

LPA RESOLUTION 2025-04

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250018, REQUESTING A VARIANCE FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 154 VIRGINIA AVENUE., GENERALLY REFERED TO AS STRAP NUMBER 19-46-24-W4-00090C.0040 IN FORT MYERS BEACH, TO VARY 6.8 FEET FROM REQUIRED 20 FOOT REAR SETBACK TO BUILD A NEW SINGLE FAMILY STRUCTURE IN THE RC 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, Mark Raudenbush with Idyll Construction (“Applicant”) and Stephen and Deborah Horgash (“Owners”) of the property located at 154 Virginia Avenue (Property), and is requesting variances from LDC Table 34-3 of 6.8 feet from the required 20-foot rear setback for a rear setback of 13.2 feet to construct a new single-family structure in the RC zoning district; and

WHEREAS, the STRAP number for the subject property is 19-46-24-W4-00090C.0040; and

WHEREAS, the Property is located in the “Mixed Residential” Future Land Use Map of the Comprehensive Plan and the “Residential Conservation” 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 March 11th, 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, upon a motion of approval with conditions by LPA member Dunlap and seconded by LPA member Sudduth, voted 6 to 0, with LPA Member Boan absent, 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 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 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.

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. VAR20250018, with the conditions contained herein, received unanimous approval from eligible voting members of the LPA on March 11, 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 Member Dunlap and seconded by Member Sudduth and upon being put to a vote, the result was as follows:

Chair Anita Cereceda	Aye
Vice-Chair Jane Plummer	Aye
Member James Boan	Absent
Member Douglas Eckmann	Aye
Member Don Sudduth	Aye
Member John McLean	Aye
Member James Dunlap	Aye

DULY PASSED AND ADOPTED THIS 11th day of March, 2025.

Local Planning Agency of the Town of
Fort Myers Beach

By: 
Anita Cereceda (Apr 4, 2025 15:41 EDT)
Anita Cereceda, LPA Chair

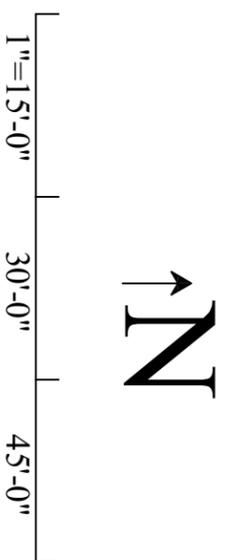
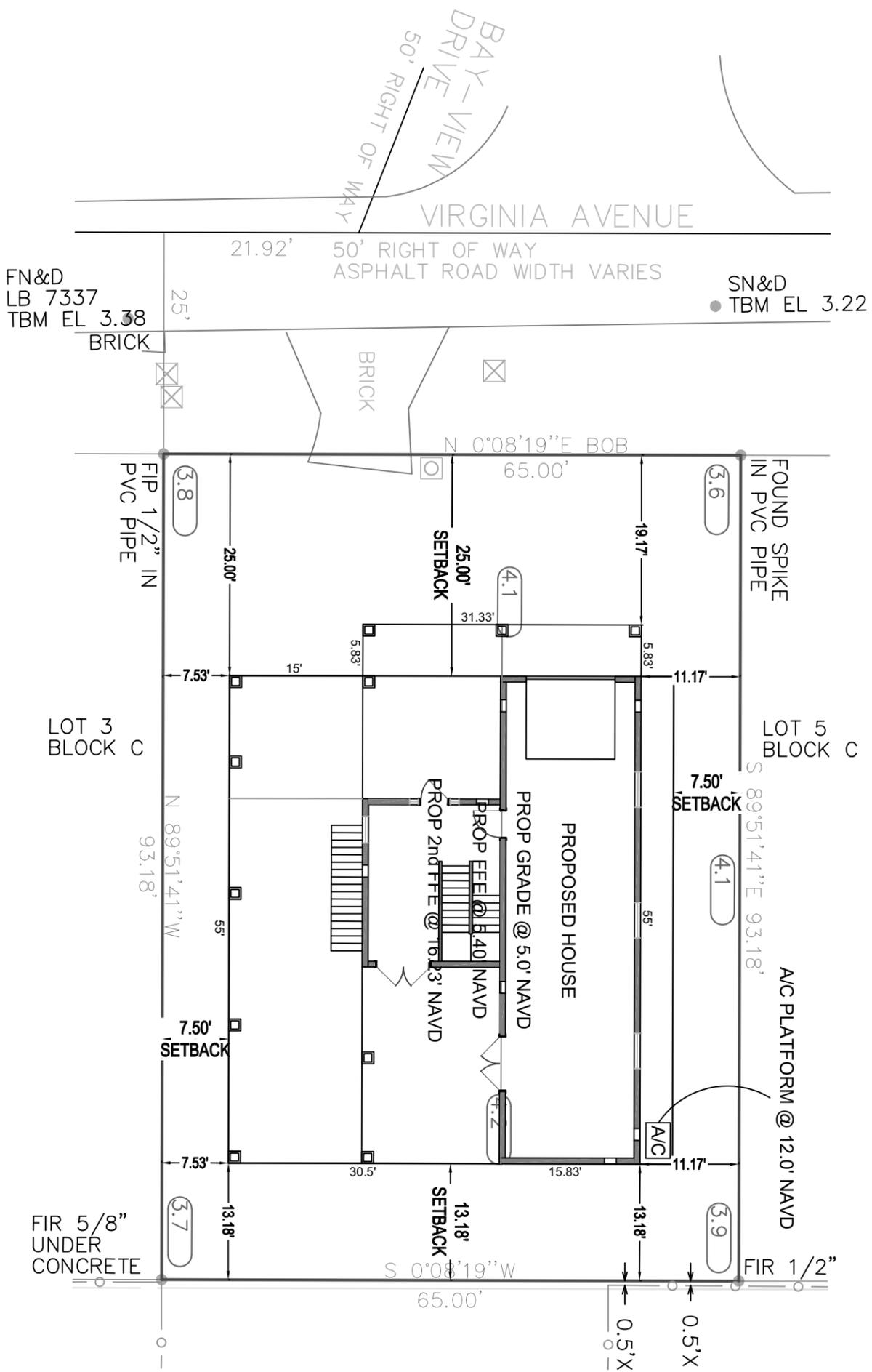
Approved as to legal sufficiency:

ATTEST:

By: 
NSA (Apr 4, 2025 16:41 EDT)
Vose Law Firm, Town Attorney

By: 
Amy Baker, Town Clerk

EXHIBIT A: Site Plan



SITE & DRIVEWAY PLAN
SCALE: 1"=15'-0"

PROJECT NAME AND ADDRESS
HORGASH RESIDENCE
154 VIRGINIA AVE
FORT MYERS BEACH, FL

No.	Issue	Date	No.	Revision	Date
5			5		
4			4		
3			3		
2			2		
1			1		

Idyll Construction, Inc. Hereby reserved its common law copyright and other property right in these plans, ideas, and designs. These ideas, designs and plans are not to be reproduced, changed or copied in any form or manner whatsoever, nor are they to be assigned to any third party without written permission from Idyll Construction, Inc. Written dimensions on these drawings shall have precedence over scale dimensions. Contractor shall verify ad be responsible for all dimensions and conditions of the job and Idyll Construction, Inc. shall be notified in writing of any variations from the dimensions, conditions and specifications shown by these drawings. All construction shall be in accordance with all state and local codes.



License no. CBC058253

CHECK BY: _____
DRAWN BY: _____
DATE: 11/20/23
PROJECT NO: 995
SHEET NAME: SUBMITTAL
SHEET NO: A-2