

LPA RESOLUTION 2025-08

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250060, REQUESTING A VARIANCE FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 170 CURLEW STREET GENERALLY REFERRED TO AS STRAP NUMBER 34-46-24-W4-00042.0030 IN FORT MYERS BEACH, TO VARY 4 FEET 2 INCHES FROM THE REQUIRED 7.5 FOOT SIDE SETBACK FOR A SIDE SETBACK OF 3 FEET 4 INCHES TO CONSTRUCT A POOL ENCLOSURE IN THE RS 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, JMB Realty LLC, James and Tammy Bradford, owners of the property located at 170 Curlew Street (Property), is requesting a variance of 4 feet 2 inches from the required side setback resulting in a side setback of 3 feet 4 inches to construct a pool enclosure in the RS zoning district.; and

WHEREAS, the STRAP number for the subject property is 34-46-24-W4-00042.0030; and

WHEREAS, the Property is located in the "Low-Density Residential" Future Land Use Map of the Comprehensive Plan and the "Single-family Residential" 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 April 29, 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 LPA 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 pool enclosure as shown on the provided site plan. Demolition or substantial damage to the pool enclosure shall render the variances to be null and void.
- 3) The applicant must ensure that the engineered drainage plan that was approved for the new pool is amended to include the pool enclosure. A revised drainage plan must be submitted and approved prior to the issuance of a permit for the pool enclosure.

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 LPA 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. VAR20250060, with the conditions contained herein, received unanimous approval from eligible voting LPA Members of the LPA on April 29, 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 Eckmann and seconded by LPA Member Sudduth, and upon being put to a roll call vote, the result was as follows:

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

DULY PASSED AND ADOPTED THIS 29th day of April 2025.

Local Planning Agency of the Town of
Fort Myers Beach

By: *Anita Cereceda*
Anita Cereceda (May 23, 2025 11:37 EDT)
Anita Cereceda, LPA Chair

Approved as to legal sufficiency:

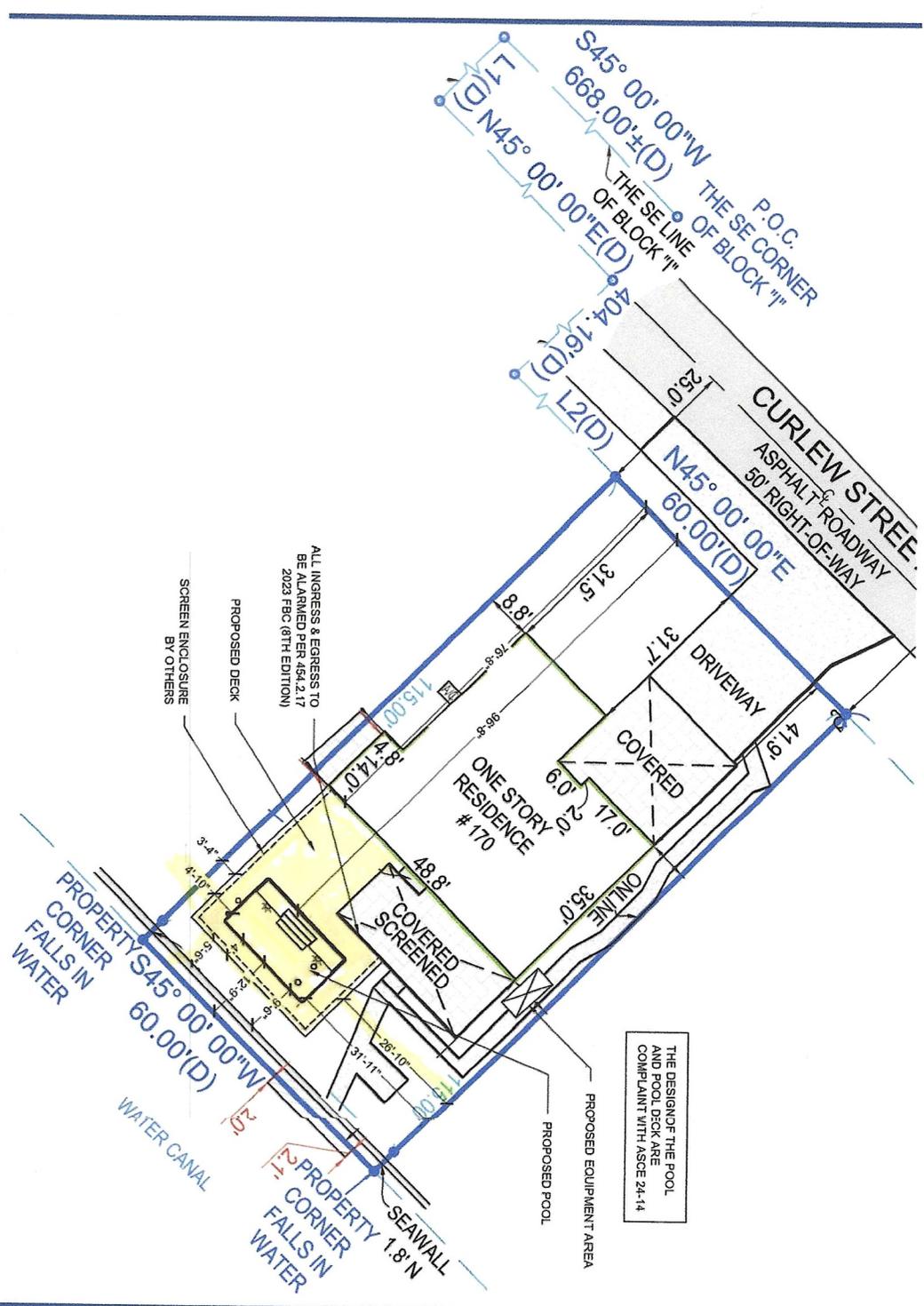
ATTEST:

By: *Nancy Stuparich*
Nancy Stuparich (May 22, 2025 12:34 EDT)
Vose Law Firm, Town Attorney

By: *Amy Baker*
Amy Baker, Town Clerk

EXHIBIT C: Proposed Site Plan

This Resolution was filed in the Office of the Town Clerk on this 27th day of May 2025.



SITE PLAN
 SCALE: 1" = 20'-0"

<p> SITE PLAN RESIDENCE 170 CURLEW ST FORT MYERS BEACH, FL 33931 </p>		<p> THIS DOCUMENT PREPARED BY THE ENGINEER OR ARCHITECT HAS BEEN REVIEWED AND APPROVED FOR THE DESIGN AND CONSTRUCTION OF THE DESIGNATED WORKS HEREIN REFERRED TO. THE ENGINEER OR ARCHITECT DOES NOT WARRANT THE ACCURACY OF THE INFORMATION PROVIDED HEREIN. THE ENGINEER OR ARCHITECT SHALL NOT BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE DESIGNATED WORKS UNLESS THE ENGINEER OR ARCHITECT HAS BEEN SPECIFICALLY ADVISED IN WRITING AND HAS AGREED TO PROVIDE SUCH SERVICES. THE ENGINEER OR ARCHITECT SHALL NOT BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE DESIGNATED WORKS UNLESS THE ENGINEER OR ARCHITECT HAS BEEN SPECIFICALLY ADVISED IN WRITING AND HAS AGREED TO PROVIDE SUCH SERVICES. THE ENGINEER OR ARCHITECT SHALL NOT BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE DESIGNATED WORKS UNLESS THE ENGINEER OR ARCHITECT HAS BEEN SPECIFICALLY ADVISED IN WRITING AND HAS AGREED TO PROVIDE SUCH SERVICES. </p>
<p> SCOTT R. VAUGHN, P.E. ENGINEER OF RECORD 170 CURLEW ST FORT MYERS BEACH, FL 33931 239.334.2008 </p>	<p> DATE: 02/24/24 SCALE: AS SHOWN DRAWN BY: CMB CHECKED BY: SWP IN CHARGE: P26211 </p>	<p> RP1.0 </p>