet wide or greater and 25 foot setback from a waterbody.

Section 3. In approving with conditions the Variance, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-87 of the LDC:

- A. There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request is for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying approval of the variance are not the result of actions of the Applicant taken after the adoption of the regulation in question.
- C. The variance is the minimum variance that will relieve the Applicant of an unreasonable burden caused by the application of the regulation to the Property.
- 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 are not of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

Section 4. If the Town Council approves the requested variance, the following conditions of approval are imposed on the Applicant and the Property:

- A. Approval of this variance does not give the Applicant an undeniable right to permit approval. Development or redevelopment of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.

- B. The landscaping, as shown on the landscape plan attached as Exhibit A, or another landscape plan which is found to be acceptable to the applicant and neighbor, shall be installed prior to final inspection.
- C. Construction staging shall occur offsite.
- D. The maximum height of the pool deck shall not exceed the height of the finished floor.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Woodson and seconded by Council Member King, and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Nay
John R. King, Council Member	Aye
Scott Safford, Council Member	Aye
Karen Woodson, Council Member	Aye

ADOPTED this 4th day of March 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers
Dan Allers (Apr 3, 2024 12:05 EDT)

 Dan Allers, Mayor

ATTEST:

Amy Baker
Amy Baker (Apr 3, 2024 16:53 EDT)

 Amy Baker, Town Clerk

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

Becky Vose
Becky Vose (Apr 3, 2024 16:51 EDT)

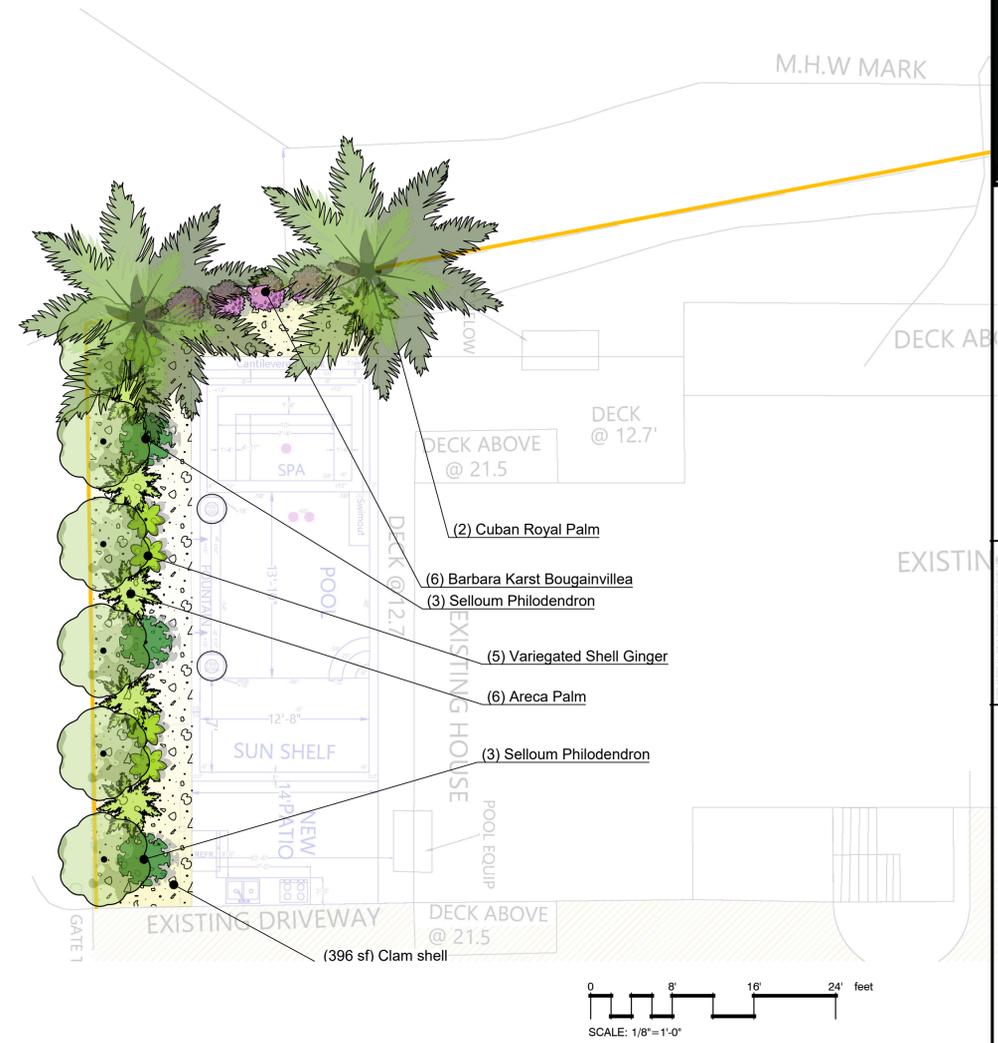
 Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 4th day of April 2024.



NOVA L.A. DESIGNS, INC.
 DANIEL A. NOYAKOVICH, LANDSCAPE ARCHITECT, FL#1457
 NAPLES AND LAKE PLACID, FLORIDA
 OFFICE: 239-250-9505

TODD PLAISTED
 21391 WIDGEON TERRACE
 Fort Myers Beach, FLORIDA



PLANT SCHEDULE 1/10/24

SYMBOL	QTY	BOTANICAL NAME	COMMON NAME	SIZE	CONTAINER	REMARKS	
TREES							
	6	Conocarpus erectus	Buttonwood Standards	8' - 10' Ht.	Cont.	Matching	
PALM TREES							
	6	Chrysalidocarpus lutescens	Areca Palm	72"	25 gal.		
	2	Roystonea regia	Cuban Royal Palm	10' GW		Matching, Specimen, Heavy caliper	
SHRUBS							
	5	Alpinia zerumbet 'Variegata'	Variegated Shell Ginger	30" Ht.	7 gal.		
	6	Bougainvillea x 'Barbara Karst'	Barbara Karst Bougainvillea	30" Ht., 23"-30" Spr.	7 gal.		
	3	Philodendron selloum	Selloum Philodendron	3' Ht.	7 gal.		
SYMBOL	QTY	BOTANICAL NAME	COMMON NAME	SIZE	CONTAINER	SPACING	REMARKS
MULCH							
	396 sf	Clam Shell Mulch	Clam shell	Small Clamshell			4" - 6" Depth w Filter Fabric

MULCH - SHREDDED HARDWOOD, DK. BROWN MULCH QTY. BY CONTRACTOR

IRRIGATION SALVAGE EXISTING SYSTEM, REPAIR OR REPLACE BROKEN

Project No.

Date Issue

1/10/24

Drawn By DAN Checked By

Sheet Title

Landscape Planting

Sheet No.

L-1

23-190, VAR20230162 21391 Widgeon Terrace Final for signatures

Final Audit Report

2024-04-03

Created:	2024-04-03
By:	Amy Baker (AMY@FMBGOV.COM)
Status:	Signed
Transaction ID:	CBJCHBCAABAAI_egdPK3_BbqKDER8pBNpEE9NdFecXK2

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✔ Agreement completed.

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