



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

TYPE OF CASE: Sign Variance (VAR)
CASE NUMBER: VAR2013-0003
LPA HEARING DATE: January 13, 2015
LPA HEARING TIME: 9:00 AM
STAFF RECOMMENDATION: APPROVE

I. APPLICATION SUMMARY

Applicant/Agent: Moss Marine, Inc./Sam Ireland

Request: A variance from LDC section 30-153(b)(1) which limits a business sign to a maximum of 32 square feet to allow a maximum square footage of 254 square feet to allow the existing "Moss Marine" sign located on the existing buildings to remain.

Subject property: See attached Exhibit A

Physical Address: 450 Harbor Court

STRAP #: 24-46-23-W3-00026.0020 & 24-46-23-W3-00027.0000

FLU: Marina

Zoning: CM (Commercial Marina)

Current use(s): Marina

Adjacent zoning and land uses:

North: RS (Residential Single-family), Low Density FLUM

South: DOWNTOWN, Pedestrian Commercial FLUM
Marina Village at Snug Harbor

East: Matanzas Pass, TIDAL WATER FLUM

West: RC (Residential Conservation), Mixed Residential FLUM
Marina Village at Snug Harbor and Moss Marina

II. BACKGROUND AND ANALYSIS

Background:

Moss Marine, Inc., has applied for a variance and relief from Section 30-153(b)(1) of Chapter 30 – Signs, of the Town of Fort Myers Beach Land Development Code (LDC).

The subject property is comprised of approximately 3.30 acres of upland and 2.70 acres of submerged land leased by the applicant. Existing development on the property consists of paved parking lots, walkways, docking facilities with fuel pumps, and boat storage buildings. The original “Moss Marina” was started by the Moss Family in 1969. The locals soon called the facility the “Big M” based on the shape of the boat storage buildings. The facility has been bought and sold several times since the late 1970s. The current owner, George Freeland, purchased the property on January 31st 1983. The subject of the current request is a wall sign mounted on the side of a storage building facing Matanzas Pass.

LDC Section 30-153(b)(1) limits commercial signs to a maximum of thirty-two (32) square feet of sign area. This section provides that a parcel of land containing one (1) or two (2) business establishments, each separate business establishment is allowed a maximum of thirty-two (32) square feet of sign area. The subject site contains one business establishment, Moss Marine, and is therefore allowed a maximum of thirty-two (32) square feet of sign area for the subject wall sign.

Moss Marine applied for the variance on August 16, 2013. The application materials provide that this sign “has been on the wall of Moss Marine for 30 years and never has had an issue with the surrounding properties.”

Analysis:

The applicant is requesting relief from the section of the code that regulates the size of the sign face, Section 30-153(b)(1), to retain the existing wall sign located on the side of one of the storage buildings. The wall sign is directed to Matanzas Pass. The application provides the following:

Moss Marin is a Marina on the water way, the sign is how the boaters identify where the marina is located from the channel markers. The sign is not in view of public right-of-ways. It is the only commercial Message or Company Logo facing the water way as an identifying marker.

The application provides the following as justification:

The maximum 32 sqft (sic) is reasonable for for (sic) business on Ft. Myers Beach. A large Marina requires more square footage for a sign to be visible from the Matanzas Pass channel so that the vessels can distinguished (sic) where to navigate. The square footage we're requesting faces the water way so its (sic) not an eye sore to the public or Ft. Myers Beach.

Staff agrees that the visibility of the facility from the water channel will require a larger sign than the code currently accommodates.

Findings and Conclusions:

Using the five decision making factors described in LDC Section 34-87(3), Staff recommends the following findings and conclusions:

- a. *That there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question, or that the request is for a de minimis variance under circumstances or conditions where rigid compliance is not essential to protect public policy;*

Staff agrees that a larger sign is required given the distances involved over water as well as other visual obstructions such as docks, pilings, and moored vessels. Location of the sign on the subject property requires a larger sign face to be visible to boats in the channel in the Pass, and this circumstance is unique to the subject property. Staff therefore recommends a finding that there **are** exceptional or extraordinary conditions or circumstances that are inherent and unique to the subject property and that **it does** justify the variance requested.

- b. *That the conditions justifying the variance are not the result of actions of the applicant taken after the adoption of the regulation in question.*

The subject sign has been in existence for more than 30 years. The sign predates the regulation in question and prior to the Town's incorporation in 1995. Staff therefore finds that the conditions justifying the variance **are not** the result of actions of the applicant taken after the adoption of the regulation in question.

- c. *That the variance granted 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.*

The existing sign provides a unique function as a way finding sign for the boating public to locate the marina facility which includes fuel sales. A sign meeting the requirements of 30-153(b)(1) would not be clearly visible to the boating public in Matanzas Pass. With this in mind, staff believes that the request to retain the existing sign area reflects the minimum variance necessary for the sign, taking into consideration the subject property's location, function, and the orientation of the sign. Staff believes that the requested variance **is** the minimum variance necessary

to relieve the unreasonable burden caused by the application of Chapter 30 of the LDC.

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

The applicant provides that the subject sign has been in existence for 30 years, is not obtrusive to adjoining property, and does not interfere with traffic. Allowing the additional sign area appears to cause no detriment to the public welfare. Allowing the sign to be proportionately bigger allows it to be visible over longer distances over the water and appears to have caused no detriment to the public welfare over the 30 plus years that it has been in existence. Therefore, Staff finds that granting the variance **would not** be injurious to the neighborhood or otherwise detrimental to the public welfare.

- e. *That 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.*

With the adoption of the amended sign ordinance, and the consequent amortization period for conformity, numerous locations on the Beach have pursued variance requests from the new requirements. However, by the recent adoption of the amended sign ordinance Town Council has already addressed the issue of signs and has made a decision to enact and enforce a uniform sign code. The existing Moss Marine sign is unique. Staff recommends the finding that the circumstances of 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 or practical to amend the regulation.

III. RECOMMENDATION

Staff recommends **APPROVAL** of the requested variance subject to conditions, including the required findings and conclusions for granting a variance under LDC Section 34-87. Staff recommends that approval of the variance be subject to the following conditions:

CONDITIONS OF APPROVAL:

1. *Approval of this variance does not exempt the subject property from any other provisions of LDC Chapter 30.*
2. *The Maximum square footage of the wall sign on the Moss Marine storage building facing Matanzas Pass is limited to 254 square feet.*
3. *If the marina use ceases on the subject property for any reason, this variance will expire and the sign allowed by this variance must be removed within 30 days of termination of the marina use.*

IV. CONCLUSION

Approval of the requested variance will relieve the burden caused by application of LDC Section 30-153(b)(1) to the subject property, given the unique function and location of the existing sign. The sign provides way finding for the boating public. Staff submits that the burden on this property owner resulting from the sign area limitations of the code is greater than the burden on other property owners given the location and function of the existing sign. Staff recommends APPROVAL of the requested variance as conditioned.

Exhibits:

A – Legal Description

B - Application materials

