

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 12-19
VAR2012-0002 - Dolphin Inn Sign Variance

WHEREAS, applicant RTJP Investments, Inc is requesting a variance from Section 30-93(b) and Section 30-154(c) 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 134-46-24-W4-02600.00CE and the legal description of the subject property is attached as *Exhibit B*; and

WHEREAS, the subject property is located at 6555 Estero Boulevard, Fort Myers Beach, FL 33931 in the Commercial Resort 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 August 14, 2012; 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 5, 2012, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2012-010, 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:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application, LPA Resolution 2012-010 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 Section 30-93(b) to allow a 0' setback from the property line of the subject property; and

The Town Council **APPROVES** the applicant's request for a variance from Section 30-154(c) of the LDC to permit a 2'10" tall sign base and an overall sign height of 9', measured from the highest adjacent grade to the highest point of the sign face or its supporting structural elements, with the approval subject to the following conditions:

CONDITIONS OF APPROVAL:

1. Approval of this variance does not exempt the subject property from the LDC Section 30-55 permit requirements for signs.
2. Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.
3. The height of the sign, as measured from the highest adjacent grade to the highest point of the sign face or its supporting structural elements is not to exceed 9’.
4. The sign base as measured from the highest adjacent grade is not to exceed 2’10” in height.
5. If the principal building on the subject property is removed or replaced for any reason, this variance will expire. The sign allowed by this variance must be removed within 30 days of the issuance of any demolition permit for the principal building. If the building is destroyed or damaged by a natural disaster to the extent that it is rendered uninhabitable, then the sign must be removed within 30 days of the issuance of a demolition permit or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever occurs first. Placement of signage in conjunction with redevelopment of the site must comply with all regulations in effect at the time of application for a permit.

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:

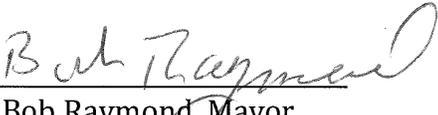
- A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is** for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying 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.

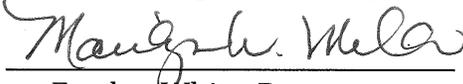
The foregoing Resolution was adopted by the Town Council upon a motion by Councilmember **Kosinski** and seconded by Councilmember **List** , and upon being put to a vote, the result was as follows:

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

DULY PASSED AND ADOPTED THIS 5th day of NOVEMBER, 2012.

By: 
Bob Raymond, Mayor

Approved as to legal sufficiency:

By: 
Fowler, White, Boggs
Town Attorney

ATTEST:

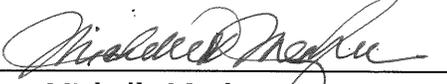
By: 
Michelle Mayher
Town Clerk

EXHIBIT B

DOLPHIN INN CONDOMINIUM

LEGAL DESCRIPTION OF LANDS SUBMITTED TO CONDOMINIUM

Lot 17 plus a portion of Lots 18 and 19 lying Northerly of the following described line; From the most Southerly corner of Lot 18, common with Lot 19, thence Northwesterly along the Southwesterly line of Lot 18, (being the Estero Blvd. right-of-way) for 36.84 feet to the Point of Beginning of said line; thence deflect right 88 41'40" and run 135.79 feet to the canal and the end of said line, at a point 19.39 feet, as measured on a chord from the most Easterly corner of Lot 19, (common with Lot 20). All being in Sandpiper Village, Unit 2, as recorded in Plat Book 9, at Page 52, Lee County, Florida, Public Records.

And all right, title and interest of the grantors in an easement from George E. Allen, Trustee, in liquidation of Estero Beach Properties, Inc., and Estero Development Corporation, Dissolved Florida Corporation to A. L. Mechling, Frank Gobes, L. H. Noble, as trustees for the present and future owners of Lots in Sandpiper Village Unit No. 1 and Unit No. 2, dated September 2, 1964, and recorded in O. R. Book 267 at Page 11 in Public Records of Lee County, Florida.

All that parcel of land situate lying and being in Lee County, Florida, more particularly described as follows:

A strip or parcel of land lying between Estero Boulevard and the Gulf of Mexico in Sections 33 and 34, Township 46 South, Range 24 East, Estero Island, Lee County, Florida, for walkway purposes, which strip or parcel is described as follows:

Beginning at a point on the Southwesterly side of Estero Boulevard, said point being 1440 feet (measured along line perpendicular to the south line of Block I, McPhie Park, Unit No. 2, according to plat recorded in Plat Book 8 at Page 59, Public Records of Lee County) run southeasterly along said southwesterly line of Estero Blvd. for 12.29 feet; thence run southwesterly parallel with said south line of Block I, McPhie Park, Unit No. 2, and 1452.16 feet south of said Block I for 470 feet more or less to the waters of the Gulf of Mexico, passing through concrete monuments at 175.44 feet and 352.69 feet; thence run northwesterly along said waters to an intersection with a line parallel with said south line of Block I passing through the point of beginning; thence run northeasterly along said parallel line to the point of beginning, passing through concrete monuments at 177.25 feet and 354.5 feet southwesterly of said point of beginning.

REF
REC
37912951