

LPA RESOLUTION 2025-01

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20240267, REQUESTING THREE VARIANCES FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 63 DELMAR AVENUE., GENERALLY REFERED TO AS STRAP NUMBER 19-46-24-W4-0100H.0010 IN FORT MYERS BEACH, TO VARY FROM REQUIRED STREET SETBACK, AND SIDE SETBACKS TO BUILD A NEW SINGLE FAMILY STRUCTURE IN THE RM ZONING DISTRICT; AND PROVIDING FOR OTHER 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, 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, Kara Stewart (“Applicant”) and Baisch Gayle Lynn & Griffin Gregory Miller Et Al (“Owners”) of the property located at 63 Delmar Avenue (Property), and is requesting variances from LDC Table 34-3 of 1) 4 feet 10 inches from the street setback for a front setback of 20 feet 2 inches, 2) a variance of 6 inches from the side setback for a side setback of 6 feet for the west portion of the building and 3) a variance of 2 feet 6 inches for a side setback of 4 feet for stairs located on the east portion of the building to construct a new single-family structure in the RM zoning district; and

WHEREAS, the STRAP number for the subject property is 19-46-24-W4-0100H.0010; and

WHEREAS, the Property is located in the “Boulevard” and “Recreation” Future Land Use Map of the Comprehensive Plan and the “Residential” and “Multifamily” zoning districts 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 January 9th, 2025, 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 these variances 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) Property owner must adhere to the neighborhood flooding ordinance for drainage and 67% maximum impervious requirements.
- 3) 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.
- 4) No portions of the structure shall extend past the 1978 Lee County Line (CCCL); and

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. VAR20240267, with the conditions contained herein, received unanimous approval from eligible voting members of the LPA on January 9th, 2025.
- 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 James Boan and seconded by LPA Member John McLean and upon being put to a vote, the result was as follows:

Chair Cereceda	Aye
Vice-Chair Plummer	Aye
LPA Member Boan	Aye
LPA Member Dunlap	Aye
LPA Member Eckmann	Absent
LPA Member McLean	Aye
LPA Member Sudduth	Aye

DULY PASSED AND ADOPTED THIS 9th day of January 2025.

Local Planning Agency of the Town of Fort Myers Beach

By: Anita Cereceda
Anita Cereceda (Jan 24, 2025 10:15 EST)
Anita Cereceda, LPA Chair

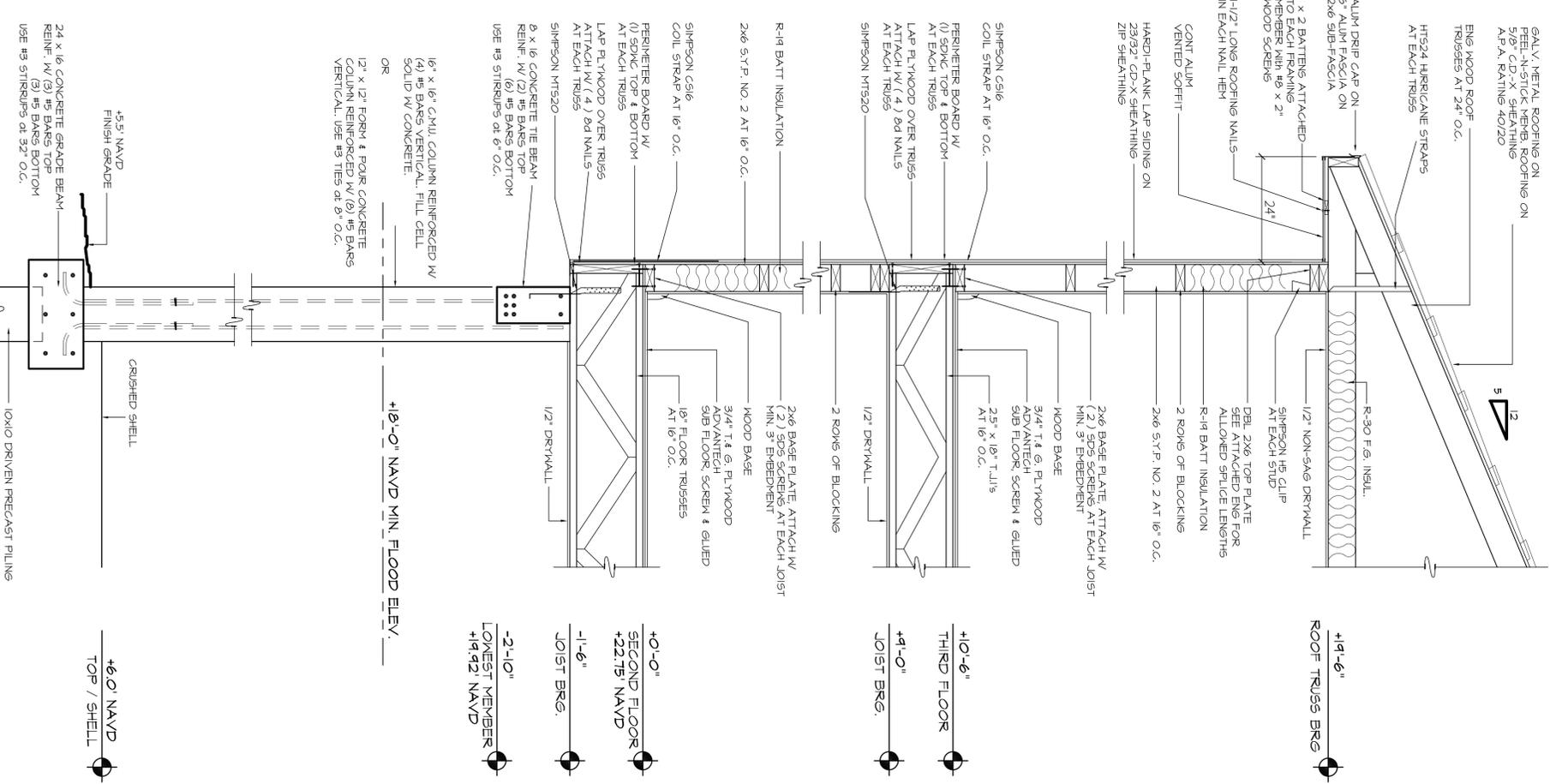
Approved as to legal sufficiency:

ATTEST:

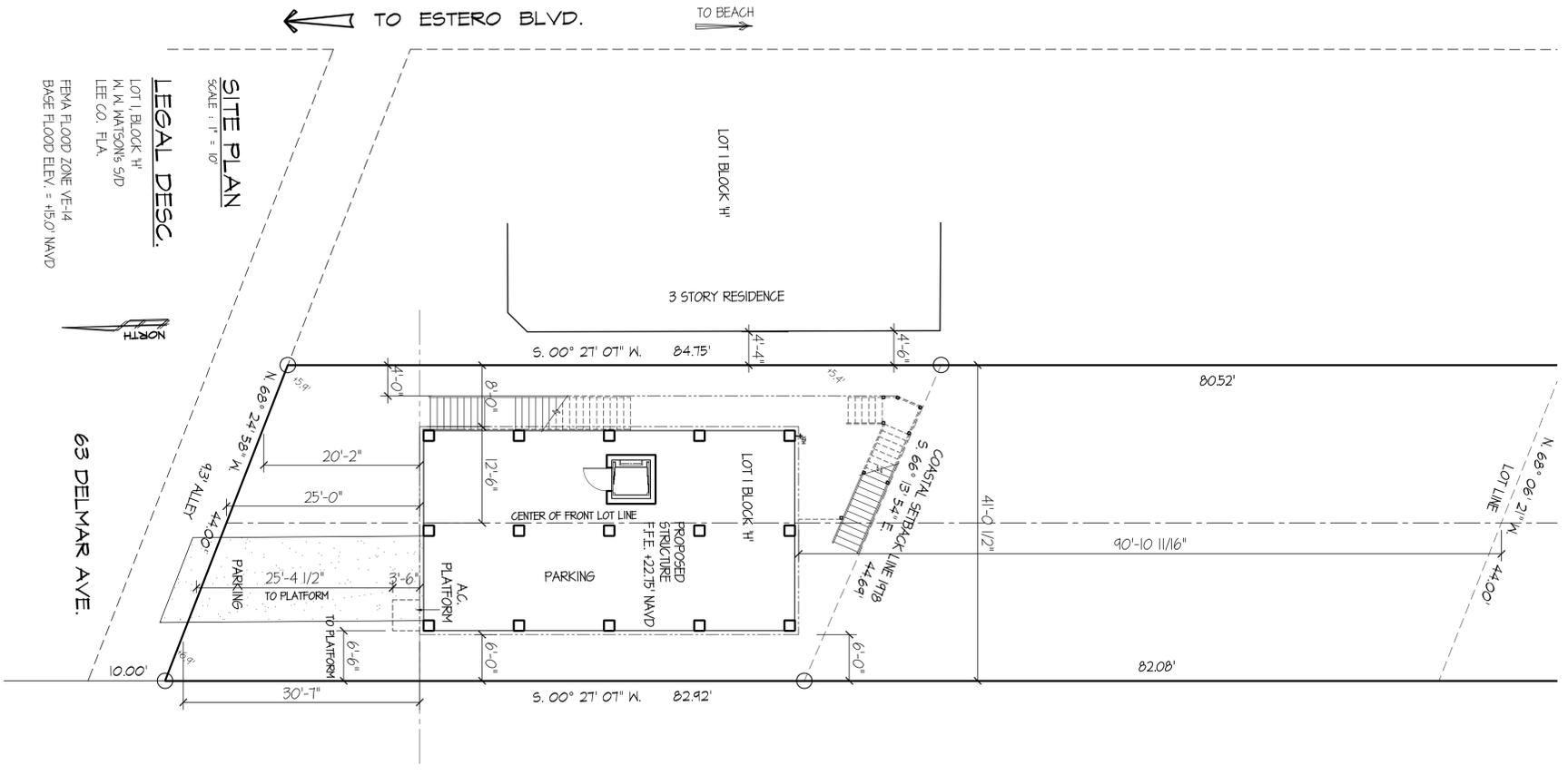
By: Nancy Stuparich
Nancy Stuparich (Jan 25, 2025 11:40 EST)
Vose Law Firm, Town Attorney

By: Amy Baker
Amy Baker, Town Clerk

This Resolution was filed in the Office of the Town Clerk on this 6th day of January 2025.
EXHIBIT A: Site Plan



A TYP TWO-STORY WALL SECTION
 SCALE: 3/4" = 1'-0"
 FEMA FLOOD ZONE VE ELEV. 14' B.F.E. = +15'



SITE PLAN
 SCALE: 1" = 10'

LEGAL DESC.
 LOT 1, BLOCK #1
 M.W. PATSON'S S/D
 LEE CO., FLA.

FEMA FLOOD ZONE VE-14
 BASE FLOOD ELEV. = +15.0' NAVD



BRUNN LOT CHAIRLIFE P.E. #1712
 Structural Review Only Provided By
 DATE

GRIFFIN

NO.	REVISIONS

TYPICAL WALL SECTION
 SITE PLAN

A RESIDENCE FOR:
GRIFFIN
 MARVIN DEVELOPMENT CORPORATION
 1591 HAYLEY LANE, SUITE #204
 FORT MYERS, FL. 33907
 TEL. No. (239) 433-1112
 FAX. No. (239) 433-3885

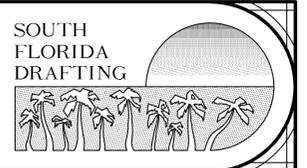


IF ANY ERRORS OR OMISSIONS EXIST IN THESE DRAWINGS OR SPECIFICATIONS THE CONTRACTOR AND / OR OWNER SHALL WITHIN 10 DAYS AFTER RECEIPT OF THESE DRAWINGS AND PRIOR TO CONSTRUCTION NOTIFY SOUTH FLORIDA DRAFTING INC. IN WRITING OF SAID ERRORS OR OMISSIONS OR BE HELD HOLLY RESPONSIBLE FOR THE RESULTS AND COSTS OF RECTIFYING THE SAME.

SOUTH FLORIDA DRAFTING INC. DOES NOT ASSUME ANY RESPONSIBILITY FOR SUPERVISION OF CONSTRUCTION. CONTRACTOR AND SUB-CONTRACTORS ARE TO STRICTLY ADHERE TO ALL STANDARD BUILDING CODES INCLUDING ALL AMENDMENTS BY LOCAL BUILDING DEPARTMENTS.

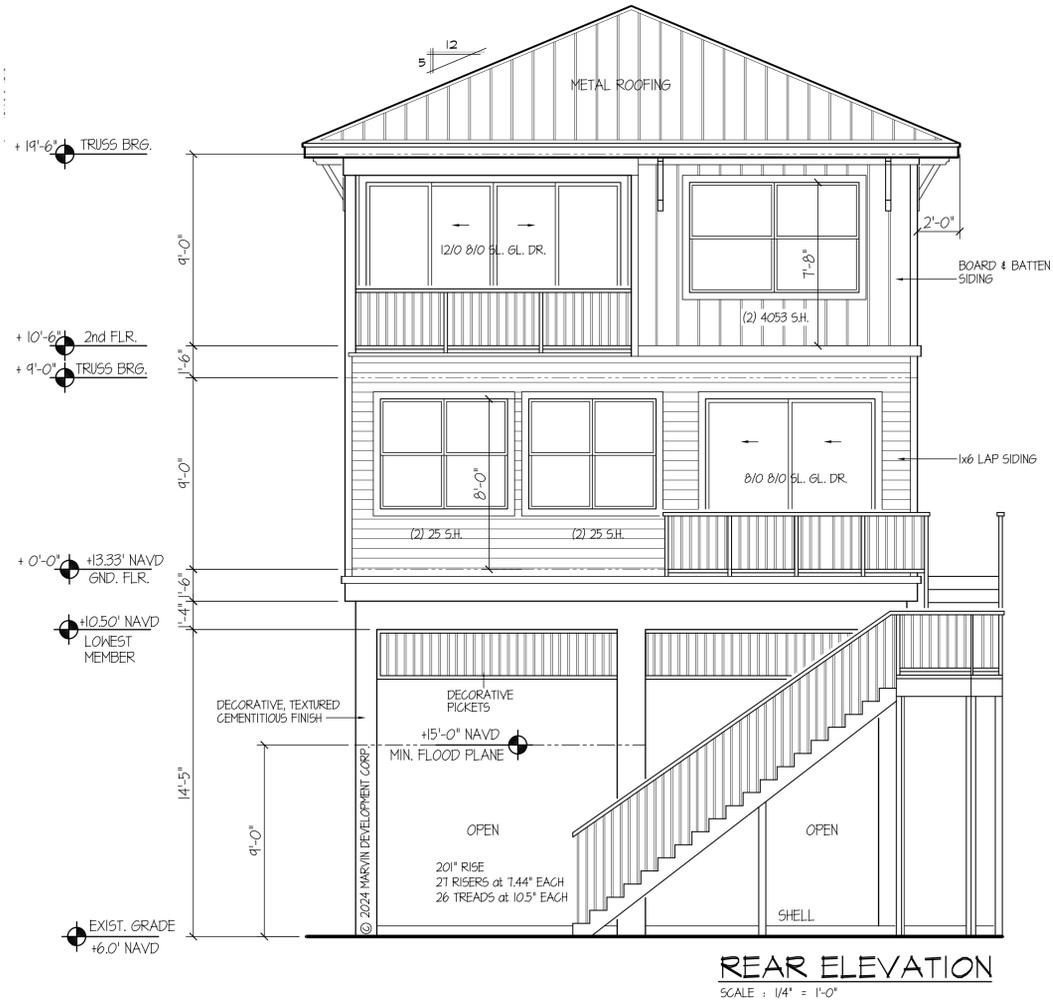
SOUTH FLORIDA DRAFTING INC. IS NOT RESPONSIBLE FOR ANY ENGINEERING OR ARCHITECTURAL CERTIFICATIONS THAT MAY BE REQUIRED.

8498 Beacon Blvd.
 Fort Myers, FL.
 33907-3005
 PHONE
 (239) 561-8632





RIGHT SIDE ELEVATION
SCALE : 1/4" = 1'-0"



REAR ELEVATION
SCALE : 1/4" = 1'-0"

I HEREBY CERTIFY AS THE BUILDING DESIGN ENGINEER OF RECORD, THAT THE BUILDING DESIGN AS SHOWN ON THESE PLANS (STRUCTURAL COMPLIANCE ONLY) AND AS ACCOMPANIED BY DESIGN AND SUPPORT DOCUMENTS CONFORMS TO SECTION R301-1.3, R301.2.2 OF THE 2014 FLORIDA BUILDING CODE RESIDENTIAL AND 7th EDITION 2020 FLORIDA BUILDING CODE, INCLUDING SEC. 1609 FOR DESIGN PRESSURES. THIS CERTIFICATION DOES NOT INCLUDE ROOF TRUSS COMPONENTS OF WHICH THE TRUSS DESIGN ENGINEER IS THE ENGINEER OF RECORD.

ALL STRUCTURES BUILT IN A HIGH VELOCITY WIND HURRICANE ZONES ARE DESIGNED IN ACCORDANCE WITH THE 7th EDITION 2020 FLORIDA BUILDING CODE, RESIDENTIAL, CHAPTERS R302 THRU R324, INCLUDING CHAPTER R64.

Structural Review Only Provided By

Brian Loy Chandler, P.E.
GulfCoast Engineering, LLC
3002 Del Prado Blvd.
Cape Coral, FL 33904
(239) 458-6633



REVISIONS	
DATE	DESCRIPTION

DWN. BY : S. A. M.
CHK. BY :
DATE : MAY 21, 2024
JOB NO. : 24031B

OF 9

SOUTH FLORIDA DRAFTING

8498 Beacon Blvd.
Fort Myers, FL.
33907-3005
PHONE (239) 561-8632

IF ANY ERRORS OR OMISSIONS EXIST IN THESE DRAWINGS, THE ENGINEER OF RECORD SHALL BE RESPONSIBLE FOR THE CORRECTIONS. THE ENGINEER OF RECORD SHALL RETURN TO THE CLIENT WITHIN 10 BUSINESS DAYS AFTER RECEIPT OF THE CORRECTIONS. THE ENGINEER OF RECORD SHALL BE RESPONSIBLE FOR THE CORRECTIONS. THE ENGINEER OF RECORD SHALL BE RESPONSIBLE FOR THE CORRECTIONS. THE ENGINEER OF RECORD SHALL BE RESPONSIBLE FOR THE CORRECTIONS.

A RESIDENCE FOR :

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REAR ELEVATION
RIGHT SIDE ELEVATION