

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 02-21

WHEREAS, the property owner INVESTMENT BROTHERS LLC, petitioned for a variance from LDC Section 34-1145 requiring a rear property line setback a minimum thirty (30) feet from the front property line setback at grade to allow a minimum rear property line setback of zero feet from an accessory structure; and,

WHEREAS, the subject property is located at 340 Old San Carlos, Ft. Myers Beach, in S24-T46S-R23E, Lee County, FL.; and,

WHEREAS, the applicant has indicated the property's current STRAP number is: 24-46-23-W3-00203.0010, and the legal description for said property is Lot 1, Block 3, Business Center Subdivision, Plat Book 9, Pages 9 and 10, Public Records of Lee County, Florida; and,

WHEREAS, the LPA recommends that the Town Council approve the requested variance with the following conditions:

- 1] The existing storage trailer will be removed within 120 days of final approval of the variance.
- 2] Any addition to the existing building will be designed and constructed with architectural surfaces consistent with the existing restaurant building, i.e., clapboard siding walls and galvanized sheet metal or aluminum ("tin") roof at a minimum.
- 3] Construction of the proposed addition to the existing building must begin within 120 days and be actively pursued to completion within 365 days of final approval of the variance for the variance to remain valid.
- 4] The stockade fence on the rear lot line will be replaced as necessary to align with the exterior wall of any addition to the existing building or any new accessory structure on the rear lot line.
- 5] The variance is limited to and valid for the existing restaurant business use only and the proposed addition may not be utilized for additional restaurant seating.
- 6] Prior to the issuance of any development permits under this variance, if approved, the developer will provide site plans and building plans and elevations to the Town Manager for review and final approval.
- 7] The variance is limited to the site plans and building plans and elevations approved by the Town manager; and,

WHEREAS a hearing was held and the council considered the following criteria, recommendations and testimony of the staff, testimony from the applicant and from the public.

IT IS THE FINDING of this council that the following exist:

- a. That there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question and that do not apply generally to the other nearby properties in the same zoning district;

b. That the exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken subsequent to the adoption of the ordinance (any action taken by an applicant pursuant to lawfully adopted regulations preceding the adoption of the ordinance from which this chapter is derived will not be considered self-created);

c. That the variance is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property;

d. That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and

e. That the condition or situation of the specific piece of property, or the intended use of the property, for which the variance is sought is not of so general or recurrent nature as to make it more reasonable and practical to amend the ordinance.

NOW THEREFORE BE IT RESOLVED THAT THE VARIANCE IS APPROVED SUBJECT TO THE FOLLOWING conditions and requirements that are necessary for the protection of the health, safety, comfort, convenience and welfare of the general public and that are reasonably related to the variance requested:

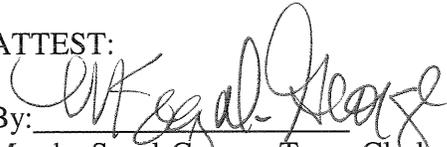
1. All of the conditions recommended by the LPA are adopted. If the applicant has not obtained building permits and removed the storage trailer within 6 months of this approval, the item will be scheduled for a hearing before the Town Council in November, 2002, to determine due diligence on the applicants part.

The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

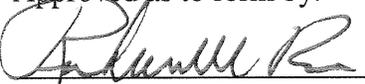
Howard Rynearson	aye
Daniel Hughes	aye
Bill Thomas	aye
W. H. "Bill" Van Duzer	aye
Terry Cain	aye

APPROVED this 13th day of May, 2002.

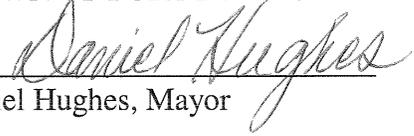
ATTEST:

By:   
Marsha Segal-George, Town Clerk

Approved as to form by:

  
Richard V.S. Roosa, Town Attorney

TOWN OF FORT MYERS BEACH

By:   
Daniel Hughes, Mayor