

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: 2014-058

1. Requested Motion: Motion to approve/deny a waiver of application fees for Lani Kai's request for 3 sign variances.

Meeting Date: June 16, 2014

Why the action is necessary: Staff will not process a zoning application without payment of the required application fee.

What the action accomplishes: Provides for the application to be processed at no charge to the applicant, who would otherwise pay \$2,000 each for 3 variance requests, for a total of \$6,000 savings to the applicant.

2. Agenda:

Consent
 Administrative

3. Requirement/Purpose:

Resolution
 Ordinance
 Other

4. Submitter of Information:

Council
 Town Staff
 Town Attorney

5. Background: The Town Council adopted Ordinance 99-11 on September 13, 1999, which addressed nonconforming signs and provided an 8 year period for compliance. On April 18, 2011, Town Council adopted Ordinance 11-01 revising sign regulations in Chapter 30 of the Land Development Code. Sec. 30-56 requires that all nonconforming signs "shall be either removed or brought into conformity with this Chapter no later than December 31, 2011. The owner of the real property on which such non-conforming signs exist shall be responsible for ensuring that such signs are removed or brought into conformity."

The property was cited for Code violation CE12-0440 on September 24, 2012. A re-inspection on January 22, 2013 confirmed that 5 of the 7 signs in violation had been brought into compliance or removed. On January 30, 2013, the property owner applied for a Variance to allow a monument sign taller and closer to Estero Boulevard than currently allowed by the LDC. By a vote of 5-0, Town Council approved Resolution 13-14 for both requests on August 19, 2013 to allow a sign 9'7" in height (where 5 feet is the maximum allowed) and 1'7" away from Estero Boulevard ROW (where 3 feet is the minimum required).

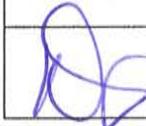
On April 28, 2014, the applicant applied for 3 new variances to allow the replacement of the nonconforming signs. On May 22, they requested a waiver of application fees on the attached waiver form.

6. Alternative Action:

7. Management Recommendations:

8. Recommended Approval:

For Council deliberation

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Parks & Recreation Director	Town Clerk
				JRO		

9. Council Action:

Approved Denied Deferred Other

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 13-14
VAR2013-0001 – Lani Kai Sign Variance

WHEREAS, applicant Robert Burandt, Esq, authorized agent for Lani Kai, LP, is requesting a variance from Section 30-154(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 19-46-24-W4-0070D.0020 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property is located at 1400 Estero Boulevard, Fort Myers Beach, FL 33931 in the 'DOWNTOWN' zoning category 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 June 11, 2013; 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 August 19, 2013, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2013-005, 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 2013-005 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 30-154(b) of the LDC to allow a right-of way setback of 1.7' as depicted on *Exhibit I*;

The Town Council **APPROVES** the applicant's request for a variance from Section 30-154(c) of the LDC to allow a sign height of 9'7" as measured from adjacent grade or crown of road, whichever is higher, subject to the following condition;

CONDITIONS OF APPROVAL:

1. The width of the sign structure shall not exceed 8'2".
2. Landscaping shall be installed around the sign base wherever possible.

FINDINGS AND CONCLUSIONS:

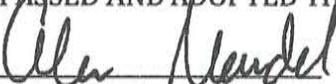
In accordance with the requirements of LDC Sections 34-84 and 34-87 regarding consideration of eligibility for a variance, the LPA recommends that the Town Council make the following findings and reach the following conclusions:

- 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.

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

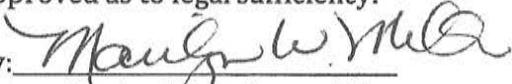
Alan Mandel, Mayor	AYE	Joe Kosinski, Vice Mayor	AYE
Jo List	AYE	Bob Raymond	AYE
Dan Andre	AYE		

DULY PASSED AND ADOPTED THIS 19th day of AUGUST, 2013.

By: 

Alan Mandel, Mayor

Approved as to legal sufficiency:

By: 

Fowler White Boggs, P.A.
Town Attorney

ATTEST:

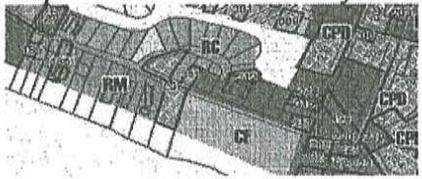
By: 

Michelle Mayher
Town Clerk

MAY 22 2014

RECEIVED BY

Town of Fort Myers Beach
Department of Community Development



Zoning Division

Application for Waiver of Submittal Requirements

Submit a request for waiver of submittal requirements prior to submitting an application for public hearing or administrative action. Requesting a waiver of submittal requirements simultaneously with an application may delay your application. The request and the director's response will become part of the application file.

Waiver is requested for items required for:

Public Hearing

- General Requirements
- DRI
- Planned Development
- Conventional Rezoning
- Special Exception
- Variance
- Appeal
- Other

Administrative Action

- General Requirements
- Planned Dev. Amendment
- Commercial Antenna
- Consumption on Premises
- Forced Relocation of a Business
- Interpretation of LDC
- Minimum Use Determination
- Setback Variance
- Other

Name of Project:

Applicant:

LeePA STRAP Number(s):

Street address:

Phone Number:

E-mail:

Specific requirements from which waiver is sought

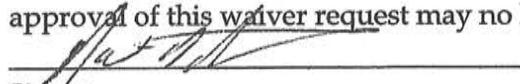
Section Number	Requirement
1. Filing fee for variance	

Scope of project and reasons for request

Explain the nature of the project and give reasons why you think specific requirements are inapplicable or otherwise should be waived.

The Lani Kai Resort has requested three (3) variances in order to replace four (4) signs that were ordered to be removed by the city without compensation. If it had not been for the Town's actions, the signs would not have to be replaced. The
Lani Kai has filed a lawsuit and requests these variances as a partial settlement of that lawsuit and therefore should not be required to pay \$3,000 for variances that were a result of the Town's actions.

I hereby state that the information provided above is accurate to the best of my knowledge. I recognize that if my project changes from what is described above approval of this waiver request may no longer be valid.

 _____ 5-20-14 _____
 Signature Date

Director's Decision Approved Denied

Comments:

Signature

Date