

LPA RESOLUTION 2024-02

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20240095 REQUESTING A VARIANCE FROM LDC TABLE 34-3 TO ALLOW A VARIANCE OF 12.5 FEET FROM THE REQUIRED 25-FOOT STREET SETBACK AND A VARIANCE OF 14.5 FEET FROM THE REQUIRED 20-FOOT REAR SETBACK FOR THE PROPERTY LOCATED AT 714 ESTERO BOULEVARD, FORT MYERS BEACH, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Mark Raudenbush of IDYLL Construction, applied as the agent for Barry Grossman, for a variance from LDC Table 34-3 of the Town of Fort Myers Beach Land Development Code regarding real property assigned STRAP number 24-46-23-W3.0400.008D; and

WHEREAS, the Property has a street address of 714 Estero Boulevard, Fort Myers Beach, Florida and is located in the RM 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) The first floor shall not be enclosed. It should be made available as a private car park for the residents and their guests. All parked vehicles must be contained on the site and not encroach on the Town's Right of Way. This does not disallow the 200 square feet of enclosed area for storage and an elevator.

2) The provided site plan does not indicate the width of the driveway or how the site will accommodate parking for 2 vehicles. The driveway will be required to meet the Town of Fort Myers Beach Residential driveway requirements.

3) The applicant must adhere to Sec. 6-14 Neighborhood flooding for stormwater retention and impervious surface calculations.

4) Approval of these variances 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.

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. VAR20240095, 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 Douglas Eckmann and seconded by LPA Member Jane Plummer and upon being put to a roll 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
Vacant	N/A

DULY PASSED AND ADOPTED THIS 14th of May 2024.

Local Planning Agency of the Town of Fort
Myers Beach

By: 

Anita Cereceda, LPA Chair

Approved as to legal sufficiency:

ATTEST:

By: 

Nancy Stuparich (Jul 11, 2024 16:26 EDT)
Vose Law Firm, Town Attorney

By: 

Amy Baker, Town Clerk

EXHIBIT A: Site Plan

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

LPA2024-02, VAR20240095, 714 Estero Final for signatures

Final Audit Report

2024-07-12

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