

RESOLUTION 23-188

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING VAR20230142, TWO VARIANCES FROM LDC TABLE 34-3 REQUESTING A REDUCTION OF THE FRONT STREET SETBACKS AND MAXIMUM BUILDING COVERAGE, IN THE RC ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 923 THIRD ST; 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 Christopher Mosteiro is requesting a variance from LDC Table 34-3 which requires all lots in the RC zoning district to provide a 25-foot setback to the primary structure

WHEREAS, applicant Christopher Mosteiro is requesting a variance from LDC Table 34-3 which limits all lots in the RC zoning district to a maximum building coverage of 40-percent.

WHEREAS, the STRAP number for the subject property is 29-46-23-W3-0030A.0050 and is known as Lot 5, Block A in the Matanzas View 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 November 14, 2023, 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 absence to recommend approval of the variance; and

WHEREAS, on December 18, 2023 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 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 Variances do meet the requirements of the Town Comprehensive Plan and LDC and approving the Variances are 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 variances from LDC Table 34-3 to reduce the required front setback from 25-feet to 15.5-feet, a difference of 9.5-feet; and allow for the development of an additional 100 square-feet of roofed area.

Section 3. In approving Variances, 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 are for de minimis variances under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying approval of the variances are not the result of actions of the Applicant taken after the adoption of the regulation in question.
- C. The variances are 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 variances 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.

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, Council Member	Aye
Bill Veach, Council Member	Aye
Karen Woodson, Council Member	Aye

ADOPTED this 18th day of December 2023 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers

Dan Allers (Dec 22, 2023 07:27 EST)

Dan Allers, Mayor

ATTEST:

Amy Baker

AMY BAKER (Dec 26, 2023 11:14 EST)

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 Stuparich

Nancy Stuparich (Dec 23, 2023 10:49 EST)

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 21st day of December 2023.