

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 11-20
FMBVAR2008-0003 (DiamondHead Sign Variance)

WHEREAS, applicants Neil Hopgood and Randy Kares have requested a Variance from Section 30-153(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 for the subject property is 19-46-24-W4-0090A.001 and the legal description of the subject property is GULF BAY VIEW BLK A PB 8 PG 69 LOTS 1 THRU 11 +VACATED STREET OR 648/318; and

WHEREAS, the subject property is located at 2000 Estero Boulevard in the DOWNTOWN zoning district of the Official Zoning Map and the Pedestrian Commercial 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 13, 2011; and

WHEREAS, at its meeting of September 13, 2011 the LPA instructed Town staff to bring this application forward to Town Council without the necessity of having approved LPA minutes; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on October 17, 2011, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2011-07, 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 34-88.

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 2011-010 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 30-153(b) and Section 30-154(c) of the LDC, with any 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. *The height of the sign, measured from the elevation of the existing grade of the elevated parking lot to the highest point on the sign must not exceed 8'6" except for the diamond shaped extension, provided the area of said extension shall not to exceed the dimensions shown in **Exhibit E**.*
3. *Construction and/or remodeling of the sign must comply with all applicable codes and regulations, including building codes and lighting standards.*
4. *If the principal building on the subject property is removed or replaced for any reason, this variance will expire and the sign allowed by this variance must be removed within 30 days of the issuance of the demolition permit for the principal building or within 30 days of the expiration of the federal, state, county, or local declaration of disaster, whichever condition(s) applies and whichever comes first. Placement of signage in conjunction with redevelopment must comply with all regulations in effect at the time of permitting.*
5. *Landscaping shall be installed and maintained around the base of the sign at a height so that no more than 18" of the monument base is visible .*

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.
- 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.

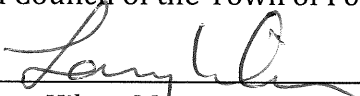
E. The conditions or circumstances on the specific piece of property for which the variance is sought **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

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:

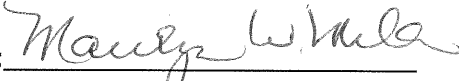
Larry Kiker, Mayor	AYE	Bob Raymond, Vice Mayor	AYE
Alan Mandel	AYE	Jo List	AYE
Joe Kosinski	AYE		

DULY PASSED AND ADOPTED THIS 17th day of OCTOBER, 2011.

Town Council of the Town of Fort Myers Beach

By: 
Larry Kiker, Mayor

Approved as to legal sufficiency:

By: 
Fowler, White, Boggs
Town Attorney

ATTEST:

By: 
Michelle Mayher
Town Clerk

EXHIBIT (E)

