

## **RESOLUTION 24-58**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING WITH CONDITIONS VAR20240027, A VARIANCE FROM LDC SECTION 34-638(D)(5)(A)(1) REQUESTING A 4-FOOT REDUCTION OF THE ADDITIONAL STREET SETBACKS FOR STRUCTURES WIDER THAN 65-FEET, IN THE RC ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 250 TROPICAL SHORES WAY; 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**, applicant Bradley A. and Katrina M. Voyles Trust is requesting a variance from LDC 34-638(d)(5)(a)(1) which requires all single-family structures wider than 65-feet to provide an additional 12-feet of street setback.

**WHEREAS**, the STRAP number for the subject property is 19-46-24-W3-00451.0370 and is known as Lot 31, northern 50-feet of Lot 15 and southern 60-feet of Lot 16, in the T.P. Hill's Subdivision; 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" (RC) 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 March 12, 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 6-0 with one member recusing themselves to recommend APPROVAL WITH CONDITIONS of the variance; and

**WHEREAS**, on April 1, 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 by a 4-1 vote 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, and interested parties and public, the Town Council APPROVES WITH CONDITIONS the variance from sec. 34-638(d)(5)(a)(1) to reduce the additional 12-foot street setback for single-family structures wider than 65-feet, providing 8-feet of additional setback a difference of 4-feet.

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 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. Should the home be demolished, and the site redeveloped, the approved variances will become null and void and the new structure will be expected to be built to meet the codes at the time of review.

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

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

ADOPTED this 1<sup>st</sup> day of April 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

**FORT MYERS BEACH TOWN COUNCIL**

  
Dan Allers (May 1, 2024 21:22 EDT)  
\_\_\_\_\_  
Dan Allers, Mayor

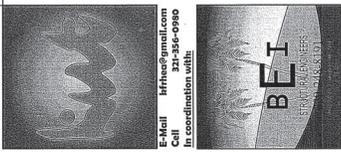
**ATTEST:**

  
Amy Baker (May 2, 2024 13:09 EDT)  
\_\_\_\_\_  
Amy Baker, Town Clerk

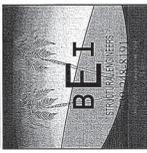
**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE  
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

  
Nancy Sparich (May 1, 2024 21:39 EDT)  
\_\_\_\_\_  
Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 11<sup>th</sup> day of April 2024.

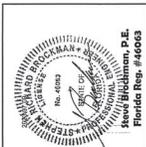


E-Mail: [khrhoad@bmi.com](mailto:khrhoad@bmi.com)  
 Call: 331-356-0980  
 In coordination with:



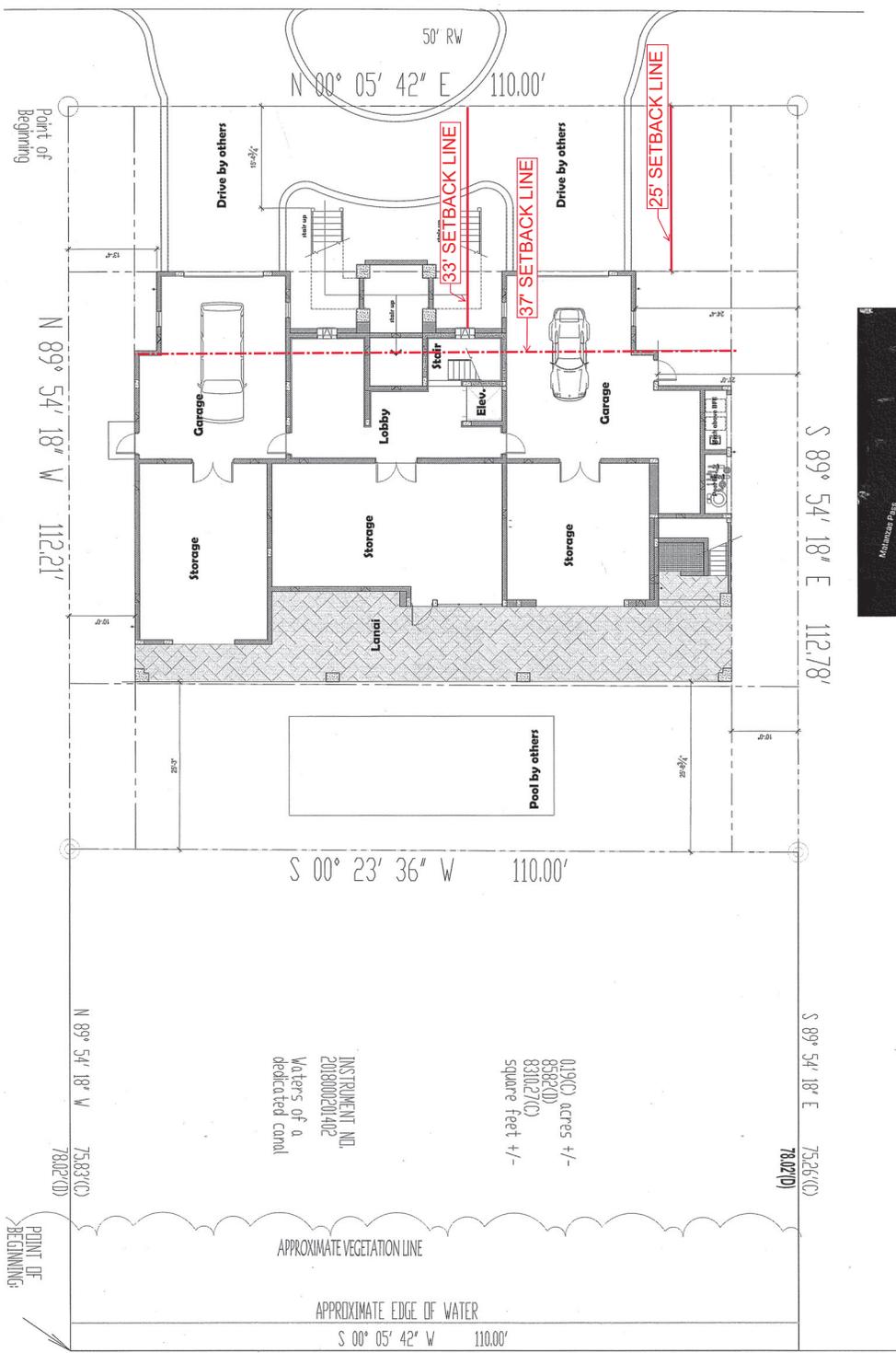
Permit 2023-05-31

**Katrina &  
 Brad Voyles**  
 250 Tropical Shores  
 Fort Myers Beach, FL



**A0.2**

**TROPICAL SHORES WAY**



--- INDICATES 37' SETBACK LINE



**Building Coverage Areas:**  
 Lot Area 12,376 s.f.  
 Building Area 4,941 s.f.  
 $\frac{49\%}{12\%} = 3993 - 39.9\%$

**1 Site Plan**

**A0.2**

Scale: 1/8" = 1' - 0"

