

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 05-43

WHEREAS, James and Joy Williamson, the property owners, petitioned for a variance in the Residential Single-Family (RS) zoning district to allow an eighteen (18) foot street setback for stairs, where twenty-five (25) feet is the minimum street setback required pursuant to LDC Table 34-3; and

WHEREAS, the subject property is located at 8150 Estero Boulevard, Fort Myers Beach, Florida, in S03-T47S-R24E, Lee County, FL; the applicant has indicated the property's current STRAP number is: 03-47-24-W3-00300.0190 and the legal description thereof is attached hereto Exhibit A and incorporated herein by reference; and

WHEREAS, a public hearing on this matter was held on November 15, 2005, before the Local Planning Agency, which recommended Denial of the variance; and

WHEREAS, a hearing was held before the Town Council of the Town of Fort Myers Beach, Florida, which considered the following criteria, recommendations and testimony of Staff, recommendations of the Local Planning Agency, and testimony from the applicant and from the public.

IT IS THE FINDING OF THE TOWN COUNCIL that the following exist:

a. There are no exceptional or extraordinary conditions or circumstances that are inherent to the property in question. Other nearby similarly sized and shaped lots along the same street have complied with property development regulations.

b. The exceptional or extraordinary conditions or circumstances are the result of actions of the applicant taken after the adoption of the regulation in question. The applicant does not desire to place the stairs elsewhere on the property, thus creating an illegal setback.

c. The variance requested is not the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property. The applicant could have designed the dwelling unit and stairway to comply with all setbacks.

d. The granting of the variance will be injurious to the neighborhood or otherwise detrimental to the public welfare. No other variances from the required street setback have been approved on other lots in the vicinity. The request is not typical of the community.

e. The condition or situation of the specific piece of property, or the intended use of the property for which the variance is sought is of a general or recurrent nature so as to make it more reasonable and practical to amend the Ordinance in question. Approval of the requested reduction in the setback may encourage requests for setback reductions in the area.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH, FLORIDA AS FOLLOWS:

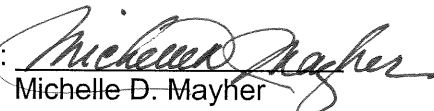
**THE VARIANCE IS DENIED** in the best interest and for the protection of the health, safety, comfort, convenience, and welfare of the general public.


Dennis Boback	<u>aye</u>
Don Massucco	<u>aye</u>
Charles Meador	<u>aye</u>
Garr Reynolds	<u>nay</u>
William E. Shenko, Jr.	<u>aye</u>

DECIDED this 12<sup>th</sup> day of December, 2005.

ATTEST:

TOWN OF FORT MYERS BEACH

By:   
Michelle D. Mayher  
Town Clerk

By:   
Dennis C. Boback  
Mayor

Approved as to Legal Form by:

  
Anne Dalton, Town Attorney

VAR2005-00029

LEGAL DESCRIPTION

EXHIBIT "A"

IN SECTION 03, TOWNSHIP 47 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA:

LOT 19, GRAND OLE MAN, AS RECORDED IN PLAT BOOK 29, PAGES 26 AND 27,  
OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

**Applicant's Legal Checked**

by Lynn July 11, 2005