

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 12-30
VAR2012-0005 – 195 Pearl Street Variance

WHEREAS, applicant Lee County Acquisition, LLC is requesting a variance from Land Development Code (LDC) Table 34-3, 25-foot minimum street setback, to allow a 20-foot setback for the construction of a front entryway/foyer; and

WHEREAS, the applicant has indicated that the STRAP for the subject property is 19-46-24-W4-00426.0000 and the legal description of the subject property is from the Southwest corner of Lot 19 of T.P. HILLS SUBDIVISION, according to the map or plat thereof on file and recorded in Plat Book 3, Page 84, Public Records of Lee County, Florida, run North 590.65 feet to the point of beginning; thence North 50 feet; thence East 80.88 feet; thence South 50 feet; thence West 80.88 feet to the point of beginning. Same being also known as Lot 1, Block N of C.L. YENT'S SUBDIVISION, unrecorded; and

WHEREAS, the subject property is located at 195 Pearl Street, Fort Myers Beach, FL 33931 in the Residential Conservation (RC) zoning category 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 advertised and held before the Local Planning Agency (LPA) on December 11th, 2012; and

WHEREAS, at the hearing the LPA gave full and complete consideration to the request of the Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach LDC Section 34-87.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on December 17th, 2012, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2012-019, the recommendations of Staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach LDC Section 34-87.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2012-008 and the standards for granting variances, the Town Council makes the following findings of fact, and reaches the following conclusions:

The Town Council **APPROVES** the applicant's request for a variance from Table 34-3 of the LDC, with any approval subject to the following conditions:

RECOMMENDED CONDITIONS OF APPROVAL:

1. That the request be approved only for the 5'6" by 8'6" foyer as shown on the applicant's site plan.

2. If the structure is removed for any reason, the property must be rebuilt in accordance with all applicable provisions of the Land Development Code for setbacks and Base Flood Elevation requirements.
3. The structure shall only be used as a single-family residence.

RECOMMENDED FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the Town Council makes the following findings and reaches the following 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.

The foregoing Resolution was adopted by the Town Council upon a motion by Councilmember Kosinski and seconded by Councilmember List, and upon being put to a vote, the result was as follows:

Bob Raymond, Mayor	AYE	Alan Mandel, Vice Mayor	AYE
Dan Andre	AYE	Joe Kosinski	AYE
Jo List	AYE		

DULY PASSED AND ADOPTED THIS 17th day of December, 2012.

By: 
Bob Raymond, Mayor

Approved as to legal sufficiency:
By: 
Fowler, White, Boggs
Town Attorney

ATTEST:
By: 
Michelle Mayher
Town Clerk