

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 19-08
VAR 20180028 – 215 Primo Drive

WHEREAS, applicant Mark Kuehn, authorized agent for Oronoco Enterprises, LLC, is requesting a variance from Sec. 34-638 Min. Setbacks and Table 34-3 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-W4-0150D0150 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property, 215 Primo Drive, Fort Myers Beach is located in the 'Residential Conservation' zoning district 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 noticed and held before the Local Planning Agency (LPA) on March 12, 2019; and

WHEREAS, the LPA recommended approval of the variance after 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 34-84; and

WHEREAS, on April 1, 2019 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 by LDC 34-87; and

WHEREAS, the Town Council determined it is in the best interest of the Town to **approve** the request.

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

Determination.

Based upon the recommendations, testimony, and evidence presented by the applicant, Town staff, and interested parties, the Town Council **APPROVES** the following:

- A. A variance from Sec. 34-638 Min. Setbacks and Table 34-3 of the Town of Fort Myers Beach Land Development Code, which requires a 25-foot waterbody setback, to allow a variance of 7 feet to decrease the required setback to 18 feet; and
- B. A variance from Sec. 34-638, to allow the re-construction of an unenclosed elevated deck no closer than 11.92 feet from the back of the existing seawall and 6.3/6.81 feet

from the side yard (north); all of which shall be consistent with the applicant provided survey dated 11/14/16 by LIS Engineering and Land Surveying (Robert W. Case).

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 make the following findings and reach 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.

CONDITIONS OF APPROVAL:

1. The variances shall only apply to the elevated deck (side yard and rear/water body) and single-family residence (rear yard) as shown on the provided survey dated 11/14/16 by LIS Engineering and Land Surveying. No deviations from the measurements of that survey greater than 0.1 feet shall be permitted.
2. If the principal single-family residence is determined to be substantially damaged or subject to substantial improvement, then the rear yard setback variance of approximately 6 feet shall be null and void.
3. If the residence is determined to be substantially damaged or subject to substantial improvement, then the variance for the elevated deck shall be null and void.
4. The property owner shall provide the Town with a new as-built survey showing all on-site and off-site improvements associated with the property (including ROW up to edge of pavement), including but not limited to, delineation of asphalt, concrete, pavers, grass or other pervious yards, structures, internal and perimeter spot elevations (topography), and vegetation.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Hosafros and seconded by Vice Mayor Murphy, and upon being put to a vote, the result was as follows:

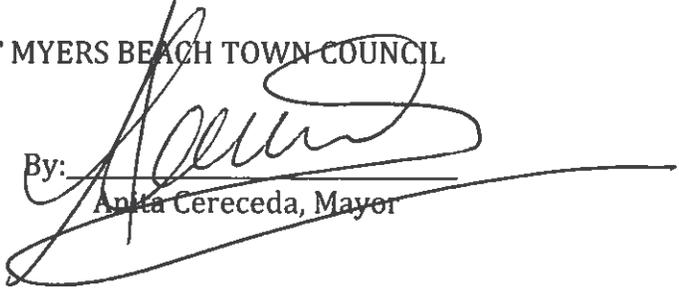
Anita Cereceda, Mayor	Aye	Ray Murphy, Vice Mayor	Aye
Rexann Hosafros	Aye	Bruce Butcher	Aye
Joanne Champ	Aye		

DULY PASSED AND ADOPTED THIS 1st day of **APRIL, 2019**.

ATTEST:

FORT MYERS BEACH TOWN COUNCIL

By: 
Michelle Mayher, Town Clerk

By: 
Anita Cereceda, Mayor

Approved as to legal sufficiency:

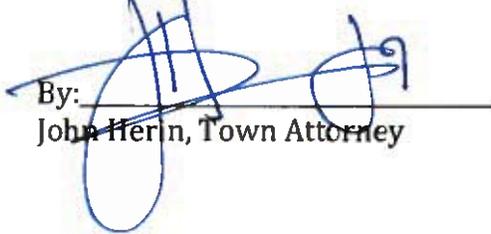
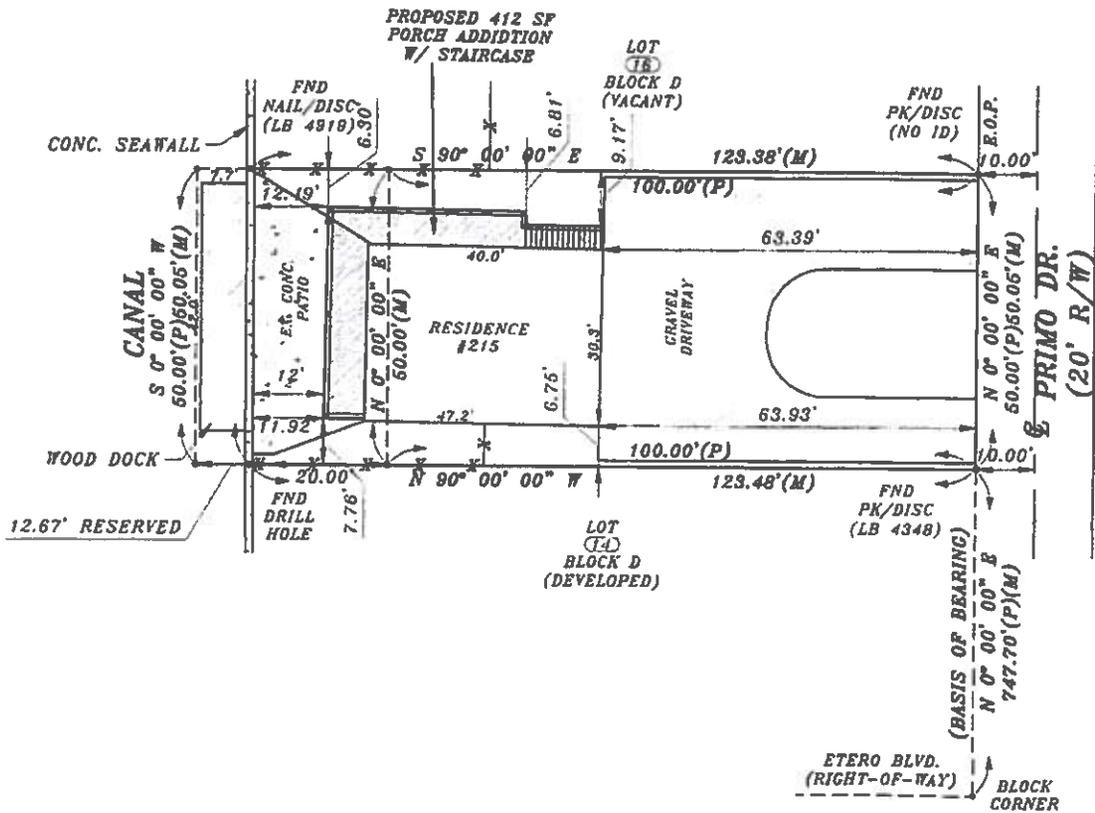
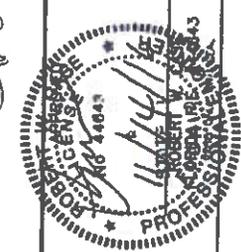
By: 
John Herin, Town Attorney

Exhibit A



COPY



SITE PLAN		FIELD SURVEY	01-19-16	DATE	11/14/2016
CREW CHIEF	C. CORDISCO	LIS ENGINEERING	CA NO. 083	LAND SURVEYING	LR1087
DRAWN BY	C. WHITE	2573 West State Road 406 Suite 204A, Orlando, FL 32715 Phone: (321) 244-9483 Facsimile: (321) 244-9489			
SCALE	1" = 20'	2108 Palm Beach Blvd. Alto, Fla. 32928 Phone: (321) 693-9244 Facsimile: (321) 693-9828			
LIS JOB NO	MD16-154	LIS			
SHEET: 1 OF 1					