

RESOLUTION NUMBER 2024-05

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE VAR20240159 TO ALLOW A SIDE STREET SETBACK VARIANCE OF 3 FEET AND 9 INCHES FROM THE REQUIRED 15-FOOT SIDE STREET SETBACK FOR A POOL ENCLOSURE FOR THE PROPERTY LOCATED AT 8180 LAGOON ROAD; 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, applicant Mark Hanna, on behalf of owner Janell Schoonover Trust, is requesting a variance from LDC Section 34-638. (d)(6), which requires a minimum 15-foot side street setback on a corner lot less than 75 feet in width in the RS zoning district; and

WHEREAS, the STRAP number for the subject property is 03-47-24-W3-00105.0070; and

WHEREAS, the Property is located in the “Low Density” category of the Future Land Use Map of the Comprehensive Plan and the “Residential Single-Family” 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 August 23, 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; and

WHEREAS, in accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the LPA makes the following findings and 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 minimis 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 specific piece of 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.

WHEREAS, eligible members of the LPA voted unanimously by roll call vote to approve the requested variances with the following conditions:

- 1) Approval of this variance does not give the Applicant an undeniable right to permit approval. Development 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.
- 2) The variance shall only apply to the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variances to be null and void.

WHEREAS, Ordinance 24-06 amended Section 34-232(d) of the LDC to provide that:

(d) Owner-initiated requests for variances, or required reviews to extend or to provide evidence of satisfaction of conditions contained in prior land use approvals, that are:

- 1) approved by a unanimous vote of the local planning agency members who are eligible to vote, and
- 2) not subject to a request for an additional public hearing before the town council made by anyone that is received by the town clerk within 10 business days after the date of the local planning agency decision, excluding holidays, only require one public hearing before the local planning agency, and the local planning agency decision is final agency action.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

1. The foregoing “WHEREAS” clauses are adopted herein by reference and constitute the findings and conclusions of the LPA.

2. VAR20240159, with the conditions contained herein, received unanimous approval from eligible voting members of the LPA on August 23, 2024.

3. This Resolution shall constitute the equivalent of a development order and final agency action, subject to any request for an additional review by the Town Council filed with the Town Clerk within 10 business days of the LPA decision as authorized in Section 34-232(d) of the LDC.

The foregoing Resolution was adopted upon a motion by LPA Member Dunlap and seconded by LPA Member Eckmann, and upon being put to a vote, the result was as follows:

Chair Anita Cereceda	AYE
Vice-Chair Jane Plummer	AYE
Member James Boan	AYE
Member Douglas Eckmann	AYE
Member Don Sudduth	AYE
Member John McLean	AYE
Member James Dunlap	AYE

DULY PASSED AND ADOPTED THIS 23rd day of August, 2024.

Local Planning Agency of the Town of
Fort Myers Beach

By: *Anita Cereceda*
Anita Cereceda (Sep 23, 2024 13:36 EDT)
Anita Cereceda, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: *Nancy Stuparich*
Nancy Stuparich (Sep 25, 2024 11:19 EDT)
Vose Law Firm, Town Attorney

By: *Amy Baker*
Amy Baker, Town Clerk

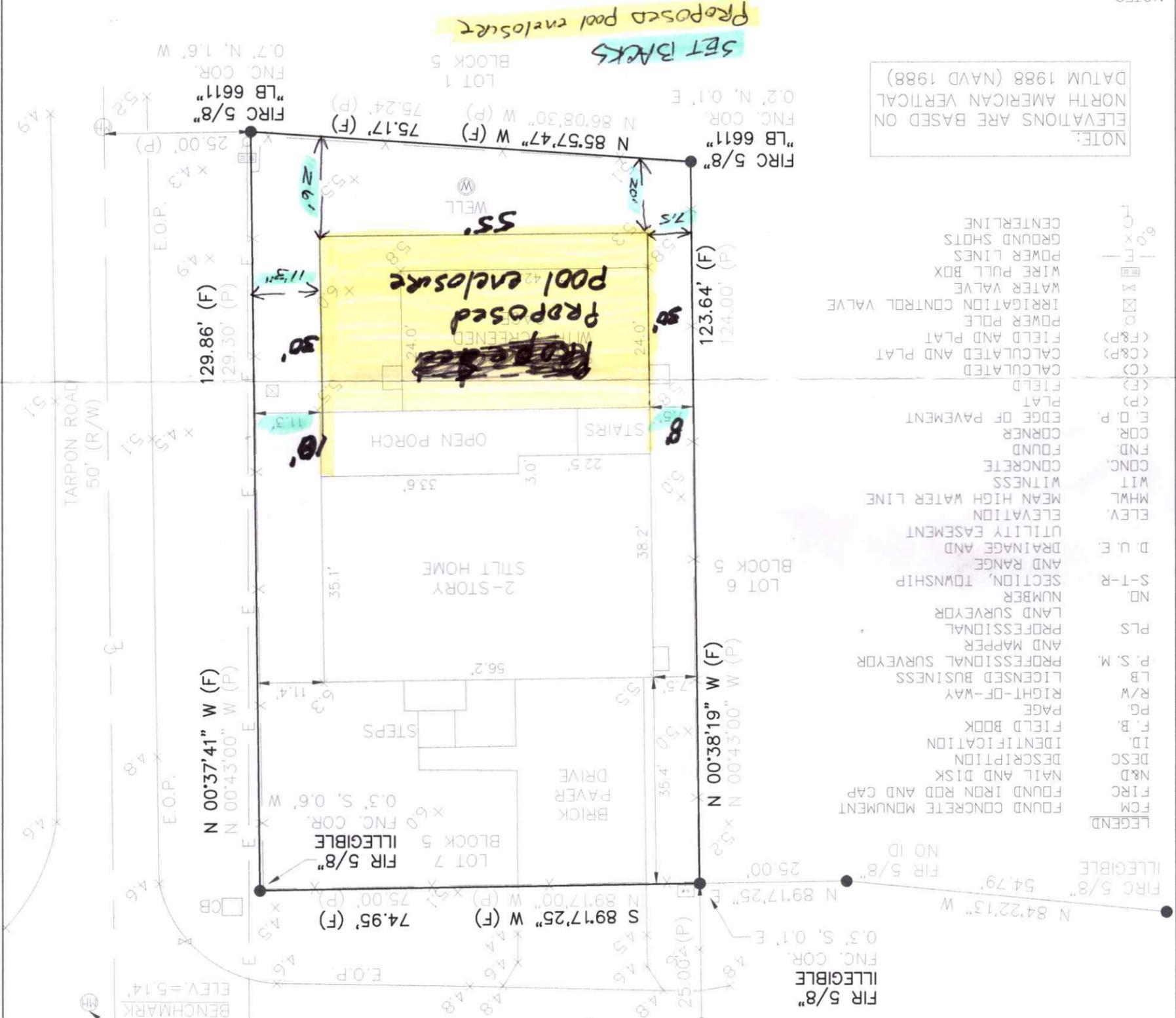
This Resolution was filed in the Office of the Town Clerk on this 23rd day of September 2024.

EXHIBIT A: Site Plan

BOUNDARY AND TOPOGRAPHIC SURVEY LYING IN
SECTION 3, TOWNSHIP 47 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA



LEGAL DESCRIPTION
LOTS 7, BLOCK 5, UNIT NUMBER 1,
LAGUNA SHORES, ACCORDING TO
THE PLAT THEREOF, AS RECORDED
IN PLAT BOOK 9, PAGES 29 AND
30, OF THE PUBLIC RECORDS OF
LEE COUNTY, FLORIDA.



LEGEND

F.C.M.	FOUND CONCRETE MONUMENT
F.I.R.C.	FOUND IRON ROD AND CAP
N&D	NAIL AND DISK
DESC	DESCRIPTION
ID.	IDENTIFICATION
F.B.	FIELD BOOK
P.G.	PAGE
R/W	RIGHT-OF-WAY
LB	LICENSED BUSINESS
P.S.M.	PROFESSIONAL SURVEYOR AND MAPPER
PLS	PROFESSIONAL LAND SURVEYOR
NO.	NUMBER
S-T-R	SECTION, TOWNSHIP AND RANGE
D.U.E.	DRAINAGE AND UTILITY EASEMENT
ELEV.	ELEVATION
MHWL	MEAN HIGH WATER LINE
WIT	WITNESS
CONC.	CONCRETE
FND.	FOUND
COR.	CORNER
E.D.P.	EDGE OF PAVEMENT
PLAT	PLAT
FIELD	FIELD
(C)	CALCULATED
(C&P)	CALCULATED AND PLAT
(F&P)	FIELD AND PLAT
○	POWER POLE
□	IRRIGATION CONTROL VALVE
⊗	WATER VALVE
⊕	WIRE PULL BOX
—	POWER LINES
⊗	GROUND SHOTS
⊕	CENTERLINE

NOTE:
ELEVATIONS ARE BASED ON
NORTH AMERICAN VERTICAL
DATUM 1988 (NAVD 1988)

NOTES:
BEARING ARE BASED ON STATE PLANE, FLORIDA WEST ZONE WITH THE NORTH LINE OF LOT 7,
BLOCK 5 HAVING A BEARING OF S 89° 17' 25" W.

CERTIFIED TO:
JANELL AND ED SCHOONOVER
LUCAS LAGOONS DESIGN CENTER

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CERTIFIED TITLE REPORT AND IS
NOT A CERTIFICATE OF TITLE, ZONING OR FREEDOM FROM ENCUMBRANCES.
UNDERGROUND IMPROVEMENTS, OTHER THAN SHOWN, IF ANY, WERE NOT LOCATED.
PARCEL LIES IN FLOOD ZONE VE, WITH A BASE FLOOD ELEVATION OF 14 FEET, AS SHOWN ON
FEDERAL EMERGENCY MANAGEMENT AGENCY MAP 12071C0569F, EFFECTIVE DATE:
08/28/2008.
PARCEL SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY AND RESTRICTIONS OF RECORD.
THE FLORIDA DEPARTMENT OF TRANSPORTATION PERMANENT CONTROL NETWORK WAS UTILIZED
ON THIS BOUNDARY SURVEY AND THE DATUM IS NORTH AMERICAN DATUM
NAD(83)-(2011)-(EPOCH 2017.000). THE STATED HORIZONTAL ACCURACY IS 1-2
CENTIMETER. THE STATED VERTICAL ACCURACY IS 2-3 CENTIMETER.

	ADDRESS: 8180 LAGOON ROAD, FORT MYERS BEACH, FL 33931 LAST FIELD DATE: 03/26/2021	PROJECT No: 21-0065 PROJECT Desc: BOUNDARY SURVEY F.B. 13 PG. 36	S-T-R 3-47-24
	COUNTY LEE STRAP: 03-47-24-W3-00105.0070	FIELD DATE: 03/26/21 DRAWN BY: KP DATE DRAWN: 03/28/21 CAD FILE: 21-0065	KP Surveying, Inc. LB NUMBER 8152 2802 W. Cypress Avenue S.E. Fort Myers, Florida 33905 (239) 462-1901

Ken Pufahl, P.S.M.
PROFESSIONAL SURVEYOR & MAPPER
FLORIDA CERTIFICATE NUMBER 6126
DATE

Kenneth Pufahl
Digitally signed by KENNETH PUF AHL
Date: 2021.03.27 11:31:00 -04'00'