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*Reply to: Lakewood Ranch*

February 5, 2015

Ms. Alaina Ray  
Zoning Board of Adjustment  
Town of Longboat Key  
501 Bay Isles Road  
Longboat Key, FL 34228

Re: Application for Variance - Petition No. 1-15  
Re: Moore's Stonecrab Restaurant  
Subject Property: 800 Broadway Street, Longboat Key, FL 34228

Dear Ms. Ray:

I have reviewed the application filed by Moore-Hicks Limited Partnership dated January 9, 2015, seeking a variance in accordance with the Town Code Section 158.026(F)(4) of the Longboat Key Zoning Ordinance on the above referenced subject property located at 800 Broadway Street, Longboat Key, FL 34228.

It is my opinion that the Zoning Board of Adjustment has jurisdiction pursuant to Town Code Section 158.026(F)(4) to consider this request. Kindly forward this opinion to the Members of the Zoning Board of Adjustment.

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Lakewood Ranch  
6853 Energy Court  
Lakewood Ranch, Florida 34240

Venice  
217 Nassau Street S.  
Venice, Florida 34285

Ms. Alaina Ray  
February 5, 2015  
Page Two

This letter is an opinion of jurisdiction and is not intended to address the merits of the application. Should you have any questions, please contact me.

Respectfully,

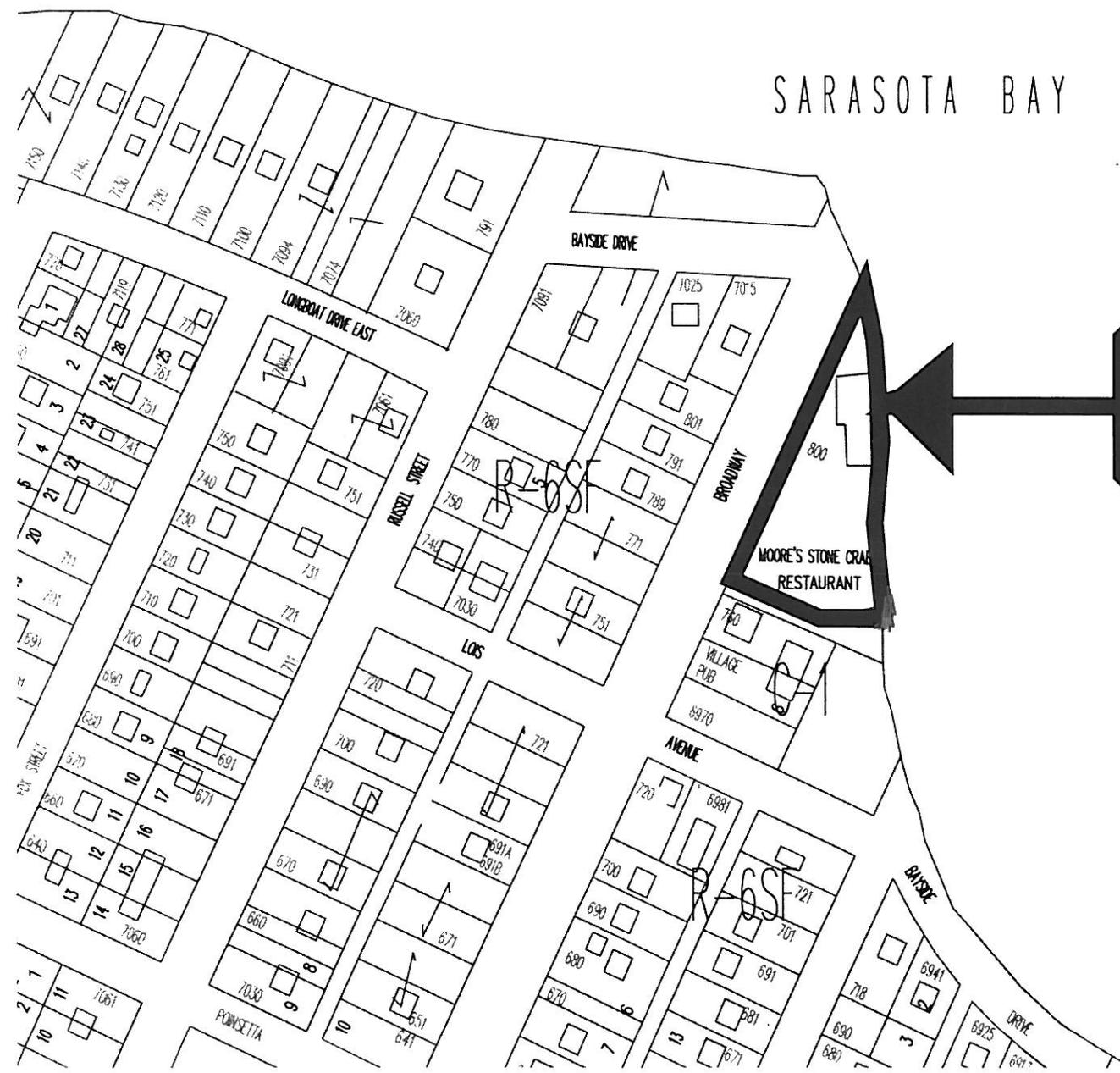
A handwritten signature in black ink that reads "Maggie Mooney-Portale". The signature is written in a cursive, flowing style.

Maggie Mooney-Portale

MMP/vlg

cc: Donna Chipman

SARASOTA BAY



Site



## MEMORANDUM

DATE: February 5, 2015

TO: Zoning Board of Adjustment (ZBA)

FROM: Steve Schield, AICP, ASLA, Planner  
Planning, Zoning and Building Department

THROUGH: Alaina Ray, AICP  
Director – Planning, Zoning and Building Department

SUBJECT: VARIANCE PETITION 1-15

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APPLICANT: Moore-Hicks Limited Partnership

AGENT: Peter Dailey

LOCATION: 800 Broadway  
Longboat Key, Florida

ZONING DISTRICT: R-6SF (Single Family High Density Residential (6 D.U./A.));  
Pending Request to change to C-1 (Limited Commercial)

REQUEST: The applicant has requested variances from Section 158.145 of the Town Zoning Code to reduce the required street yard from 45 feet to 20 feet; and from Section 158.150(D)(3) of the Town Zoning Code to reduce the required bay waterfront yard from 50 feet to 0 feet as measured from the Mean High Water Line.

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### **BACKGROUND AND SUMMARY**

The subject property is a bayside waterfront lot located at 800 Broadway. The property is the site of the existing Moore's Stone Crab Restaurant, constructed in 1967. The restaurant building is considered a grandfathered structure in non-compliance with the Federal Emergency Management Agency (FEMA), Florida Department of Environmental Protection (FDEP), and Florida Building Code.

The property is currently designated High Density Single Family/Mixed Residential (RH-6) in the Town's Comprehensive Plan Future Land Use Element (FLU) and Single Family High Density Residential (R-6SF) in the Town's Zoning Code. Applications have been submitted to the Town requesting the FLU designation revert back to Commercial Limited (CL) and the zoning category be reverted back to Limited Commercial (C-1),

which was the historic zoning designation until 2010. The current residential zoning designation requires a 20-foot street yard setback and 20-foot bay waterfront yard setback. If the Town grants the FLU and Zoning requests, the required setbacks for a restaurant would be a 40-foot street yard setback and a 20-foot waterfront setback.

The variance request is intended to establish the allowable setbacks for renovation/reconstruction of the restaurant, in the event the Town grants the requested Comprehensive Plan and Zoning change. The variance is being requested prior to the Comprehensive Plan and Zoning application actions, since the site plan concept to be utilized as part of those hearings cannot be finalized until the issue of a variance is determined.

Moore's Stone Crab Restaurant has been an historic asset to the community since 1967, by providing waterfront access to the public. The loss of waterfront restaurants in the region has been a continuing trend over the last two (2) decades. The Town's adopted Vision Plan recognizes waterfront dining as one of the amenities that makes Longboat Key a special place. The Town's Vision Plan also states that the Town will strive to support restaurants on the island, encouraging viability and diversification, as well as waterfront dining options.

**VARIANCE AUTHORITY PURSUANT TO SECTIONS 158.145 AND 158.150(D)(3)(e)**

Pursuant to Section 158.145, the required street yard requirements are as follows:

*R-6SF, Single Family High Density Residential requires a minimum street yard of 20 feet.*

*C-1, Limited Commercial requires a minimum street yard of 45 feet.*

Pursuant to Section 158.150(D)(3), the required bayside waterfront yard requirements are as follows:

*Every lot which abuts Sarasota Bay shall have, on the bay side, a bayside waterfront yard. The waterfront yard is a required yard and shall not be utilized for any purpose other than docks, open area, landscaping, a dock access ramp or stairs, a ladder or other device pursuant to Section 158.151 (F)(2), or outdoor dining area as defined in Section 158.006 and in compliance with Section 158.136, except within an M-1 District which shall be subject to site plan review. The required bay waterfront yard shall not be less than 50 feet measured from the bulkhead, bulkhead line, or mean high water line whichever is most landward except that a single-family residence not located in an Island Preserve Residential District may not be located closer than 20 feet to the bulkhead or bulkhead line or mean high water line.*

## **STAFF ASSESSMENT**

Staff reviewed the variance application with consideration as to the the required bayside waterfront and street yards to allow for the renovation/reconstruction of the existing restaurant structure. The following is a staff's assessment.

### **Assessment of Existing Conditions**

The subject property is an oddly-shaped parcel that is 182.40 feet deep at the west property line, 329.36 feet wide along Broadway on the north property line, approximately 391 feet wide along Sarasota Bay on the south property line, and comes to a triangular point on the east side of the property. The property is bordered by the Mar Vista Restaurant to the west, Sarasota Bay to the south and east, and the Broadway right-of-way to the north. There are four (4) single-family homes located on the north side of Broadway, across from the existing restaurant.

The triangular shape of the lot makes redevelopment of the subject property difficult. The current building and parking configuration represents the best general layout for potential redevelopment of the restaurant. The restaurant structure is located at the triangular point of the lot in order to maximize views and water access. The parking is located at the widest end of the lot in order to allow the best accessibility, vehicular maneuvering capability, and vegetative buffering of the parking area. At its closest point, the existing structure is set back only 4.8 feet from the Broadway right-of-way line. The rear of the existing building extends 7.8 feet beyond the Mean High Water Line (MHWL) of Sarasota Bay, creating a cantilever over the water. The existing restaurant building is 6,600 square feet in size and the finished floor is at a 4.98 feet elevation.

### **Surrounding Conditions**

The zoning category for the nearby single-family residential properties requires a 20-foot street yard setback, with an overlay district that allows open covered porches to be within 10 feet of the street property line. The required waterfront yard for single-family zoning is 20 feet. The C-1 zoned property (Mar Vista Restaurant) located to the west of and adjacent to the subject property has a structure located 11.6 feet from the Broadway property line.

### **Compliance with the Zoning Code**

The nonconforming section of the Zoning Code does not allow for significant renovation and/or reconstruction of the existing nonconforming structure without meeting all zoning requirements, with certain limited allowances related to involuntary destruction.

The applicant has submitted applications to the Town requesting that the subject property revert back to the previous historic FLU designation and Zoning category of Commercial Limited (CL) and Limited Commercial (C-1), respectively. The previous FLU designation and Zoning category were in place until 2010, when the applicant requested and the Town granted reclassification to residential designations.

If the Town grants the pending applications for Comprehensive Plan and Zoning changes without a variance, the property will be subject to a minimum 45-foot street yard setback and 50-foot bay waterfront yard setback, neither of which is currently being met.

In the event the applicant's requests for Comprehensive Plan and Rezoning changes are granted, the applicant plans to renovate/reconstruct the historic waterfront restaurant in approximately the same location where it has existed since 1967. The proposed setbacks would be an improvement upon the existing building setbacks. The street setback would be increased from 4.8 feet to 20 feet and the bay waterfront yard would require the removal of 7.8 feet of building that extends beyond the MHWL. The renovated/reconstructed site would meet all other zoning requirements.

#### Compliance with the Comprehensive Plan

Granting the minimum variance for the reasonable use of the property is consistent with the policies set forth in the Comprehensive Plan. The Town's Comprehensive Plan Objective 1.2 provides that the Town will protect historic resources through periodic review of the resources and existing land development regulations. This objective would be consistent with the protection of this historic waterfront restaurant.

#### Variance Criteria

As per Town Code Section 158.029, the Zoning Board of Adjustment (Board) may authorize a variance from the zoning code requirements if such variance is not contrary to the public interest and if compliance with Town codes will result in an unnecessary and undue hardship. In making such a determination to grant a variance, the Board must make specific findings of fact that each of the criteria set forth below has been met. To facilitate the Board's review and consideration of the subject variance petition, staff has provided an assessment of each of the seven (7) criteria.

#### **RECOMMENDED FINDINGS OF FACT**

1. The variance **is** in fact a variance as set forth within this Chapter and within the jurisdiction of the Board (reference: Town Attorney's memo attached).
2. Special conditions and circumstances **do** exist which are peculiar to the land, structure, or building, and which are not applicable to other lands, structures, or buildings in the same zoning district. The subject property consists of an oddly shaped triangular parcel, which makes development/redevelopment challenging.
3. The special conditions and circumstances **do not** result from the actions of the applicant. The irregular shape of the parcel does not result from the applicant's actions.

4. Granting the variance requested **will not** confer on the applicant special privilege that is denied by Town Code Section 158.029 to other lands, buildings or structures in the same zoning district. Only two (2) waterfront restaurants are located in C-1 zoning districts in the Town. Pattigeorge's Restaurant, located at 4120 Gulf of Mexico Drive, meets the street setback requirement, but extends over Sarasota Bay at the rear of the building. The Mar Vista Restaurant, adjacent to the subject property at 760 Broadway, meets the waterfront setback, but has one (1) structure that is located 11.8 feet from the street right-of-way.
5. Literal interpretation of the provision of this Chapter **would** deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of Town Code Section 158.029 and **would** result in unnecessary and undue hardship on the applicant. The triangular oddly shaped waterfront lot led to the current site configuration for the last 48 years and presents the best layout for redevelopment of the site. Most waterfront restaurants are located on or very close to the water.
6. The variance, if granted, **would** be the minimum variance that will make possible the reasonable use of the land, building or structure. The applicant would be reducing the current nonconforming setbacks by increasing the street setback from 4.8 feet to 20 feet and removing the 7.8 feet of the building, which extends over Sarasota Bay.
7. The granting of the variance **would be** in harmony with the general intent and purpose of Town Code Section 158.029.

### **STAFF RECOMMENDATION**

The historic 6,600 square foot restaurant has occupied its current location on the since 1967. Along with its neighbor, the Mar Vista Restaurant, it has served as the historic commercial center and gathering place for the Longbeach Village area and provides waterfront access to the public, both residents and visitors.

Based on the above assessment of Variance Petition 1-15 and the variance criteria of Section 158.029(A), Staff recommends **APPROVAL** of Variance Petition 1-15, with the following conditions:

1. The Variance applies only to a restaurant use; and
2. In the event the Town does not approve pending application requests for a Future Land Use designation of Commercial Limited (CL) and a Zoning category of Limited Commercial (C-1) for the subject property, this Variance will immediately become null and void upon the Town's denial of the application requests.

### **ATTACHMENTS**

Attached, please find a copy of the variance petition and support documentation upon which the staff assessment has been based.

xc: Peter Dailey, Dailey Design Group, Inc.  
Maggie Mooney-Portale, Town Attorney  
Alaina Ray, AICP, Director – Planning, Building and Zoning Department

**VARIANCE  
APPLICATION**

**MOORE'S STONECRAB  
RESTAURANT  
TOWN LONGBOAT KEY**

**PREPARED FOR  
MOORE'S STONE CRAB RESTAURANT  
800 Broadway Street  
Longboat Key, Florida**

**PREPARED BY  
DAILEY DESIGN GROUP, INC.  
3941 BUTLER AVENUE  
SARASOTA, FLORIDA 34234**

**January 9, 2015**



Planning, Zoning & Building Department  
 501 Bay Isles Road  
 Longboat Key, Florida 34228  
 Fax Number: (941) 316-1970  
 Web: <http://www.longboatkey.org>

(941) 316-1966

### APPLICATION FOR VARIANCE

Date Filed Nov 29, 2014 Receipt # (\$1000.00 deposit) \_\_\_\_\_ Petition No. \_\_\_\_\_  
 (Application fee of \$450 will be deducted from deposit)

**THE APPLICANT IS REQUIRED TO SUBMIT SEVENTEEN (17) COPIES (ORIGINAL PLUS SIXTEEN (16) COPIES) INDIVIDUAL, COLLATED SETS OF THIS APPLICATION, SUPPORTING PLANS AND DOCUMENTS.**

(I) (We) MOORE-HUKS LIMITED PARTNERSHIP 800 BROADWAY ST.  
 (name) (mailing address)

LBK, FL. 32228 request a Variance from Section (s) 158.145 158.150 (D)(E)

of the Town of Longboat Key Zoning Ordinance to \_\_\_\_\_

(brief description, i.e., to reduce side yard from 20' to 15')

Subject property is located at 800 BROADWAY ST. LBK, FL. 32228  
 (street number location)

The legal description is as follows: 1, 2, 3, + 4/4 1 LONG BEACH SUB  
 (Lot(s)) (Block) (Subdivision or Plat)

or \_\_\_\_\_  
 (if otherwise legally described)

LIST OF NAMES AND ADDRESSES OF ALL OWNERS OF PROPERTY WITHIN A DISTANCE OF 500 FT. FROM THE OUTSIDE EDGES OF THE PROPERTY INVOLVED WILL BE PROVIDED BY THE TOWN.

(I) (WE) believe that the Zoning Board of Adjustment should grant this Variance pursuant to Section 158.029 of the Town Code because all of the following criteria are factually supported in this petition:

- (1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.
- (2) The special conditions and circumstances do not result from the actions of the applicant.
- (3) Granting the variance requested will not confer on the applicant any special privilege that is denied by Chapter 158 to other lands, buildings, or structures in the same zoning district.
- (4) Literal interpretation of the provisions of Chapter 158 would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of Chapter 158 and would work unnecessary and undue hardship on the applicant.

- (5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
- (6) The grant of the variance will be in harmony with the general intent and purpose of Chapter 158, and the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

STATE SEPARATELY HOW EACH OF THE ABOVE SIX (6) CRITERIA ARE FACTUALLY PRESENT IN YOUR VARIANCE REQUEST:

SEE ATTACHED

(ATTACH EXTRA SHEET, IF NECESSARY)

( I ) ( WE ) understand that this Petition becomes a part of the permanent records of the Zoning Board of Adjustment. ( I ) ( WE ) hereby certify that the above statements and the statements or showings made in any paper or plans submitted herein are true to the best of (my) (our) knowledge and belief.

[Signature]  
(Signature of Owner)

ALAN H MOORE  
(Please print or type Owner's Name)

Mailing address you wish information sent to and telephone number:

PETER M. Dailey  
3941 BUTLER AVE

SARASOTA, FL. 34234

Phone # (941) 302-1500

Fax # ( )

[Signature]

The Owner has hereby designated the above signed person to act as his agent in regard to this Petition. (To be executed when Owner designates another to act on his behalf.)

PETER M. Dailey  
Print or type Agent Name

**Notarization of Agent's Signature:**

State of Florida

County of Manatee

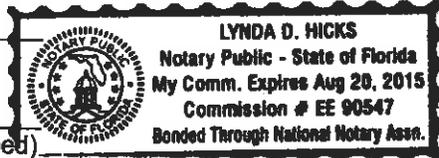
The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of November, 2014

by Peter M Dailey

as Agent of for Moore-Hicks Limited Partnership LLC  
(type of authority) (name of party acting on behalf of)

[Signature]  
Notary Public

Lynda D. Hicks  
Name of Notary (print, typed or stamped)



Personally know  OR produced identification  Type of Identification \_\_\_\_\_

**FOR STAFF USE ONLY**

Application Fee: \$ 1000.00 deposit\* \_\_\_\_\_ Receipt # \_\_\_\_\_  
(Application fee will be deducted from deposit)

Application and Plans Accepted By: \_\_\_\_\_ Date: \_\_\_\_\_

File Code/Number: \_\_\_\_\_

*\*Deposit required at time of formal submission*

At the conclusion of your plan review by the Town, you will be billed for additional staff time, Town Attorney cost, cost of advertising, and any other miscellaneous costs incurred with the processing of your application(s). Costs will be deducted from initial deposit. If costs exceed the initial deposit, you will be billed for the remaining costs incurred; or you will be refunded the unused portion of the deposit.

## **NARRATIVE VARIANCE MOORE'S STONECRAB RESTAURANT**

We are requesting from the Town a variance to establish the allowable setbacks for Moore's Stone Crab Restaurant to 20 feet for the street and 0 feet for the water so the owners can renovate/rebuild in the event that the Comprehensive Plan and Rezone are approved. This requires a variance from the 45 foot setback from the street as required in C-1 zoning and the 50 foot setback from the waterfront for restaurant use, (Sarasota Bay). We are concurrently applying for a zoning change and small area Comprehensive Plan Amendment to return the property to commercial as it was for 53 years. The proposed Restaurant is setback 20 feet at the closest point to Broadway Street and is 0 feet from the mean high water line. The Variance requests are from Chapter 158.145 and 158.150 (D)(3), which will improve the existing non-conformities by reducing the street setback for the current 17 feet to 20 feet. The existing Restaurant presently extends past the mean high water line.

The allowance to keep the Restaurant in its current location allows one of the original waterfront dining facilities on Longboat to remain as an iconic and historic feature. The Restaurant is within walking and biking distance for a large number of residents in the north end of the Key. The north end of the Key is an historic fishing village and represents the "Old Florida Character" and promotes "Community Identity and Cohesion" as discussed in the Urban Land Institute Advisory Services Report Oct. 2013.

Many people were against having the Restaurant changed from Commercial to Residential six years ago. Their rationale was exactly as we are arguing here that the Key is losing its commercial mix and its historic character. Again, the reason for conversion was needed six years ago related to values and ability to refinance a commercial venture versus a residential. The residential land use and zoning had a longer term value attached and the banks liked that. The Moore's needed a strategy to refinance and keep the restaurant going for at least ten years for an exit strategy for the family. They now have an investor group, the Carrjulo Family and Tom Leonard, high end restaurant owners in Sarasota willing to invest in renovating and updating the Restaurant. If they spend money to do so they cannot rebuild the restaurant should a disaster befall it such as fire or a hurricane. They wish to protect their investment and if the Restaurant is returned to Commercial land use and Zoning that will go a long way to doing that. The variance requests are essentially to allow the restaurant to remain in its current location.

- 1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.*

The Moore's Stone Crab Restaurant has been in its current location since 1967. The Restaurant was constructed prior to the zoning regulations that cause the request to be a variance. The Restaurant sits on a parcel that is essentially a triangle. The shape of the land requires that the building be closer to the road and

waterfront to have any viable building on the parcel. Since this was one of the first waterfront Restaurants on the island it is the only one with the current conditions of being nonconforming for these later imposed setbacks. The C-1 district standards indicate where the building could be placed with setback requirements of the district. The existing restaurant is 6,600 square feet. Only a 2,500 square foot restaurant could be rebuilt if the variances are not granted. See Attachment A page 8.

2. *The special conditions and circumstances do not result from the actions of the applicant.*

The restaurant was constructed prior to the ordinances that were subsequently adopted which make the Restaurant non-conforming for the street and waterfront setbacks. Should the Comprehensive Plan and Rezone be approved the owners wish to upgrade and renovate the Restaurant but can't do so with the imposition of the current zoning setbacks. See Attachment A page 8.

3. *Granting the variance requested will not confer on the applicant any special privilege that is denied by Chapter 158 to other lands, buildings, or structures in the same zoning district.*

Granting the requested variance for the Street and waterfront setbacks to allow renovations to the existing Restaurant will not confer any special privilege to the owners. The street setback for the R-6SF zoning which is the predominate zoning for the north end of the Key is 20 feet. Should the variance be approved this would make the restaurant consistent with the majority of the setbacks in the Village. No other lands or buildings in the same zoning district have the same conditions relative to existing structures and configuration of the parcel.

4. *Literal interpretation of the provisions of Chapter 158 would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of Chapter 158 and would work unnecessary and unique hardship on the applicant.*

The ability to keep and renovate a historic and iconic Restaurant on the Key in its current location on the parcel is the only way to have the Restaurant remain in business. If the after-the-fact zoning setbacks are applied the total building footprint would have to be reduced and moved west and north on the tract, essentially, forcing a change of use. The remaining building footprint would not allow a restaurant to be a viable use for the parcel. (See Attachment A page 8, site plan indicating what the property would allow if current setbacks were applied).

5. *The variance granted in the minimum variance that will make possible the reasonable use of the land, building or structure.*

The variance requests are to allow the Restaurant which has been in its current location on the property for 48 years to remain where it is should the Comprehensive Plan Amendment and Rezone be approved. The requests are the minimal variances to allow the Restaurant to remain a viable commercial operation on the Key.

6. *The grant of the variance will be in harmony with the general intent and purpose of Chapter 158, and the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

**The Restaurant has been a part of the fabric of the Village and Main Street area (Broadway Street) of the Key for a very long time. The Restaurant was constructed prior to the Chapter 158 regulations being in place.**

**The variance requests will allow the property to remain in harmony with the general intent and purpose of Chapter 158 with that fact in evidence.**

**Attachment B, page 9 is a recertified survey showing the existing Restaurant on the .89 acre site. The planned upgrades and renovations are proposed to be in the same building envelope.**

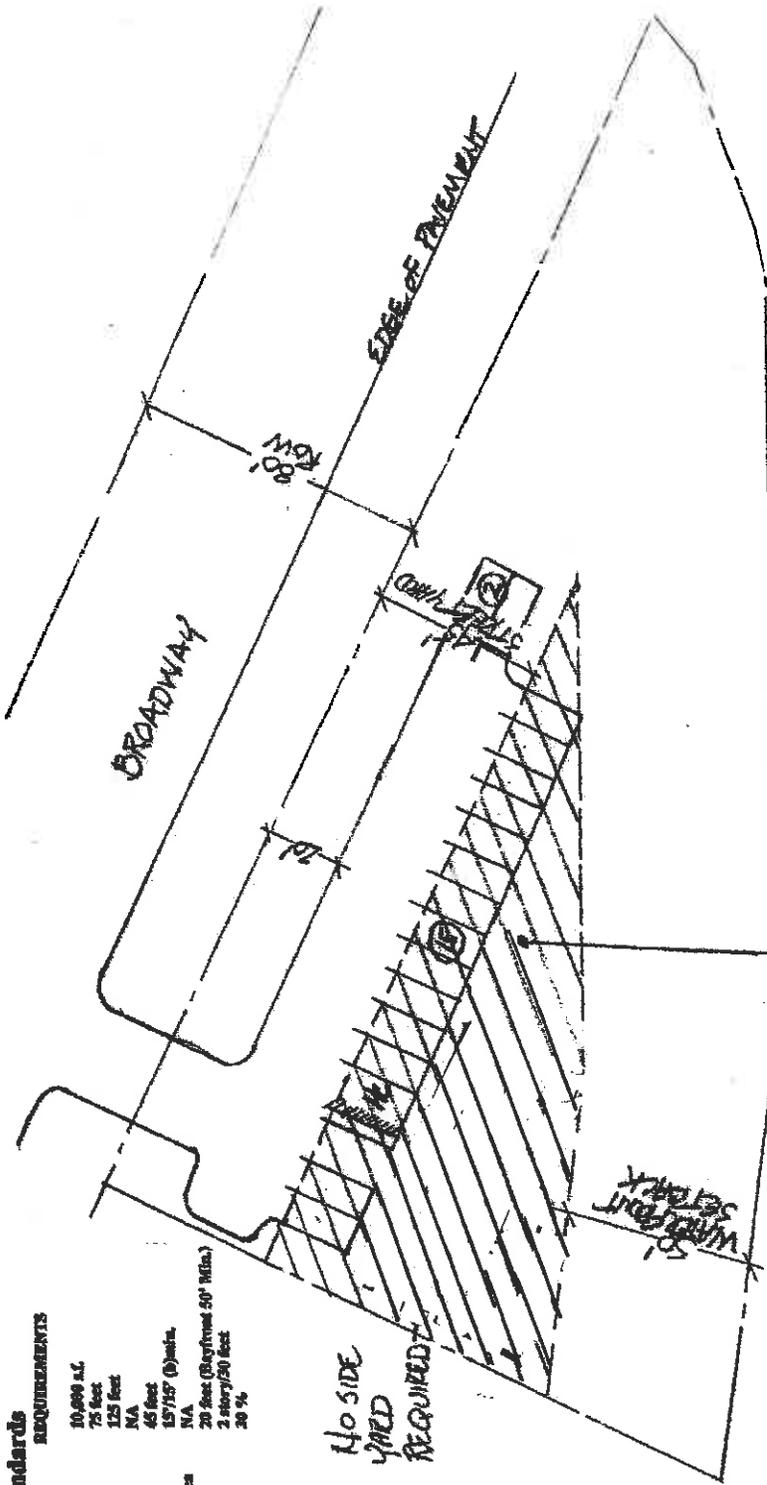
**Attachment C, page 10 is the Restaurant on the site if the variance is approved.**

**C-1 District Standards**

**REQUIREMENTS**

Minimum Lot Area	10,000 sq. ft.
Lot Minimum Width	75 feet
Lot Minimum Depth	125 feet
Minimum Green Space	NA
Minimum Street Frontage	45 feet
Minimum Side Yard	15/15' (0 min.)
Minimum Floor Area	NA
Minimum Rear Yard	20 feet (Raylined 50' Min.)
Minimum Height	2 story/20 feet
Max. Max coverage	30 %

NO SIDE YARD REQUIRED



NORTH



AREA AVAILABLE FOR BUILDING UNDER C-1 ZONING CODE

MOORE'S STONECRAB RESTAURANT  
C-1 ZONING - BUILDING ENVELOPE



