

LPA RESOLUTION 2025-11

A RESOLUTION OF THE FORT MYERS BEACH LOCAL PLANNING AGENCY APPROVING WITH CONDITIONS VARIANCE 20250170, REQUESTING TWO VARIANCES FROM LDC TABLE 34-3 FOR THE PROPERTY LOCATED AT 202 CRESCENT STREET, GENERALLY REFERED TO AS STRAP NUMBER 19-46-24-W4-0150E.0090 IN FORT MYERS BEACH, TO VARY 7.1 FEET FROM REQUIRED 10 FOOT SIDE SETBACK AND TO VARY 15 FEET FROM THE REQUIRED 25 FOOT WATERBODY SETBACK TO ELEVATE THE EXISTING SINGLE-FAMILY RESIDENCE IN THE RM 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, John W. Richard (hereinafter "Applicant"), is the owner of real property located at 202 Crescent Street, Fort Myers Beach, Florida (hereinafter "subject property"); and

WHEREAS, the STRAP for the subject property is 19-46-24-W4-0150E.0090, and the legal description for the subject property is attached, see Exhibit "B"; and

WHEREAS, the subject property is within the Mixed Residential Future Land Use Map category according to the Town of Fort Myers Beach Comprehensive Plan; and

WHEREAS, the subject property is located in the Residential Multi-family (RM) zoning district; and

WHEREAS, the RM zoning district requires a minimum lot width of 75 feet and a minimum lot depth of 100 feet, with a total lot area of 7,500 square feet; and

WHEREAS, the subject property conforms to the minimum dimensional requirements of the RM zoning district, and is subject to the standard setbacks of Table 34-3 of the Land Development Code; and

WHEREAS, Table 34-3 of the Land Development Code requires a single-family home in the RM zoning district to provide a minimum 25 feet waterbody setback and 10 feet side setback for lots greater than 75 feet in width; and

WHEREAS, the Applicant proposes to vacate the ground floor level and construct a vertical addition above to meet FEMA flood requirements. The proposed vertical addition will maintain the existing 10 feet waterbody setback from the deck to the east property boundary and 2.9-foot side setback from the south property boundary, see Exhibit "B"; and

WHEREAS, the Applicant requests two variances from LDC Table 34-3 to allow the construction of a vertical addition in the same footprint as the existing single-family dwelling and to maintain the nonconforming 10 feet waterbody setback from the east property boundary where otherwise a 25 feet waterbody setback is required and to maintain the existing nonconforming side setback of 2.9 feet from the south property boundary where otherwise a 10 feet side setback is required; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on August 12, 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 voted 6 to 0 by roll call vote to approve with conditions 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.
3. The variance is limited to the subject property as a lot of record consistent with the legal description described herein.
4. This variance applies to the vertical addition above an existing single-family structure in the subject property only. Any additional modification of the single-family dwelling or additional construction on subject property must comply with all applicable regulations or seek a new variance.
5. The variance applies to the modified setbacks of the south and east property boundaries as shown in "Exhibit B" only. No other portion of the single-family dwelling or accessory structure(s) may be extended into a required setback.

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. VAR20250170, with the conditions contained herein, received unanimous approval from eligible voting members of the LPA on August 12, 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 Doug Eckmann and seconded by LPA member James Dunlap and upon being put to a vote, the result was as follows:

LPA Chair Cereceda	<u>Aye</u>
LPA Vice-Chair Plummer	<u>Absent</u>
LPA Member Boan	<u>Aye</u>
LPA Member Dunlap	<u>Aye</u>
LPA Member Eckmann	<u>Aye</u>
LPA Member McLean	<u>Aye</u>
LPA Member Sudduth	<u>Aye</u>

DULY PASSED AND ADOPTED THIS 12th day of August, 2025.

Local Planning Agency of the Town of
Fort Myers Beach

By: Anita Cereceda
Anita Cereceda (Aug 28, 2025 13:46:07 EDT)
Anita Cereceda, LPA Chair

APPROVED AS TO LEGAL SUFFICIENCY:

ATTEST:

By: Nancy Stuparich
Nancy Stuparich (Aug 29, 2025 10:27:03 EDT)
Vose Law Firm, Town Attorney

By: Amy Baker
Amy Baker (Aug 29, 2025 11:13:43 EDT)
Amy Baker, Town Clerk

EXHIBIT A: Location Map
EXHIBIT B: Survey

Tools

Images year: 2025

02/06/2025
View 1

Display Parcels



