

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2017-41
VAR2017-0003 – Tiki on the Beach Hotel Enclosed Deck Variance

WHEREAS, applicant Greg Stuart, authorized agent for Kim Cook, Tiki on the Beach Real Estate LLC, is requesting a variance from Sec. 34-638 Minimum Setbacks 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 24-46-24-W3-0080A.0010 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property, 4360 Estero Boulevard, Fort Myers Beach is located in the 'Commercial Resort' 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 November 14, 2017; and

WHEREAS, the LPA recommended approval of the variance after 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 34-84; and

WHEREAS, on December 4, 2017 the Town Council held a duly advertised public hearing to full consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by LDC s. 34-87

WHEREAS, the Town Council determined it is in the best interest of the Town to approve the request.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fort Myers Beach, Florida, as follows:

Determination.

Based upon the recommendations, testimony, and evidence presented by Town staff, LPA, and interested parties, the Town Council **APPROVES** the following:

- A. A variance from Sec. 34-638 Minimum Setbacks Table 34-3 which requires a 20-foot side yard waterfront setback in Commercial Resort zoning, to allow a variance of 8.2 foot to decrease the required setback to 11.8 feet.

RECOMMENDED 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 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.

A. The conditions justifying the variance **are** the result of actions of the applicant taken after the adoption of the regulation in question.

B. The variance granted **is not** the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question.

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

D. 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.

CONDITIONS OF APPROVAL:

1. If the adjacent six-foot fence and trees buffering between the subject property and 4330/4340 Estero is removed or comes into disrepair, then the owner of the subject property shall provide an in-kind replacement within 30-days.

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

Dennis Boback, Mayor	_____	Tracey Gore, Vice Mayor	_____
Anita Cereceda	_____	Bruce Butcher	_____
Joanne Shamp	_____		

DULY PASSED AND ADOPTED THIS **4th** day of **DECEMBER, 2017**.

ATTEST: FORT MYERS BEACH TOWN COUNCIL

By: _____ By: _____
Michelle Mayher, Town Clerk Dennis Boback, Mayor

Approved as to legal sufficiency:

By: _____
Peterson, Town Attorney