

LPA RESOLUTION 2024-03

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20240094 REQUESTING A VARIANCE FROM LDC SECTION 34-638(d)(3)c.3.(iii) TO DECREASE THE REQUIRED 25-FOOT SETBACK FOR NON-ROOFED ACCESSORY STRUCTURE SETBACK FROM A NON-SEAWALLED NATURAL WATERBODY TO ALLOW A POOL 14.5 FEET FROM THE MAIN HIGH WATER LINE, FOR THE PROPERTY LOCATED AT 21481 WIDGEON TERRACE, FORT MYERS BEACH, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Janet L. Shobe, applied as the trustee of the Janet L. Shobe Trust, for a variance from LDC Section 34-638(d)(3)c.3.(iii) of the Town of Fort Myers Beach Land Development Code regarding real property assigned STRAP number 34-46-24-W1-0220D.0000; and

WHEREAS, the Property has a street address of 21481 Widgeon Terrace, Fort Myers Beach, Florida and is located in the RC zoning district of the Official Zoning Map and the Mixed Residential category of the Future Land Use Map of the Comprehensive Plan 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 May 14, 2024; and

WHEREAS, at the hearing the LPA gave full and complete consideration to the request of the Applicant, the recommendations of staff, the documents in the agenda materials, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-87; 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 variance with the following conditions:

1) 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.

2) The proposed location of riprap along the shoreline in relation to wetland delineation and the mean high-water line is not depicted. Placement of riprap along the shoreline will likely require environmental resource permitting from the Florida Department of Environmental Protection and the US Army Corps of Engineers. Authorization of riprap by the Town shall require separate Dock and Shoreline permitting from the Town.

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. VAR20240094, with the conditions contained herein, received unanimous approval from eligible voting members of the LPA on May 14, 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 Don Sudduth and seconded by LPA Member John McLean and upon being put to a vote, the result was as follows:

Anita Cereceda, LPA Chair	Aye
Jane Plummer, LPA Vice Chair	Aye
James Boan, LPA Member	Aye
Douglas Eckmann, LPA Member	Aye
Don Sudduth, LPA Member	Aye
John McLean, LPA Member	Aye
Vacant, LPA Member	N/A

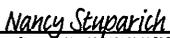
DULY PASSES AND ADOPTED this 14th day of May 2024.

Local Planning Agency of the Town of Fort
Myers Beach

By: 
Anita Cereceda (Jun 12, 2024 10:28:01)
Anita Cereceda, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: 
Nancy Stuparich (Jun 12, 2024 11:01:00)
Vose Law Firm, Town Attorney

By: 
Amy Baker, Town Clerk

This Resolution was filed in the Office of the Town Clerk on this 11th day of June 2024.

EXHIBIT A: Site Plan

