

**RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 16-44
VAR16-0009 – 209/211 Ostego Dr. Fence Height Variance**

WHEREAS, Philip Ratliff, applicant and owner of the subject property is requesting a variance from Section 34-1744(b)(1) of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP number for the subject property is 19-46-24-W4-00402.0030 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property is physically located at 209/211 Ostego Drive Fort Myers Beach, FL 33931, zoned Residential Conservation on 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 duly advertised public hearing on this matter was held before the Local Planning Agency (LPA) on November 8, 2016; and

WHEREAS, at the 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 Fort Myers Beach Land Development Code (LDC) Section 34-87; and

WHEREAS, on December 19, 2016, the Town Council held a duly advertised public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required LDC Section 34-87.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fort Myers Beach, Florida, as follows:

1. Determination.

Based upon the recommendations, testimony, and evidence presented by Town staff, LPA, and interested parties, the Town Council approves the following:

Variance. (VAR16-0009) The Town Council grants **APPROVAL** of a variance from Section 34-1744(b)(1) of the LDC to allow a 6 ft. tall fence within the required street setbacks on the southern and western side of the subject property with the following conditions:

2. Conditions.

- a. *The fence cannot be constructed within the roadway or drainage easements on the subject property as shown on the boundary survey (Exhibit B).*
- b. *The fence cannot be constructed within the visibility triangle of the intersections of Ostego Dr. and Ostego Dr. and Ostego Dr. and Carolina St. as required by LDC Sec. 34-3131 and depicted in LDC Figure 34-32.*

3. Findings and Conclusions of Law.

In accordance with LDC Sections 34-87 for granting a variance, the Town Council finds as follows:

- 1. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question.
- 2. The conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.
- 3. The variance requested **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.
- 4. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.
- 5. 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 Council Member Cereceda and seconded by Vice Mayor Hosafros and upon being put to a vote, the result was as follows:

Dennis C. Boback, Mayor	aye
Rexann Hosafros, Vice Mayor	aye
Tracey Gore, Council Member	aye
Anita Cereceda, Council Member	aye
Joanne Shamp, Council Member	aye

DULY PASSED AND ADOPTED THIS 19th day of December, 2016, by the Town Council of the Town of Fort Myers Beach.

ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Michelle D. Mayher, Town Clerk

By: 
Dennis C. Boback, Mayor

Approved as to form by:

By: 
Dawn E. Perry-Lehnert,
Town Attorney

CONTINUATION OF WARRANTY DEED

LEGAL DESCRIPTION

Lot 13, Block J, First Addition to Venetian Gardens Section 19, T-48-S, R-24-E, Lee County, Florida.

A tract or parcel of land lying in Lot 11 of T.P. Hills Subdivision according to the map or plat thereof as recorded in Plat Book 3, at page 54 of the Public Records of Lee County, Florida, being a part of Section 19, Township 46 South, Range 24 East, and further bounded and described as follows:

Starting at the concrete monument marking the intersection of the Northeasterly line of Estero Boulevard (50.00 feet wide) and the Westerly line of Miramar Subdivision, according to the plat or map thereof recorded in Plat Book 6 at page 31 of said Public Records; thence N 0°44'01" E along said West line, being the East line of said Lot 11 of T.P. Hills Subdivision, a distance of 747.81 feet; thence N 89°15'59" W a distance of 254.16 feet to a point on the East right-of-way line of Carolina Street; thence N 1°00'00" E along said right-of-way line a distance of 32.49 feet to the point of beginning of the herein described parcel. Thence continue N 1°00'00" E along said right-of-way line a distance of 55.00 feet; thence S 89°15'59" E a distance of 108.75 feet; thence S 0°44'01" W parallel with the East line of the aforesaid Lot 11 a distance of 55.00 feet; thence N 89°15'69" W a distance of 109.01 feet to the point of beginning.

Said parcel subject to a roadway and drainage easement over and across the Southerly 9.00 feet and over and across the Easterly 5.00 feet.

