

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 14-28
VAR2014-0003 – 50 Dakota Avenue

WHEREAS, applicant Jay Ursoleo, authorized agent for Lance King, is requesting a variance from 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 33-46-24-W1-00205.0200 and the legal description of the subject property is attached as Exhibit A; and

WHEREAS, the subject property, 50 Dakota Avenue, 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 advertised and held before the Local Planning Agency (LPA) on September 9, 2014; 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.

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on November 3, 2014, at which time the Town Council gave full and complete consideration to the request of Applicant, the 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.

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

The Town Council **APPROVES** the requested variances from the following sections:

1. LDC Table 34-3 to allow an existing legal non-conforming deck to be enlarged while not increasing the encroachment into the required setback.

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding approval of variance requests, the Town Council reaches 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.

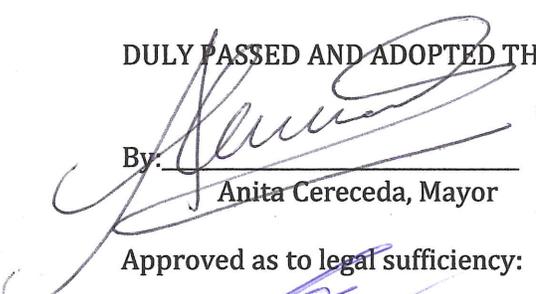
D. The granting of the variance **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

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.

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

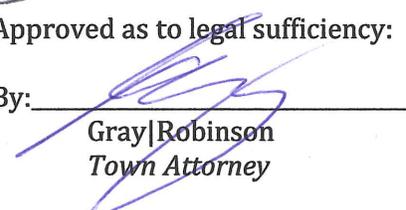
Anita Cereceda, Mayor	AYE	Dan Andre, Vice Mayor	AYE
Rexann Hosafros	AYE	Alan Mandel	AYE
Summer Stockton	AYE		

DULY PASSED AND ADOPTED THIS 3rd day of November, 2014.

By: 

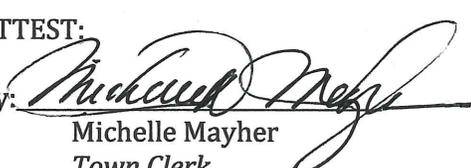
Anita Cereceda, Mayor

Approved as to legal sufficiency:

By: 

Gray|Robinson
Town Attorney

ATTEST:

By: 

Michelle Mayher
Town Clerk

EXHIBIT A
Legal Description

50 Dakota Avenue
VAR2014-0003

LOT 20 AND THE SOUTHWESTERLY TWENTY-FIVE (25') FEET OF LOT 19 IN BLOCK 5 OF GULF HEIGHTS SUBDIVISION, AS RECORDED IN PLAT BOOK 6 AT PAGE 39 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA PLUS THE WESTERLY SIX (6') FEET OF LOTS 21 AND 18 AS ABOVE SUBJECT TO AN EASEMENT OVER THE WESTERLY SIX (6') FEET OF LOTS 21 AND 18 FOR MAINTENANCE PURPOSE IN FAVOR OF LOT 21 IN BLOCK 5, GULF HEIGHTS SUBDIVISION, AND THE EASEMENT OVER THE NORTHEASTERLY TWELVE (12') FEET OF THE SOUTHWESTERLY TWENTY-FIVE (25') FEET OF LOT 19, BLOCK 5, GULF HEIGHTS SUBDIVISION FOR INGRESS EGRESS PURPOSE ONLY, AND AN EASEMENT TWELVE (12') FEET OF THE SOUTHWESTERLY TWENTY-FIVE (25') FEET OF LOT 19, BLOCK 5, GULF HEIGHTS SUBDIVISION FOR UTILITY PURPOSE ONLY.