

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 13-08
VAR2011-0007 – Moss Marine Sign Variance

WHEREAS, applicant Emily McDaniel, authorized agent and manager for Moss Marine is requesting a variance from Section 30-153(b)(1) of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the applicant has indicated that the STRAP numbers for the subject property are 24-46-23-W3-00027.0000 and 24-46-23-W3-00026.0020 and the legal description of the subject property is attached as *Exhibit A*; and

WHEREAS, the subject property is located at 450 Harbor Court Fort Myers Beach, FL 33931, zoned Commercial Marine on the Official Zoning Map and the Marina 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 was continued to a date certain of October 9, 2012; and

WHEREAS, a public hearing on this matter was legally advertised and held before the LPA on October 9, 2012 and was continued to a date certain of February 12, 2013; and

WHEREAS, a public hearing on this matter was legally advertised and held before the LPA on February 12, 2013 and continued to a date certain of March 12, 2013; and

WHEREAS, a public hearing on this matter was legally advertised and held before the LPA on March 12, 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 May 6, 2013, at which time the Town Council gave full and complete consideration to the request of Applicant, LPA Resolution 2013-002, 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 30-87.

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 and the standards for granting variances, the Town Council makes the following findings of fact and reaches the following conclusions:

The Town Council **DENIES WITHOUT PREJUDICE** the applicant's request for a variance from Section 30-153(b)(1) of the LDC to permit existing signage that exceeds the maximum sign area.

FINDINGS AND CONCLUSIONS:

In accordance with the requirements of LDC Sections 34-84 and 34-87 for granting a variance, the Town Council makes the following findings and reaches the following conclusions:

A. There **are not** exceptional or extraordinary conditions or circumstances that are inherent to the property in question **and** the request **is not** for a de minimis variance to protect public safety by not obstructing access to public utilities and fire protection facilities.

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

C. The variance requested **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.

D. The granting of the variance **will** 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 Vice Mayor Kosinski and seconded by Councilmember Andre, 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 6th day of **MAY, 2013**.

By: Alan Mandel
Alan Mandel, Mayor

Approved as to legal sufficiency:

By: Margaret White
Fowler, White, Boggs
Town Attorney

ATTEST:

By: Michelle Mayher
Michelle Mayher
Town Clerk

**Exhibit A – Legal Description
Moss Marine**

Parcel 1:

Lot 21, Block B, of that certain subdivision known as MATANZAS VIEW, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 9, Page 40.

Parcel 2:

A tract or parcel of land located in Government Lot 1, Section 24, Township 46 South, Range 23 East, on Estero Island, Lee County, Florida, which tract or parcel of land is more particularly described as follows:

From the northwesterly corner of Block 3 of BUSINESS CENTER, a subdivision according to the map or plat recorded in Plat Book 9 at pages 9 and 10 of the public records of Lee County, run northwesterly along a prolongation of the northeasterly line of said Block 3 for 66 feet to the westerly right-of-way line of the County Road; thence continue on the same course, along the southwesterly line of a road 50 feet wide, for 550 feet; thence deflect 90°00' right and run northeasterly, parallel to the aforesaid County Road, along the northwesterly line of said road 50 feet wide for 320 feet to the point of beginning of the lands hereby described. From said point of beginning, run northwesterly along a line perpendicular to the aforesaid County Road for 100 feet; thence run northeasterly parallel to said road to Matanzas Pass; thence run southeasterly along said Pass to an intersection with a line through the point of beginning parallel to said County Road; thence run southwesterly along said parallel line and the northwesterly line of a road 50 feet wide for 150 feet, more or less, to the point of beginning.

Parcel 3:

A tract or parcel of land located in Government Lot 1, Section 24, Township 46 South, Range 23 East, on Estero Island in Lee County, Florida, which tract or parcel of land is more particularly described as follows:

From the northwesterly corner of Block 3 of BUSINESS CENTER, a subdivision according to the map or plat recorded in Plat Book 9 at pages 9 and 10 of the public records of Lee County, run northwesterly along a prolongation of the northeasterly line of said Block 3 for 66 feet to the westerly right-of-way line of the County Road; thence continue on the same course, along the southwesterly line of a road 50 feet wide, for 550 feet; thence deflect 90°00' right and run northeasterly, parallel to the aforesaid County Road, along the northwesterly line of said road 50 feet wide for 320 feet to the point of beginning of the lands hereby described. From said point of beginning run southeasterly along a line perpendicular to the aforesaid County Road, for 153 feet; thence run northeasterly, parallel to and 430 feet from the center line of said County Road, for 172 feet, more or less, to the waters of Matanzas Pass; thence run northwesterly along said waters to an intersection with a line through the point of beginning parallel to said County Road; thence run southwesterly along said line for 150 feet, more or less, to the point of beginning.

Parcel 4:

A parcel of submerged land in Matanzas Pass in Section 24, Township 46 South, Range 23 East, Lee County, Florida, being more particularly described as follows:

From the Southwesterly corner of Lot 21, Block B, MATANZAS VIEW SUBDIVION, according to the map or plat recorded in Plat Book 9 at page 40, of the Public Records of Lee County, Florida, run North 26°03'00" East along the Northwesterly line of said lot and the Southwesterly line of a dedicated canal right-of-way for 55 feet to the point of beginning of the lands herein described. Said point of beginning being also the point of beginning of the bulkhead line approved by the Trustees of Internal Improvement Fund on July 18, 1967. From said point of beginning run along said bulkhead like Northeasterly, Easterly, and Southeasterly along the arc of a curve to the right of radius 75 feet (chord bearing 71°03'00" East) for 117.81 feet to the point of reverse curvature; thence run Southeasterly, Easterly, and Northeasterly along the arc of a curve to the left of radius 200 feet (chord bearing South 79°50'40" East) for 110.96 feet to a point of reverse curvature; thence run Northeasterly and Easterly along the arc of a curve to the right of radius 200 feet (Chord bearing South 79°50'40" East for 110.96 feet to a point of tangency; thence run South 63°57'00" East for 126.19 feet to a point of curvature; thence run Southeasterly and Easterly along the arc of a curve to the left of radius 50 feet (chord bearing South 82°23'10" East) for 32.17 feet to an intersection with a Northeasterly prolongation of the Southeasterly line of Lot 12, Block A of said Matanzas View; thence run South 26°03'00" West along said prolongation for 35 feet, more or less, to the mean high tide line on the South shore of Matanzas Pass; thence run Northwesterly, Northerly, Northwesterly, Southwesterly, and Northwesterly and Southwesterly along said mean high tide line to the point of beginning.

Parcel 5: (24-46-23-W3-00026.0020)

Part of Government Lot 1 in Section 24, Township 46 South, Range 23 East, further bounded and described as follows:

Starting at a concrete monument in the northwesterly line of San Carlos Boulevard, 30 feet from the center thereof and being the same monument that is shown 3 feet southeast from the most southeasterly corner of the MATANZAS VIEW SUBDIVISION as recorded in Plat Book 9, Page 40; thence North 65°W a distance of 200.00 feet to a point and the principal place of beginning; thence continuing N 65°W a distance of 200.00 feet; thence N 25°E parallel to San Carlos Blvd. a distance of 390.00 feet; thence by a curve deflecting to the right a distance of 37.06 feet, said curve having a radius of 67.22 feet and a chord that bears S 86°04'38" E a distance of 36.59 feet; thence S 70°17'05" E a distance of 166.58 feet; thence S 25°W a distance of 418.50 feet to the place of beginning.

ALSO Easement No. 1: Starting at the same monument that is the starting point of the above description; thence N 25° E a distance of 285.00 feet to a point and the principal place of beginning; thence continuing N 25° E a distance of 30.00 feet; thence N 65° W a distance of 200.00 feet; thence S 25° W a distance of 30.00 feet; thence S 65° E a distance of 200.00 feet to the point of beginning.

ALSO Easement No. 2: A 12.00 foot wide strip of land running between the above described property and San Carlos Boulevard and lying within the confines of the following described land: Beginning at the same monument that is the starting point of the above property; thence N 65°W a distance of 200.00 feet; thence N 25°E a distance of 32.00 feet; thence S 65°E a distance of 200.00 feet; thence S 25° W a distance of 32.00 feet to the place of beginning.