

AGENDA
CITY OF KEY COLONY BEACH
SPECIAL MASTER HEARING

Friday, August 26, 2022 – 10:30 a.m.
Temporary City Hall & Virtually Via Zoom Conferencing
Zoom Meeting ID: 850 8443 0843 - Passcode: 238604

1. *Call to Order*

2. *Administration of Oath to Witnesses*

3. *Prior Meeting Agendas & Minutes*

- a) *April 20, 2022, Planning & Zoning Agenda & Minutes – Pgs. 1-44*
- b) *May 26, 2022, City Commission Agenda & Minutes – Pgs. 45-87*
- c) *June 9, 2022, City Commission Agenda & Minutes – Pgs. 88-130*

4. *Proof of Publications, Affidavit of Mailing/Posting Notices – Pgs. 131-134*

5. *Variance Request: 200 15th Circle – Owner: Thomas E. Carden*

Applicant requests a Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6'-8'. Current maximum height is 30'0".

The Applicant further requests a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'.

- a. *Presentation of Variance Request – Building Official Gerald Leggett – Pgs. 135-146*
- b. *Planning & Zoning Board Recommendation – Chair Joey Raspe – Pgs. 147-148*
- c. *Statement by Applicant - Thomas E. Carden*
- d. *Post Hearing Questions – Pgs. 149-150*
- e. *Special Master Recommendation*

6. *Motion to Approve, Deny, or Approve with Conditions*

7. *Adjournment*

“Members of the public may speak for three minutes and may only speak once unless waived by a majority vote of the commission.”

Letters submitted to the city clerk to be read at the Commission Meeting will be made part of the record but not read into record. Persons who need accommodations in order to attend or participate in this meeting should contact the city clerk at 305-289-1212 at least 48 hours prior to this meeting in order to request such assistance. If a person decides to appeal any decision made with respect to any matter considered at any meeting, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

AGENDA
PLANNING & ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING
Wednesday, April 20, 2022 - at 9:30 a.m.
Marble Hall

- 1. Call to Order/Pledge of Allegiance/Roll Call**
- 2. Approval of Minutes:**
 - a. *Planning & Zoning Board Meeting Minutes – March 16, 2022 – Pgs. 1-11*
- 3. Administration of Oath to Witnesses**
- 4. Citizen Comments and Correspondence**
- 5. Disclosure of Ex-Parte Communication – Pg. 12**
- 6. Proof of Publications**
 - a. *Affidavit of Mailing to Property Owners w/300 feet. – Pgs. 13-14*
 - b. *Affidavit of Posting of Public Notice – Pgs. 15-16*
 - c. *Legal Proof of Publication. – Pg. 17*
- 7. VARIANCE REQUEST: 200 15th Circle – Owner: Thomas E. Carden – Pgs. 18-29**

Applicant requests a Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6'-8'. Current maximum height is 30'0".

The Applicant further requests a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'.

- a. *Presentation of Variance Request – Building Department*
- b. *Statement by Applicant*
- c. *Post Hearing Questions – Pg. 30*
- d. *Planning & Zoning Board Recommendation*

8. Ordinance 2022-473: AN ORDINANCE OF CITY OF KEY COLONY BEACH, FLORIDA, AMENDING CHAPTER 6, ARTICLE II (“DANGEROUS STRUCTURES”) OF THE CODE OF ORDINANCES OF THE CITY OF KEY COLONY BEACH BY AMENDING SECTION 6-97, WHICH SHALL PROVIDE FOR A CERTIFICATION AND RECERTIFICATION PROCESS FOR EXISTING AND FUTURE MULTISTORY STRUCTURES – Pgs. 31-35

- a. *Legal Proof of Publication – Pg. 36*
- b. *Presentation by Building Department*
- c. *Discussion*
- d. *Report and Recommendation by Planning & Zoning Board.*

9. Any Other Business

10. Adjourn

Members of the public may speak for three minutes and may only speak once unless waived by a majority vote of the commission.”

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MINUTES
PLANNING & ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING
Wednesday, March 16, 2022 - 9:30 a.m.
Marble Hall & Virtually via Zoom Conferencing

1. Call to Order/Pledge of Allegiance/Roll Call: Chairperson Joey Raspe called the meeting to order at 9:30 a.m. in the morning followed by the Pledge of Allegiance and Roll Call.

Present: Chair Joey Raspe, Mike Yunker, Lin Walsh, Tom DiFrancisco. **Excused:** George Lancaster. **Also Present:** City Administrator Dave Turner, City Clerk Silvia Gransee, City Attorney Dirk Smits, City Attorney Ryan Benninger, Building Official Gerard Roussin, Executive Assistant Saara Staten.

Public Attending: 25 Marble Hall, 13 Virtual

2. Approval of Minutes: The Planning Zoning Board accepted the minutes from December 15, 2021, as written.

3. Administration of Oath to Witnesses: City Clerk Silvia Gransee administered the Oath of Witness to all wishing to give testimony in today's hearing.

4. Citizen Comments and Correspondence: City Clerk Silvia Gransee reported on having received two citizen correspondences prior to the meeting which were shared with the Board. In addition, the City Clerk stated that several citizens in the audience would like to speak to the Board. The City Clerk clarified that letters submitted to the City Clerk will be made part of the record, but will not be read into record.

A. 46th Street - Michael Church. Mr. Michael Church reported that he and his wife have been coming to the Keys since 1971 and have owned their duplex for about 20 years. Mr. Church explained that being in the Keys in the winter is extremely important to them and that 7th Street represents a neighborhood to them and not just a street. The neighborhood is enjoyed by all living there, and the open walkway along the water and the views across the wide canal. Mr. Church further stated that every few years the neighborhood has to defend themselves against development and bringing more people into the community. Mr. Church stated that there is nothing wrong with making money, but the Keys are a vulnerable ecosystem. Mr. Church further stated that there are many places in the Keys, as well as in Key Colony Beach, where a 46-foot-tall structure would not be prohibited, but that 7th Street is not that place. Mr. Church stated that if the structure was neglected, it would be because that the owner had neglected it. Mr. Church questioned if the owner had purchased the property with the intent of not adhering to the building code. Mr. Church further stated that the owner is still able to build the duplex, rent it out, make money and live in it and enjoy the neighborhood, or wait for the code to change, or to sell it and make a profit, and move on to a more appropriate neighborhood. This would not present a hardship to the owner. Mr. Church said that the owner had stated that what the current code deprives him off is the privilege to maximize his opportunities. Meanwhile the neighbors would be deprived of the lives, air circulation, and the ability to see the sky they had seen for several years. Mr. Church further acknowledged that they all know that their homes will be eventually replaced, but that that time is not yet. Mr. Church continued saying that there still should be homes for people that are not multi-millionaires to be enjoyed by everyone to live by the water. In closing, Mr. Church stated the question on what good a code is, if asked for it, if it does not apply for everyone.

B. 160 1st Street – Tom Tucker. Mr. Tucker stated his reason for attendance as a protest to an inappropriate variance request. Mr. Tucker stated that a variance is a tool in the code to allow construction in violation of code to specific circumstances. Mr. Tucker stated that a variance is not intended to change or redefine the building code.

Mr. Tucker in addition stated that under the Key Colony Beach Building Code all five specific criteria must be met. Mr. Tucker said that the requested variance is not only in violation of current code but the proposed new LDR's in process. Mr. Tucker said that Mr. Blackwood's responses to the five questions does not demonstrate good cause and unnecessary hardship. Mr. Tucker went on to say that the subject property was purchased after Irma and that virtually every home on the East side of 7th Street suffered damage and needed repairs with Mr. Blackwood's home being no different. Mr. Tucker expressed that the owner had every right to renovate or rebuilt like every other owner on 7th Street had. Furthermore, Mr. Tucker stated that the owner can build new to the current code however that does not seem good enough for the owner. Mr. Tucker went on to say that the owner apparently wants to build one of the largest residential structures in the city in a neighborhood zoned R2B, the actual smallest permitted lots in the city. Mr. Tucker further reported that this will be a single dwelling with 8 bedrooms with an above ground height of 46.5 feet which is roughly 2.5 times the current code limit. Mr. Tucker further stated that the building is also 6.5 feet taller than the lot is wide. Mr. Tucker further explained that this is in a neighborhood with an average building height of less than 15 feet with 40-foot-wide lots in an area of the city with current stormwater runoff, density, and terrible parking issues. Mr. Tucker stated that this application is an attempt to run over the existing code and that future zoning of the City should be accomplished by constituted boards and elected officials not at the whim of developers. In closing, Mr. Tucker asked the Committee to summarily reject the application.

C. 2 7th Street – Dave McKeehan. Mr. McKeehan reported that he is not in the 300-foot range of having a direct comment on the issue, but he stated that this is a water-shed question for KCB particularly for 7th Street. Mr. McKeehan further stated his support for the previous two speakers. Mr. McKeehan stated that KCB is the Gem of the Florida Keys due to its community, neighbors, a shared purpose, and no walls between their 15-foot houses. Walls that would block the sun and that some people would not even see the sun part of the day. Mr. McKeehan stated that gardens will suffer and that this will present a daylight issue and a sky issue, and this will not be good for KCB. Mr. McKeehan stated that "we" are the gem and that they have volunteerism and no walls. Mr. McKeehan stated that he is against it and with the proposed size it will look like a domino on its side. Mr. McKeehan stated that if you like that look to drive up the Garden State area to see what that looks like. Mr. McKeehan further stated the residents do not want that look in KCB but that is what will happen because it will force everyone that lives at 15 or 20 feet to build up and sell out and to get their rooftop garden because nothing will grow on the ground. Mr. McKeehan stated that this is an awful idea. Mr. McKeehan gave an example of Unit 68 a few years ago and that the architect made it work. Mr. McKeehan stated that in the long run this would lead to row houses on 7th Street because the owners would have no choice. Mr. McKeehan stated that for that reason this is the water-shed decision that needs to be made now and that he encourages the Board to say no.

D. 80 7th Street – Judi Virust. Mrs. Virust reported that her parents bought the house on 80 7th Street in 1975 with the thought that buying a house in an incorporated city would be a significant benefit. The investment in the property would be protected through zoning regulations and restrictions. Mrs. Virust further stated that she believes that the Planning and Zoning Board should protect them from properties from being out of character with the neighborhood as well as properties that do not comply with current zoning policies. Mrs. Virust stated that this committee was very concerned of what it would look like if one side of the duplex build up and the other side not. Mrs. Virust stated that she attended some of those meetings. Mrs. Virust asked the Commission of what it would look like with a 46-foot-tall building surrounded by buildings that are only one fourth of its height and fingertip close to each other. Mrs. Virust stated that she disagrees with Mr. Blackwood's statement of there being no threat to public health and safety. Mrs. Virust stated that twelve proposed toilets present a compromise to the sewer and water system and if not by this building than by the others to follow. Mrs. Virust further stated that the size of the house would restrict the sunlight reaching the neighboring houses and would have an adverse effect on their well-being and that potentially dangerous mold could grow due to the climate in the keys. Mrs. Virust disagreed with the statement by Mr. Blackwood that there are already stacked duplexes on 7th Street. Mrs. Virust further stated the question how the other residents of 7th Street were able to remodel after Irma and live happily in their homes. Mrs.

Virust quoted Mr. Blackwood saying that due to the 50 % role this house cannot be remodeled or repaired for functional usage. Mrs. Virust closed by saying that just because you can do something doesn't mean you should and recommended for the variance request to be denied.

E. 54 7th Street – Ron Foster. Mr. Ron Foster reported on living at his address since 2006 as his permanent residence. Mr. Foster stated that he submitted some pictures and sketches in support of what he is referring to. Mr. Foster stated that they chose to live on 7th Street for its uniqueness, and the open boardwalk lends itself to meetings and socializing. Mr. Foster stated that many of his friends here have become their best friends over the years and that 7th Street is the only true neighborhood in all of KCB. Mr. Foster asked the question on many can say they know 50-75 percent of the people on their street. Mr. Foster further stated that at the time when Key Colony Beach was founded, 7th Street and the Causeway were zoned differently because of its physical differences from other areas in the City. The lots are narrow, and the houses are close together. Mr. Foster continued by saying that the owner had answered one of the questions in the application, that the houses were old and needed to be redeveloped. Mr. Foster referred to pictures for reference for neighbors within the immediate area to 57 7th Street and within the 300-foot proposed variance property. Mr. Foster asked if these properties looked like properties that needed to be redeveloped. Mr. Foster further questioned the owner's answer to aesthetics in question one. Mr. Foster stated that all properties had been renovated and updated, with the exception of 57, maintaining the original style of 7th street and that it is obvious that that is what the owners of 7th Street want. Mr. Foster stated that rather than to admonish 7th Street as an area that is old and needs to be redeveloped it should be praised for maintaining its unique character. Mr. Foster referred to question 2 and 4 of the owner's application that the property is a non-functioning poorly maintained structure. Mr. Foster said that prior to Hurricane Irma the property was one of the nicest properties on the street and properly maintained. Mr. Foster stated that it was Mr. Blackwood's choice to leave the property poorly maintained with no repairs after purchasing it in 2018 for four years. Mr. Foster stated that the structure could have been renovated and repaired by now like all the other properties on the street. Mr. Foster stated that the answer to question five does present a special privilege if this variance gets approved. Mr. Foster stated that in 2007 the owner of No. 67 and No. 68 (7th Street) were denied a height increase of 5 feet for a pitched roof. The height increase of 25 feet would represent a zoning change on 7th Street. Mr. Foster showed a comparison in pictures of what the building height would look like. In closing Mr. Foster stated that he hopes the city will see the value of 7th Street and is one of the unique gems of KCB.

F. 59 7th Street – James Bush. Mr. James Bush stated that his family's history started in 1974 at the Continental Inn and in 1976 his parents bought half a unit at 52 7th Street. Mr. Bush stated that in the early 90's they purchased number 59. Mr. Bush stated that his parents have since died, and the four children are holding the properties as successor trustees. Mr. Bush stated that he does not see the hardship in this and that this would considerably change the feeling of the street. Also, this would establish a new set of rules dismissing current zoning. Mr. Bush stated that the current zoning is in place for a reason and that the changes do not make sense at all. Mr. Bush further asked the question if the property will be owner occupied or a rental. Mr. Bush stated that he is worried about the structural integrity of his current home with the vast construction going to take place. Mr. Bush further stated that the fact that with the current roof pitch there will be water falling onto his house and he does not see how this will not impact his property. Mr. Bush further stated that the fact that he can also build out the canal side like his neighbor. Mr. Bush further stated that he will not fight for the view obstruction but noted that he will be impacted dramatically. Mr. Bush further stated that the shade the new structure will cast will change things forever for them. In closing, Mr. Bush said that he hopes that this open forum will let the Board know what the neighbors are really saying. They love Key Colony Beach and love 7th Street and that they are hoping the Board will reject the proposal.

G. 45 7th Street – Mary Cornford. Mrs. Cornford stated that she came before the Board to talk from the heart of what is important to her. Mrs. Cornford stated that they are newbies compared to the previous people and have lived in Key Colony for about five years. Mrs. Cornford further stated that they purchased their house five months before Irma decided to come through their neighborhood. Mrs. Cornford stated that they bought their house on 7th

Street with many of the same reasons as the previous speakers which includes the open sidewalk which gives opportunity to speak to people. Mrs. Cornford explained that this has given them opportunity to meet people and make close friends. Mrs. Cornford continued by saying that they lived in the Marathon area for a long time and when they purchased the property, they purchased it for the look and feel of the old keys. Mrs. Cornford further stated that heritage is very important to them. Mrs. Cornford continued by saying that she will not be affected by the shade or water or similar things however she will be affected by the change and feeling of the opportunity that people will have. Mrs. Cornford stated that the Board needs to reject this. Mrs. Cornford further stated that just by looking at it that you can tell it will be an eyesore on 7th Street, but it is obvious that it is being built as a rental home. Mrs. Cornford stated that this is fine as many rental homes are up and down the street. However, when you look at the total structure with 12 toilets which is so "un-7th Street". Mrs. Cornford added in closing that she is hoping that the board will consider the voices that they heard today. The people that live on 7th Street and care about 7th Street want to see 7th Street maintained and thanked the Board for its consideration in rejecting this request.

H. 79 7th Street – No Name. The Resident stated that they have lived in Key Colony Beach for 22 years. The Speaker further asked the question on what the density of the house is with 12 toilets, and how many people can legally live in the house. City Attorney Dirk Smits advised the Board that they are not here to answer questions but that they can take questions and ask the applicant in turn.

5. Disclosure of Ex-Parte Communication: Chair Joey Raspe asked all Board Members of any Ex-Parte Correspondence which might alter or change their vote which all Board Members answered no too.

6. Proof of Publications: All affidavits and legal notices were accepted as sufficient.

7. VARIANCE REQUEST: Chairperson Raspe read the variance request for 57 7th Street.

8. Review of Variance Request:

a) Building Official Gerard Roussin stated that the variance request presented today is in a substantial amount of 26.5 feet. The Building Official further stated that they have done a lot of work over the last year to update their Land Development Regulations' and that they have no choice in what changes FEMA is bringing into the Flood Map. Building Official Roussin further stated that 7th Street is one of the areas that will be greatly affected by these changes. The City, the Building Department, the Planning & Zoning Board, and the City Commission have put in a lot of time and effort to what they thought was a fair and equitable distribution through the city for height changes. The Building Inspector stated that they came up with 37 feet across the city for residential and decided as the Board and City to make it a 40-foot recommendation to give people more room to work with. Building Official Roussin stated that he could support a 40-foot request because this is what they are trying to adopt when the Comp. Plan is completed and when the Land Development Regulations are approved by the DEO but has a really hard time approving a variance of 46.5 feet. The Building Inspector said that this would go above and beyond what the City's intention were when they raised their heights and stated again that he has a really hard time supporting it. Chair Joey Raspe asked of the one-foot roof overhang to the adjacent neighbor with a five-foot setback and that the runoff from the roof would certainly affect the neighbor's property. The Building Inspector stated that this problem would be addressed in the permitting process as they are doing the plans review. The Building Inspector further stated that they can mandate that the applicant must have gutters on the building and will be held to the same standards as everyone else as what to retain on the property regarding storm water. The Building Official stated that the percentage was 15 percent, but part of the Land Development Regulations changes is increasing is to 25 percent which will help in other areas of the city. The current Land Development Regulations for the R2B Zone is one story, 20-foot, 15 percent retention, which is the current code. The Building Inspector further stated that if you

look at the current code, the variance is 26.5 foot, which is an extreme amount. Building Inspector Roussin further explained that they are trying to get the R2B Zone rezoned, which is 7th Street, Sadowski, Clara and Coral Boulevard, and trying to give these residents the same opportunity to redo their properties to built them to proper flood level and to built them to proper height. The Building Inspector stated that this process has been ongoing and that the board knows how long this has been going on. In addition, Covid has been an issue and it has been a very big production. Building Official Roussin further stated that he could support a 40-foot variance with the proposed changes coming, however, he cannot support 46.5 feet and believes that this would be a detriment to the neighborhood. Board Member Lin Walsh asked Building Official Roussin if he has an idea when the LDR's would be finalized. Building Official Roussin explained that when the proposed LDR's where initially adopted through the Planning & Zoning Committee and the City Commission, he (the Building Official) "put the cart in front of the horse by about a mile and a half" as he had sent these out to the DEO for approval. The DEO sent the proposed LDR's back indicating that they do not match what is in the Comp Plan and that is why the LDR changes where not approved. The Building Official further explained that since that time Jim Larue, who is redoing the city's Comp Plan, is working with the DEO to reflect the changes that the city wants. The Building Official further explained that once the Comp Plan has been approved by the DEO, then the LDR Changes can be send up for approval. The time frame for the DEO can vary from being very short to a six month to a year time frame and the city does not know how long it will take for the items to come back from the DEO. Building Official Roussin further stated that the process is in the right sequence and the comp plan is being reviewed, changes are being made through Jim LaRue with the DEO and the city and that things are going in the right direction but they are not all the way home yet. Board Member Mike Yunker asked the Building Official on the relation between the square footage requirements in relation to height in the zoning code. The Building Official reported that there are no maximum square footage requirements within the proper setbacks and the right of the property owner. However, he believes the minimum square footage requirement is 450 feet. The city has a maximum story and a maximum height requirement. Board Member Mike Yunker further asked if the city has a maximum bathroom rule which the Building Inspector denied. The Building Official further explained that once the planning goes into the stage regarding bathrooms, the issue will be addressed with Dave Evans who oversees Wastewater in the city. Building Official Roussin further stated that each property is allotted a certain number of gallons but was unsure of the exact number.

b. Statement by Applicant: Mr. Abrams, Attorney for Mr. Blackwood, stated that he will be representing Mr. Blackwood today, but would also be testifying as well as a fact witness. Mr. Abrams presented a PowerPoint Presentation via Zoom. (Please contact the City Clerk @ cityclerk@keycolonybeach.net for a copy). Mr. Abrams stated that the property is a non-conforming plot of record, 40 wide and 110 feet deep with under 5,000 square feet total, and currently not occupied. Mr. Abrams continued by showing side by side comparisons between the current and proposed structure. The Attorney explained that the widow's top balcony accounts for 4.5 feet of the total height and is solely decorative in nature. Mr. Abrams further stated that the structure to the peak of the roof is 42 feet high and only two feet higher than the height recently approved by the Commission and send to the state. The Attorney further stated that the only reason for the requested variance is for the recent approved proposed code changes. The attorney further presented slides of the proposed structure with the notation that the proposed structure without the widow's peak is only 42 feet high. Further slides showed the proposed car ports and different levels of the duplex. Mr. Abrams further stated that Mr. Blackwood understands the requirements to satisfy the conditions for the code. Mr. Abrams stated the first condition of good and sufficient cause is evident in the recent approved code changes November 8, 2021 and has been transmitted to the State where it is currently being considered. Mr. Abrams further stated that the proposed changes for new structures is to go 40 feet and two stories, but only if the minimum base flood elevation requirements are met. The attorney explained that base flood elevation requirements can vary from property to property and are very high in the area in question. Attorney Abrams further explained the base flood elevation requirements and the specifics for Mr. Blackwood's property. Mr. Abrams further stated that part of the

2015 Comprehensive Plan found that 92 percent of the available area in Key Colony was developed and only 8 percent were vacant. Mr. Abrams further stated that since then there are probably much less properties available, and that the variance request should be addressed with the knowledge of limited space available in Key Colony Beach. Board Member Tom DiFransico asked Mr. Abrams the justification for the extra 6.5 feet in structure. Mr. Abrams explained that the roof pitch has to be taken into account and that the purpose of this structure is to be much more disaster resistant and that the pitched roof is important for that. Mr. Abrams continued explaining the advantage to a metal pitch roof to a flat roof. Board Member DiFransico stated that he is looking forward to the explanation why this pitched roof is necessary. Board Member Mike Yunker asked Mr. Abrams to cite any variances that have been approved the Commission that are 26 feet high. Mr. Abrams stated that he could not. Mr. Abrams further stated that they would not have submitted the variance application if the current ordinance was not pending for approval. Mr. Abrams further stated that they believe that the variance should be approved under the pending code change. Mr. Abrams stated the Commission in the past has approved variances between 4-10 feet in height that were under current code requirements. Mr. Abrams stated that the opinion that the current variance request falls within that range if taken in consideration the pending code change. Chair Joey Raspe stated that the four-to-six-foot variances that were granted were 30-foot homes that were on oceanfront or large canal homes where the height restriction was 30 feet and to make the houses more aesthetically pleasing and to allow for new FEMA rules the Board granted those variances. These approvals were not based on 20-foot home asking for 26.5 feet.

Mr. Abrams continued with the PowerPoint Presentation by reporting on the second condition of unnecessary hardship. The attorney reported on the different requirements on 7th Street for base flood elevation requirements. Mr. Abrams explained that due to the height and FEMA restrictions the owner only has 30 feet of livable space. Mr. Abrams further stated that the owner purchased the property in 2018 after Hurricane Irma and had been trying to repair the property since. Mr. Abrams stated that the Board will hear testimony that the initial hurdle was the cost of renovation. Mr. Abrams stated that at this particular property the cost of renovation would have exceeded 50 percent of the structures fair-market-value. Mr. Abrams stated that his client reasonably decided to opt for a new structure. Attorney Abrams further stated that Mr. Blackwood did want to run the risk of a change order close to 50 percent of job completion and did not want that risk of cost. Mr. Abrams further continued answering Question No. 3. Mr. Abrams stated that if this variance would be granted it would modernize the property in question and would satisfy base flood line elevation and "would create one less disaster-prone structure on the island" like the one currently present on the property. Furthermore, the new duplex is an appealing Key West style home that would enhance the neighborhood and over time would bring up property values and create increased revenues. Mr. Abrams acknowledged that the proposed new property will indeed look bigger than the neighboring homes, but the Commission had already contemplated this when allowing future properties to go up to 40 feet. The attorney further stated that the houses in this neighborhood were built half a century ago and that there will be some uneasiness with modernization of a block. Mr. Abrams stated that new homes will seem out of place until the old homes will seem out of place, and that this is how progress works with real estate. Mr. Abrams continued to present several slides on how the new structure would look. Mr. Abrams stated that Mr. Blackwood had indicated that he would not have the Widow's Peak at the top of the structure which accounts for 4.5 feet if the Board would impose this as a condition, however, the pitched roof does require that extra two feet of height. Mr. Abrams further elaborated on Condition No. 4. Mr. Abrams stated that the owner will testify that the repair of the property will exceed 50 percent of its replacement value. The Attorney continued by answering to the fifth condition that the variance falls within the range of previous granted variances. Mr. Abrams showed a remodeled property located at 68 7th Street to point out that the older house next to it looked out of place.

Mr. Abrams closed by asking if anyone had questions prior to him testifying.

Board Member Tom DiFransico asked Mr. Abrams if he thinks that because the house was damaged by Hurricane Irma if that was a unique or peculiar circumstance. Mr. Abrams stated that it is a combination of factors which all play into the uniqueness. The damage from Hurricane Irma and the damage above the 50 percent threshold for

repairs makes it a unique circumstance. Board Member DiFransico asked Mr. Abrams if he was aware that many of the houses on that street had the same kind of damage and how Mr. Abrams could find this a unique circumstance. Mr. Abrams stated that there is no evidence on the record that shows that other houses on the block show that they had the same damage as the owners. Mr. Abrams apologized for the comment after the audience booed his remark. Mr. Abrams continued by stating that in fact he cannot speak for the other properties and that the interior of his client's property is gutted, not usable and not habitable. Mr. Abrams further stated that it is a fact that the plotted lot of record show that is below the current minimum lot and with the property lines the only reasonable use of property is to go up. In addition to the base flood elevation requirements a unique circumstance is created for the property. Mr. Abrams stated that with the maximized development in Key Colony Beach the owner must treat what he has to the best he can with the understanding that he wants to do it in a way that respects neighbors' concerns and addresses aesthetic concerns. Mr. Abrams stated that they would be happy to meet with neighbors and address these concerns. Chair Joey Raspe asked Mr. Abrams if was aware that lots of people within the room were in the same zone as his client and that they were all able to repair their property without going to 46 feet. Chair Raspe further stated that this is where lots of the concerns stem from that the people lived through Hurricane Irma and understand what it means to pick up and put everything back together after the hurricane and to continue to live in a place that they love. In addition, Chair Joey Raspe stated that the residents do feel threatened by someone coming in after four years and wanting to build something that is out of character with their neighborhood. Mr. Abrams stated that the Board will hear testimony that his client was not just waiting for four years, and that the property was purchased with the intent to restore. Mr. Abrams stated that his client was not able to rebuild to the current code and had to wait for the changes to come into effect and that it is no longer viable and is an unjust hardship to his client. Mr. Abrams further stated that he is happy to meet with the residents before the Commission Meeting.

Building Official Gerard Roussin stated that he wanted to correct the statement made by the attorney that the minimum lot width in the R2B zone is 40 feet and not 50 feet. Furthermore, a substantial damage or improvement determination is made by the Building Official of the Jurisdiction and not by the Homeowner. Building Official Roussin further stated that he does not know what kind of determination or pricing was used and the determination is not made by the homeowner but by the Building Official of that municipality. Chair Joey Raspe asked if the Building Official had made such a determination which Building Official Roussin replied that he had not seen the property and has not been asked to make a determination of the property. Building Official Roussin further stated that the first time he read the email that somebody had made the determination of substantial damage which is incorrect. Mr. Abrams stated that he might have been incorrect with the remark of the 50-foot width and that might have been the land area he was referring to. Mr. Abrams stated that there would be testimony in regard to the substantial damage determination and stated that his client is not required to seek the substantial damage determination and disagrees with the Building Official.

Mr. Tucker, owner of 160 1st Street, stated that the proposed LDR's are not law yet. City Attorney Dirk Smits reminded the Board that citizens are not allowed to make statements at this time but can ask the Board a question which in turn can be directed to the attorney.

Board Member Mike Yunker asked Mr. Abrams what number of occupants are anticipated in the house. Mr. Abrams replied that his understanding is that it is a 2-family home and that his client's intention is to make it his permanent home until retirement and to have it as a second home until then. Mr. Abrams stated that he would have to ask the project consultant on the number of occupants that can live in the home. Board Member Mike Yunker further asked the attorney if he can confirm that there are 12 bathrooms in the house. Mr. Abrams again stated that he would have to direct this question to the project consultant who is in attendance today. Mike Yunker further asked what the square footage of living space is of the structure. Mr. Abrams directed the question to the project consultant as well. Mr. Abrams called his first witness Chris Nolan, Project Manager for Mr. Blackwood. Mr. Nolan stated his name and address for the record. Mr. Nolan stated that he is the business owner of Done-Right Development which focuses on construction consulting and management. Mr. Nolan further stated his education and work experience.

Mr. Nolan further stated that he was hired by Mr. Blackwood for project consulting and oversight. Mr. Nolan further stated upon question that Mr. Blackwood's intent for the property is to move down to the Keys after retirement. Upon further questioning, Mr. Nolan stated that the applicant purchased the property in 2018 after Hurricane Irma with the house being completely destroyed with a lot of debris being inside. Mr. Nolan further stated that he started working for Mr. Blackwood shortly after the property was purchased and the contract was for a remodel to restore the building back to existing conditions. Mr. Nolan further stated that the property was purchased as a single-family residence but had been converted from a duplex prior. Mr. Nolan stated again that the house was purchased with the intent to remodel to existing conditions. Upon further questioning Mr. Nolan stated that Mr. Blackwood made the decision not to remodel based on cost. Mr. Nolan stated that the cost to rebuild was sent as a contract and he received many other estimates from contractors as well. Mr. Nolan further stated that Mr. Blackwood made the decision not to rebuild based on the cost of construction when looking into the 50 percent rule. Mr. Nolan explained that the 50 percent rule is a statute that states if a property is non-compliant of the flood elevation it is given up to 50 percent of the market improvement value to be improved to livable conditions. Upon further questioning Mr. Nolan stated that it is important to follow the rule once the construction has started it is taken into the account the 50 percent rule as well as any construction in the prior three years. Mr. Nolan stated that anytime construction starts and once the cost accumulates past the 50 percent the work is null and void and has to be demolished and redone in order to come into compliance with the 50 percent rule which then would require elevation of the structure. Mr. Abrams asked Mr. Nolan if he agreed with Mr. Blackwood on the determination of this structure being above or close to the 50 percent rule compared to the fair market value of the structure. Mr. Nolan answered that he agreed and that it would not be wise to remodel due to the cost with the 50 percent rule. Upon further questioning Mr. Nolan stated that it is necessary to build above the 40-foot height to come into compliance with the flood elevation with the free board and zoning requirements. In addition, the height will allow for more parking and take the parking off the street as well as keeping the 10-foot wall and the roof pitch. Mr. Abrams asked Mr. Nolan why the pitched roof is necessary. Mr. Nolan answered that a pitched roof is a standard of construction in the Keys due to its best hurricane protection. Also, a metal roof requires a pitched roof and the minimum pitch for a standing seam roof is 1 in 12. Mr. Nolan stated that a flat roof is not a viable alternative due to its maintenance after the fact. Mr. Abrams asked if it is realistic to achieve the pitched roof with this structure with the base flood elevation and a height of 40 feet. Mr. Nolan replied that he believes the standard pitch for this kind of design is 3 in 12. Mr. Abrams asked if it is feasible to build the current structure under 40 feet. Mr. Nolan stated that it would be a determination of the roof pitch. Mr. Abrams asked again if it is feasible to build this 2-family home below 40 feet or if it has to build to 42 feet in order to achieve the pitched roof. Mr. Nolan replied that the proposed roof pitch mimics styles from the Keys. Chair Joey Raspe asked Mr. Nolan if that roof cannot be built to 40 feet with that pitch and if this was his answer to the question. Mr. Nolan replied that yes with the roof pitch he will be going over 40 feet. Upon further questioning Mr. Nolan replied that the widow's peak is solely a design feature with no access and allows to hide some utility features if needed to put on the roof. Mr. Nolan stated that it will not be viewable from the street level directly in front of the house due to the recess of the widow's peak. Building Official Roussin asked what the proposed design roof pitch is. Mr. Nolan stated that it is 5 in 12. Building Official Roussin asked if the minimum requirement is 3 in 12 for a metal roof which Mr. Nolan stated that it is the minimum requirement in addition to a standing seam roof requires an additional with above and beyond engineering. Board Member Tom DiFransico asked if he understood correctly that the minimum required roof pitch is 1 in 12. Mr. Nolan replied 1 in 12 with project specific engineering. Board Member asked again if 1 in 12 is the minimum for a metal roof which Mr. Nolan replied for a standing seam metal roof. Board Member DiFransico asked if Mr. Nolan is proposing a standing seam metal roof. Mr. Nolan replied that he believes that there is a 5 crimp on the roof. Board Member Tom DiFransico repeated his question if a 1 in 12 roof could be the minimum that could be used on that home. Mr. Nolan replied that it is possible to use 1 in 12 if they proposed a standing seam metal roof which usually is a higher rated roof than the 5-crimp roof. Board Member DiFransico asked if the other

roof is a 3 in 12 and that Mr. Nolan is proposing a 5 in 12 for aesthetics which Mr. Nolan replied to as correct. Mr. Nolan called Mr. Blackwood as his next witness who stated his name and address for the record. Attorney Ryan Abrams asked Mr. Blackwood how he came to the determination to submit a variance application. Mr. Blackwood replied that sometime after he purchased the property in 2018, he met with the Building Official Gerard Roussin on more than one occasion. He recalls the first time he met with Building Official Roussin which was facilitated through the Realtor Lynn Goodwin which helped him with his original purchase. Mr. Blackwood further stated that he met with Building Official Roussin in his office and talked about the challenges he was having with renovation his existing building. Mr. Blackwood stated that he wanted to restore it as a duplex and that Building Official Roussin explained the process to him. Mr. Blackwood stated that Building Official Roussin recommended to rebuild a new construction per duplex that he would have to apply under a variance application to do so. Mr. Abrams asked Mr. Blackwood if there was any specific design given that was proposed at the meeting today. Mr. Blackwood stated no that it was only in concept, but that he would build to the proposed and oncoming FEMA requirements. Mr. Blackwood stated that he understood that Building Official Roussin understood that he was going to accommodate and address the FEMA requirements for building above the flood zone. Mr. Abrams asked Mr. Blackwood what his intended use is for the structure once the construction is completed. Mr. Blackwood stated that he has been visiting ~~Clearwater Beach~~ Key Colony Beach since 1987 and that family and friends have been visiting Key Colony since the early 60's. Mr. Blackwood further stated that he has stayed in Key Colony on 7th Street for over 25 years for seasonal 1-week visits for fishing and diving. Mr. Blackwood further stated that this has been his lifelong dream and lifelong savings purchasing this home and plans on building and living at this property as his second home. Mr. Blackwood stated that he is intimately familiar with the character of 7th Street and stated that he knows at least one person that has spoken at the meeting and that he has gotten along very well with his neighbors as well. Mr. Blackwood stated that his intent is no harm to his neighbors and looks forward to living full-time in the summer there at least. Upon further questioning Mr. Blackwood stated that he will be renting out the unit that he will not be living in through Key Colony Beach Realty. Mr. Blackwood further stated that he is planning on renting during the summer on a weekly basis and during the fall and winter on a seasonal basis. Mr. Blackwood answered upon being questioned that he recollects 9 bathrooms in total for the structure. Mr. Abrams presented a slide that showed the square footage of the building with the first-floor unit with 2,341 square foot and the second-floor unit 2,133 square feet. Mr. Blackwood stated that he did not want to add anything to the record but believes he had a fair amount of unfair criticism and false statements leveled against him. Mr. Blackwood stated that he cannot talk to about any other property owners on 7th street and how they overcame the 50 percent rule. Mr. Blackwood further stated that he only has the recollection but has no physical evidence of it in terms of a written estimate, but he believes that the structure was built in 1959. City Attorney Dirk Smits asked the Board if the witness had been sworn in. Chair Joey Raspe asked Mr. Blackwood if he was sworn in as a witness to speak. Mr. Blackwood stated that he took the oath in the morning and answered affirmatively at the beginning of the meeting. Mr. Blackwood further stated that his mental recollection of his evaluation of his building was about \$50,000.00. Mr. Blackwood further stated that he believes that a lot of people have a misunderstanding of what the 50 percent rule is. Mr. Blackwood stated that the 50 percent rule is the present value of the structure. Mr. Abrams stated that he has no further questions at this time. City Attorney Dirk Smits stated to the Chair that they are free to cross examine any of the witnesses that just testified including the representative and/or the owner. City Attorney Smits directed Attorney Abrams to please acknowledge if the representative is representing the corporation, as Mr. Blackwood apparently had just testified on behalf of the corporation. Attorney Smits requested for the record there cannot be two corporate representatives. Attorney Smits further stated that all the Board can cross examine the witness. Mr. Abrams stated the Mr. Blackwood is the corporate representative which Mr. Blackwood confirmed. City Attorney Dirk Smits asked if the testimony that the other witness had given was not on behalf of the corporation which Mr. Abrams replied that he supposes that he is not a corporate representative. Attorney Smits stated if he is just given testimony as a consultant which Attorney Abrams confirmed. Chair Joey Raspe if there were any questions by the Board for any of the

witnesses. Board Member Mike Yunker asked Mr. Nolan if he had inspected the property in 2018 to determine the correctness of the information provided. Mr. Nolan stated that he had walked the property with Mr. Blackwood under a different project manager at that time in 2018. Board Member Tom DiFransico asked Mr. Nolan in reference to the mandatory pitch roof to achieve that height. Board Member Tom DiFransico stated to Mr. Nolan that he believes that if there was a lesser pitch on the roof, he could get easily under the 40 foot. Board Member DiFransico clarified the question with a metal roof with a lower pitch which Mr. Nolan replied that the standard and most pitch used on a metal roof with crimp is 3 and 12. Board Member DiFransico asked if that would get him under 40 feet which Mr. Nolan replied that he would have to check but it would definitely get them lower to what there are right now. Board Member Tom DiFransico asked Mr. Nolan if that would be a serious hardship to reduce the pitch of the roof. Board Member DiFransico clarified that the variance that is being asked for is going above 40 feet which is the city's limit and that the serious hardship stems from a roof where the chosen pitch is 5 and 12 and if it is really a hardship to reduce the pitch to come compliant with the city's rules. Mr. Nolan answered that it is not. Chair Joey Raspe stated to remember that the 40 feet are a future number and that current height restrictions are at 20 feet and that no mechanicals can be on the roof. Chair Raspe further stated that the ability to hide mechanicals is absurd since there cannot be mechanicals on the roof. Mr. Nolan stated that the reason this variance was applied was the belief that the LDR changes were already in effect. Chair Raspe asked Mr. Nolan if he had any recollection after Hurricane Irma that any of the LDR's were going to be changed within the next three years which Mr. Nolan replied no to and not at that time. City Attorney Smits stated to Chair Raspe that he can also cross examine Building Official Gerard Roussin as well as Attorney Abrams can. Chair Joey Raspe stated that he is still confused on the determination of the 50 percent rule and asked the Building Official when that does take place. Building Official Roussin stated that the Building Department does that determination when a permit gets submitted. The Building Official stated that he looks at the value of the permit and what structure value the property appraiser's office gives. Building Official Roussin stated that the value for the property from 2018. The Building Official further stated that it is the building only and does not include the land and it also includes a 20 percent buffer for Monroe County before of the county's cost. The Property Appraisers Office in 2018 the total value of the property \$688,776.00 with a land value of \$379,000.00 which leaves approximately \$310,000.00 for repairs. Chair Joey Raspe asked Building Official Roussin if a building permit has to be brought to the Building Department prior before a 50 percent rule comes into effect. The Building Official stated that is true or the individual owners can approach them, and they will work with them during that time. Building Official Roussin stated that the way the 50 percent rules works is if you are roughly within 45 % of that number will indicate how the homeowner will approach the property if the owner wants to redevelop or repair. Building Official Roussin stated that this has never been brought into his office about a 50 percent determination and that he was very surprised to see the determination in the email package. Chair Joey Raspe stated that a repair was not questioned in this particular case and asked the Building Official if it was a rebuilt from day one. The Building Official replied that he does not know. Mr. Nolan replied to Chair Raspe that the statement is not correct, and he had been working with Mr. Blackwood on remodel and after estimates arrived that were not feasible the owner looked into redevelopment after that. Chair Joey Raspe asked if there were any other questions for the witnesses. Board Member Lin Walsh asked for clarification that if they were looking at it from today, they were looking at it from a 20-foot height which the other board members agreed. Building Official Roussin stated that this is the current code, but it has also taken into account that new remodel work has to be signed that the owners are aware that new FEMA maps are coming out. Building Official Roussin stated that the current height is 20 feet but that both standards have to be worked with since these changes are coming. City Attorney Smits supported Building Official Roussin's statement that this is what can be called "Zoning in Progress".

Chair Joey Raspe continued the hearing by reading the applicant questions and responses. After reading the document Chair Raspe asked if there were any questions regarding the responses. Attorney Abrams stated that he had send a justification letter which was a replacement of the questionnaire which Chair Joey Raspe stated was

received. Attorney Smits stated that the answers that were submitted at the time are the answers and any additional material submitted can be considered evidence. Chair Raspe also stated that the answers read were read from the original application. City Clerk Silvia Gransee stated that both application packages were submitted to the board for review, and it was not applicable to remove the original to replace it with the second package as requested by Attorney Abrams. City Attorney Dirk Smits stated that the second application can be considered as additional evidence submitted. Chair Raspe, City Attorney Smits, and Attorney Abrams agreed that the second application did not have to be read into the record.

c. Post Hearing Questions: Chairperson Joey Raspe read the Post Hearing Questions to the Planning & Zoning Board.

1. Has the applicant shown good and sufficient cause to grant the variance?

Mike Yunker – no, Lin Walsh – no, Tom DiFransico – no, Joey Raspe – no. Roll call vote: NO.

2. Will denial of the variance result in unnecessary hardship to the applicant?

Mike Yunker – no, Lin Walsh – no, Tom DiFransico – no, Joey Raspe – no. Roll call vote: NO

3. Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat to or nuisance, or cause fraud or victimization of the public?

Mike Yunker – no, Lin Walsh – no, Tom DiFransico – no, Joey Raspe – no. Roll call vote: NO

4. The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district?

Mike Yunker – no, Lin Walsh – no, Tom DiFransico – no, Joey Raspe – no. Roll call vote: NO

5. Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood?

Mike Yunker – no, Lin Walsh – no, Tom DiFransico – no, Joey Raspe – no. Roll call vote: NO

d. Planning & Zoning Board Recommendation:

MOTION: Motion made by Tom DiFransico, seconded by Lin Walsh, to disapprove the granting of the requested variance for 57 7th Street.

ON THE MOTION: Roll Call vote. Chair Joey Raspe – yes, Mike Yunker – yes, Lin Walsh – yes, Tom DiFransico – yes. Unanimous approval.

d. Planning & Zoning Board Recommendation: The Planning & Zoning Board recommends to the City of Key Colony Beach Board of Commissioners for the requested variance for the property at 57 7th Street to be denied.

8. Any Other Business – None.

9. The meeting adjourned at 11:09 a.m.

Respectfully Submitted,

Silvia Gransee

City Clerk

EX-PARTE COMMUNICATIONS

An ex-parte communication is defined as:

any contact, conversation, communication, writing, correspondence, memorandum or any other verbal or written communication that takes place outside a public hearing between a member of the public and a member of a quasi-judicial board, regarding matters which are to be heard and decided by said quasi-judicial board.

Site visits and expert opinions are also considered ex-parte communications.

In the event that someone contacts a Board Member about a quasi-judicial matter outside of a public meeting, at such time that particular issue is brought before the Board, the Board Member should state on the record:

- the existence of any ex-parte communication,
- the nature of the communication,
- the party who originated the ex-parte communication, and
- whether or not the ex-parte communication affects your ability to impartially consider the evidence presented.

Similarly, any correspondence received by a Board Member must be forwarded to the Board Clerk.

Note: The term "Board Member" would include all members of the Code Enforcement Board, the Planning & Zoning Committee, and the City Commission when they are acting in a quasi-judicial capacity (for example, but not limited to, code violation hearings and variance hearings).

AFFIDAVIT OF MAILING

**STATE OF FLORIDA
COUNTY OF MONROE**

Before me, the undersigned authority, personally appeared Silvia Gransee, who, having been first duly sworn according to law, deposes and says:

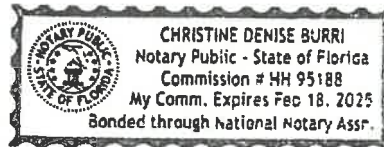
1. I am City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the 16 day of March, 2022 (no less than 30 days prior to the Planning & Zoning Public Hearing on April 20, 2022) I mailed the Notice of Hearing by first class U.S. mail to the address on file with the Monroe County Property Appraiser's Office for all property owners within 300 feet of the property located at 200 15th Circle

Silvia Gransee

 Signature

Sworn and subscribed before me this 16 day of March, 2022.

Christine Denise Burri
 Notary Public, State of Florida
 My commission expires: 2-18-25



Personally known
 Produced _____ as identification

City of Key Colony Beach

PO Box 510141 Key Colony Beach, Florida • Phone# 305-289-1212 • Fax# 305-289-1767



To: Property Owners within 300 feet of 200 15th Circle
From: Key Colony Beach Planning and Zoning Board
Subject: Variance Request

CITY OF KEY COLONY BEACH NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Planning and Zoning Board of the City of Key Colony Beach, Florida, will hold a **Public Hearing on Wednesday, April 20, 2022, at 9:30 A.M.**, Key Colony Beach City Hall Commission Room to hear a Variance Request from Thomas E. Carden, Owner of 200 15th Circle. This meeting will be available virtually via Zoom Meetings. Members of the public who wish to attend virtually may email cityclerk@keycolonybeach.net or call 305-289-1212, Ext. 2 for further instructions on attending via Zoom Meetings.

Applicant requests a Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6'-8'. Current maximum height is 30'0".

The Applicant further requests a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'.

Interested parties may attend the Hearing and be heard with respect to the requested variance.

If any person decides to appeal any decision made by the Planning & Zoning Board with respect to any matter considered at the Variance Hearing, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

If you are unable to attend the Hearing on **Wednesday, April 20, 2022**, but wish to comment, please direct correspondence to P.O. Box 510141, Key Colony Beach, FL 33051, or cityclerk@keycolonybeach.net and your comments will be entered into the record.

Mailed: **On or Before March 18, 2022**

City of Key Colony Beach

AFFIDAVIT OF POSTING

**STATE OF FLORIDA
COUNTY OF MONROE**

Before me, the undersigned authority, personally appeared Silvia Gransee, who, having been first duly sworn according to law, deposes and says:

1. I am the City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the 6 day of April, 2022 (no less than 14 days prior to the Planning & Zoning Public Hearing on April 20, 2022) I posted the Notice of Hearing for the Property at 200 15th Circle at the local United States Postal Service and City Hall.

Further affiant saith not.



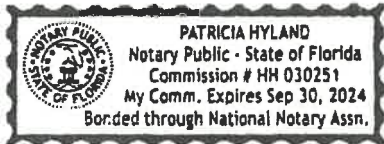
 Signature

Sworn and subscribed before me this 6th day of APRIL, 2022



 Notary Public, State of Florida
 My commission expires: 9/30/24

X Personally known
 _____ Produced _____ as identification



CITY OF KEY COLONY BEACH
NOTICE OF VARIANCE HEARING

NOTICE IS HEREBY GIVEN that the Planning & Zoning Board of the City of Key Colony Beach, Florida, will hold a **Public Hearing on Wednesday April 20, at 9:30 A.M.**, Key Colony Beach City Hall commission room, to hear a Variance Request from Thomas E. Carden, Owner of 200 15th Circle. ~~This meeting will be available virtually via Zoom Meetings. Members of the public who wish to attend virtually may email cityclerk@keycolonybeach.net or call 305-289-1212, Ext. 2 for further instructions on attending via Zoom Meetings.~~

Applicant requests a Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6'-8". Current maximum height is 30'0".

The Applicant further requests a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'.

Interested parties may attend the Hearing and be heard with respect to the requested variance.

If any person decides to appeal any decision made by the Planning & Zoning Board with respect to any matter considered at the Variance Hearing, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

If you are unable to attend the Hearing on Wednesday, April 20, 2022, but wish to comment, please direct correspondence to P.O. Box 510141, Key Colony Beach, FL 33051, or cityclerk@keycolonybeach.net and your comments will be entered into the record.

Posted: On or Before April 6, 2022

CITY OF KEY COLONY BEACH



Published Weekly
Marathon, Monroe County, Florida

PROOF OF PUBLICATION

STATE OF FLORIDA
COUNTY OF MONROE

Before the undersigned authority personally appeared JASON KOLER who on oath, says that he is PUBLISHER of the WEEKLY NEWSPAPERS, a weekly newspaper published in Marathon, in Monroe County, Florida: that the attached copy of advertisement was published in said newspaper in the issues of: (date(s) of publication)

April 7, 2022

Affiant further says that the said WEEKLY NEWSPAPERS is a newspaper published at Marathon, in said Monroe County, Florida, and that the said newspaper has heretofore been continuously published in said Monroe County, Florida, once each week (on Thursday) and has been qualified as a second class mail matter at the post office in Marathon, in Monroe County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement. The affiant further says that he has neither paid nor promised any person, firm, or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper(s) and that The Weekly Newspapers is in full compliance with Chapter 50 of the Florida State Statutes on Legal and Official Advertisements.

**CITY OF KEY COLONY BEACH
NOTICE OF VARIANCE HEARING
NOTICE IS HEREBY GIVEN** that the Planning & Zoning Board of the City of Key Colony Beach, Florida, will hold a Public Hearing on Wednesday April 20, at 9:30 A.M., Key Colony Beach City Hall commission room, to hear a Variance Request from Thomas E. Carden, Owner of 200 13th Circle. This meeting will be available virtually via Zoom Meetings. Members of the public who wish to attend virtually may email cityclerk@keycolonybeach.net or call 305-289-1212, Ext. 2 for further instructions on attending via Zoom Meetings. Applicant requests a Variance to Land Development Regulations Chapter 101, Section 101 - 10 (8) height variance of 6'-8"; Current maximum height is 30'0". The Applicant further requests a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'. Interested parties may attend the Hearing and be heard with respect to the requested variance.
If any person decides to appeal

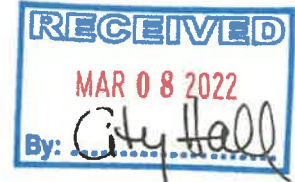
any decision made by the Planning & Zoning Board with respect to any matter considered at the Variance Hearing, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. If you are unable to attend the Hearing on Wednesday, April 20, 2022, but wish to comment, please direct correspondence to P.O. Box 510141, Key Colony Beach, FL 33051, or cityclerk@keycolonybeach.net and your comments will be entered into the record.
CITY OF KEY COLONY BEACH
Publish:
April 7, 2022
The Weekly Newspapers

Sworn to and subscribed before me this 7th day of April, 2022.
(SEAL)

Charlotte Hruska
Notary



**CITY OF KEY COLONY BEACH
P.O. BOX 510141
KEY COLONY BEACH, FL 33051-0141
305-289-1212 FAX: 305-289-1767**



APPLICATION FOR VARIANCE

APPLICANT: Thomas E Carden 815 329-5220
 Property Owner Name Phone Number
~~198~~ ²⁰⁰ 15th circle K.C.B. 4 3 COURY SUBD
 Street Address of Variance Lot Block Subdivision
 696 105th Street Marathon FL. 33050
 Mailing Address of Property Owner

Owners may have an agent complete this application and represent them at the hearings. In this case, owners must attach to this application a written, signed statement stating the name of the individual or business that may represent them in this matter.

Agent Name Agent Phone Number

VARIANCE REQUESTED to: Land Development Regulations Chapter 101, Section 10 R1A (5) (8)
 Code of Ordinances Chapter , Section

DESCRIPTION OF VARIANCE: Please describe the variance request in regard to type of structure, location on lot, distance from side, rear or front lot lines, or details of the variance, including the current rule in effect and the reason for the variance (for example, building would encroach into the setback by feet). Also state if this is for future construction or existing conditions.

I'm requesting a rear yard variance of 8'-6". The furthest point of the back of the proposed single family home will encroach into the 25 foot rear yard setback by 8'-6". This lot has a unique and deviated feature that the other adjacent lots do not have. The property, when originally platted was designed with the rear property line at an angle making the right side of the lot dramatically shorter in depth.

I'm also requesting a height variance of 6'-8" above the 30 foot height requirement. The reason for the height increase is to anticipate the new/proposed flood maps being approved. This height increase is less than the 40 foot building height ordinance change that was proposed by the city.

Please attach the following to this application:

- A sketch or site plan of the property showing the variance requested.
- Written responses to the five criteria (questions attached).
- Fee of \$700.00

Signature of Applicant Thomas Carden dotloop verified
02/22/22 9:30 AM EST
MOHM-OPST-MHEL-UPVN

Office Use Only

Date Filed 3-8-2022 Date Paid 3-8-22 Check # 1167

Variance granted / denied on (date) _____

Sara Gause
Signature of City Official

Applicant Questions and Responses-

Summarizing Land Development Code 101-171 (5)(a): Variances shall be approved only if the applicant can demonstrate a good and sufficient cause, that denial would result in unnecessary hardship, it will not be contrary to the public interest, that special conditions exist, and that it will not confer any special privilege on the applicant. Please see the attached pages for the entire city codes relating to Variances.

To assist the Planning & Zoning Committee and City Commission in evaluating this variance request, please answer the following questions:

1. What is the "good and sufficient cause" that explains why this variance should be granted?

This lot has a unique and deviated feature that the other adjacent lots do not have.

2. What are the unnecessary hardships that would result if the variance is not granted?

Unnecessary hardship would result from the strict application of the ordinance and would make designing a home on this lot very difficult.

The hardship is not a self-created hardship and the hardship resulted from conditions that are peculiar to this property.

3. If this variance is granted, would there be any increase to public expense that would not otherwise occur? Would it create a threat to public health and safety? Would it create a nuisance? Or cause fraud or victimization of the public?

The variance if granted would not cause any increases to public expense or create a threat to public health and safety. The variance would not cause a nuisance. The proposed location of the building into the rear yard setback still would be behind the adjacent home. See reference point of line of sight on the drawing for the adjacent home.

4. What are the unique or peculiar physical/geographical circumstances or conditions that apply to this property, but do not apply to other properties in the same zoning district?

This lot has a unique and deviated feature that the other adjacent lots do not have. The property, when originally platted was designed with the rear property line at an angle making the right side of the lot dramatically shorter in depth than the adjacent lots.

5. If the variance is granted, would it confer upon the applicant any special privilege that is denied to other properties in the immediate neighborhood in terms of the established development pattern?

No, it just would make this lot useable like every other lot and still have the same rear line of sight of the adjacent properties.

Office Use Only

Comments and Recommendation of the Building Official

Applicant Questions and Responses-

LAND DEVELOPMENT REGULATIONS - Section 101-171. Variances.

(1) **Initiation.** Any owner, agent, lessee or occupant of land or a structure may apply in writing to the city clerk for a variance, on that land, from the requirements of this chapter, except that no request for a use variance will be considered. Details must be included with the request and be filed with the city clerk together with the established fee for a variance. If the applicant is other than the owner of the property, the written consent of the owner for the variance requested must be submitted with the application. When the petitioner is a public agency, the city commission may authorize the waiver or reduction of the fee.

(2) **Planning and zoning committee procedure.**

- (a) Upon receipt of a written request, the city clerk will deliver the request to the planning and zoning committee.
- (b) The planning and zoning committee shall make an investigation of the conditions pertaining to the requested variance in advance of the public hearing by the city commission. This investigation shall be at a duly noticed meeting. Mailing of notice of the meeting shall be made by the city to all property owners within three hundred (300) feet of the boundaries of the property which is the subject of the variance request.
- (c) The planning and zoning committee, shall make their recommendation to the city commission in writing, based upon the standards in (5) below. They may recommend approval or disapproval of the variance or may recommend approval of the same subject to such specified conditions as it may deem to be necessary or advisable in furtherance of the provisions of this chapter. Reasons for the recommendation shall be stated.

(3) **City commission procedure.**

- (a) After receipt of the planning and zoning committee report, the city commission shall give notice in a newspaper stating the date, time and place of a city commission public hearing as provided for in section 101-173.
- (b) After their public hearing the city commission may approve or disapprove the requested variance or may approve the same subject to specified conditions as it may deem to be necessary or advisable in furtherance of the provisions of the zoning ordinance. If the applicant desires to present evidence not presented to the planning and zoning committee, the matter shall be returned to the planning and zoning committee for further deliberation and recommendation unless the city commission finds by majority vote that the new evidence is insignificant or unsubstantial.
- (c) The commission shall state reasons for their decision, based on the standards detailed in (5) below.
- (d) The decision of the city commission shall be final. No new request for similar action concerning the same property may be made to the city commission or planning and zoning committee for a period of not less than six (6) months after the date of said decision by the city commission.

(4) **Effective period.**

A building permit application must be submitted within twelve (12) months of variance approval otherwise the approval expires. Any extension of up to twelve (12) months may be granted by the city commission for good cause.

Applicant Questions and Responses-

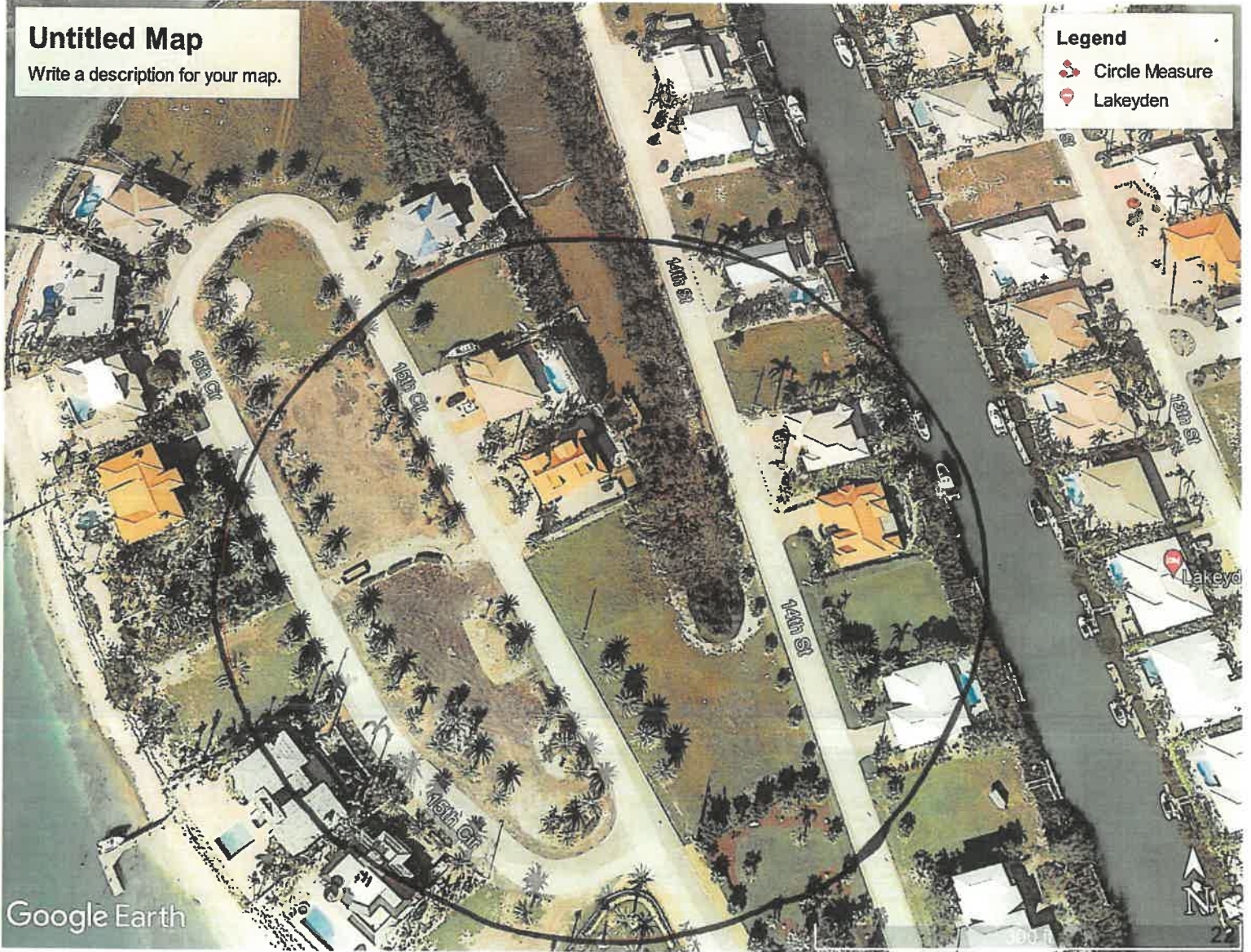
(5) Standards for granting variances.

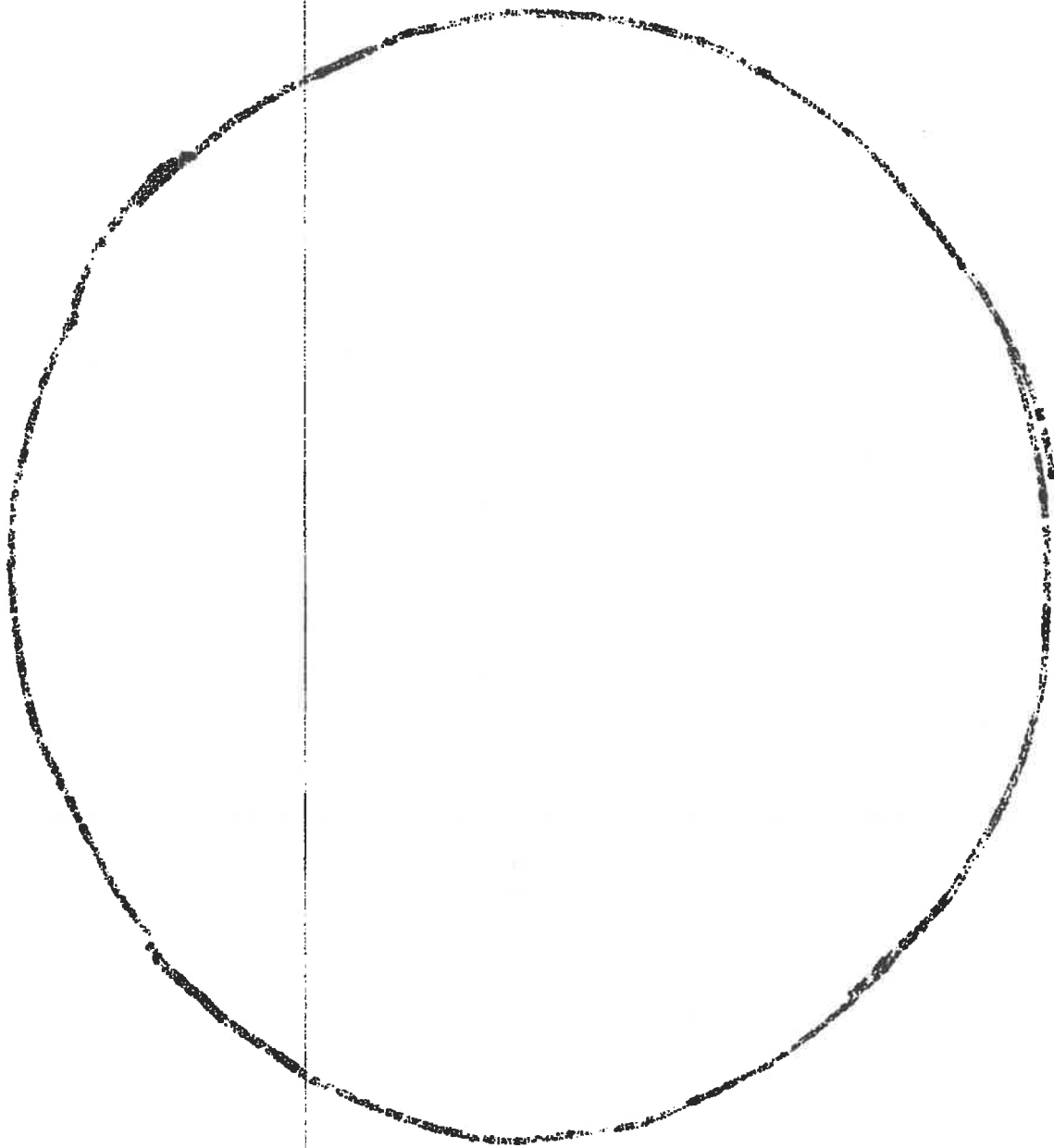
(a) Specific criteria:

- (1) The applicant shall demonstrate a showing of good and sufficient cause;**
- (2) Failure to grant the variance would result in unnecessary hardship to the applicant;**
- (3) Granting the variance will not result in increased public expenses, create a threat to public health and safety, create a public nuisance, or cause fraud or victimization of the public;**
- (4) Property has unique or peculiar circumstances, which apply to this property, but which do not apply to other properties in the same zoning district;**
- (5) Granting the variance will not give the applicant any special privilege denied other properties in the immediate neighborhood in terms of established development patterns.**

(b) Recommendations to the city commission.

- (1) If all 5 specific criteria are met, then the planning & zoning committee shall recommend approval to the city commission. Approval by the city commission would be by majority vote of the city commission.
If the planning & zoning committee finds the five (5) specific criteria are not met, they shall recommend disapproval of the variance unless they specifically find that the granting of the variance will have minimal adverse effect on other citizens of the city or on the city. Approval of a variance where all five (5) specific criteria are not met shall require a favorable vote of four-fifths (4/5) of the city commission.**
- (2) Conditions: The planning and zoning committee may recommend, and the city commission may prescribe, appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.**
- (3) Use Variance: Under no circumstances shall the city commission grant a variance to permit a use not generally permitted in the zoning district. No nonconforming use of neighboring lands, structures or buildings in the zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.**





(A) Building Restrictions:

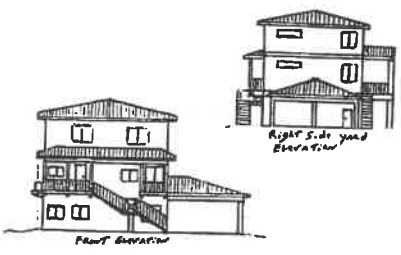
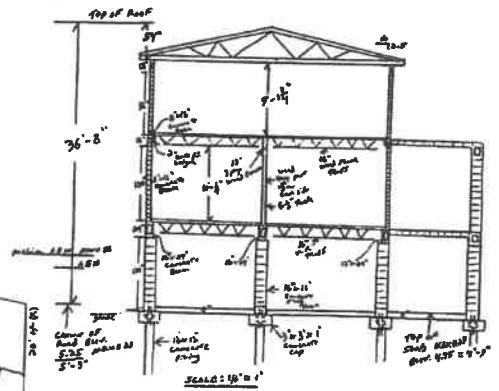
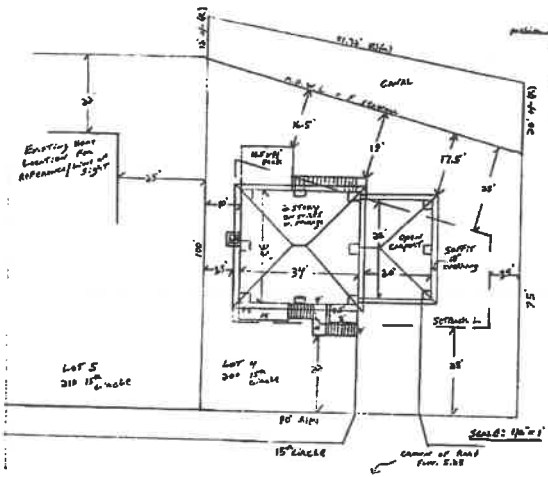
- (1) No portion of exterior walls to set back by 3' which is assumed per sec. 104.59 (c)
- (2) Front porch, screen and stoop set back into the rear yard setback by 3 feet, which is assumed per sec. 104.59 (c)
- (3) No balconies, deck enclosures into the rear yard setback by 3'-0"
- (4) No deck structures projects into the rear yard setback by 0'-0"
- (5) No rear compact enclosures into the rear yard setback by 7'-6"
- (6) The building height is to top of the roof ridge to 36'-8" from the corner of the lot, which is a projection past the building height of 6'-8"

(B) Notes:

- (1) Numbers 1, 4 and 5 require a variance of 2'-6" into the rear yard setback.
- (2) Number 6 needs a variance request of 6'-8" above the 36' max building height. Building height is measured from the corner of the lot per Article 11 provisions.

zoning R2A

Shane Craker
Lot 4, 200 15th Ave
310-720-9220



(A) Building Restrictions:

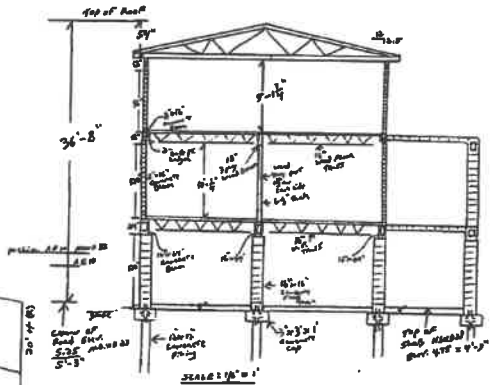
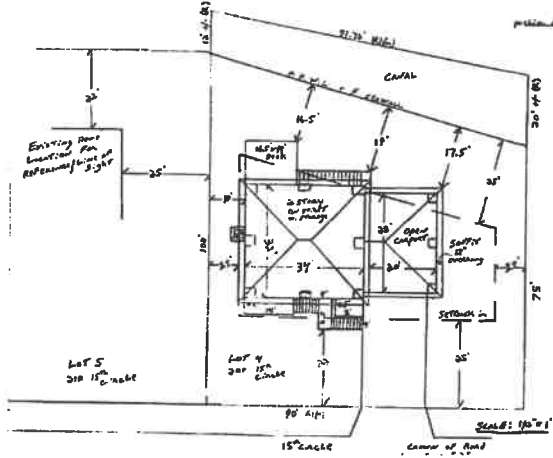
- (1) The platform overhangs into the side yard 10' 0" which is allowed per Sec. 104.08 (5)
- (2) Front porch, platform and staircase project into the front yard setback by 3 feet, which is allowed per Sec. 104.08 (5)
- (3) The back porch, deck overhangs into the rear yard setback by 8'-6"
- (4) The back staircase projects into the rear yard setback by 8'-0"
- (5) The open carport overhangs into the rear yard setback by 7'-6"
- (6) The building height to the top of the roof ridge is 36'-8" from the corner of the road, which is a projection past the building height of 6'-8"

(B) Variances:

- (1) Variances 3, 4 and 5 require a variance of 8'-6" into the rear yard setback.
- (2) Variance 6 meets a variance request of 6'-8" against the 70' max building height. Building height is measured from the corner of the road per Article 11 Definitions.

Readings 8.2A

Scale: 1/8" = 1'
Lot 4 300 sq. ft. 2.5.21
Site: 730-2300



**City of Key Colony Beach
Planning & Zoning Board**

Post Hearing Questions

1.) Has the applicant shown good and sufficient cause to grant the variance? Y / N

2.) Will denial of the variance result in unnecessary hardship to the applicant? Y / N

3.) Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat to or nuisance, or cause fraud or victimization of the public?
Y / N

4.) The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district.
Y / N

5.) Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood?
Y / N

ORDINANCE NO. 2022 - 473

AN ORDINANCE OF CITY OF KEY COLONY BEACH, FLORIDA, AMENDING CHAPTER 6, ARTICLE II ("DANGEROUS STRUCTURES") OF THE CODE OF ORDINANCES OF THE CITY OF KEY COLONY BEACH BY AMENDING SECTION 6-97, WHICH SHALL PROVIDE FOR A CERTIFICATION AND RECERTIFICATION PROCESS FOR EXISTING AND FUTURE MULTISTORY STRUCTURES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS THEREOF FOUND TO BE CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Key Colony Beach, Florida, is a Florida Municipal Corporation with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes, and

WHEREAS, Chapter 166, Florida Statutes, grants the City of Key Colony Beach, Florida, broad municipal home rule powers to provide for the health, safety, and welfare of its residents, business owners, and visitors by enacting regulations for the protection of the public; and

WHEREAS, in light of the recent deadly collapse of the Champlain Tower, it has become readily apparent that there is a significant danger posed by failing to more frequently review and inspect older structures; and

WHEREAS, municipalities across the State of Florida are taking action to strengthen their building inspection and certification protocols to help combat such dangers; and

WHEREAS, to promote the health and safety of the citizens of the City of Key Colony Beach, Florida, and help prevent any similar such disasters that could be caused by a failing structure, a certification and re-certification process must be implemented; and

WHEREAS, the City Council of the City of Key Colony Beach wishes to enact such a process.

WHEREAS, the City of Key Colony Beach finds and declares that the adoption of this Ordinance is appropriate, and in the public interest of this community.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KEY COLONY BEACH, FLORIDA, AS FOLLOWS:

~~Strikethrough~~ = deletion

Bold underline = addition

Section 1: Recitals

The above recitals are true and correct.

Section 2: Effective Date

This Ordinance shall become effective upon approval by the City Commission.

Section 3: Amendment

Chapter 6, Article II, Section 6-97 is hereby amended and reads as follows:

Section 6-97. Existing Buildings.

- (a) **The requirements contained in the Florida Building Code, covering the maintenance of buildings, shall apply to all buildings and/or structures now existing or hereafter erected. All buildings and/or structures and all parts thereof shall be maintained in a safe condition, and all devices or safeguards that are required by the Florida Building Code shall be maintained in good working order. Electrical wiring, apparatus and equipment, and installations for light heat or power and low voltage systems as are required and/or regulated by the Building Code, now existing, or hereinafter installed, shall be maintained in a safe condition and all devices and safeguards maintained in good working order.**
- (b) **This subsection shall not be construed as permitting the removal or non-maintenance of any existing devices or safeguards unless authorized by the Building Official.**
- (c) **Recertification of buildings and components:**
- i. **For the purpose of this Subsection, recertification shall be construed to mean the requirement for a specific inspection of existing buildings and structures and furnishing the Building Official with a written report of such inspection as prescribed herein.**
1. **Such inspection shall be for the purpose of determining the general structural condition of the building or structure to the extent reasonably possible of any part, material or assembly of a building or structure which affects the safety of such building or structure and/or which supports any dead or designed live load, and the general condition of its electrical systems pursuant to the Building Code.**
 2. **Inspections may only be performed by licensed, qualified professional who have submitted written proof, accepted by the Building Official, of experience in the recertification of multiple story buildings.**

- ii. **(1) All multistory buildings, except single-family residences, duplexes, and minor structures as defined below, shall be recertified in the manner described below where such buildings or structures have been in existence for seventeen (17) years or longer, as determined by the Building Official, who shall at such time issue a Notice of Required Inspection to the building owner.**
- (2) Subsequent recertification shall be required at ten (10) year intervals.**
- (3) In the event a building is determined to be structurally and electrically safe under the conditions set forth herein, and such building or structure is less than seventeen (17) years of age, recertification shall not be required for a minimum of ten (10) years from that time, or age seventeen (17) whichever is the longer period of time.**
- iii. **Minor buildings or structures shall, for the purpose of this subsection, be buildings or structures in any occupancy group having an occupant load of ten (10) or less, as determined by Table 1003.1 (FBC) Minimum Occupant Load of the Florida Building Code and having a gross area of 2,000 sq. ft. or less.**
- iv. **(1) The owner of a building or structure subject to recertification shall furnish, or cause to be furnished, within ninety (90) days of Notice of Required Inspection, a written report to the Building Official, prepared by a Professional Engineer or Architect registered in the State of Florida, certifying that each such building or structure is structurally and electrically safe, or has been made structurally and electrically safe for the specified used for continued occupancy.**
- (2) Such written report shall bear the impressed seal and signature of the Responsible Engineer or Architect who has performed the inspection.**
- (3) Such Engineer or Architect shall undertake such assignments only where qualified by training and experience in the specific technical field involved in the inspection and report.**
- (4) Such report shall indicate the manner and type of inspection forming the basis for the report and description of any matters identified as requiring remedial action.**
- (5) There shall be immediate notification to the Building Official upon discovery of any material failure, unsafe condition or threat to the health, welfare or safety of the occupants of the building.**

(6) In the event that repairs, or modifications are found to be necessary resulting from the recertification inspection, the owner shall have a total of 150 days from the date of Notice of Required Inspection in which to complete indicated repairs or modifications which shall be executed in conformance with all applicable Sections of the Building Code.

- v. **When installed on threshold buildings, structural glazing systems, shall be inspected by the owner at 6-month intervals for the first year after completion of installation. The purpose of the inspection shall be to determine the structural condition and adhesive capacity of the silicone sealant. Subsequent inspections shall be performed at least once every 5 years at regular intervals for structurally glazed curtain wall systems install on threshold buildings.**

Section 4: Severability and Conflict

If any portion of this Ordinance is declared by a Court of competent jurisdiction to be invalid or unenforceable, such declaration shall not be deemed to affect the remaining portions of this ordinance. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5: Inclusion in the Code of Ordinances and Land Development Regulations

The provisions of this Ordinance shall be included and incorporated into the Code of Ordinances and Land Development Regulations of the City of Key Colony Beach, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the code.

Section 6: Effective Date

This Ordinance shall become effective upon its adoption by the City of Key Colony Beach Commission.

FIRST READING by the City of Key Colony Beach City Commission this ___ day of May, 2022.

Mayor Patricia Trefry	NO _____ YES _____
Vice Mayor Tom Harding	NO _____ YES _____
Commissioner Kathryn McCullough	NO _____ YES _____
Commissioner John DeNeale	NO _____ YES _____
Commissioner Ron Sutton	NO _____ YES _____

SECOND READING AND DULY ADOPTED by the City of Key Colony Beach City Commission on this ___ day of May, 2022.

Mayor Patricia Trefry	NO _____ YES _____
Vice Mayor Tom Harding	NO _____ YES _____
Commissioner Kathryn McCullough	NO _____ YES _____
Commissioner John DeNeale	NO _____ YES _____
Commissioner Ron Sutton	NO _____ YES _____

DULY PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF KEY COLONY BEACH, FLORIDA, this ___ day of May, 2022.

Patricia Trefry, Mayor

Silvia Gransee, City Clerk

Approved as to form and legal sufficiency:

By the Office of the City Attorney
c/o Dirk M. Smits, Esq.
Vernis & Bowling of the Florida Keys, P.A.
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Islamorada, Florida 33036
Tel: (305) 664-4675
E-mail: dsmits@florida-law.com
keysfiling@florida-law.com



Published Weekly
Marathon, Monroe County, Florida

PROOF OF PUBLICATION

STATE OF FLORIDA COUNTY OF MONROE

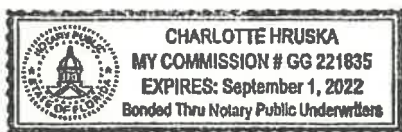
Before the undersigned authority personally appeared JASON KOLER who on oath, says that he is PUBLISHER of the WEEKLY NEWSPAPERS, a weekly newspaper published in Marathon, in Monroe County, Florida; that the attached copy of advertisement was published in said newspaper in the issues of: (date(s) of publication)

April 7, 2022

Affiant further says that the said WEEKLY NEWSPAPERS is a newspaper published at Marathon, in said Monroe County, Florida, and that the said newspaper has heretofore been continuously published in said Monroe County, Florida, once each week (on Thursday) and has been qualified as a second class mail matter at the post office in Marathon, in Monroe County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement. The affiant further says that he has neither paid nor promised any person, firm, or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper(s) and that The Weekly Newspapers is in full compliance with Chapter 50 of the Florida State Statutes on Legal and Official Advertisements.

Sworn to and subscribed before me this 7th day of April, 2022.
(SEAL)

Charlotte Hruska
Notary



**CITY OF KEY COLONY BEACH
NOTICE OF CODE AMENDMENT
HEARING**
NOTICE IS HEREBY GIVEN that the PLANNING AND ZONING BOARD of the City of Key Colony Beach, Florida, will hold a Public Hearing on Wednesday, April 20, 2022, at 9:30 a.m., Key Colony Beach City Hall commission room, to hear amendments to the City's Code of Ordinances. The proposed Ordinance to be heard by the Planning and Zoning Board is (ORDINANCE NO. 2022 - 473), entitled "AN ORDINANCE OF CITY OF KEY COLONY BEACH, FLORIDA, AMENDING CHAPTER 6, ARTICLE II ("DANGEROUS STRUCTURES") OF THE CODE OF ORDINANCES OF THE CITY OF KEY COLONY BEACH BY AMENDING SECTION 6-97, WHICH SHALL PROVIDE FOR A CERTIFICATION AND RECERTIFICATION PROCESS FOR EXISTING AND FUTURE MULTISTORY STRUCTURES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS THEREOF FOUND TO BE IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES AND PROVIDING FOR AN EFFECTIVE DATE." Interested parties may appear at the meeting and be heard with respect to the proposed ordinance. Copies of the proposed Ordinance are available for inspection at the City Hall of Key Colony Beach. The City Commission requests

amendments to Chapter 6, Article II ("Dangerous Structures") of the City's Code of Ordinances by providing a certification and recertification process for existing and future multistory structures, in light of the recent deadly collapse of the Champlain Tower in Miami-Dade County, Florida. It has become readily apparent that there is a significant danger posed by failing to more frequently review and inspect older structures with the City's limits. If any person decides to appeal any decision made by the Planning and Zoning Board with respect to any matter considered at the Code Amendment Hearing, that person will need a record of the proceeding and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. If you are unable to attend the Public Hearing on Wednesday, April 20, 2022, but wish to comment, please direct correspondence to: Planning and Zoning Board of the City of Key Colony Beach, P.O. Box 510141, Key Colony Beach, FL 33051 and your comments will be entered into the record. ** In accordance with Section 166.041, Florida Statutes, and Section 101-173(1) of the City's Code of Ordinances, this advertisement of code amendment should be noticed in a newspaper of general circulation in the City of Key Colony Beach, no less than seven (7) days prior to the date of the hearing.
Publish:
April 7, 2022
The Weekly Newspapers

MINUTES
PLANNING & ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING

Wednesday, April 20, 2022 - 9:30 a.m.
Marble Hall

1. Call to Order/Pledge of Allegiance/Roll Call: Chairperson Joey Raspe called the meeting to order at 9:30 a.m. in the morning followed by the Pledge of Allegiance and Roll Call.

Present: Chair Joey Raspe, Mike Yunker, Tom DiFransico. **Excused:** George Lancaster, Lin Walsh. **Also Present:** City Administrator Dave Turner, City Clerk Silvia Gransee, City Attorney Ryan Benninger, Building Official Gerard Roussin, Building Inspector Gerald Leggett.

Public Attending: 3 Marble Hall

2. Approval of Minutes: The Planning Zoning Board accepted the minutes from March 16, 2022, as written.

3. Administration of Oath to Witnesses: City Clerk Silvia Gransee administered the Oath of Witness to all wishing to give testimony in today's hearing.

4. Citizen Comments and Correspondence: City Clerk Silvia Gransee reported not having received any citizen correspondence and there were no comments from the audience.

Chair Joey Raspe stated that Board Member DiFransico would like to add an agenda item. Board Member Tom DiFransico stated that with all the information that was received on the R2B Zoning comments by the Board that he believes the Board should address the issue. Board Member DiFransico further stated that he is aware that a workshop will be held but was unsure if the Board could talk about the issue at this meeting or at the later meeting. City Attorney Ryan Benninger stated that the Commission had already addressed the matter but if there would be some discussion it would be permissible, but as far as he is aware the workshop will address further discussion. Chair Joey Raspe asked if the Planning & Zoning Board will be part of the workshop which Attorney Ryan Benninger stated he will check on. City Clerk Gransee also stated that the topic was not an agenda item, and that the public was not aware of the topic being discussed.

5. Disclosure of Ex-Parte Communication – Board Member Tom DiFransico stated that himself and City Attorney Ryan Benninger had a phone conversation on Monday where some of the agenda items were briefly discussed, but which will not affect any of his decisions he will be making today. City Attorney Ryan Benninger confirmed that this conversation does not fall under the Ex-Parte Communication Act.

Board Member Mike Yunker stated regarding Item 8 on the agenda, Ordinance 2022-473, stated that he is the General Manager for Castillo de Sol Condominium and that he has been reviewing the ordinance and had a lot of discussion with other Condominium Managers regarding this type of ordinance. Board Member Yunker stated that he does not believe that this will affect his decisions but wanted it known to the Board and have guidance from the City Attorney if he should excuse himself from the issue.

6. Proof of Publications: All affidavits and legal notices were accepted as sufficient.

7. Variance Request: Chair Raspe read the variance request for 200 15th Circle – Owner: Thomas E. Carden. Chair Joey Raspe stated that the variance request is a two-part request for height and setback, and that both will be addressed separately. Chair Raspe further stated that the first variance request to be addressed is the height

setback.

a) Height Variance Request

Mr. Thomas Carden, owner of 200 15th Circle, made his statement to the Planning & Zoning Board. Mr. Thomas Carden stated that it is difficult to build a two-story house above flood on stilts with the upcoming changes in flood maps. Mr. Carden continued by saying that he is only two feet above flood with the current design, and that is why he is requesting the variance.

Building Official Gerard Roussin stated that the Building Department does support the request for a height variance as they do understand the upcoming changes in the FEMA flood maps and proposed LDR changes once the Comp Plan is finished. Building Official Roussin stated that this request would be within the proposed new LDR's even though the variance is a little bit more than what has been granted in the past, as far as the 34-foot height the Board has somewhat adopted, but the Building Department would fully support the variance request as is. Board Member Tom DiFransico asked Building Official Roussin if this design incorporates the additional 2-foot free board that was incorporated at CRS. Building Official Gerard Roussin stated that he does not believe the design incorporates the additional 2 foot of free board, but he stated that the height is still there if needed. Board Member DiFransico stated that he believes that if the variance was granted based upon the new LDR's, the new requirements of the new LDR's should be in place when granting a variance. Building Official Roussin stated that he does not know if that can be legally done as it is not part of the code and does not know if that could be legally mandated and that should be a question for the city attorney. Chair Joey Raspe asked the Building Official if once the LDR is approved, if it then becomes part of the City's rule to have the additional 2 feet of free board incorporated. Building Official Roussin confirmed the question and stated that a sticking point of adopting the additional 2 feet of free board was the CRS ranking for the city, as well as looking at properties that were being redeveloped, to give them their second floor of living space if the first floor was brought into code along with the 2 feet of free board. Building Official Roussin stated that this property does not require this at this time and believes that when the new maps come out this property's elevations will go down one foot compared to now. Building Official Roussin further stated that the Building Department fully supports this variance but would not ask for the free board at this time. Mr. Thomas Carden stated that he could make it work since he is only a couple of feet off. Board Member Tom DiFransico stated that this goes back to the question if it is necessary for CRS as it does not look like it is. Building Official Roussin stated that it is not necessary at this time as the official LDR's have not been adopted yet. Building Official Roussin explained that once the Comp Plan comes back and is adopted, the LDR changes will be sent back to the State to be reviewed and if approved they will be sent back for adoption. Building Official Gerard Roussin stated that the time frame for the Comp Plan has taken longer than anticipated with no prediction on an exact date. City Administrator Dave Turner stated that if it would be 5 years ahead of time, it would be advantageous to build to the new heights and to the new 2-foot free board, and it would cost the homeowner less in flood insurance and it would go to the rating for the city. Board Member DiFransico stated that he agrees with City Administrator Turner but that the Board could not mandate the owner. City Administrator Turner agreed but restated that it would be advantageous for the homeowner. Mr. Thomas Carden stated that he is willing to do it and he can make it work. Building Official Roussin stated that for any new homes that are being built right now, the owners have to sign paperwork that explain that new flood maps, as well as possible new LDR's are coming out, and that owners are aware of it and it should not catch anyone by surprise. Board Member DiFransico asked Building Official Gerard Roussin how the new proposed height requirements concur with the houses in the neighboring area. Building Official Roussin stated that there have been four or five new houses on 14th Street that had been granted a variance of 34 feet, and that the average eye should not notice a difference between a 36'6" and a 34' feet house. Building Official Roussin stated that in his opinion it should not stand out.

Chair Joey Raspe continued the hearing by reading the applicants questions and responses. The Board had no

additional questions for the Building Official nor the applicant on the height variance request.

Height Variance Request - Post Hearing Questions: Chairperson Joey Raspe read the Post Hearing Questions to the Planning & Zoning Board.

1. Has the applicant shown good and sufficient cause to grant the variance?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

2. Will denial of the variance result in unnecessary hardship to the applicant?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

3. Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat to or nuisance, or cause fraud or victimization of the public?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

4. The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

5. Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

b) Setback Variance Request

Chair Joey Raspe read the setback variance request for 200 15th Circle.

Building Official Gerard Roussin explained that the owner is requesting a setback variance of 8'6" where the current standard for the city is 25' from the mean high-water line. The Building Official further explained that rear setbacks have been an issue, and that there have been variance approvals and disapprovals with rear yard setback issues. Building Official Roussin further explained that the property looking at the lot from 15th Circle is between 100 and 110 feet deep and the right side of the property is probably around 75 to 85 feet deep. Building Official Roussin stated that the setback issue can be either addressed with a variance or with a request of leaving the setback. Building Official Roussin further stated that the Building Department does not have an issue with granting a rear yard setback and that this would fall to the Planning and Zoning Commission for a decision.

Mr. Thomas Carden stated that his property is a unique lot, and explained, that by looking at the adjacent house and its design, that if he would build his house in the same design he still would be behind that house. Mr. Thomas Carden further explained that usually setbacks are for line-of-sight to have houses uniform and even with the encroachment he still would be behind 210 15th Circle. Chair Joey Raspe stated that he had not that particular drawing which Mr. Carden provided to the Board. Mr. Carden continued to explain to the Board the particulars of the drawing. Board Member Tom DiFransico asked Mr. Carden on when he purchased the lot which Mr. Carden stated was about a year ago. Chair Joey Raspe asked Mr. Carden if the setback of the house he is living in now is measured to the other side of 14th Street or if it is measured to the canal. Mr. Carden replied that it is measured to the mean waterline of the canal. Mr. Carden further stated that he dredged the canal and made sure that he maintained 25 feet. Chair Joey Raspe stated that it looks like the canal comes closer to Mr. Carden's house which Mr. Carden confirmed. Mr. Carden continued explaining that his lot is an angle, L-shaped lot and a lot bigger lot. Board Member DiFransico asked Building Official Roussin what the purpose is of the 25-foot setback. Building

Official Roussin explained that one of the main reasons for the setback is an area for a pool, an enclosure, or something similar, and also is part of the stormwater area to not run into the canal. Board Member Tom DiFransico further asked if there are other requirements for a pool and runoffs which Building Official Roussin confirmed. Chair Joey Raspe stated that it is important to remember that this property not always had canal bottom which Mr. Carden replied that the canal always had water but was not maintained. Mr. Carden continued to show the Board the original plat. Board Member DiFransico asked Mr. Carden if he had tried to rotate the house to maintain the setback. Mr. Carden stated that it is almost impossible to fit a house on this property with the setback requirements and that he does not want a house that is only 18 feet deep. Mr. Carden continued by saying that he does not believe that there is any house in Key Colony Beach that is only 18 feet deep. Chair Joey Raspe stated that at its shallowest point Mr. Carden should have 25 feet of house, which Mr. Carden stated that there are still overhangs, stairs, and balconies to consider, unless he makes it look like a box which would not match the community. Mr. Carden further stated that it would be really hard to make a deep house, unless he got rid of the front and back porch, but than it would look like a box, which he stated would bring a lot of complaints because it would not look like it belongs in Key Colony. Board Member DiFransico asked Mr. Carden if the depth looking from 15th Circle is 95 feet. Mr. Carden replied that his understanding of the city's ordinance is, that it measures the high waterline, so it does not matter how deep the lot is and that his mean high-water line is 75 feet. The Board did not have any additional questions for Mr. Carden and neither did the Building Official.

Chair Joey Raspe continued the hearing by reading the applicants questions and responses. Chair Joey Raspe stated in response to the question on unnecessary hardship, that ordinances are written to be strictly adhered to and that it does not create a hardship to follow an ordinance and to what it says. Chair Joey Raspe stated that everyone is supposed to do what the ordinance says. Chair Joe Raspe asked Mr. Thomas Carden why he feels that it creates a hardship to follow the rules of the city. Mr. Thomas Carden replied that he has the smallest lot in the zoning district and that the 25-foot setback was created because everyone had bigger lots on 14th Street and 15th Circle and that he himself has one of the smallest lots which creates a hardship for him. Board Member Tom DiFransico commented that this hardship was not self-created, and that Mr. Carden knew about the property line as well as the waterline when he purchased the property. Mr. Carden replied that the canal was not dredged and that he did not know exactly where the dredging would lead. The Board commented that Mr. Carden was one of the proponents for the dredging which Mr. Carden confirmed and further stated he paid for it as well. Mr. Carden further commented that the principle of setbacks is line-of-sight and that his house does not go back any further back than any other houses on that street. Mr. Carden continued explaining the layout of his house in comparison to neighboring houses. Board Member Mike Yunker asked Mr. Carden if the submitted print had his current house on its which Mr. Carden confirmed. Chair Joey Raspe stated that one of his issues is the safety issue of being closer to the canal and he would rather see the house sitting closer to the street. Mr. Carden replied if that is what the Board wants, he could do it, but he believes it looks stupid and that people would not like it. Chair Joey Raspe stated that he lives on 12th Street and that he had to adjust the size of his house due to the lot size and that he never thought about asking for a variance request. Mr. Carden stated that he wants to be a good steward to the Community and wants his house to look like it belongs. Mr. Carden further stated that there are other houses that look terrible and are an embarrassment to Key Colony and he does not want that, but he probably will if he does not get his variance. Mr. Carden said that 14th Street and 15th Circle are beautiful streets and that the Board wants to make sure that the houses all look the same. The Board had no further comments or questions on the hardship question.

Chair Joey Raspe continued reading the applicants questions and answers. Chair Joey Raspe asked if there were any additional questions for the Building Official or Mr. Carden. Board Member Mike Yunker asked Building Official Roussin if the square footage of the lot makes it a reasonable size to build a home that would fit into the perimeters of the setbacks. Building Official Gerard Roussin stated that on any lot within the city a house can be built within the perimeters and believes that the minimum square footage for the area is either 1,200 or 1,300

square feet. Building Official Roussin further stated that a house could be built within the perimeters, but it probably would not be the house someone would want to build. Building Official Roussin stated that the question is a double-edged sword question since a house can be built within the perimeters, but it probably would not look like it belongs.

The Board had no other discussions or questions on the variance request.

Setback Variance Request - Post Hearing Questions: Chairperson Joey Raspe read the Post Hearing Questions to the Planning & Zoning Board.

1. Has the applicant shown good and sufficient cause to grant the variance?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – no. Roll call vote: 2 – YES. 1 – NO.

2. Will denial of the variance result in unnecessary hardship to the applicant?

Roll call: Mike Yunker – yes, Tom DiFransico – no, Joey Raspe – no. Roll call vote: 1 – YES. 2 – NO.

3. Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat to or nuisance, or cause fraud or victimization of the public?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – no. Roll call vote: 2 – YES. 1 – NO.

4. The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – No. Roll call vote: 2 – YES. 1 – NO.

5. Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – no. Roll call vote: 2 – YES. 1 – NO.

d. Planning & Zoning Board Recommendation:

MOTION: Motion made by Tom DiFransico, seconded by Joey Raspe, to approve the granting of the requested height variance for 200 15th Circle.

ON THE MOTION: Roll Call vote. Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Unanimous approval. The Height Variance Request was granted.

MOTION: Motion made by Tom DiFransico, seconded by Joey Raspe, to disapprove the granting of the requested setback variance for 200 15th Circle.

ON THE MOTION: Roll Call vote. Mike Yunker – no, Tom DiFransico – yes, Joey Raspe – yes. 1 – NO, 2 – YES. The Setback Variance Request was denied.

8. Ordinance 2022-473: AN ORDINANCE OF CITY OF KEY COLONY BEACH, FLORIDA, AMENDING CHAPTER 6, ARTICLE II (“DANGEROUS STRUCTURES”) OF THE CODE OF ORDINANCES OF THE CITY OF KEY COLONY BEACH BY AMENDING SECTION 6-97, WHICH SHALL PROVIDE FOR A CERTIFICATION AND RECERTIFICATION PROCESS FOR EXISTING AND FUTURE MULTISTORY STRUCTURES

Chair Joey Raspe read Ordinance No. 2022-473.

Building Official Gerard Roussin explained the ordinance and its correlation to the Surfside collapse in Miami. Building

Official Roussin further stated that what the City is looking for is a shorting of time for inspections on waterfront properties, commercial properties, R3, RH, and the type of designations that do not apply to single family or duplex homes. Building Official Roussin further stated that this ordinance only applies to 2-stories and above, multi family, resort/hotel, commercials, or condos. Building Official Roussin further stated that they are looking for a every 10-year inspection for buildings that are over 17 years old and would like to have a recertification every 10 years. Building Official Roussin continued by saying that current recertifications are every 40 years. Building Official Roussin further stated that a 40-year recertification on a building is pretty much a lifespan of a building and that they are trying to avoid this issue. Building Official Roussin explained that a private engineer will do electrical and structural inspections with certain time frames of having issues addressed including permits, engineering drawings on how repairs are being made. Building Official Roussin further said that this is a safe ordinance and well deserved after seeing what happened. Chair Joey Raspe asked Building Official Roussin if the Building Department provides the engineer or if it is an independent person. Building Official Roussin clarified that it is an independent company that Building hires and that the report gets reviewed by the Building Department. Board Member DiFransico asked if the engineer has to be approved the by Building Department which Building Official Roussin explained does not but has to be a state certified engineer. Board Member DiFransico asked for clarification for the wording in the proposed ordinance regarding the certification requirements on page 32. Building Official Roussin stated that the Building Department knows most local engineers and that this would pertain to out-of-town engineers as the Building Department would need to see their certification. Board Member DiFransico stated that he has several comments on the drafting of the ordinance. Board Member DiFransico stated that the qualification requirements on page 32, and middle of 33, state different requirements and that he is questioning the different requirements. Building Official Roussin stated that a qualified building inspector is not a structural engineer, and the structural engineer is a better degree than what they hold. Board Member DiFransico and Building Official Roussin continued to talk about the different qualifications for engineers. Board Member DiFransico suggested that the ordinance be redrafted regarding the qualifications to make it clearer to understand. Board Member DiFransico further commented on the timing of 90 days for the inspection and report to the city, following 60 days to complete repairs. Board Member DiFransico stated that the time frames do not seem right to him and further said that some repair work might take longer then 60 days. Board Member DiFransico asked the Building Official to adjust the timing which Building Official Roussin stated can be accomplished either with a longer time frame or verbiage of that a permit has been applied for. Board Member DiFransico clarified that he would leave the exact verbiage to Building Official Roussin. Chair Joey Raspe asked the Building Official if he would be comfortable with giving extensions which Building Official Roussin confirmed. Building Official Roussin further explained that it is understood what the work situation in the Keys looks like with getting things done in a timely manner and that there is not a huge workforce to draw from. Board Member DiFransico further asked Building Official Roussin to define what a multi-story building looks like and suggested to define the meaning in the ordinance. Board Member DiFransico further asked for a definition of a threshold building on page 34. Building Official Roussin explained that a threshold is a any type of visum construction, and that as part of the new Florida Building Code a Threshold Inspector is needed for new buildings. Board Member DiFransico suggested to Building Official Roussin to define the meaning of a threshold building which Building Official Roussin agreed to. City Attorney Ryan Benninger asked if it is the Boards recommendation to add a definitions section, which Board Member DiFransico stated would be his personal recommendation or have it somewhere else referred to for explanation. Board Member Mike Yunker asked if the purpose of the ordinance is to bring any required structure up to current electrical code or if this is to address any safety issues in the electric. Building Official Roussin stated that it is safety only and no one can be forced to upgrade to current code. Board Member Mike Yunker further asked for clarification on verbiage on page 32 and asked for clarifications on the definitions of minor structures on page 33 and the occupant load of 10 or less. Building Official Roussin explained that the 10-load occupancy refers to multi-family units and is a different standard than low-load occupancy. Board Member Mike Yunker asked how qualifications on multi-units were calculated which Building Official was not certain on but would follow up on. Board Member Mike Yunker further asked on the definition on how square footage applies for minor buildings, which Building Official Roussin was not sure on, but stated will be made part of their definitions section that will be added to the ordinance after being researched. Board Member Yunker asked Building Official Roussin on why the proposed ordinance applies to condos but not to single family residences. Building Official Roussin explained that he does not know the answer to that question, especially knowing that many single-family residences have major spalling, but believes that the property owners rights might be different for single-family residences compared to multi-family residences with condo associations. Chair Joey Raspe stated that this might be comparable to being a third party being responsible as opposed to being the actual homeowner. Building Official Roussin stated that he does not believe that there will be any problems in the city as most buildings do their repairs and normal

maintenance when it is supposed to be done. Building Official Roussin stated that the proposed ordinance will give the city a little bit more teeth when asking for inspection to be done in a timely manner and a good step forward in the safety process. Upon discussion with City Attorney Ryan Benninger the Board agreed upon the ordinance to be redrafted and presented back to the Planning and Zoning Board at next month's meeting.

9. There was no other business.

10. The meeting adjourned at 10:26 a.m.

Respectfully

Silvia Gransee

City Clerk

ADOPTED: May 18th, 2022

Silvia Gransee

City Clerk

AGENDA

KEY COLONY BEACH CITY COMMISSION PUBLIC HEARING

Thursday, May 26, 2022 – 9:30 a.m.

City Hall Auditorium & Virtually Via Zoom Conferencing

Zoom Meeting ID: 876 6278 8643 - Passcode: 280621

- 1. *Call to Order, Pledge of Allegiance, Prayer, Roll Call***
- 2. *Administration of Oath to Witnesses***
- 3. *Citizen Comments***
- 4. *Disclosure of Ex-Parte Communications – Commissioners – Pg. 1***
- 5. *Proof of Publications, Affidavit of Mailing/Posting Notices – Pgs. 2-6***
- 6. *Variance Request: 200 15th Circle – Owner: Thomas E. Carden***

Applicant requests a Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6'-8'. Current maximum height is 30'0".

The Applicant further requests a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'.

a. Presentation of Variance Request – Building Department – Pgs. 7-18

b. Statement by Applicant – Pgs. 19-21

c. Planning & Zoning Board Recommendation – Pgs. 22-23

d. Planning & Zoning Board Adopted Minutes from the 04-20-2022 Hearing – Pgs. 24-30

- 7. *Commissioner Comments***
- 8. *Motion to Approve, Deny, or Approve with Conditions***
- 9. *Adjournment***

“Members of the public may speak for three minutes and may only speak once unless waived by a majority vote of the commission.”

Letters submitted to the city clerk to be read at the Commission Meeting will be made part of the record but not read into record. Persons who need accommodations in order to attend or participate in this meeting should contact the city clerk at 305-289-1212 at least 48 hours prior to this meeting in order to request such assistance. If a person decides to appeal any decision made with respect to any matter considered at any meeting, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

EX-PARTE COMMUNICATIONS

An ex-parte communication is defined as:

any contact, conversation, communication, writing, correspondence, memorandum or any other verbal or written communication that takes place outside a public hearing between a member of the public and a member of a quasi-judicial board, regarding matters which are to be heard and decided by said quasi-judicial board.

Site visits and expert opinions are also considered ex-parte communications.

In the event that someone contacts a Board Member about a quasi-judicial matter outside of a public meeting, at such time that particular issue is brought before the Board, the Board Member should state on the record:

- the existence of any ex-parte communication,
- the nature of the communication,
- the party who originated the ex-parte communication, and
- whether or not the ex-parte communication affects your ability to impartially consider the evidence presented.

Similarly, any correspondence received by a Board Member must be forwarded to the Board Clerk.

Note: The term "Board Member" would include all members of the Code Enforcement Board, the Planning & Zoning Committee, and the City Commission when they are acting in a quasi-judicial capacity (for example, but not limited to, code violation hearings and variance hearings).

AFFIDAVIT OF MAILING

**STATE OF FLORIDA
COUNTY OF MONROE**

Before me, the undersigned authority, personally appeared Silvia Gransee, who, having been first duly sworn according to law, deposes and says:

1. I am City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the 22 day of April, 2022 (no less than 30 days prior to the City Commission Public Hearing on May 26, 2022) I mailed the Notice of Hearing by first class U.S. mail to the address on file with the Monroe County Property Appraiser's Office for all property owners within 300 feet of the property located at 200 15th Circle

Silvia Gransee
Signature

Sworn and subscribed before me this
22nd day of April, 2022.

Patricia Hyland
Notary Public, State of Florida
My commission expires: 9/30/24

Personally known

____ Produced _____ as identification



City of Key Colony Beach

PO Box 510141 Key Colony Beach, Florida • Phone # 305-289-1212 • Fax# 305-289-1767



To: Property Owners within 300 feet of 200 15th Circle
From: Key Colony Beach Planning and Zoning Board
Subject: Variance Request

CITY OF KEY COLONY BEACH NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Commission of the City of Key Colony Beach, Florida, will hold a **Public Hearing on Thursday, May 26, 2022, at 9:30 A.M.**, Key Colony Beach City Hall Commission Room to hear a Variance Request from Thomas E. Carden, Owner of 200 15th Circle. This meeting will be available virtually via Zoom Meetings. Members of the public who wish to attend virtually may email cityclerk@keycolonybeach.net or call 305-289-1212, Ext. 2 for further instructions on attending via Zoom Meetings.

Applicant requests a Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6'-8'. Current maximum height is 30'0".

The Applicant further requests a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'.

Interested parties may attend the Hearing and be heard with respect to the requested variance.

If any person decides to appeal any decision made by the Planning & Zoning Board with respect to any matter considered at the Variance Hearing, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

If you are unable to attend the Hearing on **Thursday, May 26, 2022**, but wish to comment, please direct correspondence to P.O. Box 510141, Key Colony Beach, FL 33051, or cityclerk@keycolonybeach.net and your comments will be entered into the record.

Mailed: On or Before April 25, 2022

City of Key Colony Beach

**CITY OF KEY COLONY BEACH
NOTICE OF VARIANCE HEARING**

NOTICE IS HEREBY GIVEN that the City Commission of the City of Key Colony Beach, Florida, will hold a **Public Hearing on Thursday, May 26, at 9:30 A.M.**, Key Colony Beach City Hall commission room, to hear a Variance Request from Thomas E. Carden, Owner of 200 15th Circle. This meeting will be available virtually via Zoom Meetings. Members of the public who wish to attend virtually may email cityclerk@keycolonybeach.net or call 305-289-1212, Ext. 2 for further instructions on attending via Zoom Meetings.

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POSTED: On or Before May 12, 2022

CITY OF KEY COLONY BEACH



Published Weekly
Marathon, Monroe County, Florida

PROOF OF PUBLICATION

**STATE OF FLORIDA
COUNTY OF MONROE**

Before the undersigned authority personally appeared JASON KOLER who on oath, says that he is PUBLISHER of the WEEKLY NEWSPAPERS, a weekly newspaper published in Marathon, in Monroe County, Florida; that the attached copy of advertisement was published in said newspaper in the issues of: (date(s) of publication)

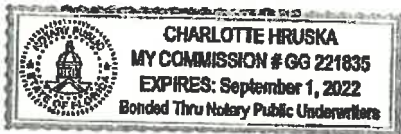
May 19, 2022

Affiant further says that the said WEEKLY NEWSPAPERS is a newspaper published at Marathon, in said Monroe County, Florida, and that the said newspaper has heretofore been continuously published in said Monroe County, Florida, once each week (on Thursday) and has been qualified as a second class mail matter at the post office in Marathon, in Monroe County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement. The affiant further says that he has neither paid nor promised any person, firm, or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper(s) and that The Weekly Newspapers is in full compliance with Chapter 50 of the Florida State Statutes on Legal and Official Advertisements.

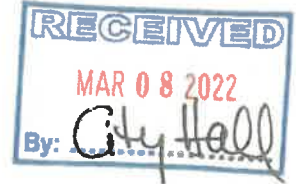
**CITY OF KEY COLONY BEACH
NOTICE OF VARIANCE HEARING**
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**CITY OF KEY COLONY BEACH
Publishes
May 19, 2022
The Weekly Newspapers**

Sworn to and subscribed before me this 19 day of May, 2022.
(SEAL)

Charlotte Hruska
Notary



CITY OF KEY COLONY BEACH
P.O. BOX 510141
KEY COLONY BEACH, FL 33051-0141
305-289-1212 FAX: 305-289-1767



APPLICATION FOR VARIANCE

APPLICANT: Thomas E Carden 815 329-5220
Property Owner Name Phone Number
200
190 15th circle K.C.B. 4 3 COURY SUBD
Street Address of Variance Lot Block Subdivision
696 105th Street Marathon FL 33050
Mailing Address of Property Owner

Owners may have an agent complete this application and represent them at the hearings. In this case, owners must attach to this application a written, signed statement stating the name of the individual or business that may represent them in this matter.

Agent Name Agent Phone Number

VARIANCE REQUESTED to: Land Development Regulations Chapter 101, Section 10 R1A (5) (8)
Code of Ordinances Chapter _____, Section _____

DESCRIPTION OF VARIANCE: Please describe the variance request in regard to type of structure, location on lot, distance from side, rear or front lot lines, or details of the variance, including the current rule in effect and the reason for the variance (for example, building would encroach into the setback by _____ feet). Also state if this is for future construction or existing conditions.

I'm requesting a rear yard variance of 8'-6". The furthest point of the back of the proposed single family home will encroach into the 25 foot rear yard setback by 8'-6". This lot has a unique and deviated feature that the other adjacent lots do not have. The property, when originally platted was designed with the rear property line at an angle making the right side of the lot dramatically shorter in depth.

I'm also requesting a height variance of 6'-8" above the 30 foot height requirement. The reason for the height increase is to anticipate the new/proposed flood maps being approved. This height increase is less than the 40 foot building height ordinance change that was proposed by the city.

Please attach the following to this application:

- A sketch or site plan of the property showing the variance requested.
- Written responses to the five criteria (questions attached).
- Fee of \$700.00

Signature of Applicant

Thomas Carden

dotloop verified
02/22/22 9:30 AM EST
MOHM-OPST-MHEL-UPVM

Office Use Only

Date Filed

3-8-2022

Date Paid

3-8-22

Check #

1167

Variance granted / denied on (date) _____

Shirley Grace
Signature of City Official

Applicant Questions and Responses-

Summarizing Land Development Code 101-171 (5)(a): Variances shall be approved only if the applicant can demonstrate a good and sufficient cause, that denial would result in unnecessary hardship, it will not be contrary to the public interest, that special conditions exist, and that it will not confer any special privilege on the applicant. Please see the attached pages for the entire city codes relating to Variances.

To assist the Planning & Zoning Committee and City Commission in evaluating this variance request, please answer the following questions:

1. What is the "good and sufficient cause" that explains why this variance should be granted?

This lot has a unique and deviated feature that the other adjacent lots do not have.

2. What are the unnecessary hardships that would result if the variance is not granted?

Unnecessary hardship would result from the strict application of the ordinance and would make designing a home on this lot very difficult.

The hardship is not a self-created hardship and the hardship resulted from conditions that are peculiar to this property.

3. If this variance is granted, would there be any increase to public expense that would not otherwise occur? Would it create a threat to public health and safety? Would it create a nuisance? Or cause fraud or victimization of the public?

The variance if granted would not cause any increases to public expense or create a threat to public health and safety. The variance would not cause a nuisance. The proposed location of the building into the rear yard setback still would be behind the adjacent home. See reference point of line of sight on the drawing for the adjacent home.

4. What are the unique or peculiar physical/geographical circumstances or conditions that apply to this property, but do not apply to other properties in the same zoning district?

This lot has a unique and deviated feature that the other adjacent lots do not have. The property, when originally platted was designed with the rear property line at an angle making the right side of the lot dramatically shorter in depth than the adjacent lots.

5. If the variance is granted, would it confer upon the applicant any special privilege that is denied to other properties in the immediate neighborhood in terms of the established development pattern?

No, it just would make this lot useable like every other lot and still have the same rear line of sight of the adjacent properties.

Office Use Only

Comments and Recommendation of the Building Official

Applicant Questions and Responses-

LAND DEVELOPMENT REGULATIONS - Section 101-171. Variances.

- (1) **Initiation.** Any owner, agent, lessee or occupant of land or a structure may apply in writing to the city clerk for a variance, on that land, from the requirements of this chapter, except that no request for a use variance will be considered. Details must be included with the request and be filed with the city clerk together with the established fee for a variance. If the applicant is other than the owner of the property, the written consent of the owner for the variance requested must be submitted with the application. When the petitioner is a public agency, the city commission may authorize the waiver or reduction of the fee.
- (2) **Planning and zoning committee procedure.**
 - (a) Upon receipt of a written request, the city clerk will deliver the request to the planning and zoning committee.
 - (b) The planning and zoning committee shall make an investigation of the conditions pertaining to the requested variance in advance of the public hearing by the city commission. This investigation shall be at a duly noticed meeting. Mailing of notice of the meeting shall be made by the city to all property owners within three hundred (300) feet of the boundaries of the property which is the subject of the variance request.
 - (c) The planning and zoning committee, shall make their recommendation to the city commission in writing, based upon the standards in (5) below. They may recommend approval or disapproval of the variance or may recommend approval of the same subject to such specified conditions as it may deem to be necessary or advisable in furtherance of the provisions of this chapter. Reasons for the recommendation shall be stated.
- (3) **City commission procedure.**
 - (a) After receipt of the planning and zoning committee report, the city commission shall give notice in a newspaper stating the date, time and place of a city commission public hearing as provided for in section 101-173.
 - (b) After their public hearing the city commission may approve or disapprove the requested variance or may approve the same subject to specified conditions as it may deem to be necessary or advisable in furtherance of the provisions of the zoning ordinance. If the applicant desires to present evidence not presented to the planning and zoning committee, the matter shall be returned to the planning and zoning committee for further deliberation and recommendation unless the city commission finds by majority vote that the new evidence is insignificant or unsubstantial.
 - (c) The commission shall state reasons for their decision, based on the standards detailed in (5) below.
 - (d) The decision of the city commission shall be final. No new request for similar action concerning the same property may be made to the city commission or planning and zoning committee for a period of not less than six (6) months after the date of said decision by the city commission.
- (4) **Effective period.**

A building permit application must be submitted within twelve (12) months of variance approval otherwise the approval expires. Any extension of up to twelve (12) months may be granted by the city commission for good cause.

Applicant Questions and Responses-

(5) Standards for granting variances.

(a) Specific criteria:

- (1) The applicant shall demonstrate a showing of good and sufficient cause;**
- (2) Failure to grant the variance would result in unnecessary hardship to the applicant;**
- (3) Granting the variance will not result in increased public expenses, create a threat to public health and safety, create a public nuisance, or cause fraud or victimization of the public;**
- (4) Property has unique or peculiar circumstances, which apply to this property, but which do not apply to other properties in the same zoning district;**
- (5) Granting the variance will not give the applicant any special privilege denied other properties in the immediate neighborhood in terms of established development patterns.**

(b) Recommendations to the city commission.

- (1) If all 5 specific criteria are met, then the planning & zoning committee shall recommend approval to the city commission. Approval by the city commission would be by majority vote of the city commission.**

If the planning & zoning committee finds the five (5) specific criteria are not met, they shall recommend disapproval of the variance unless they specifically find that the granting of the variance will have minimal adverse effect on other citizens of the city or on the city. Approval of a variance where all five (5) specific criteria are not met shall require a favorable vote of four-fifths (4/5) of the city commission.

- (2) Conditions: The planning and zoning committee may recommend, and the city commission may prescribe, appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.**
- (3) Use Variance: Under no circumstances shall the city commission grant a variance to permit a use not generally permitted in the zoning district. No nonconforming use of neighboring lands, structures or buildings in the zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.**

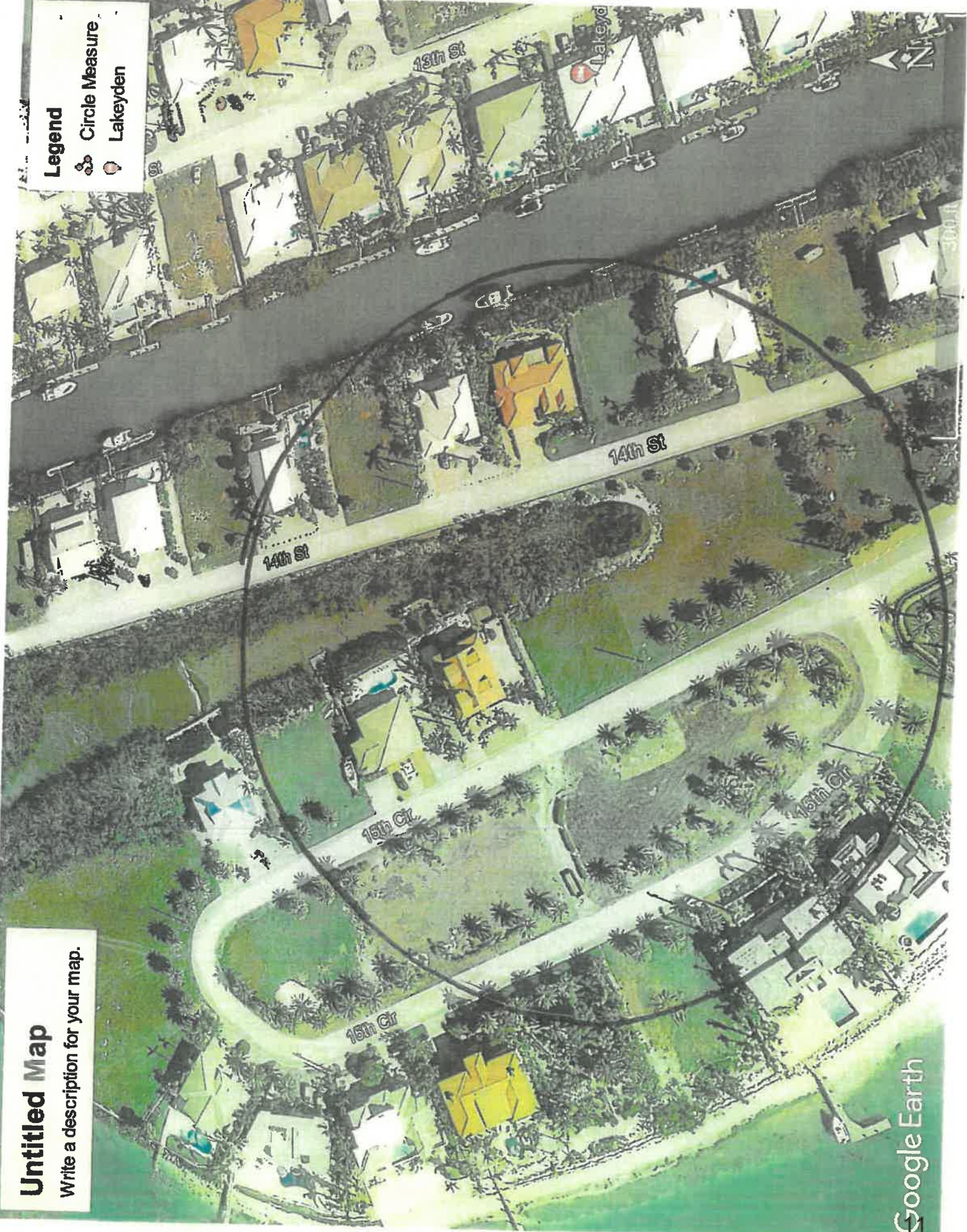
Untitled Map

Write a description for your map.

Legend

Circle Measure

Lakeyden

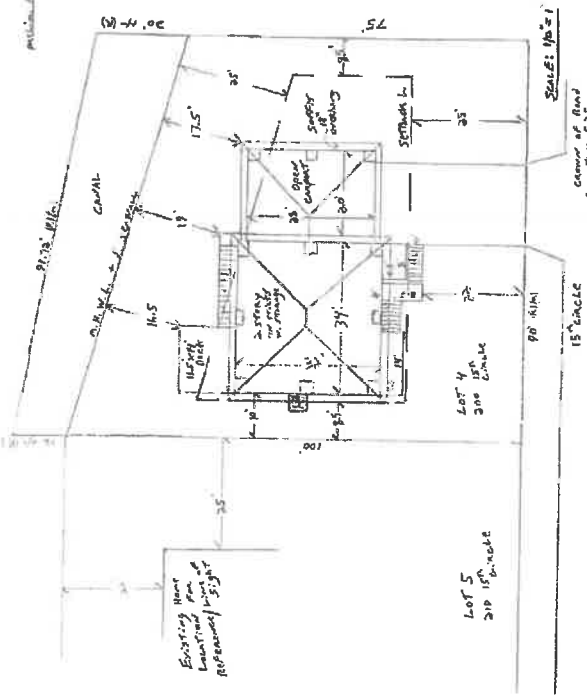
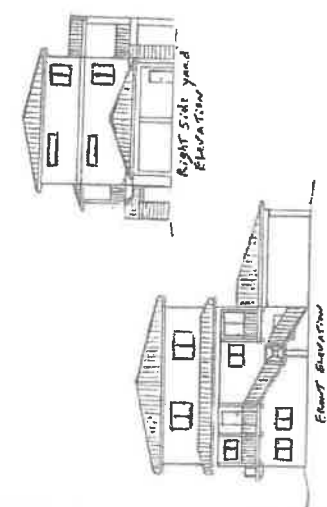
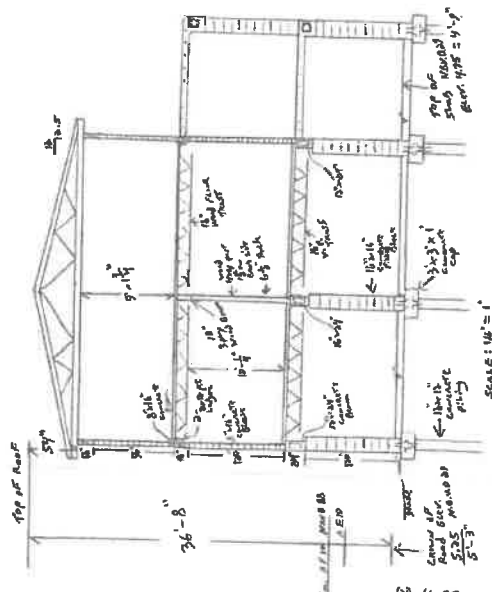


Mount Center
 Lot 4 300 ft x 150 ft
 125-331-5000

EXISTING L.R.I.A.

(A) Building Information:

- (1) The platform encroaches into the side yard by 3' which is allowed per sec. 101.33 (c)
 - (2) Front porch platform and staircase project into the rear yard setback by 3 feet. Which is allowed per sec. 101.33 (c)
 - (3) The Rear yard Deck encroaches into the Rear yard setback by 8'-6"
 - (4) The Deck structure projects into the Rear yard setback by 8'-0"
 - (5) The open ramp encroaches into the Rear yard setback by 7'-6"
 - (6) The building height to the top of the roof is 36'-8" from the corner to the rear, which is a projection past the building height of 6'-8"
- (B) Narrative:
- (1) Rooms 3, 4 and 5 require a minimum of 8'-6" into the rear yard setback.
 - (2) Member to meet a minimum height of 6'-8" above the 30' rear building height. Building height is measured from the corner on the rear per applicable District rules.



James Easton
 Lot 4 300 sq. ft. parcel
 115-114-5220

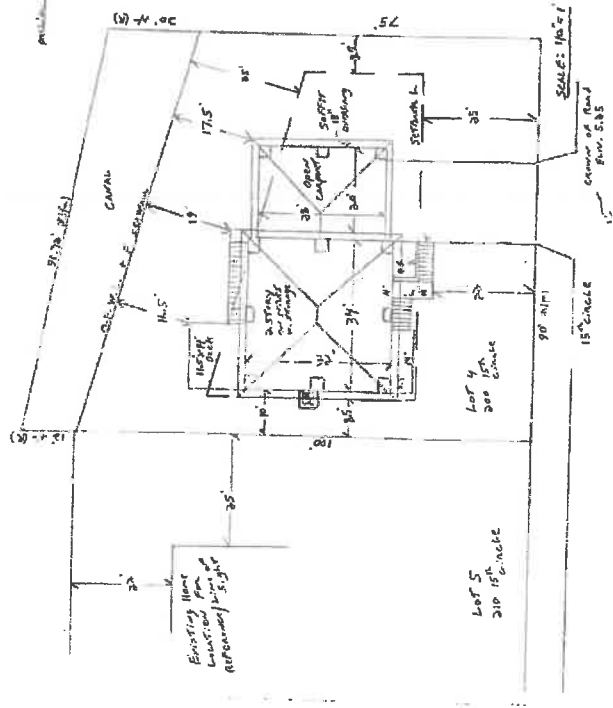
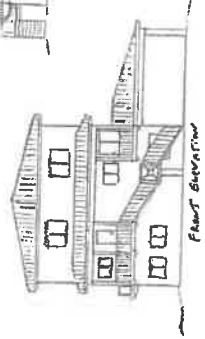
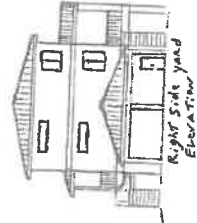
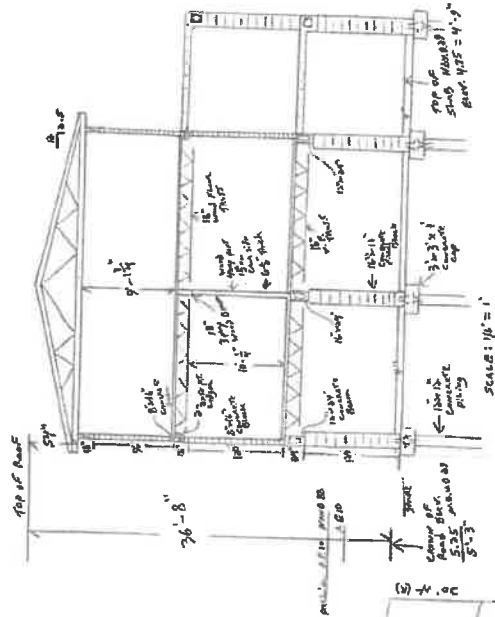
ZONING R.I.A

(A) Building Footprints:

- (1) The perimeter enclosure sets the side yard setback by 3'-0" which is allowed per sec. 101.20 (c)
- (2) Front yard setback and side yard setback into the front yard setback by 3 feet, which is allowed per sec. 101.20 (c)
- (3) The Backyard Deck enclosure sets the rear yard setback by 8'-6"
- (4) The back staircase project into the rear yard setback by 6'-0"
- (5) The rear corner enclosure sets the rear yard setback by 7'-6"
- (6) The building height to the top of the roof/ridge is 34'-8" from the corner of the roof, which is a projection past the building height of 6'-8"

(B) Dimensions:

- (1) Minimum 3' and 5' require a variance of 8'-6" into the rear yard setback.
- (2) Minimum 6' require a variance return of 6'-8" above the 34' max building height. Building height is measured from the corner of the roof per applicable provisions.



Burns & Sawyer
 Lot 4 - 200 1st Street
 City - 331-5230

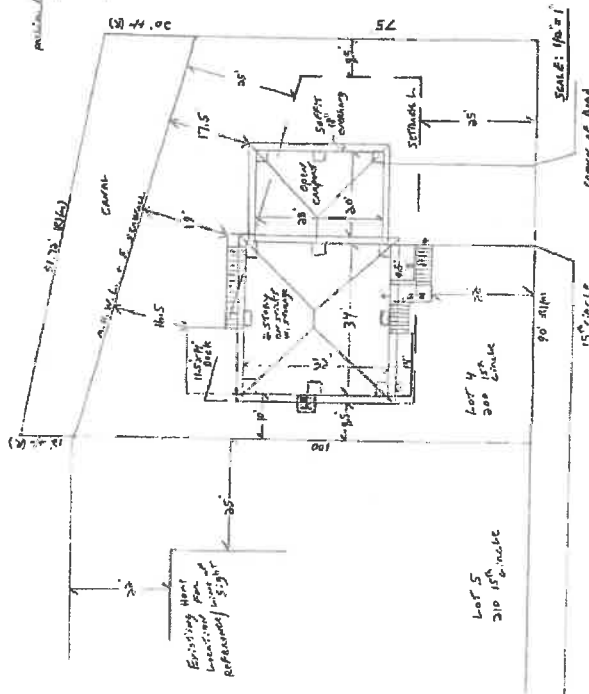
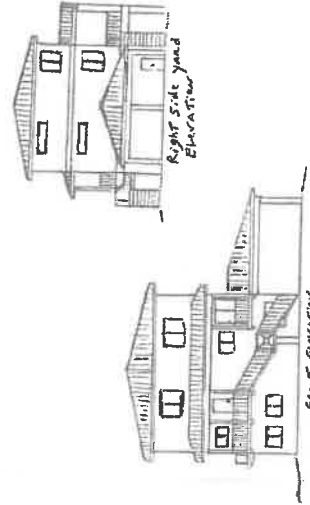
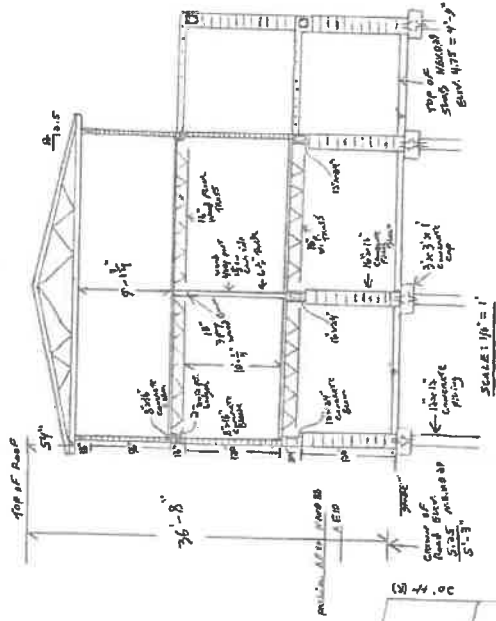
Zoning: R1A

(A) Existing Conditions:

- (1) NYC uniform eave-to-roof ratio for 2nd story is 34" which is allowed for sec. 101.23 (c)
- (2) Front setback provisions and setbacks apply to the front yard setback by 3 feet, which is allowed for sec. 101.23 (b)
- (3) The front yard setback is 3'-0"
- (4) The side setback is 5'-0" into the rear yard setback by 5'-0" into the rear yard setback by 7'-6"
- (5) The rear setback is 7'-6"
- (6) The building height to the top of the roof is 31'-8" from the corner of the lot, which is a projection past the building height of 6'-8"

(B) Variances:

- (1) Number 3, 4 and 5 require a variance of 3'-6" into the rear yard setback.
- (2) Number 6 needs a variance request of 6'-8" above the 30' rear building height, building height is measured from the corner of the lot from outside dimensions.

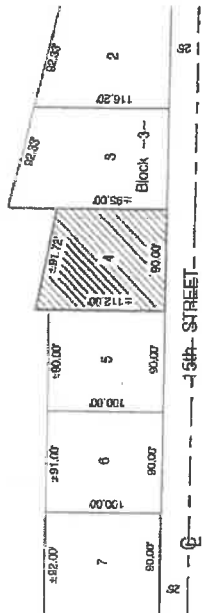


LOCATION MAP

Scale: 1" = 100'



CANAL

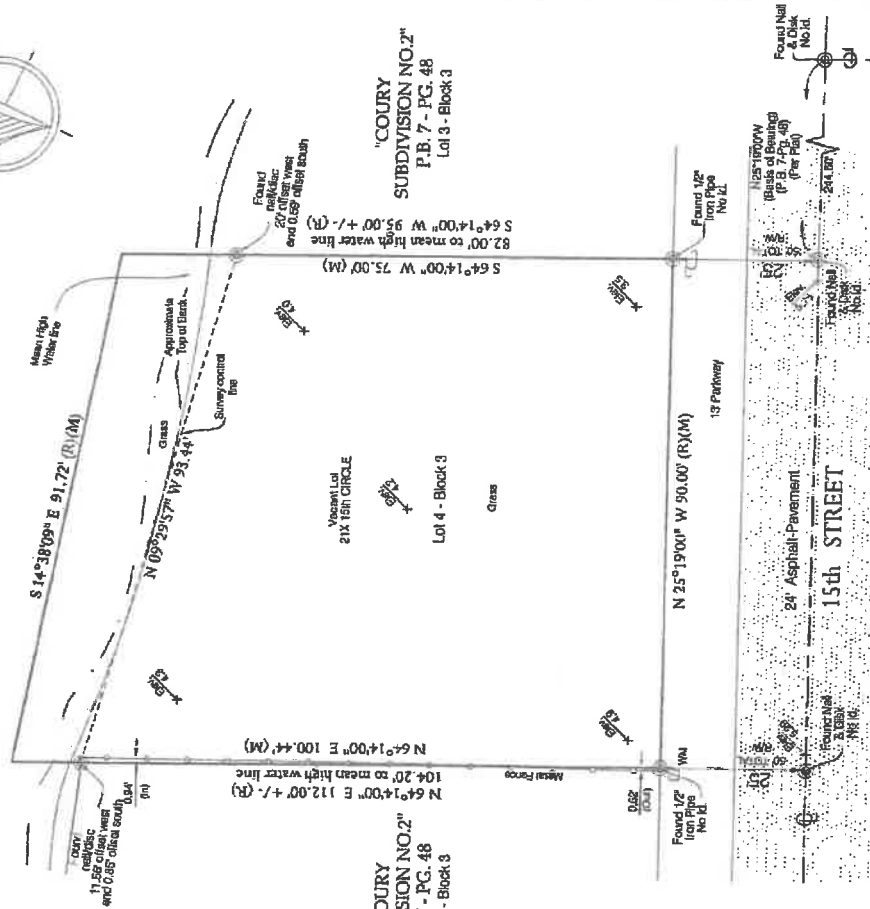


MAP OF SURVEY

Scale: 1" = 20'



CANAL



CERTIFIED TO:
THOMAS GARDEN
PRIMO AMY

ABBREVIATIONS AND LEGEND:

- AC CONC. - DENOTES AIR CONDITIONING UNIT
- DENOTES CONCRETE
- (Meas) - DENOTES MEASURE
- (Calc) - DENOTES CALCULATED
- R/W - DENOTES RIGHT-OF-WAY
- Q - DENOTES QUANTITY
- U.E. - DENOTES UTILITY EASEMENT
- P.G. - DENOTES PLAT BOOK
- CL - DENOTES CLEAR
- N, S, E, W - DENOTES NORTH, SOUTH, EAST, WEST
- D, L, R - DENOTES DELTA, RADIUS, LENGTH
- CH - DENOTES CHORD LENGTH
- OS - DENOTES OFFSET
- ID. - DENOTES IDENTIFICATION
- DENOTES WATER METER
- DENOTES WOOD POWER POLE
- DENOTES CHAIN LINK FENCE
- DENOTES IRON FENCE
- DENOTES OVERHEAD WIRES
- DENOTES FOUND IRON PIPE (NO ID.)

LEGAL DESCRIPTION:
P.L. 007872-00800
BLOCK 3, COURTY SUBDIVISION NO. 2, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 46, OF THE PUBLIC RECORDS, OF MONROE COUNTY, FLORIDA

PROPERTY ADDRESS:
21K 15th CIRCLE, KEY COLONY BEACH, FL 32061

FLOOD ZONE: AE COMMUNITY: 125121 PANEL: 1282 ELEVATION 9 AND 10 SURFIC K

GENERAL NOTES:

- 1) LEGAL DESCRIPTION PROVIDED BY OTHERS.
- 2) EXAMINATION OF THE TITLE WILL HAVE TO BE MADE TO DETERMINE RECORD INSTRUMENTS, IF ANY, AFFECTING THE PROPERTY.
- 3) THE LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR EASEMENT OR OTHER RECORDED ENCUMBRANCES NOT SHOWN ON THE PLAT.
- 4) UNDERGROUND PORTION OF FOOTING, FOUNDATIONS OR OTHER IMPROVEMENTS WERE NOT LOCATED.
- 5) ANY UTILITY OR ABOVE GROUND ENCROACHMENTS LOCATED.
- 6) ANY UTILITY OR ABOVE GROUND ENCROACHMENTS NOT SHOWN.
- 7) FENCE OWNERSHIP IS NOT BEING CLAIMED.
- 8) BEARINGS REFERENCED TO LINE NOTED AS B.B.
- 9) BOUNDARY SURVEY MEANS A DRAWING AND/OR GRAPHIC REPRESENTATION OF THE SURVEY WORK PERFORMED IN THE FIELD, COULD BE DRAWN AT A SHOWN SCALE AND NOT TO SCALE.
- 10) ANY INFORMATION FOUND ON PROPERTY CORNERS UNLESS NOTED.
- 11) DIMENSIONS SHOWN ARE PLAT DIMENSIONS UNLESS OTHERWISE NOTED.
- 12) DIMENSIONS SHOWN ARE PLAT DIMENSIONS UNLESS OTHERWISE NOTED.
- 13) ELEVATIONS IF SHOWN ARE BASED UPON M.S.L.D. 1988.
- 14) THIS IS A BOUNDARY SURVEY UNLESS OTHERWISE NOTED.
- 15) THIS BOUNDARY SURVEY HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE ENTITIES NAME HEREON. THE CERTIFICATIONS DO NOT EXTEND TO ANY UNNAMED PARTIES.

CERTIFICATION:

SURVEYOR CERTIFICATION: I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY IS A TRUE AND CORRECT REPRESENTATION OF A BOUNDARY SURVEY PREPARED UNDER MY DIRECTION, THAT THE SURVEY MEASUREMENTS AND TECHNICAL STANDARDS, AS SET FORTH IN THE STATE OF FLORIDA, ARE OF PROFESSIONAL QUALITY AND THAT I AM A LICENSED SURVEYOR UNDER THE FLORIDA ADMINISTRATION CODE CHAPTER 47, PER CHAPTER 47.061, FLORIDA STATUTES.

SIGNED: *[Signature]* FOR THE FIRM
MICHEL ESPINOSA, P.E., S.W. 5101 STATE OF FLORIDA
NOT VALID WITHOUT AUTHENTIC SIGNATURE AND
AUTHENTIC ID. OR TRONC SIGNATURE AND
WITHOUT THE SIGNATURE AND/OR ORIGINAL SEALED OF A LICENSE
SURVEYOR AND PER.

MICHEL ESPINOSA LAND SURVEYING INC.
PROFESSIONAL SURVEYOR AND MAPPER
10200 S.W. 134 STREET, MIAMI, FLORIDA 33176
PHONE: (305) 282-9592

BOUNDARY SURVEY
Plan Date: 03/08/2021
Revision Date: 03/08/2021
Revision Description: O.D.
Job No.: S-14422

U.L.B. No. 042

Silvia Gransee

From: Thomas Carden <thomascarden@cbschmitt.com>
Sent: Wednesday, April 20, 2022 10:04 PM
To: Silvia Gransee
Cc: kcbtrefry@gmail.com; kcbtomharding@gmail.com; kcbkathryn@gmail.com; jwdeneale@comcast.net; r3sut@aol.com
Subject: [External] 200 15th circle
Attachments: 200 15th Circle - Colored Diagram.pdf; 200 15th - No colors .pdf

I'm writing this E-mail to justify my variance request for the rear yard setback and providing clarification.

During the Building & Zoning meeting on 4/20/22 the vote was 2 against and 1 for approval. Unfortunately all five members were not present; it would have been nice to see the other member's opinions. Joey stated during the meeting, "I bought a lot and I had to follow the setbacks and I made it work." He also stated, "It's not a hardship and my dredging of the canal caused the irregularity." His comments are total unjustified and his comments about the canal project are ignorant.

If the canal maintenance dredging project never happened, the mean high water line; which is where your setback starts per the ordinance would be at the same location and I still would need a variance. The water line location has never changed. What did change is the removal of the vegetation and now you can see the water line more clearly. This lot was platted with the deviation/hardship and was not self-created. This lot has a unique and deviated feature that the other adjacent lots do not have. This property when originally plated was designed with the rear property line at an angle making the right side of the lot dramatically shorter in depth then the adjacent lots.

This lot is a prime example per Florida law as to why a variance request was established.

Generally, a variance is authorized if due to circumstances unique to the applicant's property itself and not shared by other properties in the area; there exists an undue and unnecessary hardship created by the zoning regulations. This lot is nothing like the other adjacent lots in size, shape and is unique; especially with the back yard at a 45 degree angle.

Joey also stated in the meeting he would be fine with a 8 foot setback encroachment in the front. I would not be fine with that owning the house next door and neither would any neighbor; it would look aesthetically displeasing.

One of the main reasons for setbacks requirements is building uniform appearance/line of sight. It wouldn't look good if the houses on a street where staggered back in forth.

My proposed plan shows a uniform appearance location even with the 8 foot 6 inch encroachment to the rear yard setback. If you look at the plan provided you will see the back of the house/porch still does not go past the adjacent house located at 210 15th Circle. If an aerial picture was provided after the house was completed, it would show all the homes on 15th circle canal side uniformed and my porch would still be behind everyone else's home. This encroachment is not extending past anyone's line of sight in the rear yard.

I designed the rear home encroachments as minimal as possible. The whole house in the back yard is not entirely encroaching into the rear yard setback of 8 feet 6 inches. Only part of the corner of the porch encroaches, which is 112 square feet of area into the setback (See Picture). Also the back stairs and part of the corner of the house encroaches 6 feet into the setback, which is 40 square feet of area (see picture). The corner of the open carport encroaches into the rear yard setback by 7 feet 6 inches and is only 65 square feet of area (see Picture). In scale, per area, its minimum encroachments into the rear yard setback, like little stepped triangles. The established line that stops and goes on the drawing is the 25 foot setback line. You can see on the drawing only the corners of the house encroach into the rear yard setback.

I find Joey's action skeptical, as he was acting like he never granted a variance request for a rear yard setback, but he has. Joey and the Building and Zoning Board unanimously approved a 15 foot encroachment into a 50 foot rear yard setback. In addition, on May 27th, 2021 the City commission unanimously approved Lot 11 Block 3 15th circle variance request of 15 feet encroachment into the rear yard. I am only asking for my specific minimal encroachments to be

approved not an entire rear building like was approved on 15th circle. In addition, there were no objections from any residents in Key Colony about my variance request and again this lot is unique and is not like any other adjacent lots.

If you have any questions please feel free to call me.

Thomas Carden, C.B.O.
815-329-5220

Silvia Gransee

From: Thomas Carden <thomascarden@cbschmitt.com>
Sent: Thursday, April 21, 2022 1:26 PM
To: Silvia Gransee
Cc: kcbtrefry@gmail.com; kcbtomharding@gmail.com; kcbkathryn@gmail.com; jwdeneale@comcast.net; r3sut@aol.com
Subject: [External] 200 15th Circle

I was thinking last night about why Joey was so adamant not to approve my variance request, so I wanted to see why he recommended an approval for lot 11 and not mine. I tried to keep an open mind and assumed it wasn't anything personal about me or maybe it is.

First, let me give you an idea of my back ground. I worked as a Building inspector, Plan reviewer and building official for over 12 years for a municipality. I have provided over ten thousand plan reviews including everything from multimillion dollars regenerative thermal oxidizers for true value, new construction designs for McDonalds, Wendy's, jewel/Osco, papa john's pizza, assisted living facilities, nail salons, residential homes, multifamily buildings, suppression system designs, clean rooms for sage products and type 1 and 2 commercial kitchen hoods and I could still go on and on.

I also hold 20 Licensee's through the International Code Council agency. I'm a license real estate agent, and a license general contractor in the state of Florida. In addition I'm an expert witness in building construction and design. My most recent case report was for the attorneys representing Grassy Flats Resorts and Beach Club. I also have recommended and opposed hundreds of variance requests when previously working for a municipality.

Lot 11 is on the same street and in the same Zoning District but it's adjacent to the ocean, which requires a different rear setback of 50 feet. Let's look at lot area, size and shape. Lot 11 is over 20,000 square feet and the side depth of the lot is 140 feet deep and 230 feet on the other side. The lot does have a smaller front area in width. My lot is half the size at 10,000 square feet with only 100 feet on one side and 75 feet on the other side and has a severe deviation in the back compared to the other lots.

Let's look at buildable building area, which is the area left over on a lot after the setbacks are considered and where your home should be located on. Even with a rear yard setback of 50 feet on Lot 11 it still has a whopping 7000 square feet area to build a home on, which is 3 times larger than my building area. My lot is in the same Zoning District and on the same street and has only 2,300 square feet of building area, which represents a huge disadvantage from lot 11 and the other adjacent lots.

I'm very surprised and shocked that Joey recommended a 15 feet encroachment into the rear yard setback of lot 11 and while my setback request got denied.

I also want to state my design has only a 1000 square ft. of first floor living area, so to minimize the encroachments; while lot 11's house is enormous in size and still requested a setback variance of 15 feet and received approval.

I Hope you keep an open and unbiased mind when considering my request next month.

Regards-

Thomas Carden, C.B.O.
815 329-5220

City of Key Colony Beach

P.O. Box 510141, Key Colony Beach, FL 33051-0141 • Phone: 305-289-1212
Fax: 305-289-0247
www.keycolonybeach.net



April 20, 2022

To: The City of Key Colony Beach Board of Commissioners

From: The Key Colony Beach Planning & Zoning Board

Re: 200 15th Street – Owner: Thomas E. Carden

The Planning & Zoning Board heard the applicant requests for a Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6'-8". Current maximum height is 30'0".

Post Hearing Questions Results:

- | | |
|--------------------------------|--|
| 1) Chairperson Joey Raspe | YES - on all 5 (five) Post Hearing Questions |
| 2) Vice-Chair George Lancaster | **Excused** |
| 3) Board Member Mike Yunker | YES - on all 5 (five) Post Hearing Questions |
| 4) Board Member Lin Walsh | **Excused** |
| 5) Board Member Tom DiFransico | YES - on all 5 (five) Post Hearing Questions |

MOTION: Motion made by Tom DiFransico, seconded by Joey Raspe, to approve the granting of the requested height variance for 200 15th Circle.

ON THE MOTION: Roll Call vote. Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Unanimous approval. The Height Variance Request was granted.

Final Recommendation: The Planning & Zoning Board recommends to the City of Key Colony Beach Board of Commissioners for the requested height variance for the property at 200 15th Circle to be approved.


Joey Raspe, Chairperson

City of Key Colony Beach

P.O. Box 510141, Key Colony Beach, FL 33051-0141 • Phone: 305-289-1212
Fax: 305-289-0247
www.keycolonybeach.net



April 20, 2022

To: The City of Key Colony Beach Board of Commissioners

From: The Key Colony Beach Planning & Zoning Board

Re: 200 15th Street – Owner: Thomas E. Carden

The Planning & Zoning Board heard the applicants request for a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'.

Post Hearing Questions Results:

- | | |
|--------------------------------|---|
| 1) Chairperson Joey Raspe | NO - on all 5 (five) Post Hearing Questions |
| 2) Vice-Chair George Lancaster | **Excused** |
| 3) Board Member Mike Yunker | YES - on all 5 (five) Post Hearing Questions |
| 4) Board Member Lin Walsh | **Excused** |
| 5) Board Member Tom DiFransico | YES - on No. 1 (one), No. 3 (three), No. 4 (four),
NO - on No. 5 (five), No. 2 (two) |

MOTION: Motion made by Tom DiFransico, seconded by Joey Raspe, to disapprove the granting of the requested setback variance for 200 15th Circle.

ON THE MOTION: Roll Call vote. Mike Yunker – no, Tom DiFransico – yes, Joey Raspe – yes. 1 – NO, 2 – YES. The Setback Variance Request was denied.

Final Recommendation: The Planning & Zoning Board recommends to the City of Key Colony Beach Board of Commissioners for the requested setback variance for the property at 200 15th Circle to be disapproved.


Joey Raspe, Chairperson

MINUTES
PLANNING & ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING
Wednesday, April 20, 2022 - 9:30 a.m.
Marble Hall

1. Call to Order/Pledge of Allegiance/Roll Call: Chairperson Joey Raspe called the meeting to order at 9:30 a.m. in the morning followed by the Pledge of Allegiance and Roll Call.

Present: Chair Joey Raspe, Mike Yunker, Tom DiFransico. **Excused:** George Lancaster, Lin Walsh. **Also Present:** City Administrator Dave Turner, City Clerk Silvia Gransee, City Attorney Ryan Benninger, Building Official Gerard Roussin, Building Inspector Gerald Leggett.

Public Attending: 3 Marble Hall

2. Approval of Minutes: The Planning Zoning Board accepted the minutes from March 16, 2022, as written.

3. Administration of Oath to Witnesses: City Clerk Silvia Gransee administered the Oath of Witness to all wishing to give testimony in today's hearing.

4. Citizen Comments and Correspondence: City Clerk Silvia Gransee reported not having received any citizen correspondence and there were no comments from the audience.

Chair Joey Raspe stated that Board Member DiFransico would like to add an agenda item. Board Member Tom DiFransico stated that with all the information that was received on the R2B Zoning comments by the Board that he believes the Board should address the issue. Board Member DiFransico further stated that he is aware that a workshop will be held but was unsure if the Board could talk about the issue at this meeting or at the later meeting. City Attorney Ryan Benninger stated that the Commission had already addressed the matter but if there would be some discussion it would be permissible, but as far as he is aware the workshop will address further discussion. Chair Joey Raspe asked if the Planning & Zoning Board will be part of the workshop which Attorney Ryan Benninger stated he will check on. City Clerk Gransee also stated that the topic was not an agenda item, and that the public was not aware of the topic being discussed.

5. Disclosure of Ex-Parte Communication – Board Member Tom DiFransico stated that himself and City Attorney Ryan Benninger had a phone conversation on Monday where some of the agenda items were briefly discussed, but which will not affect any of his decisions he will be making today. City Attorney Ryan Benninger confirmed that this conversation does not fall under the Ex-Parte Communication Act. Board Member Mike Yunker stated regarding Item 8 on the agenda, Ordinance 2022-473, stated that he is the General Manager for Castillo de Sol Condominium and that he has been reviewing the ordinance and had a lot of discussion with other Condominium Managers regarding this type of ordinance. Board Member Yunker stated that he does not believe that this will affect his decisions but wanted it known to the Board and have guidance from the City Attorney if he should excuse himself from the issue.

6. Proof of Publications: All affidavits and legal notices were accepted as sufficient.

7. Variance Request: Chair Raspe read the variance request for 200 15th Circle – Owner: Thomas E. Carden. Chair Joey Raspe stated that the variance request is a two-part request for height and setback, and that both will be addressed separately. Chair Raspe further stated that the first variance request to be addressed is the height

setback.

a) Height Variance Request

Mr. Thomas Carden, owner of 200 15th Circle, made his statement to the Planning & Zoning Board. Mr. Thomas Carden stated that it is difficult to build a two-story house above flood on stilts with the upcoming changes in flood maps. Mr. Carden continued by saying that he is only two feet above flood with the current design, and that is why he is requesting the variance.

Building Official Gerard Roussin stated that the Building Department does support the request for a height variance as they do understand the upcoming changes in the FEMA flood maps and proposed LDR changes once the Comp Plan is finished. Building Official Roussin stated that this request would be within the proposed new LDR's even though the variance is a little bit more than what has been granted in the past, as far as the 34-foot height the Board has somewhat adopted, but the Building Department would fully support the variance request as is. Board Member Tom DiFrancisco asked Building Official Roussin if this design incorporates the additional 2-foot free board that was incorporated at CRS. Building Official Gerard Roussin stated that he does not believe the design incorporates the additional 2 foot of free board, but he stated that the height is still there if needed. Board Member DiFrancisco stated that he believes that if the variance was granted based upon the new LDR's, the new requirements of the new LDR's should be in place when granting a variance. Building Official Roussin stated that he does not know if that can be legally done as it is not part of the code and does not know if that could be legally mandated and that should be a question for the city attorney. Chair Joey Raspe asked the Building Official if once the LDR is approved, if it then becomes part of the City's rule to have the additional 2 feet of free board incorporated. Building Official Roussin confirmed the question and stated that a sticking point of adopting the additional 2 feet of free board was the CRS ranking for the city, as well as looking at properties that were being redeveloped, to give them their second floor of living space if the first floor was brought into code along with the 2 feet of free board. Building Official Roussin stated that this property does not require this at this time and believes that when the new maps come out this property's elevations will go down one foot compared to now. Building Official Roussin further stated that the Building Department fully supports this variance but would not ask for the free board at this time. Mr. Thomas Carden stated that he could make it work since he is only a couple of feet off. Board Member Tom DiFrancisco stated that this goes back to the question if it is necessary for CRS as it does not look like it is. Building Official Roussin stated that it is not necessary at this time as the official LDR's have not been adopted yet. Building Official Roussin explained that once the Comp Plan comes back and is adopted, the LDR changes will be sent back to the State to be reviewed and if approved they will be sent back for adoption. Building Official Gerard Roussin stated that the time frame for the Comp Plan has taken longer than anticipated with no prediction on an exact date. City Administrator Dave Turner stated that if it would be 5 years ahead of time, it would be advantageous to build to the new heights and to the new 2-foot free board, and it would cost the homeowner less in flood insurance and it would go to the rating for the city. Board Member DiFrancisco stated that he agrees with City Administrator Turner but that the Board could not mandate the owner. City Administrator Turner agreed but restated that it would be advantageous for the homeowner. Mr. Thomas Carden stated that he is willing to do it and he can make it work. Building Official Roussin stated that for any new homes that are being built right now, the owners have to sign paperwork that explain that new flood maps, as well as possible new LDR's are coming out, and that owners are aware of it and it should not catch anyone by surprise. Board Member DiFrancisco asked Building Official Gerard Roussin how the new proposed height requirements concur with the houses in the neighboring area. Building Official Roussin stated that there have been four or five new houses on 14th Street that had been granted a variance of 34 feet, and that the average eye should not notice a difference between a 36'6" and a 34' feet house. Building Official Roussin stated that in his opinion it should not stand out.

Chair Joey Raspe continued the hearing by reading the applicants questions and responses. The Board had no

additional questions for the Building Official nor the applicant on the height variance request.

Height Variance Request - Post Hearing Questions: *Chairperson Joey Raspe read the Post Hearing Questions to the Planning & Zoning Board.*

1. Has the applicant shown good and sufficient cause to grant the variance?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

2. Will denial of the variance result in unnecessary hardship to the applicant?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

3. Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat to or nuisance, or cause fraud or victimization of the public?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

4. The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

5. Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

b) Setback Variance Request

Chair Joey Raspe read the setback variance request for 200 15th Circle.

Building Official Gerard Roussin explained that the owner is requesting a setback variance of 8'6" where the current standard for the city is 25' from the mean high-water line. The Building Official further explained that rear setbacks have been an issue, and that there have been variance approvals and disapprovals with rear yard setback issues. Building Official Roussin further explained that the property looking at the lot from 15th Circle is between 100 and 110 feet deep and the right side of the property is probably around 75 to 85 feet deep. Building Official Roussin stated that the setback issue can be either addressed with a variance or with a request of leaving the setback. Building Official Roussin further stated that the Building Department does not have an issue with granting a rear yard setback and that this would fall to the Planning and Zoning Commission for a decision.

Mr. Thomas Carden stated that his property is a unique lot, and explained, that by looking at the adjacent house and its design, that if he would build his house in the same design he still would be behind that house. Mr. Thomas Carden further explained that usually setbacks are for line-of-sight to have houses uniform and even with the encroachment he still would be behind 210 15th Circle. Chair Joey Raspe stated that he had not that particular drawing which Mr. Carden provided to the Board. Mr. Carden continued to explain to the Board the particulars of the drawing. Board Member Tom DiFransico asked Mr. Carden on when he purchased the lot which Mr. Carden stated was about a year ago. Chair Joey Raspe asked Mr. Carden if the setback of the house he is living in now is measured to the other side of 14th Street or if it is measured to the canal. Mr. Carden replied that it is measured to the mean waterline of the canal. Mr. Carden further stated that he dredged the canal and made sure that he maintained 25 feet. Chair Joey Raspe stated that it looks like the canal comes closer to Mr. Carden's house which Mr. Carden confirmed. Mr. Carden continued explaining that his lot is an angle, L-shaped lot and a lot bigger lot. Board Member DiFransico asked Building Official Roussin what the purpose is of the 25-foot setback. Building

Official Roussin explained that one of the main reasons for the setback is an area for a pool, an enclosure, or something similar, and also is part of the stormwater area to not run into the canal. Board Member Tom DiFransico further asked if there are other requirements for a pool and runoffs which Building Official Roussin confirmed. Chair Joey Raspe stated that it is important to remember that this property not always had canal bottom which Mr. Carden replied that the canal always had water but was not maintained. Mr. Carden continued to show the Board the original plat. Board Member DiFransico asked Mr. Carden if he had tried to rotate the house to maintain the setback. Mr. Carden stated that it is almost impossible to fit a house on this property with the setback requirements and that he does not want a house that is only 18 feet deep. Mr. Carden continued by saying that he does not believe that there is any house in Key Colony Beach that is only 18 feet deep. Chair Joey Raspe stated that at its shallowest point Mr. Carden should have 25 feet of house, which Mr. Carden stated that there are still overhangs, stairs, and balconies to consider, unless he makes it look like a box which would not match the community. Mr. Carden further stated that it would be really hard to make a deep house, unless he got rid of the front and back porch, but than it would look like a box, which he stated would bring a lot of complaints because it would not look like it belongs in Key Colony. Board Member DiFransico asked Mr. Carden if the depth looking from 15th Circle is 95 feet. Mr. Carden replied that his understanding of the city's ordinance is, that it measures the high waterline, so it does not matter how deep the lot is and that his mean high-water line is 75 feet. The Board did not have any additional questions for Mr. Carden and neither did the Building Official.

Chair Joey Raspe continued the hearing by reading the applicants questions and responses. Chair Joey Raspe stated in response to the question on unnecessary hardship, that ordinances are written to be strictly adhered to and that it does not create a hardship to follow an ordinance and to what it says. Chair Joey Raspe stated that everyone is supposed to do what the ordinance says. Chair Joe Raspe asked Mr. Thomas Carden why he feels that it creates a hardship to follow the rules of the city. Mr. Thomas Carden replied that he has the smallest lot in the zoning district and that the 25-foot setback was created because everyone had bigger lots on 14th Street and 15th Circle and that he himself has one of the smallest lots which creates a hardship for him. Board Member Tom DiFransico commented that this hardship was not self-created, and that Mr. Carden knew about the property line as well as the waterline when he purchased the property. Mr. Carden replied that the canal was not dredged and that he did not know exactly where the dredging would lead. The Board commented that Mr. Carden was one of the proponents for the dredging which Mr. Carden confirmed and further stated he paid for it as well. Mr. Carden further commented that the principle of setbacks is line-of-sight and that his house does not go back any further back than any other houses on that street. Mr. Carden continued explaining the layout of his house in comparison to neighboring houses. Board Member Mike Yunker asked Mr. Carden if the submitted print had his current house on its which Mr. Carden confirmed. Chair Joey Raspe stated that one of his issues is the safety issue of being closer to the canal and he would rather see the house sitting closer to the street. Mr. Carden replied if that is what the Board wants, he could do it, but he believes it looks stupid and that people would not like it. Chair Joey Raspe stated that he lives on 12th Street and that he had to adjust the size of his house due to the lot size and that he never thought about asking for a variance request. Mr. Carden stated that he wants to be a good steward to the Community and wants his house to look like it belongs. Mr. Carden further stated that there are other houses that look terrible and are an embarrassment to Key Colony and he does not want that, but he probably will if he does not get his variance. Mr. Carden said that 14th Street and 15th Circle are beautiful streets and that the Board wants to make sure that the houses all look the same. The Board had no further comments or questions on the hardship question.

Chair Joey Raspe continued reading the applicants questions and answers. Chair Joey Raspe asked if there were any additional questions for the Building Official or Mr. Carden. Board Member Mike Yunker asked Building Official Roussin if the square footage of the lot makes it a reasonable size to build a home that would fit into the perimeters of the setbacks. Building Official Gerard Roussin stated that on any lot within the city a house can be built within the perimeters and believes that the minimum square footage for the area is either 1,200 or 1,300

square feet. Building Official Roussin further stated that a house could be built within the perimeters, but it probably would not be the house someone would want to build. Building Official Roussin stated that the question is a double-edged sword question since a house can be built within the perimeters, but it probably would not look like it belongs.

The Board had no other discussions or questions on the variance request.

Setback Variance Request - Post Hearing Questions: Chairperson Joey Raspe read the Post Hearing Questions to the Planning & Zoning Board.

1. Has the applicant shown good and sufficient cause to grant the variance?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – no. Roll call vote: 2 – YES. 1 – NO.

2. Will denial of the variance result in unnecessary hardship to the applicant?

Roll call: Mike Yunker – yes, Tom DiFransico – no, Joey Raspe – no. Roll call vote: 1 – YES. 2 – NO.

3. Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat to or nuisance, or cause fraud or victimization of the public?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – no. Roll call vote: 2 – YES. 1 – NO.

4. The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – No. Roll call vote: 2 – YES. 1 – NO.

5. Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – no. Roll call vote: 2 – YES. 1 – NO.

d. Planning & Zoning Board Recommendation:

MOTION: Motion made by Tom DiFransico, seconded by Joey Raspe, to approve the granting of the requested height variance for 200 15th Circle.

ON THE MOTION: Roll Call vote. Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Unanimous approval. The Height Variance Request was granted.

MOTION: Motion made by Tom DiFransico, seconded by Joey Raspe, to disapprove the granting of the requested setback variance for 200 15th Circle.

ON THE MOTION: Roll Call vote. Mike Yunker – no, Tom DiFransico – yes, Joey Raspe – yes. 1 – NO, 2 – YES. The Setback Variance Request was denied.

8. Ordinance 2022-473: AN ORDINANCE OF CITY OF KEY COLONY BEACH, FLORIDA, AMENDING CHAPTER 6, ARTICLE II ("DANGEROUS STRUCTURES") OF THE CODE OF ORDINANCES OF THE CITY OF KEY COLONY BEACH BY AMENDING SECTION 6-97, WHICH SHALL PROVIDE FOR A CERTIFICATION AND RECERTIFICATION PROCESS FOR EXISTING AND FUTURE MULTISTORY STRUCTURES

Chair Joey Raspe read Ordinance No. 2022-473.

Building Official Gerard Roussin explained the ordinance and its correlation to the Surfside collapse in Miami. Building

Official Roussin further stated that what the City is looking for is a shorting of time for inspections on waterfront properties, commercial properties, R3, RH, and the type of designations that do not apply to single family or duplex homes. Building Official Roussin further stated that this ordinance only applies to 2-stories and above, multi family, resort/hotel, commercials, or condos. Building Official Roussin further stated that they are looking for a every 10-year inspection for buildings that are over 17 years old and would like to have a recertification every 10 years. Building Official Roussin continued by saying that current recertifications are every 40 years. Building Official Roussin further stated that a 40-year recertification on a building is pretty much a lifespan of a building and that they are trying to avoid this issue. Building Official Roussin explained that a private engineer will do electrical and structural inspections with certain time frames of having issues addressed including permits, engineering drawings on how repairs are being made. Building Official Roussin further said that this is a safe ordinance and well deserved after seeing what happened. Chair Joey Raspe asked Building Official Roussin if the Building Department provides the engineer or if it is an independent person. Building Official Roussin clarified that it is an independent company that Building hires and that the report gets reviewed by the Building Department. Board Member DiFrancisco asked if the engineer has to be approved the by Building Department which Building Official Roussin explained does not but has to be a state certified engineer. Board Member DiFrancisco asked for clarification for the wording in the proposed ordinance regarding the certification requirements on page 32. Building Official Roussin stated that the Building Department knows most local engineers and that this would pertain to out-of-town engineers as the Building Department would need to see their certification. Board Member DiFrancisco stated that he has several comments on the drafting of the ordinance. Board Member DiFrancisco stated that the qualification requirements on page 32, and middle of 33, state different requirements and that he is questioning the different requirements. Building Official Roussin stated that a qualified building inspector is not a structural engineer, and the structural engineer is a better degree than what they hold. Board Member DiFrancisco and Building Official Roussin continued to talk about the different qualifications for engineers. Board Member DiFrancisco suggested that the ordinance be redrafted regarding the qualifications to make it clearer to understand. Board Member DiFrancisco further commented on the timing of 90 days for the inspection and report to the city, following 60 days to complete repairs. Board Member DiFrancisco stated that the time frames do not seem right to him and further said that some repair work might take longer then 60 days. Board Member DiFrancisco asked the Building Official to adjust the timing which Building Official Roussin stated can be accomplished either with a longer time frame or verbiage of that a permit has been applied for. Board Member DiFrancisco clarified that he would leave the exact verbiage to Building Official Roussin. Chair Joey Raspe asked the Building Official if he would be comfortable with giving extensions which Building Official Roussin confirmed. Building Official Roussin further explained that it is understood what the work situation in the Keys looks like with getting things done in a timely manner and that there is not a huge workforce to draw from. Board Member DiFrancisco further asked Building Official Roussin to define what a multi-story building looks like and suggested to define the meaning in the ordinance. Board Member DiFrancisco further asked for a definition of a threshold building on page 34. Building Official Roussin explained that a threshold is a any type of visum construction, and that as part of the new Florida Building Code a Threshold Inspector is needed for new buildings. Board Member DiFrancisco suggested to Building Official Roussin to define the meaning of a threshold building which Building Official Roussin agreed to. City Attorney Ryan Benninger asked if it is the Boards recommendation to add a definitions section, which Board Member DiFrancisco stated would be his personal recommendation or have it somewhere else referred to for explanation. Board Member Mike Yunker asked if the purpose of the ordinance is to bring any required structure up to current electrical code or if this is to address any safety issues in the electric. Building Official Roussin stated that it is safety only and no one can be forced to upgrade to current code. Board Member Mike Yunker further asked for clarification on verbiage on page 32 and asked for clarifications on the definitions of minor structures on page 33 and the occupant load of 10 or less. Building Official Roussin explained that the 10-load occupancy refers to multi-family units and is a different standard than low-load occupancy. Board Member Mike Yunker asked how qualifications on multi-units were calculated which Building Official was not certain on but would follow up on. Board Member Mike Yunker further asked on the definition on how square footage applies for minor buildings, which Building Official Roussin was not sure on, but stated will be made part of their definitions section that will be added to the ordinance after being researched. Board Member Yunker asked Building Official Roussin on why the proposed ordinance applies to condos but not to single family residences. Building Official Roussin explained that he does not know the answer to that question, especially knowing that many single-family residences have major spalling, but believes that the property owners rights might be different for single-family residences compared to multi-family residences with condo associations. Chair Joey Raspe stated that this might be comparable to being a third party being responsible as opposed to being the actual homeowner. Building Official Roussin stated that he does not believe that there will be any problems in the city as most buildings do their repairs and normal

maintenance when it is supposed to be done. Building Official Roussin stated that the proposed ordinance will give the city a little bit more teeth when asking for inspection to be done in a timely manner and a good step forward in the safety process. Upon discussion with City Attorney Ryan Benninger the Board agreed upon the ordinance to be redrafted and presented back to the Planning and Zoning Board at next month's meeting.

9. There was no other business.

10. The meeting adjourned at 10:26 a.m.

*Respectfully
Sílvia Gransee
City Clerk*

*ADOPTED: May 18th, 2022
Sílvia Gransee
City Clerk*

MINUTES

KEY COLONY BEACH CITY COMMISSION REGULAR MEETING & PUBLIC HEARING

Thursday, May 26, 2022 – 09:57 a.m.

City Hall Auditorium & virtually via Zoom Conferencing

1. Call to Order, Pledge of Allegiance, Prayer, Roll Call: *The Regular Commission Meeting of the City of Key Colony Beach was called to order by Mayor Trefry at 09:57 a.m. followed by the Pledge of Allegiance, Prayer, and Roll Call.*

Present: *Mayor Trefry, Vice-Mayor Harding, Commissioner Sutton, Commissioner Ramsay-Vickrey, Commissioner DeNeale* **Also Present:** *City Administrator Dave Turner, City Clerk Silvia Gransee, City Attorney Ryan Benninger, Public Works Department Head Mike Guarino, Building Official Gerard Roussin, Officer Joe Burden, Code Enforcement Officer Stacy Stahl, Administrative Assistant Christine McLeod.*

Public: *7 Marble Hall, 6 Zoom*

2. Citizen Comments and Correspondence: *City Clerk Silvia Gransee reported on having received one letter of correspondence regarding the Townhall Meeting on May 24, 2022, from Mr. and Mrs. Avery, and one letter of correspondence from Mr. Donald Steamer in regard to the Code Board Hearing on May 11, 2022. (Please contact the cityclerk@keycolonybeach.net for a copy of the record).*

3. Approval of Minutes: *The City Commission Public Hearing and Regular Meeting Minutes from May 12, 2022, were accepted as written.*

4. Agenda Additions, Changes, Deletions – None.

5. Special Requests – None.

6. Committee and Staff Reports:

A. Marathon Fire/EMS – No report.

B. Recreation Committee – No report.

C. Beautification Committee – No report.

D. Disaster Preparedness Committee – No report.

E. Planning & Zoning Board - No report.

F. Code Enforcement Board – No report.

G. Utility Board – No report.

H. Police Department – Officer Joe Burden reported for Chief DiGiovanni. Officer Burden informed on 2 medical and alarm calls, 18 calls for service, and backed up MCSO 13 times, along with boat and road patrol, and the vacation watch program. Officer Joe Burden further reported that Chief DiGiovanni is thanking all his officers in moving forward in his absence. Officer Joe Burden informed that the 'Click-it-or-Ticket' program is currently underway and requested signs to

be placed on the Causeway for residents to be informed. Officer Burden reported on having received two additional radar signs that will be placed throughout the city, and the Police Department is working with Public Works Department Head Mike Guarino on locations for placement. Officer Joe Burden informed of the department having received an application for the open Police Officer position, who is currently undergoing the vetting process. Mayor Trefry asked Officer Burden if approval is needed for the 'Click-it-or-Ticket' campaign, which Officer Burden clarified the department is seeking approval for the signs and not the actual campaign. Commissioner Ron Sutton asked Officer Burden where the applicant is currently living as he is coming from Pennsylvania. Officer Burden replied that the applicant has bought a house in Marathon and is a resident. The Commission thanked Officer Joe Burden for his report.

I. Building Department – Building Official Gerard Roussin

a) Building Official Gerard Roussin gave an update on the marina sign and asked for approval on a permit application on a ground sign that measures approximately 24 square feet on each side, which the code calls for a ground sign for a business property of 60 square foot total, which makes this sign within the limits. Building Official Roussin stated that there is an existing signpost which has not been removed and that the Building Department is looking for Commission approval to approve the permit application. Mayor Trefry stated that she entertains a motion to approve the application for the sign.

MOTION: *Motion made by Commissioner Beth Ramsay-Vickrey, seconded by Commissioner Sutton, to approve the application for the sign.*

DISCUSSION: *None.*

ON THE MOTION: *Roll call vote. Unanimous approval.*

b) Building Official Roussin reported on the issue of floating docks throughout the city. The Building Official reported that letters of violation had been send out to owners and a total of five floating docks were identified. Building Official Roussin further reported that one of the floating docks has been removed from the water. Building Official Roussin continued saying that one of the floating docks in question was not on the agenda but will be added to the following Commission Meeting agenda. The Building Official asked if the City Commission would like to address the three floating docks on the agenda as individuals or as one lump floating dock issue. Building Official added that he would like to address the floating docks individually which Mayor Trefry and the Commission agreed with.

265 13th Street – Owner: KCB 265 LLC. Building Official Gerard Roussin reported on the floating dock for the property at 265 13th Street. Building Official Roussin stated that the owners are seeking approval for the floating dock with an after-the-fact permit. Mayor Trefry asked if there was an approval or denial for 265 13th Street.

MOTION: *Motion made by Mayor Trefry, seconded by Commissioner Ramsay-Vickrey, to deny the floating dock permit for 265 13th Street.*

DISCUSSION: *Commissioner DeNeale stated his concern on all floating docks, that the city does*

not have an ordinance or regulations on floating docks for the City. Commissioner DeNeale continued saying that the city does not have specifications on what a floating dock has to be, how it has to be secured by, size, etc. like for a dock. Commissioner DeNeale asked Building Official Roussin if he is correct in his assumption. Building Official Roussin stated that he does not believe that there are specifications but rather that the floating dock requires approval from the Commission. Mayor Trefry stated that she does not believe that floating docks have a place in Key Colony Beach, considering the damage they can do. Commissioner Beth Ramsay-Vickrey added that they are also a hurricane hazard which Mayor Trefry agreed to. Commissioner DeNeale stated that he has seen very well-built floating docks, however, does not believe that there are specifications of that sort for Key Colony Beach, and that is why he is hesitant to approve floating docks until such time, when the City has such specifications. Building Official Roussin cited the city's code of ordinance on floating docks which read "any floating dock must be approved by the City Commission and shall be permitted subject to the same dimensional and locational restrictions as applicable to other docks". Building Official Roussin stated that there are restrictions to size and location, but it does require Commission approval. Commissioner Sutton stated that he does not recall approving any floating docks while he has been on the Commission in the last 18 years. Commissioner DeNeale stated that the reason why he never approved them is that a floating dock cannot be set up as floating dock unless it is secured like a dock with pilings and gets inspected the same. Commissioner DeNeale stated that unless the Commission comes up with specifications on how to properly set up floating docks, he cannot approve them. Vice-Mayor Harding asked Building Official Roussin to verify if there had been floating docks that were approved in the past. Building Official Gerard Roussin stated that he personally has not seen any. Building Official Roussin further stated that Building Inspector Lenny Leggett together with Officer Ross Bethard inspected the city via boat and found a total of five floating docks in total and stated that it is not a prevalent situation but nonetheless needs to be addressed. Building Official Roussin stated his understanding of the code, seeing as regular docks require Army Chore DEP approvals and floating docks are related to the same standards as other docks in the city, a floating dock would need to be approved by the Army Chore before the City Commission could entertain the motion of approval. Building Official Roussin stated that he will check with the legal team on his understanding of the city code. Commissioner DeNeale further stated that he would love to see some code specifications on floating docks that the Commission could consider. Commissioner DeNeale further stated that floating docks can be secured properly but has not seen this. Building Official Roussin stated that he will look at other municipalities and see how they address it and will bring back the topic to the next Commission meeting. Vice-Mayor Harding agreed with Commissioner DeNeale that he has seen other floating docks that would survive hurricane winds but suggested looking at the height of the piling poles which must be over six feet of the water level or similar. Mayor Trefry asked if there was further discussion which there was not.

ON THE MOTION: Roll call vote. Unanimous approval.

b) 103 Coral Lane – Owner: Ted & Carolyn Yoho. Building Official Roussin reported on the after-the-fact permit application by Mr. and Mrs. Yoho. The Building Official reported that the floating dock is rather substantial in size but looks to be well-made. Building Official Roussin stated that Commission approval is needed. Commissioner Sutton stated that this floating dock looks like a

well built one, but still would like to see mooring poles with straps so it would float up and down. Commissioner Sutton stated that he believes that this would be the safest way and for the city and the owner to continue with research for safety. Mayor Trefry accepted comment by Mr. Ted Yoho. Mr. Yoho was sworn in by City Clerk Gransee to testify. Mr. Yoho asked the Commission to accept the waiver after the fact. Mr. Yoho stated that they have a variance from the previous Building Inspector for the floating dock which is attached to the dock. Mr. Yoho further stated that it took them approximately two years after the hurricane to have their dock rebuilt and used the floating dock in question during that time. Mr. Yoho stated that the floating dock is secured by half inch steel cables. Mr. Yoho continued saying that the City of Key Colony Beach has used the floating dock in the past, but regardless of himself and his wife will abide with what the Commission decides. Mayor Trefry asked Mr. Yoho to confirm that he was given a variance that never came in front of the Commission for a vote. Mr. Yoho said that this was his understanding and that the previous Building Inspector stated that it was grandfathered in. Mayor Trefry asked for documentation of the statement which Building Official Roussin stated he will research previous records but confirmed that he believes the issue has never been in front of the Commission for a vote. Mayor Trefry asked if there was a motion to approve or deny the after-the-fact permit for 103 Coral Lane.

MOTION: Motion made by Commissioner Sutton, seconded by Commissioner DeNeale, to deny the after-the-fact permit application for the floating dock for 103 Coral Lane.

DISCUSSION: Commissioner DeNeale stated that the Commission has to be consistent at this time and the issue needs to be researched.

ON THE MOTION: Roll call vote. Unanimous approval.

c) 210 14th Street – Owner: Douglas Messinger. Building Official Gerard Roussin reported on the after-the-fact permit application for the floating dock which was explained to be primarily used for boat maintenance. Building Official Gerard Roussin stated that the owner is seeking approval of the permit. Mayor Trefry asked if there is a motion to approve or deny the floating dock for 210 14th Street.

MOTION: Motion made by Commissioner DeNeale, seconded by Commissioner Ramsay-Vickrey, to deny the after-the-fact floating dock for 210 14th Street.

DISCUSSION: None.

ON THE MOTION: Roll call vote. Unanimous approval.

d) Building Official Gerard Roussin gave an update on the property at 1000 W. Ocean and reported that the owners have complied with the findings of fact and have pulled the demolition permit. Building Official Roussin reported his belief that the demolition has to be completed by the end of June. Building Official Gerard Roussin further reported that the electric company discovered one weather head for both sides of the duplex. The Building Official further explained that the City has let both the contractor and both owners know of the problem and that they are responsible on how to correct this problem. Building Official Roussin continued by saying that the City gave the owner of the new duplex the option to have the electric underground or to install a

temporary power pole at the corner of the building. The Building Official explained that he does not prefer the temporary power pole for a residential structure as an option since storm season is approaching. Building Official Roussin stated that the owners have done what is required by the findings of fact. Mayor Trefry asked for confirmation that the demolition has to be completed by the end of June, which Building Official Roussin stated he has to check, but believes that was the correct date otherwise there will be more fines attached to the property. The Commission agreed that the date on completion for the demolition was on or before the 10th of June. The Building Official reported that the permit has not been picked up yet but was ready for the contractors. Vice-Mayor Tom Harding asked Building Official Gerard Roussin if the 10th Street location house has to pull a permit to install new electrical which the Building Official confirmed, and stated, that the owners have been notified about.

e) Building Official Gerard Roussin updated on the property on 680 11th Street and reported that the Code Board addressed all issues that were associated with the property and had the finding of extending his permit to the end of December 30th. The Building Official further reported that Mr. Harper had paid the 7-month extension fees for the permit and has taken away the stop-work-order on the property. Building Official Roussin stated that the Building Department is looking for approval on what the Code Board had found on the property. Mayor Trefry asked if there is a motion to approve the findings from the Code Board pertaining to 680 11th Street.

MOTION: Motion made by Commissioner Sutton, seconded by Commissioner DeNeale, to approve the findings by the Code Board for the property located at 680 11th Street.

DISCUSSION: Commissioner DeNeale complimented City Attorney Dirk Smits on his legal expertise and stated that he feels comfortable with the recommendation of council to ratify the findings.

ON THE MOTION: Roll call vote. Unanimous approval.

Building Official Gerard Roussin reported on having issued a temporary Certificate of Occupancy on 330 13th Street, which is a D'Asign Source house. Building Official Roussin reported that the house has been completed and the owners are ready to move in, however, the surveyor will not be on the property for another 4 weeks to give an as-built survey with a roof height certificate. The Building Official reported that the inspections are done and complete, except for the paperwork, and he is looking for a head-nod from the Commission that they understand why the Building Department is doing this with the property. The Commission gave their understanding to the Building Official.

Building Official Gerard Roussin reported that Monday is non-working holiday and to please let him know if anyone is working that day. Commissioner DeNeale asked for clarification, if even as a homeowner you are not allowed to work on building-permitted projects on your own house, which the Building Official confirmed.

Building Official Gerard Roussin reported that a new turtle nest has been reported in the city which is located between the Residences and Monte Christo.

Building Official Gerard Roussin reported that the Townhall Meeting for the residents was a big success and allowed for important information to be passed on. The Building Official reported that he looks forward to the next workshop to be held. Mayor Trefry thanked Building Official Roussin for all the work that was put into the Townhall Meeting. Commissioner DeNeale asked if this was a good time to discuss the topic of the building heights, which Mayor Trefry replied that more Townhall meetings will be held on the topic at the future. City Attorney Ryan Benninger stated that legal recommends that since the topic was not an agenda item, and the public was not informed on a possible discussion, to table the discussion to a later date. Commissioner DeNeale stated that he understands and that he will discuss the issue with staff.

J. Public Works Department Head Mike Guarino reported that the city-wide tree trimming is almost complete, repairs to the board walk by Waterfront Park were done, and yearly maintenance on the tractor and boat were completed. Public Works Department Head Mike Guarino further reported that next week the department will help with the installation of the speed signs. Commissioner DeNeale asked Public Works Department Head Mike Guarino if residents can be made aware of dangerous trees on personal property. Public Works Department Head Mike Guarino stated that he can do that. Mayor Trefry asked that an email blast can be send out to remind residents of Storm Season starting June 1st and asked City Clerk Silvia Gransee to send out the email.

K. City Secretary/Treasurer – Secretary-Treasurer John DeNeale yielded to Accountant Jen Johnson for the report and stated he reviewed the reports and that they look great. Accountant Jen Johnson reported that the city is doing great this time of year and reported on the April Financial Report. Accountant Johnson reported on revenues, expenditures, road fund, infrastructure fund, impact fee fund, building fund, wastewater fund, and stormwater fund. Accountant Jen Johnson reported that overall, all funds are looking strong this time of year. The Commission thanked the accountant for her report.

L. City Clerk – City Clerk Silvia Gransee reported that all newly adopted resolutions were added to the website, Office Staff trained on their Zoom meeting capabilities, as well as attending the Utility Board, and Planning & Zoning Variance Meeting. City Clerk Gransee stated that the Variance Hearing will go before the Commission on July 14th, since the new ordinance on time amendments has not been adopted yet. City Clerk Gransee reported on City Hall Staff attending a Citizenserve Meeting with the Building Department as well as the Code Officer, and that the meeting was very beneficial for all. The City Clerk continued by reporting on attending the Townhall meeting, completing the Annual Stewardship Report for Sunset Park, in addition to completing Commission, Planning & Zoning, and Clerks Association Meeting Minutes. Vice-Mayor Tom Harding asked on the expectations on assignment after the Citizenserve meeting which City Clerk Gransee confirmed

M. Code Enforcement Officer – Code Enforcement Officer Stacy Stahl reported on having created 33 new cases since the last meeting, with the majority of the cases being for trash. Code

Enforcement Officer Stahl reported on having one long-term rental case without a license that is in the process of being resolved. Code Enforcement Officer Stahl reported year-to-date 426 total cases with \$16,150.00 in total fines, \$9,000.00 in payments made, and \$7,200.00 in outstanding fines. Code Enforcement Officer Stahl reported 15 trailer lot calls, as well as preparing for the Property Manager Course which will be held June 2nd with approximately 45 participants expected. Code Enforcement Officer Stacy Stahl further reported on verifying account information between the Utility and Access database which will then verify the accuracy with information in Citizenserve. The Code Enforcement Officer continued by reporting that the renewal process will begin within the next few weeks, with Citizenserve hopefully being able to implement the calendar scheduling abilities for users to utilize. Code Enforcement Officer Stahl reported that the Citizenserve training was very beneficial for everyone. The Code Enforcement Officer additionally reported that Rentalscape is working well, and that currently an occupancy reporting glitch is being worked on. Code Enforcement Officer Stahl reminded of the upcoming storm season and storm preparation. The Code Enforcement Officer reported on having seen several properties that are not in violation but that have several items underneath their homes and asks for individuals to have a plan for a possible storm. Mayor Trefry asked if many of the properties described are rental properties and asked if the property managers could be contacted in that regard. Code Enforcement Officer Stahl agreed and stated that she was planning on adding the information to the renewal process, to ask managers to have a plan for securing items on properties. Mayor Trefry asked if the topic can be added to the email blast pertaining to the tree-trimming request since storm season starts June 1st. Code Enforcement Officer Stahl agreed and stated she will get with City Clerk Gransee on the request. Vice-Mayor Tom Harding asked if there is a policy on delinquent wastewater accounts on rental properties and how these licenses are being handled. Code Enforcement Officer Stahl explained that a procedure is in place, and that any outstanding fines or violations must be brought up to date before a new license is issued.

N. City Administrator Dave Turner reported that a temporary Traylor for the Building Department has been found and it should arrive in the next few weeks. City Administrator Turner further reported that a bid is out on DemandStar to clean all the city's storm sewers which is due June 15th. City Administrator Turner continued saying the bid for the resurfacing of the West Tennis Court is out on DemandStar and the money is in the budget for the project. The City Administrator further reported that the city session with residents on the flood maps and LDR's went well. City Administrator Dave Turner reported that the proposal from Tony Rosabal from LIVs for updated city drawings was sent out with a completion date between the 1st and 15th of June. City Administrator Turner stated that the needed changes were not the architects nor the city's fault but due to changes from FEMA and asked for approval of the proposal.

MOTION: Motion made by Commissioner Sutton, seconded by Vice-Mayor Harding, to approve the proposal by LIVS Architects in the amount of \$32,000.00

DISCUSSION: None.

ON THE MOTION: Roll call vote. Unanimous approval.

City Administrator Dave Turner reported on the Vulnerability Study and the Planning and Mitigation Watershed Master Plan and stated that this is something the city needs to do. City Administrator Turner explained that after completion there is a possibility of the City having to pay out 25%, or \$36,000.00. The City Administrator further explained that he is working that number into the next budget, but it seems that everyone that has been granted this grant, reported that the Vulnerability Grant can be used as the match. The City Administrator continued saying that everyone has been able to use the first grant as a match for the second, and he is 90% sure that this will cost the City nothing but the \$1,250.00 that the City went in with the City of Layton as partners, but he will figure the \$36,000.00 into the next budget just in case. The City Administrator explained that in the future this study is needed for almost anything the city will be asking money for and further explained that in the past the city experienced roadblocks by not having hired engineers. City Administrator Turner explained that he feels confident with the percentages but will put the money away for it. City Administrator Dave Turner stated that this will be a good plan for the masterplan that is needed for more grants in the future. Vice-Mayor Harding asked if a motion is needed for approval which the City Administrator declined but explained, that this more of an update on the partnership with Layton which is a great opportunity to work together. Vice-Mayor Harding thanked City Administrator Dave Turner for a great initiative.

City Administrator Dave Turner reported that Iguana Control is doing a great job in the city and that interested residents can hire the same company for a discounted price of \$1,400.00 to receive service. The City Administrator informed that more information is available in the office.

7. Commissioner Items for Discussion/Approval:

A. Discussion/Approval of Mittauer Engineering Proposal for the 2023 WWTF Permit renewal – *City Administrator Turner explained that this is the permit for the Utility Plant with all paperwork to be done by Jason Shepler. The City Administrator further explained that some updates are being considered regarding the drying beds which were discussed with the Utility Board. The City Administrator continued saying that two of the drying beds are never used, and could be demolished and taken out to provide more cleanliness of the plant and other storage solutions for the city. City Administrator Turner stated that the Buttonwoods grew very quickly and would hide items from being stored there. Mayor Trefry entertained a motion to approve the Mittauer Engineering Proposal.*

MOTION: *Motion made by Vice-Mayor Harding, seconded by Commissioner DeNeale, to approve the Mittauer Engineering Proposal.*

DISCUSSION: *None.*

ON THE MOTION: *Roll call vote. Unanimous approval.*

Commissioner DeNeale asked if there could be a safety reason to keep a drying bed for sludge hauling in the future. City Administrator Dave Turner explained that one drying bed will be saved that is being used occasionally for maintenance.

B. Discussion/Approval of GTEch Construction Bid For Sludge Hauling

City Administrator Dave Turner reported that the Sludge Hauling Bid was explained and discussed during the Utility Board Meeting and approved to be passed on to the Commission. The City Administrator further reported that the bid was on DemandStar and that all objectives were met, and it is the same company that currently is doing the sludge hauling. Mayor Trefry asked if there was a motion to approve the GTEch construction bid for sludge hauling

MOTION: *Motion made by Commissioner Sutton, seconded by Commissioner DeNeale, to approve the GTEch construction bid for sludge hauling.*

DISCUSSION: *None.*

ON THE MOTION: *Roll call vote. Unanimous approval.*

C. Discussion/Approval of Haack Bid for 10th Street Stormwater Project:

City Administrator Dave Turner reported the item having been discussed during the Utility Board Meeting and stated that two contractors placed bids for the contract. The City Administrator stated that all questions were answered and recommended moving forward with the approval of the bid. Mayor Trefry asked for a motion to approve the bid for 10th Street Stormwater by Haack Construction.

MOTION: *Motion made by Commissioner Ramsay-Vickrey, seconded by Commissioner Sutton, to approve the Haack Bid for the 10th Street Stormwater Project in the amount of \$699,560.00.*

DISCUSSION: *Commissioner DeNeale asked the question on the perforated pipe and brick paver driveway and stated that he did not think the city paid for this before but rather the homeowner. City Administrator Dave Turner explained that this is the amount the contractor feels costs to take care of it but explained that this is the overall bid. The City Administrator further stated that an informational session will be held on 10th Street for individual owners to explain costs with pavers, swells, or basic stone to the street. Commissioner Sutton asked if there will be a pre-construction meeting with the contractor which City Administrator stated will be planned after the contract has been awarded.*

ON THE MOTION: *Roll call vote. Unanimous approval.*

D. Discussion/Approval of Traffic Study Investigation on US1 and Sadowski Causeway:

Vice-Mayor Harding explained that the agenda item is an update from the last Commission meeting and recounted that Chief DiGiovanni had provided the Vice-Mayor with a letter from a resident voicing concern of US1 and Sadowski, in particular the East to West portion of Sadowski to US1. Vice-Mayor Harding continued that a request was sent to FDOT for a study and that the Vice-Mayor did an informal study over two weeks with seven samples of ten light cycles each. Vice-Mayor Harding reported that he was surprised that 13% of the time the red light was run with the majority of them blatant red light runs. Vice-Mayor Harding continued to report that he sent in recommendation to the FDOT individual that organizing the survey who has agreed to execute the survey and will let us know what their recommendation will be. Vice-Mayor Harding further reported that Chief DiGiovanni will talk to the County on the subject of enforcement and is waiting to see what information FDOT will return in far of timing of light, additional enforcement, or new technology. Commissioner Sutton stated that the intersection has always been a problem and he

has worked on the issue some years back. Vice-Mayor Harding stated that FDOT has digital cameras to possible link to, or suggested for regular cameras to be installed. Vice-Mayor Harding further explained that the findings that FDOT will return can be added to the Monroe County Transportation long-term plan with FDOT.

E. Discussion/Approval of FDOT 2022 Transportation Alternatives project awards.

Vice-Mayor Tom Harding reported that the FDOT grant for transportation alternatives, which refers to bicycle and pedestrian safety within the city, was awarded to the city in the amount of \$25,840.00 for the year 2025. Vice-Mayor Harding explained that this money will be allocated to the city with a \$7,000.00 match by the city. Vice-Mayor Harding further explained that projects include advanced crosswalk signage, pedestrian level lighting by West Ocean and Sadowski, flexible delineator bicycle racks, pedestrian bicycle path repaving, and the updating of one of the stop signs. Vice-Mayor Harding stated if there are ideas for next year for approval. The Vice-Mayor thanked Chief DiGiovanni and Public Works Department Head Mike Guarino for their input. Mayor Trefry thanked Vice-Mayor Harding for his work.

F. Discussion of Ordinance No. 2022-476 Utility Board Ordinance: An Ordinance of the City of Key Colony Beach, Florida, Amending Chapter 14 fo the Code of Ordinances of the City of Key Colon Beach Article III, Section 14-5-: Providing for the repeal of all Ordinances or parts thereof found to be in conflict.

Mayor Trefry stated that the ordinance is strictly for discussion and turned the dialog over to City Attorney Ryan Benninger. City Attorney Benninger explained the draft ordinance to the Commission and purpose behind it. City Attorney Benninger explained that the ordinance is to support the Utility Board in times when the Board would be unable to have a quorum and to allow the Utility board to complete its business. City Attorney Ryan Benninger asked the Commission to consider the ordinance, and to provide any discussion and recommendations. Commissioner Beth Ramsay-Vickrey suggested two changes, on Page 90 which read “under the supervision of the City Administrator” to change to “under the guidance of the City Administrator”, and on Page 91, last paragraph, last line, after the word “quorum”, to insert “should such inability to meet or to establish a quorum occur.” Commissioner DeNeale stated that he had the same concerns on language with the board being a public board and agreed with the language of ‘guidance’. Vice-Mayor Harding agreed with the change of verbiage as well and further stated, that in the city code of ordinances it states that no member of the Utility Board shall be a city commissioner or employee of the city. Vice-Mayor Harding explained that the Utility Board is an independent group and stated, that there are times when the Utility Board does not have to follow directions by the Commission, which is the reason why it is important to be independent. City Attorney Ryan Benninger asked Commissioner Beth Ramsay-Vickrey for a repeat on the request changes in verbiage which the Commissioner supplied. City Attorney Benninger asked the Commission for a motion to accept the changes in verbiage for the ordinance to be up for the first read at the next Commission meeting.

MOTION: Motion made by Commissioner DeNeale, seconded by Commissioner Sutton, to accept the changes in verbiage for Ordinance No. 2022-476 Utility Board Ordinances.

DISCUSSION: The City Attorney verified the verbiage change details with the Commission.

ON THE MOTION: Roll call vote. Unanimous approval.

G. Discussion/Approval: Cancellation of August 11th Regular Commission Meeting due to FLC Annual Conference.

Mayor Trefry reported that the Commission will be attending the Annual Florida League of Cities Conference in August and asked the Commission's opinion on cancelling the meeting or rescheduling. Commissioner Sutton stated that he would like to cancel the meeting since rescheduling would present a very short time between the meetings. Mayor Trefry agreed with Commissioner Sutton and stated that she would prefer cancelling the meeting as well. The Commission agreed on cancelling the first meeting in August.

8. Approval of Warrant – Approval of Warrant No. 0422 in the amount of \$509,689.02.

MOTION: Motion made by Commissioner DeNeale, seconded by Vice-Mayor Harding, to approve Warrant No. 0422 in the amount of \$509,689.02.

DISCUSSION: None.

ON THE MOTION: Roll call vote. Unanimous approval.

9. Ordinances and Resolutions

A. Ordinances – First Reading - None.

B. Ordinances – Second Reading

a) Ordinance No. 2022-474 Parking Ordinance: An Ordinance Of City Of Key Colony Beach, Florida, Amending Chapter 17 – Traffic And Parking Of The Code Of Ordinances Of The City Of Key Colony Beach By Amending Section 17-6. – Parking Restricted On Right-Of-Way In Key Colony Beach Subdivision And Section 17-7. - Parking Restriction On City Parking Lots/City Right-Of-Ways.

City Attorney Ryan Benninger explained that the ordinance was drafted on behalf of the Police Department in an effort to coordinate and clarify some of the parking restrictions within the city. City Attorney Benninger explained that the ordinance came before the Commission last month and that at that time the ordinance was read as a first reading due to content changes. Mayor Trefry entertained a motion to approve Ordinance No. 2022-474.

MOTION: Motion made by Vice-Mayor Tom Harding, seconded by Commissioner Beth Ramsay-Vickrey, to approve Ordinance No. 2022-474.

DISCUSSION: None.

ON THE MOTION: Roll call vote. Unanimous approval.

C. Resolutions

a) Resolution 2022-05 Stormwater Budget 2022-2023

Mayor Trefry read Resolution 2022-05, a resolution by the City of Key Colony Beach, Florida, imposing the annual stormwater utility special assessments for fiscal year commencing October 1, 2022; approving the assessment roll; providing for collection of the assessments, and providing for an effective date. City Administrator Dave Turner explained that the rates are the same rates as last year with no change and that the stormwater collection and budget is fine, and he recommends keeping it the same. Mayor Trefry asked for a motion to approve Resolution 2022-05.

MOTION: Motion made by Commissioner Beth Ramsay-Vickrey, seconded by Commissioner DeNeale, to approve Resolution No. 2022-05.

DISCUSSION: None.

ON THE MOTION: Roll call vote. Unanimous approval.

b) Resolution 2022-06 Resilient Florida Planning Grant Resolution

Mayor Trefry read Resolution 2022-06, a resolution of the City Commission of Key Colony Beach, Florida, authorizing the City Administrator to submit, execute and enter into a grant agreement with the Florida Department of Environmental protection for implementation of a resilient Florida Planning Grant, providing an effective date, and for other purposes.

City Administrator Dave Turner explained that the grant was discussed earlier in the meeting and asked if there were any additional questions, which were none. Mayor Trefry asked for a motion on Resolution No. 2022-06.

MOTION: Motion made by Commissioner DeNeale, seconded by Commissioner Sutton, to approve Resolution No. 2022-05.

DISCUSSION: None.

ON THE MOTION: Roll call vote. Unanimous approval.

10. Commissioner's Reports or Comments

Commissioner Beth Ramsay-Vickrey reported that in the last two week's she attended the Utility Board meeting, met with Utility Clerk Pat Hyland, attended the Planning & Zoning Meeting, toured the city with Planning & Zoning Board Chair Joey Raspe, met with KCB Community Leaders, and toured the city with Building Official Gerard Roussin. Commissioner Ramsay-Vickrey further reported on having attended the Townhall Meeting with her fellow Commissioners and meeting with Code Enforcement Officer Stacy Stahl. The Commissioner further reported that she will be participating in the Walk-for-Wag Charity Event at Sunset Park at 7:30 a.m. in the morning which will be dedicated to children with cancer. Commissioner Ramsay-Vickrey invited everyone with well-behaved dogs to attend.

Vice-Mayor Harding had no further report.

Commissioner Sutton had no further report.

Commissioner DeNeale reported that he has made the decision not to retire and to re-run for office. Commissioner DeNeale stated that he received many phone calls telling him that it is not time to leave and that there are still issues to face. Commissioner DeNeale continued saying that he will run one more time because he feels it is the right thing to do.

Mayor Trefry updated that Saturday starts the Sales Tax Holiday for disaster preparedness, and pet supplies needed to evacuate are included this year. Mayor Trefry stated that the Sales Tax Holiday will run from May 28th to June 10th. Mayor Trefry encouraged everyone to take advantage of the tax break and to have the City Clerk to publish the information on their website. Mayor Trefry reported on having a conversation with Mosquito Control and reported that the CDC has asked Mosquito Control to place traps on properties in Key Colony Beach. Mayor Trefry reported that these are not GMO mosquitos, and these are strictly traps to catch mosquitos for genetic testing for diseases. The Mayor continued saying that they are looking for full-time residents from 8th Street to 11th Street to put traps out for the CDC. In closing, Mayor Trefry wished everyone a good Memorial Day Weekend and asked everyone to be careful on the roads.

11. City Attorney Ryan Benninger apologized for not having been able to address the question on ex-Parte communication earlier on the fly. The City Attorney stated that, after further research, he found supporting evidence that according to AGO 94-71 that no ex-Parte communication took place between Commissioner Beth Ramsay-Vickrey and Building Official Roussin, however, the e-mail matter posed by Commissioner DeNeale and Mayor Trefry remained unanswered at that point. The Commission had no further questions for City Attorney Ryan Benninger.

Mayor Trefry recognized Joey Raspe to address the Commission. Joey Raspe addressed the Commission and stated that the Fishing Derby Committee is requesting to use Marble Hall on June 14th for two hours in the afternoon to load backpacks for the kids. Mayor Trefry deferred the request to City Administrator Dave Turner. City Administrator Turner asked Mr. Raspe if the Public Works building could be used which Mr. Joey Raspe confirmed. Mayor Trefry also suggested the Golf Pro Shop Building as an alternative. City Administrator Dave Turner stated either one will work. Mr. Joey Raspe thanked the Commission.

12. The meeting adjourned at 11:19 a.m.

Respectfully Submitted,

Silvia Gransee

City Clerk

ADOPTED: June 9, 2022

Silvia Gransee

City Clerk

AGENDA

KEY COLONY BEACH CITY COMMISSION PUBLIC HEARING

Thursday, June 9, 2022 – 9:30 a.m.

City Hall Auditorium & Virtually Via Zoom Conferencing

Zoom Meeting ID: 841 2500 2725 - Passcode: 276114

- 1. Call to Order, Pledge of Allegiance, Prayer, Roll Call**
- 2. Administration of Oath to Witnesses**
- 3. Citizen Comments**
- 4. Disclosure of Ex-Parte Communications – Commissioners – Pg. 1**
- 5. Proof of Publications, Affidavit of Mailing/Posting Notices – Pgs. 2-6**
- 6. Variance Request: 200 15th Circle – Owner: Thomas E. Carden**

Applicant requests a Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6'-8'. Current maximum height is 30'0".

The Applicant further requests a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'.

- a. Presentation of Variance Request – Building Department – Pgs. 7-18*
 - b. Statement by Applicant – Pgs. 19-21*
 - c. Planning & Zoning Board Recommendation – Pgs. 22-23*
 - d. Planning & Zoning Board Adopted Minutes from the 04-20-2022 Hearing – Pgs. 24-30*
- 7. Commissioner Comments**
 - 8. Motion to Approve, Deny, or Approve with Conditions**
 - 9. Adjournment**

"Members of the public may speak for three minutes and may only speak once unless waived by a majority vote of the commission."
Letters submitted to the city clerk to be read at the Commission Meeting will be made part of the record but not read into record. Persons who need accommodations in order to attend or participate in this meeting should contact the city clerk at 305-289-1212 at least 48 hours prior to this meeting in order to request such assistance. If a person decides to appeal any decision made with respect to any matter considered at any meeting, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

EX-PARTE COMMUNICATIONS

An ex-parte communication is defined as:

any contact, conversation, communication, writing, correspondence, memorandum or any other verbal or written communication that takes place outside a public hearing between a member of the public and a member of a quasi-judicial board, regarding matters which are to be heard and decided by said quasi-judicial board.

Site visits and expert opinions are also considered ex-parte communications.

In the event that someone contacts a Board Member about a quasi-judicial matter outside of a public meeting, at such time that particular issue is brought before the Board, the Board Member should state on the record:

- the existence of any ex-parte communication,
- the nature of the communication,
- the party who originated the ex-parte communication, and
- whether or not the ex-parte communication affects your ability to impartially consider the evidence presented.

Similarly, any correspondence received by a Board Member must be forwarded to the Board Clerk.

Note: The term "Board Member" would include all members of the Code Enforcement Board, the Planning & Zoning Committee, and the City Commission when they are acting in a quasi-judicial capacity (for example, but not limited to, code violation hearings and variance hearings).

AFFIDAVIT OF MAILING

**STATE OF FLORIDA
COUNTY OF MONROE**

Before me, the undersigned authority, personally appeared Silvia Gransee, who, having been first duly sworn according to law, deposes and says:

1. I am City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the 22 day of April, 20 22 (no less than 30 days prior to the City Commission Public Hearing on May 26, 2022) I mailed the Notice of Hearing by first class U.S. mail to the address on file with the Monroe County Property Appraiser's Office for all property owners within 300 feet of the property located at 200 15th Circle

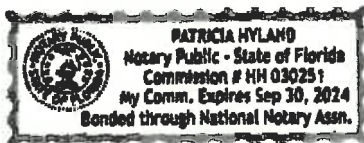
Silvia Gransee
Signature

Sworn and subscribed before me this 22nd day of April, 2022.

Patricia Hyland
Notary Public, State of Florida
My commission expires: 9/30/24

Personally known

Produced _____ as identification



City of Key Colony Beach

PO Box 510441 Key Colony Beach, Florida • Phone# 305-289-1212 • Fax# 305-289-1767



To: Property Owners within 300 feet of 200 15th Circle
From: Key Colony Beach Planning and Zoning Board
Subject: Variance Request

CITY OF KEY COLONY BEACH NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Commission of the City of Key Colony Beach, Florida, will hold a **Public Hearing on Thursday, May 26, 2022, at 9:30 A.M.**, Key Colony Beach City Hall Commission Room to hear a Variance Request from Thomas E. Carden, Owner of 200 15th Circle. This meeting will be available virtually via Zoom Meetings. Members of the public who wish to attend virtually may email cityclerk@keycolonybeach.net or call 305-289-1212, Ext. 2 for further instructions on attending via Zoom Meetings.

Applicant requests a Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6'-8". Current maximum height is 30'0".

The Applicant further requests a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'.

Interested parties may attend the Hearing and be heard with respect to the requested variance.

If any person decides to appeal any decision made by the Planning & Zoning Board with respect to any matter considered at the Variance Hearing, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

If you are unable to attend the Hearing on Thursday, May 26, 2022, but wish to comment, please direct correspondence to P.O. Box 510441, Key Colony Beach, FL 33051, or cityclerk@keycolonybeach.net and your comments will be entered into the record.

Mailed: On or Before April 25, 2022

City of Key Colony Beach


AFFIDAVIT OF POSTING

**STATE OF FLORIDA
COUNTY OF MONROE**

Before me, the undersigned authority, personally appeared Silvia Gransee, who, having been first duly sworn according to law, deposes and says:

1. I am the City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the 10 day of May, 2022 (no less than 14 days prior to the City Commission Public Hearing on May 26, 2022) I posted the Notice of Hearing for the Property at 200 15th Circle at the local United States Postal Service and City Hall.

Further affiant saith not.



Signature

Sworn and subscribed before me this
10th day of May, 2022



Notary Public, State of Florida
My commission expires: 9/30/2024



Personally known

Produced _____ as identification

**CITY OF KEY COLONY BEACH
NOTICE OF VARIANCE HEARING**

NOTICE IS HEREBY GIVEN that the City Commission of the City of Key Colony Beach, Florida, will hold a **Public Hearing on Thursday, May 26, at 9:30 A.M.**, Key Colony Beach City Hall commission room, to hear a **Variance Request from Thomas E. Carden, Owner of 200 15th Circle**. This meeting will be available virtually via **Zoom Meetings**. Members of the public who wish to attend virtually may email cityclerk@keycolonybeach.net or call 305-289-1212, Ext. 2 for further instructions on attending via **Zoom Meetings**.

Applicant requests a **Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6’-8’**. Current maximum height is **30’0”**.

The Applicant further requests a **Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8’6”**. Current rear yard minimum is **25’**.

Interested parties may attend the Hearing and be heard with respect to the requested variance.

If any person decides to appeal any decision made by the City Commission of the City of Key Colony Beach with respect to any matter considered at the Variance Hearing, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

If you are unable to attend the Hearing on Thursday, May 26, 2022, but wish to comment, please direct correspondence to P.O. Box 510141, Key Colony Beach, FL 33051, or cityclerk@keycolonybeach.net and your comments will be entered into the record.

POSTED: On or Before May 12, 2022

CITY OF KEY COLONY BEACH



Published Weekly
Marathon, Monroe County, Florida

PROOF OF PUBLICATION

**STATE OF FLORIDA
COUNTY OF MONROE**

Before the undersigned authority personally appeared **JASON KOLER** who on oath, says that he is **PUBLISHER** of the **WEEKLY NEWSPAPERS**, a weekly newspaper published in Marathon, in Monroe County, Florida; that the attached copy of advertisement was published in said newspaper in the issues of: (date(s) of publication)

May 19, 2022

Affiant further says that the said **WEEKLY NEWSPAPERS** is a newspaper published at Marathon, in said Monroe County, Florida, and that the said newspaper has heretofore been continuously published in said Monroe County, Florida, once each week (on Thursday) and has been qualified as a second class mail matter at the post office in Marathon, in Monroe County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement. The affiant further says that he has neither paid nor promised any person, firm, or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper(s) and that The Weekly Newspapers is in full compliance with Chapter 50 of the Florida State Statutes on Legal and Official Advertisements.

Sworn to and subscribed before me this 19 day of May, 2022.
(SEAL)

Charlotte Hruska
Notary



CITY OF KEY COLONY BEACH
NOTICE OF VARIANCE HEARING
NOTICE IS HEREBY GIVEN that the City Commission of the City of Key Colony Beach, Florida, will hold a Public Hearing on Thursday, May 26, at 9:30 A.M., Key Colony Beach City Hall commission room, to hear a Variance Request from Thomas E. Carden, Owner of 200 15th Circle. This meeting will be available virtually via Zoom Meetings. Members of the public who wish to attend virtually may email cityclerk@keycolonybeach.net or call 305-249-1212, Ext. 2 for further instructions on attending via Zoom Meetings.

Applicant requests a Variance to Land Development Regulations Chapter 101, Section 101 - 10 (f) height variance of 6'-6". Current maximum height is 30'0".

The Applicant further requests a Variance to Land Development Regulations Chapter 101, Section 10 (g) rear setback by 10'.

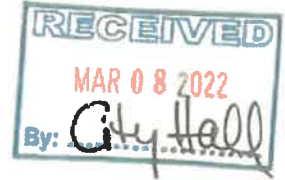
Current rear yard minimum is 23'. Interested parties may attend the Hearing and be heard with respect to the requested variance.

If any person desires to appeal any decision made by the City Commission of the City of Key Colony Beach with respect to any matter considered at the Variance Hearing, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

If you are unable to attend the Hearing on Thursday, May 26, 2022, but wish to comment, please direct correspondence to P.O. Box 518141, Key Colony Beach, FL 33091, or cityclerk@keycolonybeach.net and your comments will be entered into the record.

CITY OF KEY COLONY BEACH
Public's
May 19, 2022
The Weekly Newspapers

**CITY OF KEY COLONY BEACH
P.O. BOX 510141
KEY COLONY BEACH, FL 33051-0141
305-289-1212 FAX: 305-289-1767**



APPLICATION FOR VARIANCE

APPLICANT: Thomas E Carden 815 329-5220
Property Owner Name Phone Number
²⁰⁰ 190 15th circle K.C.B. 4 3 COURY SUBD
Street Address of Variance Lot Block Subdivision
 696 105th STREET MARATHON FL. 33050
Mailing Address of Property Owner

Owners may have an agent complete this application and represent them at the hearings. In this case, owners must attach to this application a written, signed statement stating the name of the individual or business that may represent them in this matter.

Agent Name Agent Phone Number

VARIANCE REQUESTED to: Land Development Regulations Chapter 101, Section 10 R1A (5) (8)
Code of Ordinances Chapter Section

DESCRIPTION OF VARIANCE: Please describe the variance request in regard to type of structure, location on lot, distance from side, rear or front lot lines, or details of the variance, including the current rule in effect and the reason for the variance (for example, building would encroach into the setback by _____ feet). Also state if this is for future construction or existing conditions.

I'm requesting a rear yard variance of 8'-6". The furthest point of the back of the proposed single family home will encroach into the 25 foot rear yard setback by 8'-6". This lot has a unique and deviated feature that the other adjacent lots do not have. The property, when originally platted was designed with the rear property line at an angle making the right side of the lot dramatically shorter in depth.

I'm also requesting a height variance of 6'-8" above the 30-foot height requirement. The reason for the height increase is to anticipate the new/proposed flood maps being approved. This height increase is less than the 40 foot building height ordinance change that was proposed by the city.

Please attach the following to this application:

- A sketch or site plan of the property showing the variance requested.
- Written responses to the five criteria (questions attached).
- Fee of \$700.00

Signature of Applicant

Thomas Carden

dotloop verified
03/22/22 9:30 AM EST
MCHM-OPST44MB-LJPN

Office Use Only

Date Filed 3-8-2022

Date Paid 3-8-22 Check # 1167

Variance granted / denied on (date) _____

Shirley Gause
Signature of City Official

Applicant Questions and Responses-

Summarizing Land Development Code 101-171 (5)(a): Variances shall be approved only if the applicant can demonstrate a good and sufficient cause, that denial would result in unnecessary hardship, it will not be contrary to the public interest, that special conditions exist, and that it will not confer any special privilege on the applicant. Please see the attached pages for the entire city codes relating to Variances.

To assist the Planning & Zoning Committee and City Commission in evaluating this variance request, please answer the following questions:

1. What is the "good and sufficient cause" that explains why this variance should be granted?

This lot has a unique and deviated feature that the other adjacent lots do not have.

2. What are the unnecessary hardships that would result if the variance is not granted?

Unnecessary hardship would result from the strict application of the ordinance and would make designing a home on this lot very difficult.

The hardship is not a self-created hardship and the hardship resulted from conditions that are peculiar to this property.

3. If this variance is granted, would there be any increase to public expense that would not otherwise occur? Would it create a threat to public health and safety? Would it create a nuisance? Or cause fraud or victimization of the public?

The variance if granted would not cause any increases to public expense or create a threat to public health and safety. The variance would not cause a nuisance. The proposed location of the building into the rear yard setback still would be behind the adjacent home. See reference point of line of sight on the drawing for the adjacent home.

4. What are the unique or peculiar physical/geographical circumstances or conditions that apply to this property, but do not apply to other properties in the same zoning district?

This lot has a unique and deviated feature that the other adjacent lots do not have. The property, when originally platted was designed with the rear property line at an angle making the right side of the lot dramatically shorter in depth than the adjacent lots.

5. If the variance is granted, would it confer upon the applicant any special privilege that is denied to other properties in the immediate neighborhood in terms of the established development pattern?

No, it just would make this lot useable like every other lot and still have the same rear line of sight of the adjacent properties.

Office Use Only

Comments and Recommendation of the Building Official

Applicant Questions and Responses-
LAND DEVELOPMENT REGULATIONS - Section 101-171. Variances.

- (1) **Initiation.** Any owner, agent, lessee or occupant of land or a structure may apply in writing to the city clerk for a variance, on that land, from the requirements of this chapter, except that no request for a use variance will be considered. Details must be included with the request and be filed with the city clerk together with the established fee for a variance. If the applicant is other than the owner of the property, the written consent of the owner for the variance requested must be submitted with the application. When the petitioner is a public agency, the city commission may authorize the waiver or reduction of the fee.
- (2) **Planning and zoning committee procedure.**
- (a) Upon receipt of a written request, the city clerk will deliver the request to the planning and zoning committee.
 - (b) The planning and zoning committee shall make an investigation of the conditions pertaining to the requested variance in advance of the public hearing by the city commission. This investigation shall be at a duly noticed meeting. Mailing of notice of the meeting shall be made by the city to all property owners within three hundred (300) feet of the boundaries of the property which is the subject of the variance request.
 - (c) The planning and zoning committee, shall make their recommendation to the city commission in writing, based upon the standards in (5) below. They may recommend approval or disapproval of the variance or may recommend approval of the same subject to such specified conditions as it may deem to be necessary or advisable in furtherance of the provisions of this chapter. Reasons for the recommendation shall be stated.
- (3) **City commission procedure.**
- (a) After receipt of the planning and zoning committee report, the city commission shall give notice in a newspaper stating the date, time and place of a city commission public hearing as provided for in section 101-173.
 - (b) After their public hearing the city commission may approve or disapprove the requested variance or may approve the same subject to specified conditions as it may deem to be necessary or advisable in furtherance of the provisions of the zoning ordinance. If the applicant desires to present evidence not presented to the planning and zoning committee, the matter shall be returned to the planning and zoning committee for further deliberation and recommendation unless the city commission finds by majority vote that the new evidence is insignificant or unsubstantial.
 - (c) The commission shall state reasons for their decision, based on the standards detailed in (5) below.
 - (d) The decision of the city commission shall be final. No new request for similar action concerning the same property may be made to the city commission or planning and zoning committee for a period of not less than six (6) months after the date of said decision by the city commission.
- (4) **Effective period.**
A building permit application must be submitted within twelve (12) months of variance approval otherwise the approval expires. Any extension of up to twelve (12) months may be granted by the city commission for good cause.

Applicant Questions and Responses-

(5) Standards for granting variances.

(a) Specific criteria:

- (1) The applicant shall demonstrate a showing of good and sufficient cause;
- (2) Failure to grant the variance would result in unnecessary hardship to the applicant;
- (3) Granting the variance will not result in increased public expenses, create a threat to public health and safety, create a public nuisance, or cause fraud or victimization of the public;
- (4) Property has unique or peculiar circumstances, which apply to this property, but which do not apply to other properties in the same zoning district;
- (5) Granting the variance will not give the applicant any special privilege denied other properties in the immediate neighborhood in terms of established development patterns.

(b) Recommendations to the city commission.

- (1) If all 5 specific criteria are met, then the planning & zoning committee shall recommend approval to the city commission. Approval by the city commission would be by majority vote of the city commission.
If the planning & zoning committee finds the five (5) specific criteria are not met, they shall recommend disapproval of the variance unless they specifically find that the granting of the variance will have minimal adverse effect on other citizens of the city or on the city. Approval of a variance where all five (5) specific criteria are not met shall require a favorable vote of four-fifths (4/5) of the city commission.
- (2) **Conditions:** The planning and zoning committee may recommend, and the city commission may prescribe, appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.
- (3) **Use Variance:** Under no circumstances shall the city commission grant a variance to permit a use not generally permitted in the zoning district. No nonconforming use of neighboring lands, structures or buildings in the zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

Untitled Map

Write a description for your map.

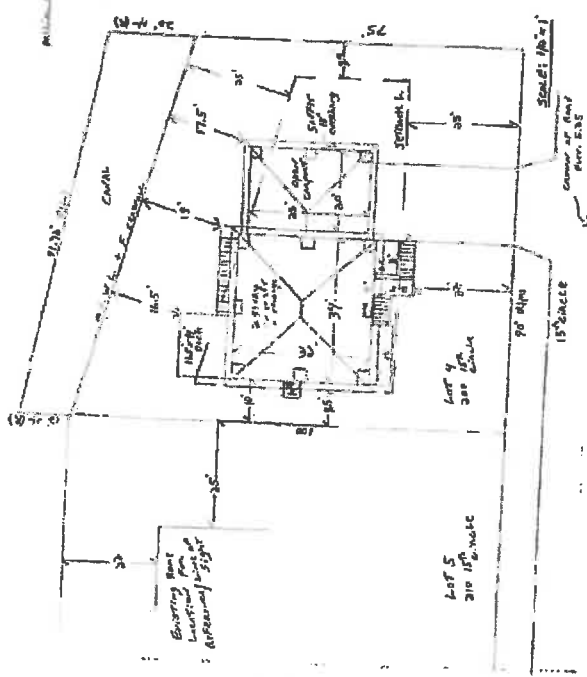
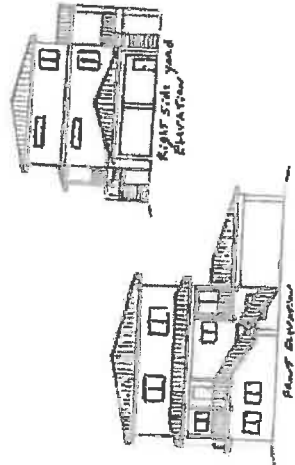
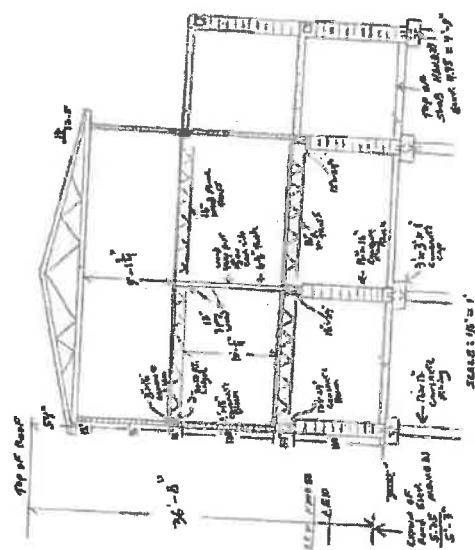
Legend

-  Circle Measure
-  Lakeyden



House Number
Lot 2, 300 ft. wide
11-11-1930

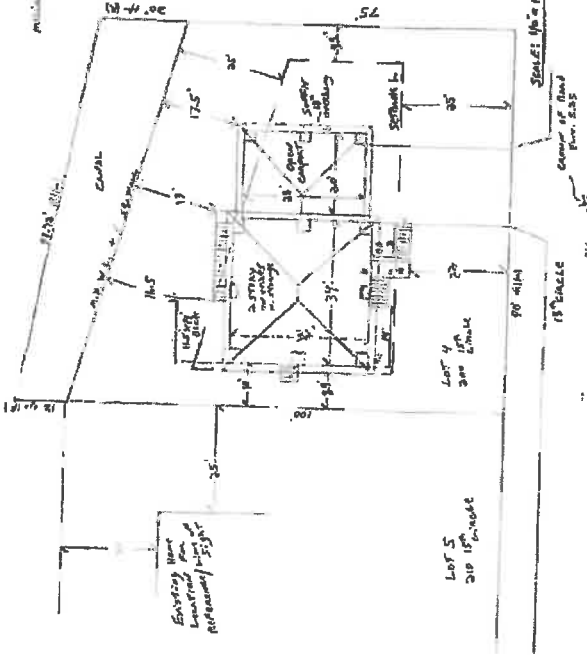
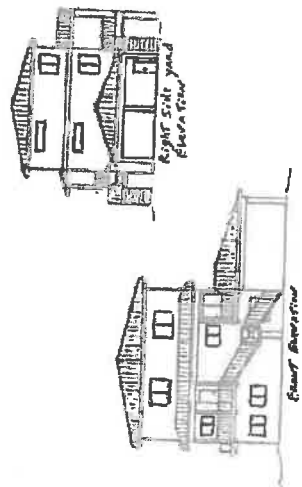
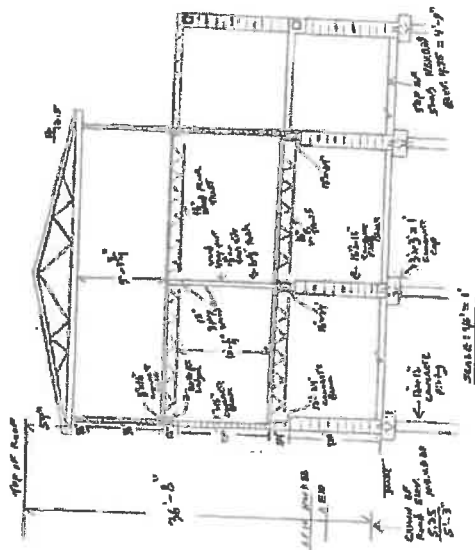
- (A) Building Information
- (1) The plan shows a structure 30 ft. deep and 30 ft. wide, which is a minimum of 6'-8" above the 30' min. building height. Building height is measured from the corner on the road for another 11' dimensions.
 - (2) Four 2000 sq. ft. areas and structure plan is shown in four yard areas by 3 feet wide.
 - (3) The front yard area is 10' x 30' (10' x 30' from road) structure is 8'-2" from road.
 - (4) The rear structure projects into the rear yard 10' from the 30' x 30' area.
 - (5) The four corner structures are the rear yard structure by 7'-8" from the building height to the top of the structure is 30' from the corner on the road, which is a projection from the building height to 6'-8".
- (B) PROJECTIONS
- (1) From 3, 4 and 5 require a minimum of 2'-6" into the rear yard structure.
 - (2) From 6 require a minimum of 6'-8" above the 30' min. building height. Building height is measured from the corner on the road for another 11' dimensions.



Amos & Egan
 407 E. 2nd Ave
 (313) 555-5555

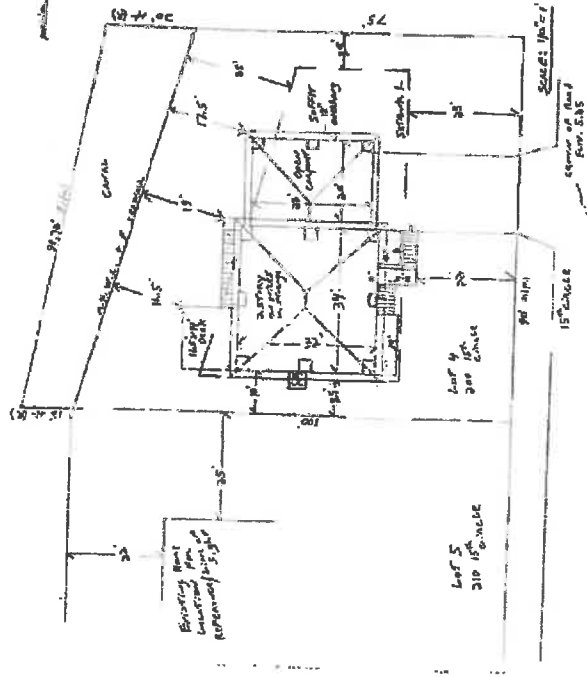
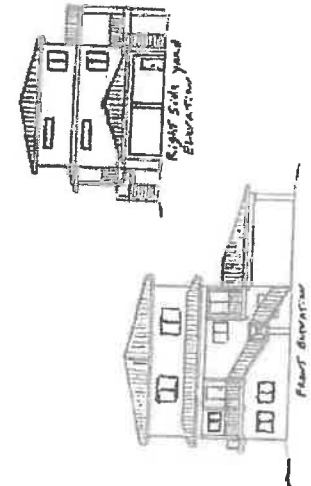
Additional R.S.A.

- (A) Building requirements:
- (1) The front entrance into the side yard by 3' which is retained per sec. 101.05 (C)
 - (2) Front porch, screen and staircase retained into the rear yard within 3' limit, which is assumed per sec. 101.05 (D)
 - (3) The Backyard Deck Enclosure form the rear yard set back by 8'-6"
 - (4) The deck structure projects 2'-0" to form the screen by 7'-6"
 - (5) The front corner enclosure into the rear yard screen by 7'-6"
 - (6) The building height to the top of the roofline is 31'-8" from the corner of the land, which is a projection from the existing height of 6'-8"
- (B) Easements:
- (1) Easements 3, 4 and 5 require a minimum of 2'-6" into the rear yard structure.
 - (2) Easement 6 meets a variance requirement of 6'-8" above the 3' max building height. Building height is measured from the corner of the land per subsection B.1.



Sheet of Details
 202-392-5300

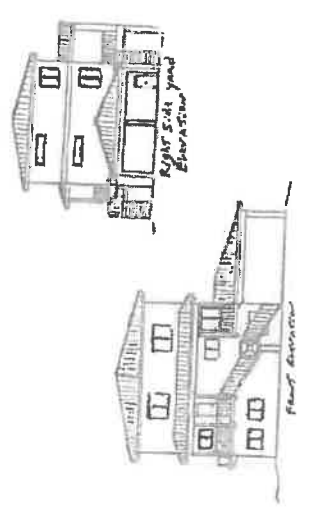
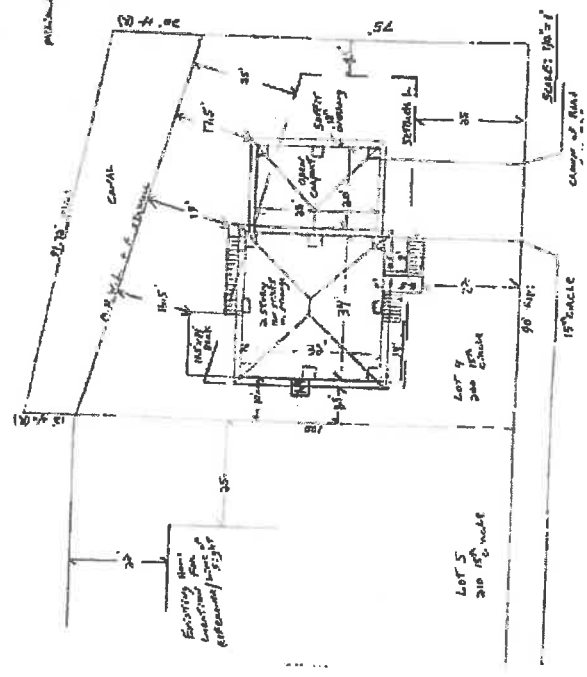
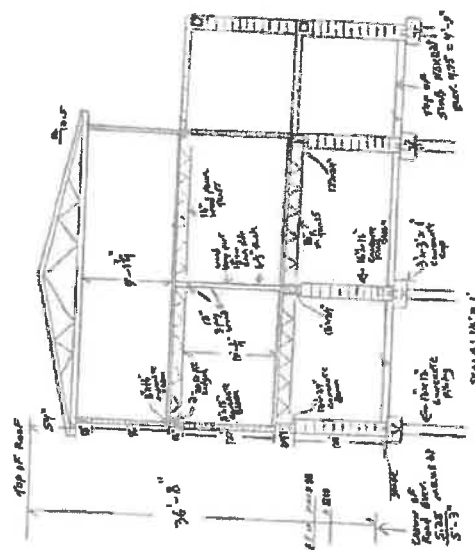
- (A) Building Particulars:
- (1) The structure is to be built on a 30' x 30' lot with 5' sidewalk on all sides.
 - (2) The structure is to be built on a 30' x 30' lot with 5' sidewalk on all sides.
 - (3) The structure is to be built on a 30' x 30' lot with 5' sidewalk on all sides.
 - (4) The structure is to be built on a 30' x 30' lot with 5' sidewalk on all sides.
 - (5) The structure is to be built on a 30' x 30' lot with 5' sidewalk on all sides.
 - (6) The structure is to be built on a 30' x 30' lot with 5' sidewalk on all sides.
- (B) FINISHES:
- (1) Masonry 3, 4 and 5 require a minimum of 8" of insulation in stem wall structure.
 - (2) Masonry 6 needs a minimum of 6" of insulation in stem wall structure.
 - (3) Masonry 7, 8 and 9 require a minimum of 6" of insulation in stem wall structure.
 - (4) Masonry 10, 11 and 12 require a minimum of 6" of insulation in stem wall structure.



Home Center
Lot 4 - 2nd St. Subd.
2-21-60

2-BUILDING S.I.A.

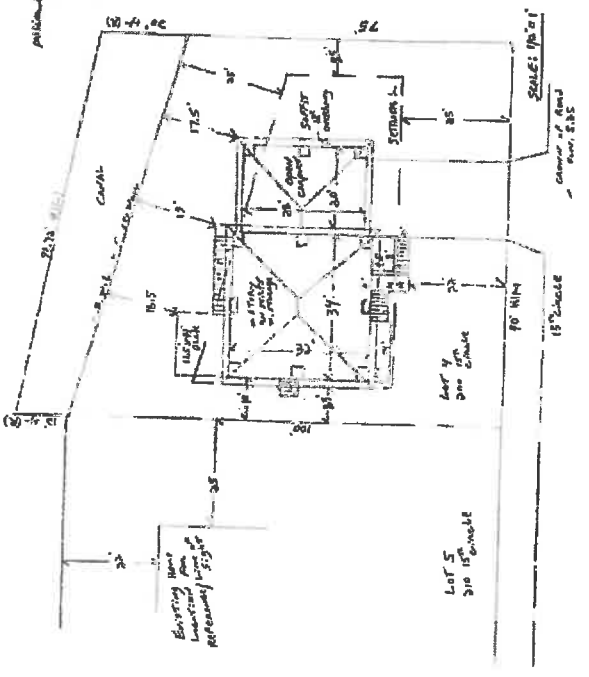
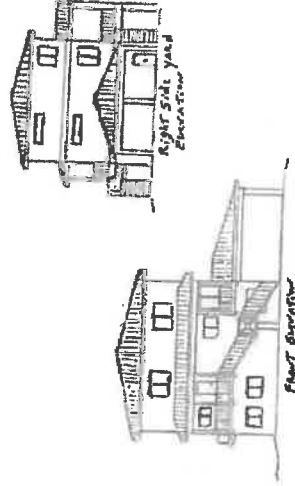
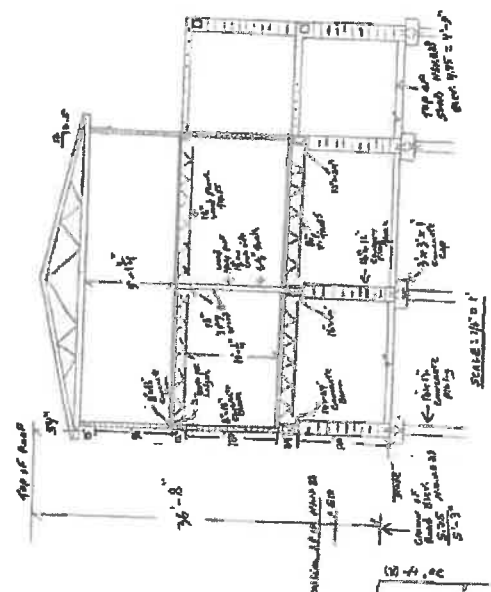
- (A) Building provisions:
- (1) No portion encroaches into the city yard.
 - (2) No lot which is assumed for site, total (c).
 - (3) No part other portion and structure within the lot yard setback of 3 FEET. MINUS 3 FEET MINUS PER SEC. 101.37 (B).
 - (4) The building shall encroach into the rear yard setback by 8'-6".
 - (5) The rear structure project into the rear yard setback by 7'-6".
 - (6) The building height to the top of the parapet shall be 34'-8" from the corner of the lot which is a projection from the building height of 25'-0".
- (B) VARIANCE:
- (1) Variances 3, 4 and 5 require a variance of 2'-6" into the rear yard setback.
 - (2) Variances 6 require a variance of 6'-8" above the 30' rear building height. Building height is measured from the corner of the lot per Article 11 provisions.



Amended
Lot 5
2023-11-20

Zoning: R2A

- (A) Building footprints:
- (1) The front enclosure into the site and by 3' which is allowed per Sec. 161.33 (c)
 - (2) From the rear yard setback by 3 feet, which is allowed per Sec. 161.33 (d)
 - (3) The (rear) rear enclosure into the rear yard setback by 2'-6"
 - (4) The rear enclosure, which sets the rear yard setback by 8'-0"
 - (5) The rear enclosure into the rear yard setback by 7'-8"
 - (6) The building height is 17'-8" at the roofline, which is 3'-8" from the corner of the lot, which is a projection from the building height of 6'-8"
- (B) Notes:
- (1) Lots 3, 4 and 5 require a variance of 8'-6" into the rear yard setback.
 - (2) Owner to submit a variance request of 6'-8" above the 3' rear building height. Building height is measured from the corner of the rear lot, as shown in the plan.

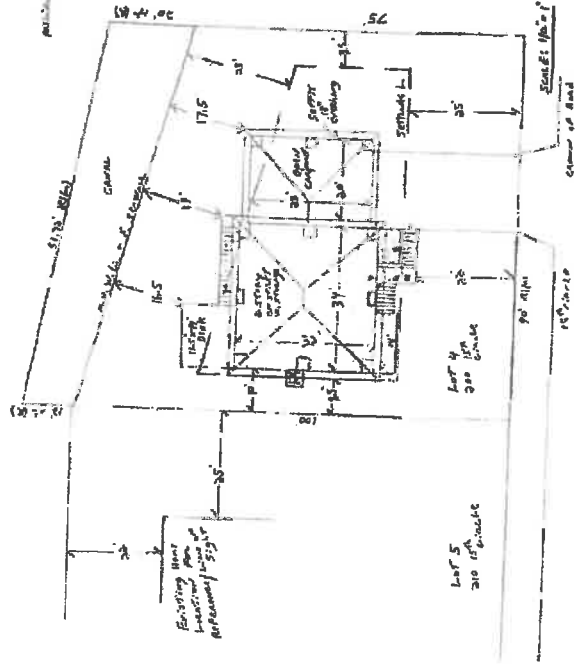
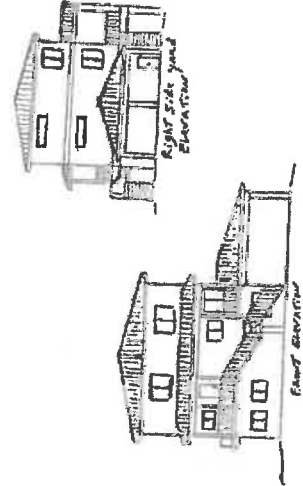
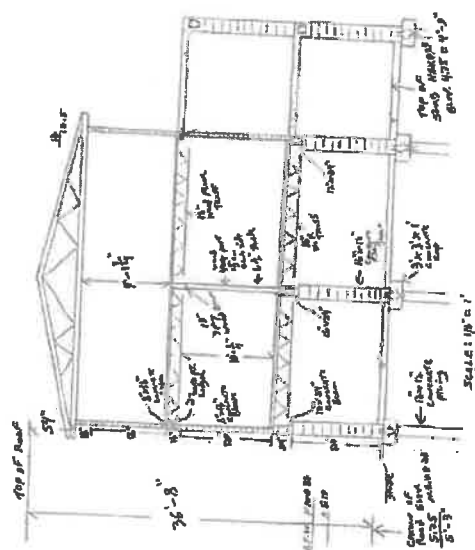


Approved by
 3/15/2018

3/15/2018

- (A) Building envelope:
- (1) The building envelope shall be set back by 3'-0" from the rear yard setback.
 - (2) The building envelope shall be set back by 3'-0" from the front yard setback.
 - (3) The building envelope shall be set back by 3'-0" from the side yard setback.
 - (4) The building envelope shall be set back by 3'-0" from the front yard setback.
 - (5) The building envelope shall be set back by 3'-0" from the rear yard setback.
 - (6) The building envelope shall be set back by 3'-0" from the side yard setback.

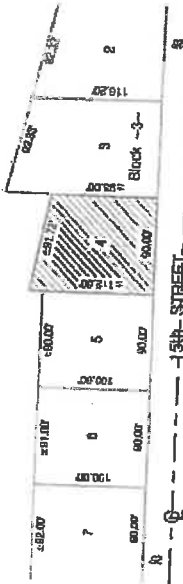
- (B) Notes:
- (1) Areas 1, 4 and 5 require a minimum of 3'-6" into the rear yard setback.
 - (2) Areas 6 and 7 require a minimum of 6'-8" from the rear building height. Building height is measured from the ground on the rear yard setback.



LOCATION MAP
Scale: 1" = 100'

Scale: 1" = 100'

CANAL



LEGAL DESCRIPTION:

PARTIAL SECTIONS, SECTION 12, TOWNSHIP 36S, RANGE 19W, AND SECTION 13, TOWNSHIP 36S, RANGE 19W, OF SECTION 36, TOWNSHIP 36S, RANGE 19W, OF THE PUBLIC RECORDS, OF MONROE COUNTY, FLORIDA.

PROPERTY ADDRESS:

2545 WINDY RIDGE, NEW COLONY BEACH, FL 32071

FLOOD ZONE: A4

COMMUNITY: 18121

PARCEL: 1892

DATE OF FRM: 06-11-2009

SUBJECT: ELEVATION 8 AND 10

GENERAL NOTES:

- 1) LEGAL DESCRIPTION PROVIDED BY OTHERS.
- 2) THE LOCATION OF THE ABSTRACT OF THE TITLE WALL, MAKE TO BE MADE TO DETERMINE RECORDS TO BE REFERRED TO IN THIS SURVEY.
- 3) THE LARGER SURVEY IS NOT ABSTRACTED FOR EASEMENT OR OTHER RECORDED ENCUMBRANCE.
- 4) UNDERGROUND PORTION OF FOOTINGS, ETC. INDICATIONS OR OTHER IMPROVEMENTS WERE NOT LOCATED.
- 5) COATED DIMENSIONS ON THE GROUND ENCUMBRANCES LOCATED.
- 6) WALLS ARE MEASURED TO THE EXTERIOR SURFACE.
- 7) FENCE OWNERSHIP NOT DETERMINED.
- 8) BOUNDARY ADJACENT TO LAKE (NOTED AS LA).
- 9) SURVEY ADJACENT MEANS A DRAWING AND/OR GRAPHIC REFERENCE (NOTION) OF THE SURVEY ADJACENT TO THE LAKE (NOTED AS LA).
- 10) NO IDENTIFICATION POINTS OR PLAIN SURVEY COGNATE UNLESS NOTED.
- 11) DIMENSIONS SHOWN ARE PLAT AND MEASURED DIMENSIONS UNLESS OTHERWISE NOTED.
- 12) DIMENSIONS OF BROWN ARE BASED UPON ALGIDA. USE UNLESS OTHERWISE NOTED.
- 13) THE SURVEY IS FOR THE EXCLUSIVE USE OF THE ENTIRE PARCEL.
- 14) THIS SURVEY HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE ENTIRE PARCEL.
- 15) HERON, THE DEREGISTRATION DOES NOT EXTEND TO ANY UNNAMED PARTIES.

CERTIFICATION:

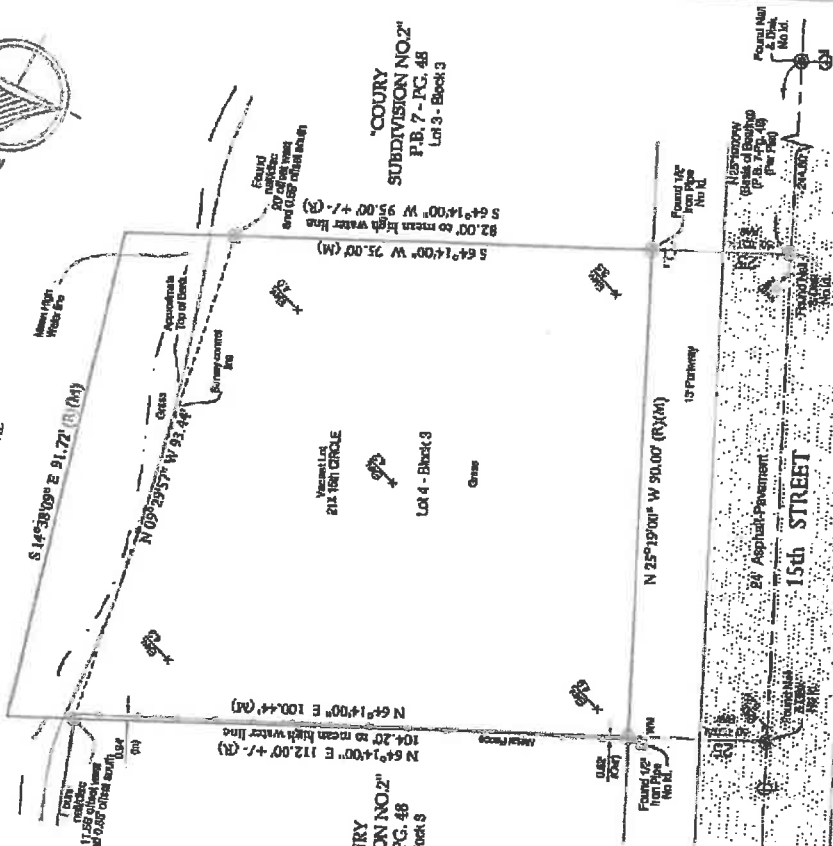
I, THE SURVEYOR, HERON, CERTIFY THAT THIS BOUNDARY SURVEY IS ACCURATE AND CORRECT REPRESENTATION OF A SURVEY PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND UNDER MY TECHNICAL SUPERVISION. I AM A LICENSED PROFESSIONAL SURVEYOR OF FLORIDA, MY EXPIRES ON 12-31-2011. I AM CURRENTLY LICENSED AS A PROFESSIONAL SURVEYOR OF FLORIDA AND MY LICENSE NUMBER IS 1705. I AM CURRENTLY LICENSED AS A PROFESSIONAL SURVEYOR OF FLORIDA AND MY LICENSE NUMBER IS 1705.

FOR THE FIRM
MIGUEL ESPINOSA LAND SURVEYING, INC.
10200 N.W. 24th Ave., Suite 100, Ft. Lauderdale, FL 33311
PHONE: (954) 562-9988

MAP OF SURVEY
Scale: 1" = 20'

Scale: 1" = 20'

CANAL



ABBREVIATIONS AND LEGEND:

- | | |
|--------|------------------------------------|
| AC | - DENOTES AIR CONDITIONER UNIT |
| CONC. | - DENOTES CONCRETE |
| (Dist) | - DENOTES DISTANCE |
| (Area) | - DENOTES AREA |
| (Vol) | - DENOTES VOLUME |
| (C/A) | - DENOTES CALCULATED |
| (S/A) | - DENOTES SURVEY ADJACENT |
| (U/E) | - DENOTES UNDER EASEMENT |
| (P/B) | - DENOTES PLAT BOOK |
| (C/L) | - DENOTES CLEAR |
| (N) | - DENOTES NORTH |
| (S) | - DENOTES SOUTH |
| (E) | - DENOTES EAST |
| (W) | - DENOTES WEST |
| (D) | - DENOTES DEGREE |
| (R) | - DENOTES RADIUS |
| (L) | - DENOTES LENGTH |
| (C/L) | - DENOTES CHORD LENGTH |
| (D/S) | - DENOTES OFFSET |
| (R) | - DENOTES REDUCTION |
| (M) | - DENOTES WATER METER |
| (W) | - DENOTES WOOD FENCE |
| (U) | - DENOTES UDDY POLE |
| (G) | - DENOTES GRASS |
| (C/L) | - DENOTES CHAIN LINK FENCE |
| (D/S) | - DENOTES OVERHEAD WIRES |
| (R) | - DENOTES FOUND IRON PIPE (AND ID) |

MIGUEL ESPINOSA LAND SURVEYING, INC.
PROFESSIONAL SURVEYOR AND MAPPING ENGINEER
10200 N.W. 24th Ave., Suite 100, Ft. Lauderdale, FL 33311
PHONE: (954) 562-9988

BOUNDARY SURVEY

Original Date: 06/11/2009
Field date: 06/11/2009
Revision Date: 06/11/2009
Drawn By: D.L.
Job No: 8-1402

Silvia Gransee

From: Thomas Carden <thomascarden@cbschmitt.com>
Sent: Wednesday, April 20, 2022 10:04 PM
To: Silvia Gransee
Cc: kcbtrefry@gmail.com; kcbtomharding@gmail.com; kcbkathryn@gmail.com; jwdeneale@comcast.net; r3sut@aol.com
Subject: [External] 200 15th circle
Attachments: 200 15th Circle - Colored Diagram.pdf; 200 15th - No colors .pdf

I'm writing this E-mail to justify my variance request for the rear yard setback and providing clarification.

During the Building & Zoning meeting on 4/20/22 the vote was 2 against and 1 for approval. Unfortunately all five members were not present; it would have been nice to see the other member's opinions. Joey stated during the meeting, "I bought a lot and I had to follow the setbacks and I made it work." He also stated, "It's not a hardship and my dredging of the canal caused the irregularity." His comments are total unjustified and his comments about the canal project are ignorant.

If the canal maintenance dredging project never happened, the mean high water line; which is where your setback starts per the ordinance would be at the same location and I still would need a variance. The water line location has never changed. What did change is the removal of the vegetation and now you can see the water line more clearly. This lot was platted with the deviation/hardship and was not self-created. This lot has a unique and deviated feature that the other adjacent lots do not have. This property when originally plated was designed with the rear property line at an angle making the right side of the lot dramatically shorter in depth than the adjacent lots.

This lot is a prime example per Florida law as to why a variance request was established.

Generally, a variance is authorized if due to circumstances unique to the applicant's property itself and not shared by other properties in the area; there exists an undue and unnecessary hardship created by the zoning regulations. This lot is nothing like the other adjacent lots in size, shape and is unique; especially with the back yard at a 45 degree angle.

Joey also stated in the meeting he would be fine with a 8 foot setback encroachment in the front. I would not be fine with that owning the house next door and neither would any neighbor; it would look aesthetically displeasing.

One of the main reasons for setbacks requirements is building uniform appearance/line of sight. It wouldn't look good if the houses on a street where staggered back in forth.

My proposed plan shows a uniform appearance location even with the 8 foot 6 inch encroachment to the rear yard setback. If you look at the plan provided you will see the back of the house/porch still does not go past the adjacent house located at 210 15th Circle. If an aerial picture was provided after the house was completed, it would show all the homes on 15th circle canal side uniformed and my porch would still be behind everyone else's home. This encroachment is not extending past anyone's line of sight in the rear yard.

I designed the rear home encroachments as minimal as possible. The whole house in the back yard is not entirely encroaching into the rear yard setback of 8 feet 6 inches. Only part of the corner of the porch encroaches, which is 112 square feet of area into the setback (See Picture). Also the back stairs and part of the corner of the house encroaches 6 feet into the setback, which is 40 square feet of area (see picture). The corner of the open carport encroaches into the rear yard setback by 7 feet 6 inches and is only 65 square feet of area (see Picture). In scale, per area, its minimum encroachments into the rear yard setback, like little stepped triangles. The established line that stops and goes on the drawing is the 25 foot setback line. You can see on the drawing only the corners of the house encroach into the rear yard setback.

I find Joey's action skeptical, as he was acting like he never granted a variance request for a rear yard setback, but he has. Joey and the Building and Zoning Board unanimously approved a 15 foot encroachment into a 50 foot rear yard setback. In addition, on May 27th, 2021 the City commission unanimously approved Lot 11 Block 3 15th circle variance request of 15 feet encroachment into the rear yard. I am only asking for my specific minimal encroachments to be

approved not an entire rear building like was approved on 15th circle. In addition, there were no objections from any residents in Key Colony about my variance request and again this lot is unique and is not like any other adjacent lots.

If you have any questions please feel free to call me.

Thomas Carden, C.B.O.
815-329-5220

Silvia Gransee

From: Thomas Carden <thomascarden@cbschmitt.com>
Sent: Thursday, April 21, 2022 1:26 PM
To: Silvia Gransee
Cc: kcbtrefry@gmail.com; kcbtomharding@gmail.com; kcbkathryn@gmail.com; jwdeneale@comcast.net; r3sut@aol.com
Subject: [External] 200 15th Circle

I was thinking last night about why Joey was so adamant not to approve my variance request, so I wanted to see why he recommended an approval for lot 11 and not mine. I tried to keep an open mind and assumed it wasn't anything personal about me or maybe it is.

First, let me give you an idea of my back ground. I worked as a Building inspector, Plan reviewer and building official for over 12 years for a municipality. I have provided over ten thousand plan reviews including everything from multimillion dollars regenerative thermal oxidizers for true value, new construction designs for McDonalds, Wendy's, Jewel/Osco, papa John's pizza, assisted living facilities, nail salons, residential homes, multifamily buildings, suppression system designs, clean rooms for sage products and type 1 and 2 commercial kitchen hoods and I could still go on and on.

I also hold 20 Licensee's through the International Code Council agency. I'm a license real estate agent, and a license general contractor in the state of Florida. In addition I'm an expert witness in building construction and design. My most recent case report was for the attorneys representing Grassy Flats Resorts and Beach Club. I also have recommended and opposed hundreds of variance requests when previously working for a municipality.

Lot 11 is on the same street and in the same Zoning District but it's adjacent to the ocean, which requires a different rear setback of 50 feet. Let's look at lot area, size and shape. Lot 11 is over 20,000 square feet and the side depth of the lot is 140 feet deep and 230 feet on the other side. The lot does have a smaller front area in width. My lot is half the size at 10,000 square feet with only 100 feet on one side and 75 feet on the other side and has a severe deviation in the back compared to the other lots.

Let's look at buildable building area, which is the area left over on a lot after the setbacks are considered and where your home should be located on. Even with a rear yard setback of 50 feet on Lot 11 it still has a whopping 7000 square feet area to build a home on, which is 3 times larger than my building area. My lot is in the same Zoning District and on the same street and has only 2,300 square feet of building area, which represents a huge disadvantage from lot 11 and the other adjacent lots.

I'm very surprised and shocked that Joey recommended a 15 feet encroachment into the rear yard setback of lot 11 and while my setback request got denied.

I also want to state my design has only a 1000 square ft. of first floor living area, so to minimize the encroachments; while lot 11's house is enormous in size and still requested a setback variance of 15 feet and received approval.

I Hope you keep an open and unbiased mind when considering my request next month.

Regards-

Thomas Carden, C.B.O.
815 329-5220

City of Key Colony Beach

P.O. Box 510141, Key Colony Beach, FL 33051-0141 • Phone: 305-289-1212
Fax: 305-289-0247
www.keycolonybeach.net



April 20, 2022

To: The City of Key Colony Beach Board of Commissioners

From: The Key Colony Beach Planning & Zoning Board

Re: 200 15th Street – Owner: Thomas E. Carden

The Planning & Zoning Board heard the applicant requests for a Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6'-8". Current maximum height is 30'0".

Post Hearing Questions Results:

- | | |
|--------------------------------|--|
| 1) Chairperson Joey Raspe | YES - on all 5 (five) Post Hearing Questions |
| 2) Vice-Chair George Lancaster | **Excused** |
| 3) Board Member Mike Yunker | YES - on all 5 (five) Post Hearing Questions |
| 4) Board Member Lin Walsh | **Excused** |
| 5) Board Member Tom DiFransico | YES - on all 5 (five) Post Hearing Questions |

MOTION: Motion made by Tom DiFransico, seconded by Joey Raspe, to approve the granting of the requested height variance for 200 15th Circle.

ON THE MOTION: Roll Call vote. Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Unanimous approval. The Height Variance Request was granted.

Final Recommendation: The Planning & Zoning Board recommends to the City of Key Colony Beach Board of Commissioners for the requested height variance for the property at 200 15th Circle to be approved.


Joey Raspe, Chairperson

City of Key Colony Beach

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April 20, 2022

To: The City of Key Colony Beach Board of Commissioners

From: The Key Colony Beach Planning & Zoning Board

Re: 200 15th Street – Owner: Thomas E. Carden

The Planning & Zoning Board heard the applicants request for a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'.

Post Hearing Questions Results:

- 1) Chairperson Joey Raspe
- 2) Vice-Chair George Lancaster
- 3) Board Member Mike Yunker
- 4) Board Member Lin Walsh
- 5) Board Member Tom DiFransico

NO - on all 5 (five) Post Hearing Questions

Excused

YES - on all 5 (five) Post Hearing Questions

Excused

YES - on No. 1 (one), No. 3 (three), No. 4 (four),
NO - on No. 5 (five), No. 2 (two)

MOTION: Motion made by Tom DiFransico, seconded by Joey Raspe, to disapprove the granting of the requested setback variance for 200 15th Circle.

ON THE MOTION: Roll Call vote. Mike Yunker – no, Tom DiFransico – yes, Joey Raspe – yes. 1 – NO, 2 – YES. The Setback Variance Request was denied.

Final Recommendation: The Planning & Zoning Board recommends to the City of Key Colony Beach Board of Commissioners for the requested setback variance for the property at 200 15th Circle to be disapproved.


Joey Raspe, Chairperson

MINUTES
PLANNING & ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING
Wednesday, April 20, 2022 - 9:30 a.m.
Marble Hall

1. Call to Order/Pledge of Allegiance/Roll Call: Chairperson Joey Raspe called the meeting to order at 9:30 a.m. in the morning followed by the Pledge of Allegiance and Roll Call.
Present: Chair Joey Raspe, Mike Yunker, Tom DiFransico. **Excused:** George Lancaster, Lin Walsh. **Also Present:** City Administrator Dave Turner, City Clerk Silvia Gransee, City Attorney Ryan Benninger, Building Official Gerard Roussin, Building Inspector Gerald Leggett.
Public Attending: 3 Marble Hall

2. Approval of Minutes: The Planning Zoning Board accepted the minutes from March 16, 2022, as written.

3. Administration of Oath to Witnesses: City Clerk Silvia Gransee administered the Oath of Witness to all wishing to give testimony in today's hearing.

4. Citizen Comments and Correspondence: City Clerk Silvia Gransee reported not having received any citizen correspondence and there were no comments from the audience.

Chair Joey Raspe stated that Board Member DiFransico would like to add an agenda item. Board Member Tom DiFransico stated that with all the information that was received on the R2B Zoning comments by the Board that he believes the Board should address the issue. Board Member DiFransico further stated that he is aware that a workshop will be held but was unsure if the Board could talk about the issue at this meeting or at the later meeting. City Attorney Ryan Benninger stated that the Commission had already addressed the matter but if there would be some discussion it would be permissible, but as far as he is aware the workshop will address further discussion. Chair Joey Raspe asked if the Planning & Zoning Board will be part of the workshop which Attorney Ryan Benninger stated he will check on. City Clerk Gransee also stated that the topic was not an agenda item, and that the public was not aware of the topic being discussed.

5. Disclosure of Ex-Parte Communication – Board Member Tom DiFransico stated that himself and City Attorney Ryan Benninger had a phone conversation on Monday where some of the agenda items were briefly discussed, but which will not affect any of his decisions he will be making today. City Attorney Ryan Benninger confirmed that this conversation does not fall under the Ex-Parte Communication Act. Board Member Mike Yunker stated regarding Item 8 on the agenda, Ordinance 2022-473, stated that he is the General Manager for Castillo de Sol Condominium and that he has been reviewing the ordinance and had a lot of discussion with other Condominium Managers regarding this type of ordinance. Board Member Yunker stated that he does not believe that this will affect his decisions but wanted it known to the Board and have guidance from the City Attorney if he should excuse himself from the issue.

6. Proof of Publications: All affidavits and legal notices were accepted as sufficient.

7. Variance Request: Chair Raspe read the variance request for 200 15th Circle – Owner: Thomas E. Carden. Chair Joey Raspe stated that the variance request is a two-part request for height and setback, and that both will be addressed separately. Chair Raspe further stated that the first variance request to be addressed is the height

setback.

a) Height Variance Request

Mr. Thomas Carden, owner of 200 15th Circle, made his statement to the Planning & Zoning Board. Mr. Thomas Carden stated that it is difficult to build a two-story house above flood on stilts with the upcoming changes in flood maps. Mr. Carden continued by saying that he is only two feet above flood with the current design, and that is why he is requesting the variance.

Building Official Gerard Roussin stated that the Building Department does support the request for a height variance as they do understand the upcoming changes in the FEMA flood maps and proposed LDR changes once the Comp Plan is finished. Building Official Roussin stated that this request would be within the proposed new LDR's even though the variance is a little bit more than what has been granted in the past, as far as the 34-foot height the Board has somewhat adopted, but the Building Department would fully support the variance request as is. Board Member Tom DiFransico asked Building Official Roussin if this design incorporates the additional 2-foot free board that was incorporated at CRS. Building Official Gerard Roussin stated that he does not believe the design incorporates the additional 2 foot of free board, but he stated that the height is still there if needed. Board Member DiFransico stated that he believes that if the variance was granted based upon the new LDR's, the new requirements of the new LDR's should be in place when granting a variance. Building Official Roussin stated that he does not know if that can be legally done as it is not part of the code and does not know if that could be legally mandated and that should be a question for the city attorney. Chair Joey Raspe asked the Building Official if once the LDR is approved, if it then becomes part of the City's rule to have the additional 2 feet of free board incorporated. Building Official Roussin confirmed the question and stated that a sticking point of adopting the additional 2 feet of free board was the CRS ranking for the city, as well as looking at properties that were being redeveloped, to give them their second floor of living space if the first floor was brought into code along with the 2 feet of free board. Building Official Roussin stated that this property does not require this at this time and believes that when the new maps come out this property's elevations will go down one foot compared to now. Building Official Roussin further stated that the Building Department fully supports this variance but would not ask for the free board at this time. Mr. Thomas Carden stated that he could make it work since he is only a couple of feet off. Board Member Tom DiFransico stated that this goes back to the question if it is necessary for CRS as it does not look like it is. Building Official Roussin stated that it is not necessary at this time as the official LDR's have not been adopted yet. Building Official Roussin explained that once the Comp Plan comes back and is adopted, the LDR changes will be sent back to the State to be reviewed and if approved they will be sent back for adoption. Building Official Gerard Roussin stated that the time frame for the Comp Plan has taken longer than anticipated with no prediction on an exact date. City Administrator Dave Turner stated that if it would be 5 years ahead of time, it would be advantageous to build to the new heights and to the new 2-foot free board, and it would cost the homeowner less in flood insurance and it would go to the rating for the city. Board Member DiFransico stated that he agrees with City Administrator Turner but that the Board could not mandate the owner. City Administrator Turner agreed but restated that it would be advantageous for the homeowner. Mr. Thomas Carden stated that he is willing to do it and he can make it work. Building Official Roussin stated that for any new homes that are being built right now, the owners have to sign paperwork that explain that new flood maps, as well as possible new LDR's are coming out, and that owners are aware of it and it should not catch anyone by surprise. Board Member DiFransico asked Building Official Gerard Roussin how the new proposed height requirements concur with the houses in the neighboring area. Building Official Roussin stated that there have been four or five new houses on 14th Street that had been granted a variance of 34 feet, and that the average eye should not notice a difference between a 36'6" and a 34' feet house. Building Official Roussin stated that in his opinion it should not stand out.

Chair Joey Raspe continued the hearing by reading the applicants questions and responses. The Board had no

additional questions for the Building Official nor the applicant on the height variance request.

Height Variance Request - Post Hearing Questions: Chairperson Joey Raspe read the Post Hearing Questions to the Planning & Zoning Board.

1. Has the applicant shown good and sufficient cause to grant the variance?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

2. Will denial of the variance result in unnecessary hardship to the applicant?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

3. Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat to or nuisance, or cause fraud or victimization of the public?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

4. The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

5. Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

b) Setback Variance Request

Chair Joey Raspe read the setback variance request for 200 15th Circle.

Building Official Gerard Roussin explained that the owner is requesting a setback variance of 8'6" where the current standard for the city is 25' from the mean high-water line. The Building Official further explained that rear setbacks have been an issue, and that there have been variance approvals and disapprovals with rear yard setback issues. Building Official Roussin further explained that the property looking at the lot from 15th Circle is between 100 and 110 feet deep and the right side of the property is probably around 75 to 85 feet deep. Building Official Roussin stated that the setback issue can be either addressed with a variance or with a request of leaving the setback. Building Official Roussin further stated that the Building Department does not have an issue with granting a rear yard setback and that this would fall to the Planning and Zoning Commission for a decision.

Mr. Thomas Carden stated that his property is a unique lot, and explained, that by looking at the adjacent house and its design, that if he would build his house in the same design he still would be behind that house. Mr. Thomas Carden further explained that usually setbacks are for line-of-sight to have houses uniform and even with the encroachment he still would be behind 210 15th Circle. Chair Joey Raspe stated that he had not that particular drawing which Mr. Carden provided to the Board. Mr. Carden continued to explain to the Board the particulars of the drawing. Board Member Tom DiFransico asked Mr. Carden on when he purchased the lot which Mr. Carden stated was about a year ago. Chair Joey Raspe asked Mr. Carden if the setback of the house he is living in now is measured to the other side of 14th Street or if it is measured to the canal. Mr. Carden replied that it is measured to the mean waterline of the canal. Mr. Carden further stated that he dredged the canal and made sure that he maintained 25 feet. Chair Joey Raspe stated that it looks like the canal comes closer to Mr. Carden's house which Mr. Carden confirmed. Mr. Carden continued explaining that his lot is an angle, L-shaped lot and a lot bigger lot. Board Member DiFransico asked Building Official Roussin what the purpose is of the 25-foot setback. Building

Official Roussin explained that one of the main reasons for the setback is an area for a pool, an enclosure, or something similar, and also is part of the stormwater area to not run into the canal. Board Member Tom DiFransico further asked if there are other requirements for a pool and runoffs which Building Official Roussin confirmed. Chair Joey Raspe stated that it is important to remember that this property not always had canal bottom which Mr. Carden replied that the canal always had water but was not maintained. Mr. Carden continued to show the Board the original plat. Board Member DiFransico asked Mr. Carden if he had tried to rotate the house to maintain the setback. Mr. Carden stated that it is almost impossible to fit a house on this property with the setback requirements and that he does not want a house that is only 18 feet deep. Mr. Carden continued by saying that he does not believe that there is any house in Key Colony Beach that is only 18 feet deep. Chair Joey Raspe stated that at its shallowest point Mr. Carden should have 25 feet of house, which Mr. Carden stated that there are still overhangs, stairs, and balconies to consider, unless he makes it look like a box which would not match the community. Mr. Carden further stated that it would be really hard to make a deep house, unless he got rid of the front and back porch, but than it would look like a box, which he stated would bring a lot of complaints because it would not look like it belongs in Key Colony. Board Member DiFransico asked Mr. Carden if the depth looking from 15th Circle is 95 feet. Mr. Carden replied that his understanding of the city's ordinance is, that it measures the high waterline, so it does not matter how deep the lot is and that his mean high-water line is 75 feet. The Board did not have any additional questions for Mr. Carden and neither did the Building Official.

Chair Joey Raspe continued the hearing by reading the applicants questions and responses. Chair Joey Raspe stated in response to the question on unnecessary hardship, that ordinances are written to be strictly adhered to and that it does not create a hardship to follow an ordinance and to what it says. Chair Joey Raspe stated that everyone is supposed to do what the ordinance says. Chair Joe Raspe asked Mr. Thomas Carden why he feels that it creates a hardship to follow the rules of the city. Mr. Thomas Carden replied that he has the smallest lot in the zoning district and that the 25-foot setback was created because everyone had bigger lots on 14th Street and 15th Circle and that he himself has one of the smallest lots which creates a hardship for him. Board Member Tom DiFransico commented that this hardship was not self-created, and that Mr. Carden knew about the property line as well as the waterline when he purchased the property. Mr. Carden replied that the canal was not dredged and that he did not know exactly where the dredging would lead. The Board commented that Mr. Carden was one of the proponents for the dredging which Mr. Carden confirmed and further stated he paid for it as well. Mr. Carden further commented that the principle of setbacks is line-of-sight and that his house does not go back any further back than any other houses on that street. Mr. Carden continued explaining the layout of his house in comparison to neighboring houses. Board Member Mike Yunker asked Mr. Carden if the submitted print had his current house on it which Mr. Carden confirmed. Chair Joey Raspe stated that one of his issues is the safety issue of being closer to the canal and he would rather see the house sitting closer to the street. Mr. Carden replied if that is what the Board wants, he could do it, but he believes it looks stupid and that people would not like it. Chair Joey Raspe stated that he lives on 12th Street and that he had to adjust the size of his house due to the lot size and that he never thought about asking for a variance request. Mr. Carden stated that he wants to be a good steward to the Community and wants his house to look like it belongs. Mr. Carden further stated that there are other houses that look terrible and are an embarrassment to Key Colony and he does not want that, but he probably will if he does not get his variance. Mr. Carden said that 14th Street and 15th Circle are beautiful streets and that the Board wants to make sure that the houses all look the same. The Board had no further comments or questions on the hardship question.

Chair Joey Raspe continued reading the applicants questions and answers. Chair Joey Raspe asked if there were any additional questions for the Building Official or Mr. Carden. Board Member Mike Yunker asked Building Official Roussin if the square footage of the lot makes it a reasonable size to build a home that would fit into the perimeters of the setbacks. Building Official Gerard Roussin stated that on any lot within the city a house can be built within the perimeters and believes that the minimum square footage for the area is either 1,200 or 1,300

square feet. Building Official Roussin further stated that a house could be built within the perimeters, but it probably would not be the house someone would want to build. Building Official Roussin stated that the question is a double-edged sword question since a house can be built within the perimeters, but it probably would not look like it belongs.

The Board had no other discussions or questions on the variance request.

Setback Variance Request - Post Hearing Questions: Chairperson Joey Raspe read the Post Hearing Questions to the Planning & Zoning Board.

1. Has the applicant shown good and sufficient cause to grant the variance?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – no. Roll call vote: 2 – YES. 1 – NO.

2. Will denial of the variance result in unnecessary hardship to the applicant?

Roll call: Mike Yunker – yes, Tom DiFransico – no, Joey Raspe – no. Roll call vote: 1 – YES. 2 – NO.

3. Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat to or nuisance, or cause fraud or victimization of the public?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – no. Roll call vote: 2 – YES. 1 – NO.

4. The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – No. Roll call vote: 2 – YES. 1 – NO.

5. Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – no. Roll call vote: 2 – YES. 1 – NO.

d. Planning & Zoning Board Recommendation:

MOTION: Motion made by Tom DiFransico, seconded by Joey Raspe, to approve the granting of the requested height variance for 200 15th Circle.

ON THE MOTION: Roll Call vote. Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Unanimous approval. The Height Variance Request was granted.

MOTION: Motion made by Tom DiFransico, seconded by Joey Raspe, to disapprove the granting of the requested setback variance for 200 15th Circle.

ON THE MOTION: Roll Call vote. Mike Yunker – no, Tom DiFransico – yes, Joey Raspe – yes. 1 – NO, 2 – YES. The Setback Variance Request was denied.

8. Ordinance 2022-473: AN ORDINANCE OF CITY OF KEY COLONY BEACH, FLORIDA, AMENDING CHAPTER 6, ARTICLE II ("DANGEROUS STRUCTURES") OF THE CODE OF ORDINANCES OF THE CITY OF KEY COLONY BEACH BY AMENDING SECTION 6-97, WHICH SHALL PROVIDE FOR A CERTIFICATION AND RECERTIFICATION PROCESS FOR EXISTING AND FUTURE MULTISTORY STRUCTURES

Chair Joey Raspe read Ordinance No. 2022-473.

Building Official Gerard Roussin explained the ordinance and its correlation to the Surfside collapse in Miami. Building

Official Roussin further stated that what the City is looking for is a shorting of time for inspections on waterfront properties, commercial properties, R3, RH, and the type of designations that do not apply to single family or duplex homes. Building Official Roussin further stated that this ordinance only applies to 2-stories and above, multi family, resort/hotel, commercials, or condos. Building Official Roussin further stated that they are looking for a every 10-year inspection for buildings that are over 17 years old and would like to have a recertification every 10 years. Building Official Roussin continued by saying that current recertifications are every 40 years. Building Official Roussin further stated that a 40-year recertification on a building is pretty much a lifespan of a building and that they are trying to avoid this issue. Building Official Roussin explained that a private engineer will do electrical and structural inspections with certain time frames of having issues addressed including permits, engineering drawings on how repairs are being made. Building Official Roussin further said that this is a safe ordinance and well deserved after seeing what happened. Chair Joey Raspe asked Building Official Roussin if the Building Department provides the engineer or if it is an independent person. Building Official Roussin clarified that it is an independent company that Building hires and that the report gets reviewed by the Building Department. Board Member DiFrancisco asked if the engineer has to be approved the by Building Department which Building Official Roussin explained does not but has to be a state certified engineer. Board Member DiFrancisco asked for clarification for the wording in the proposed ordinance regarding the certification requirements on page 32. Building Official Roussin stated that the Building Department knows most local engineers and that this would pertain to out-of-town engineers as the Building Department would need to see their certification. Board Member DiFrancisco stated that he has several comments on the drafting of the ordinance. Board Member DiFrancisco stated that the qualification requirements on page 32, and middle of 33, state different requirements and that he is questioning the different requirements. Building Official Roussin stated that a qualified building inspector is not a structural engineer, and the structural engineer is a better degree than what they hold. Board Member DiFrancisco and Building Official Roussin continued to talk about the different qualifications for engineers. Board Member DiFrancisco suggested that the ordinance be redrafted regarding the qualifications to make it clearer to understand. Board Member DiFrancisco further commented on the timing of 90 days for the inspection and report to the city, following 60 days to complete repairs. Board Member DiFrancisco stated that the time frames do not seem right to him and further said that some repair work might take longer then 60 days. Board Member DiFrancisco asked the Building Official to adjust the timing which Building Official Roussin stated can be accomplished either with a longer time frame or verbiage of that a permit has been applied for. Board Member DiFrancisco clarified that he would leave the exact verbiage to Building Official Roussin. Chair Joey Raspe asked the Building Official if he would be comfortable with giving extensions which Building Official Roussin confirmed. Building Official Roussin further explained that it is understood what the work situation in the Keys looks like with getting things done in a timely manner and that there is not a huge workforce to draw from. Board Member DiFrancisco further asked Building Official Roussin to define what a multi-story building looks like and suggested to define the meaning in the ordinance. Board Member DiFrancisco further asked for a definition of a threshold building on page 34. Building Official Roussin explained that a threshold is a any type of visum construction, and that as part of the new Florida Building Code a Threshold Inspector is needed for new buildings. Board Member DiFrancisco suggested to Building Official Roussin to define the meaning of a threshold building which Building Official Roussin agreed to. City Attorney Ryan Benninger asked if it is the Boards recommendation to add a definitions section, which Board Member DiFrancisco stated would be his personal recommendation or have it somewhere else referred to for explanation. Board Member Mike Yunker asked if the purpose of the ordinance is to bring any required structure up to current electrical code or if this is to address any safety issues in the electric. Building Official Roussin stated that it is safety only and no one can be forced to upgrade to current code. Board Member Mike Yunker further asked for clarification on verbiage on page 32 and asked for clarifications on the definitions of minor structures on page 33 and the occupant load of 10 or less. Building Official Roussin explained that the 10-load occupancy refers to multi-family units and is a different standard than low-load occupancy. Board Member Mike Yunker asked how qualifications on multi-units were calculated which Building Official was not certain on but would follow up on. Board Member Mike Yunker further asked on the definition on how square footage applies for minor buildings, which Building Official Roussin was not sure on, but stated will be made part of their definitions section that will be added to the ordinance after being researched. Board Member Yunker asked Building Official Roussin on why the proposed ordinance applies to condos but not to single family residences. Building Official Roussin explained that he does not know the answer to that question, especially knowing that many single-family residences have major spalling, but believes that the property owners rights might be different for single-family residences compared to multi-family residences with condo associations. Chair Joey Raspe stated that this might be comparable to being a third party being responsible as opposed to being the actual homeowner. Building Official Roussin stated that he does not believe that there will be any problems in the city as most buildings do their repairs and normal

maintenance when it is supposed to be done. Building Official Roussin stated that the proposed ordinance will give the city a little bit more teeth when asking for inspection to be done in a timely manner and a good step forward in the safety process. Upon discussion with City Attorney Ryan Benninger the Board agreed upon the ordinance to be redrafted and presented back to the Planning and Zoning Board at next month's meeting.

9. There was no other business.

10. The meeting adjourned at 10:26 a.m.

*Respectfully
Silvia Gransee
City Clerk*

*ADOPTED: May 18th, 2022
Silvia Gransee
City Clerk*

MINUTES

KEY COLONY BEACH CITY COMMISSION REGULAR MEETING & PUBLIC HEARING

Thursday, June 9, 2022 – 09:57 a.m.

City Hall Auditorium & virtually via Zoom Conferencing

1. Call to Order, Pledge of Allegiance, Prayer, Roll Call: *The Regular Commission Meeting of the City of Key Colony Beach was called to order by Mayor Trefry at 09:38 a.m. followed by the Pledge of Allegiance, Prayer, and Roll Call.*

Present: *Mayor Trefry, Vice-Mayor Harding, Commissioner Sutton, Commissioner Ramsay-Vickrey, Commissioner DeNeale* **Also Present:** *City Administrator Dave Turner, City Clerk Silvia Gransee, City Attorney Dirk Smits, City Attorney Ryan Benninger, Public Works Department Head Mike Guarino, Building Inspector Gerald Leggett, Corporal Jamie Buxton, Code Enforcement Officer Stacy Stahl, Administrative Assistant Christine McLeod, Fire Chief John Johnson.*

Public: *7 Marble Hall, 6 Zoom*

2. Citizen Comments and Correspondence – none.

3. Approval of Minutes: *The City Commission Public Hearing and Regular Meeting Minutes from May 26, 2022, were accepted as written.*

4. Agenda Additions, Changes, Deletions: *Mayor Trefry added Emergency Resolution 2022-07 to the agenda with no objection from the Commission. Mayor Trefry moved Item 7. B and C to the City Administrator's report under Item 6. City Administrator Dave Turner added the Wilscot invoice to the agenda for Commission approval.*

5. Special Requests – None.

6. Committee and Staff Reports:

A. Marathon Fire/EMS – *Chief Johnson reported 3 medical calls, 1 motor vehicle accident, and 3 internal fire alarms. Chief Johnson further advised everyone to be storm ready, and that the previous week's storm was a prerequisite of what could come in terms of flooding and rain. Chief Johnson updated that the city had some flooding on Saturday in the park and reminded everyone to be prepared and to have evacuation plans and properties ready in case of a storm. Fire Chief John Johnson also updated that Covid numbers coming back up a little bit and reported that some facilities in South Florida are starting to require face masks again. Chief Johnson further reported that Monkey Pox is something to watch out for as well but that it hopefully will not become an epidemic. The Commission thanked Fire Chief Johnson for his report.*

B. Recreation Committee – *No report.*

C. Beautification Committee – *No report.*

D. Disaster Preparedness Committee – *No report.*

E. Planning & Zoning Board – *No report.*

F. Code Enforcement Board – No report.

G. Utility Board – No report.

H. Police Department – Corporal Jamie Buxton reported for Chief DiGiovanni. Corporal Buxton informed on 3 reports, including 1 for a medical emergency, 1 for an accident with injuries, and 1 for a traffic offense. Corporal Buxton further reported receiving 3 medical and alarm calls, 14 calls for service, and back-up to MCSO 5 times, the issuance of 3 traffic citations and 8 traffic warnings, along with boat and road patrol, and the vacation watch program. Corporal Buxton reported that during the last Commission meeting Chief DiGiovanni was attending a week-long seminar in Key West titled “The Florida Executive Development Seminar”. The seminar was hosted by the FBI and covered a range of topics and offered networking opportunities with other government officials throughout the state. Corporal Buxton further updated that the Chief is currently on vacation and will return Tuesday, June 14th. Corporal Buxton stated that Chief DiGiovanni would like to have permission to spend up to \$7,500.00 to outfit the Dodge Ram 2500 that the Police Department received from the Public Works Department. Corporal Buxton stated that the requested amount is for electronics with a total estimated amount of \$6,353.00 with the additional request is for decals and other additional equipment like a gun rack. Corporal Buxton stated that the total amount budgeted in October 2021 for the vehicle was \$15,000.00, and any additional cost will be discussed with the City Administrator to be addressed by the City Commission. Mayor Trefry asked for a motion to approve up to \$7,500.00 to outfit the Dodge Ram.

MOTION: *Motion made by Commissioner Ramsay-Vickrey, seconded by Vice-Mayor Harding, to approve up to \$7,500.00 to outfit the Dodge Ram.*

DISCUSSION: *None.*

ON THE MOTION: *Roll call vote. Unanimous approval.*

Corporal Jamie Buxton further reported that Officer Niemiec is currently attending Field Officer Training to assist future officers to receive field training. Corporal Buxton continued updating that the department is currently processing a new potential employee whose employment is dependent on the Florida Certification at this time. Corporal Buxton further reported that on June 14th at 2:00 p.m. the Kids Fishing Derby Committee will be meeting at the Police Department Garage for the bag-stuffing for the Kids Fishing Derby. The Commission thanked Corporal Buxton for her report.

I. Building Department – Building Inspector Gerald Leggett reported for Building Official Gerard Roussin who was attending a Building Officials Code Conference in Orlando. Building Inspector Leggett reported that the Building Department has been very busy with issuing permits, and preparations were made before the storm that all job sites were picked up and no debris was flying around. Building Inspector Leggett reported on currently attending a Fire Academy to receive his Fire Inspector License and reported on being about 1/3 complete with the course. Mayor Trefry thanked Building Inspector Gerald Leggett for inspecting the city after the storm.

J. Public Works Department Head Mike Guarino reported that past week’s storm was a dry-run with hurricane-storm preparation and clean up. Public Works Department Head Mike Guarino

further reported on having set up alternate communications via HAM radio and testing confirmed that communications are working off the Monroe County repeaters. Public Works Department Head Guarino updated on assisting the Police Department with the installation of two additional radar signs as well as the continuation of coconut removal. The Commission thanked Public Works Department Head Mike Guarino for his report.

K. City Secretary/Treasurer – no report.

L. City Clerk – *City Clerk Silvia Gransee reported that the storm preparation letter to residents was send out via email blast and thanked Code Enforcement Officer Stacy Stahl and Public Works Department Head Mike Guarino for their help. City Clerk Gransee further reported on attending the TRIM webinar on Monday and working with Jen Johnson and City Administrator Dave Turner on preparing advertising schedules. City Clerk Silvia Gransee updated on completing minutes from the last Commission meeting and preparing for today’s meeting. City Clerk Gransee reported that Administrative Assistant Christine McLeod updated all 2021 Resolutions to the city website and Administrative Assistant Barbie Morales updated all permanent boat trailer applications. City Clerk Gransee reported on currently working on Code Board Minutes and is preparing for upcoming meetings. The Commission thanked City Clerk Gransee.*

M. Code Enforcement Officer – *Code Enforcement Officer Stacy Stahl reported on having created 21 new cases since the last meeting including 12 for trash, 1 for noisy animals, 1 for animals at large, 1 for outside lighting, 1 complaint regarding occupancy/noise, 1 trailer lot parking without a permit, 1 for multiple trailers on one parcel, 1 for trash accumulation behind the Plaza, 1 for advertising without a rental license, and 1 landscaping issue. Code Enforcement Officer Stahl reported year-to-date 447 cases with total fines of \$16,900.00, of which \$9,600.00 have been paid and \$7,300.00 are outstanding. Code Enforcement Officer Stahl reported on having created a new contact sheet for the Save-The-Turtle group to have access to all ocean front properties. Code Enforcement Officer Stacy Stahl reported training the administrative assistants on assisting with daily tasks and licensing procedures and communicating with Citizenserve on updating users. Code Enforcement Officer Stahl reported that Citizenserve is not able to add the inspection scheduling calendar to their site and that alternative calendars are currently being looked at. Code Enforcement Officer Stahl further updated on changing code complaint updates through Citizenserve and updating inspection forms. Code Enforcement Officer Stacy Stahl reported on having completed the Property Managers Class on June 2nd, with a total of 52 attendees of which 24 are now certified. Code Enforcement Officer Stahl reported on having completed address comparisons in Access and Citizenserve. The Code Enforcement Officer further reported on hosting the Marathon Code Enforcement Team who show interest in the Rentalscape software. Code Enforcement Officer Stahl reported that the 8 unlicensed cases showing in Rentalscape currently are all in process of being resolved or have already been resolved. Code Enforcement Officer Stahl reported that once a Citizenserve update has been done they will show zero. Code Enforcement Officer Stahl reported on having completed a public records request and preparing for the July Code Board Hearing, working on transfers and new applications for vacation rentals and 18 trailer*

lot calls. Vice-Mayor Harding asked Code Enforcement Officer Stahl if the follow-ups by Citizenserve are now better, which the Code Enforcement Officer confirmed.

N. City Administrator Dave Turner reported that the appropriation for 2.6 Million Dollars was granted through the Governor's budget, which will enable the city to complete all their stormwater throughout the city. City Administrator Turner further reported that Key Colony Beach will be the first city in Monroe County to manage all their stormwater. In addition, City Administrator Dave Turner reported on having received an additional \$400,000.00 from Stewardship. The City Administrator informed that the playground and engineering bids were reviewed, the temporary building trailer was received and installed, and the Post Office trailer will be arriving by July 1st. City Administrator Turner reported the possibility that the Building Department will be moved completely in the next few weeks so City Hall can be taken care of.

a) City Administrator Dave Turner asked for approval of the Wilscot invoice for the setup of the Building Department trailer. The City Administrator explained that the reason the invoice went over is that the knock-down, return, and handling of the trailer after use is completed in the invoice amount. City Administrator Dave Turner asked for approval for payment of the Wilscot invoice in the amount of \$7,893.28. Vice-Mayor Harding asked for clarification on the invoice in regard to rent payments. City Administrator Dave Turner confirmed that the monthly rent payment is \$544.00 and further explained the breakdown of the invoice costs. Mayor Trefry asked for a motion for payment of the Wilscot invoice in the amount of \$7,893.28.

MOTION: Motion made by Commissioner Sutton, seconded by Commissioner Ramsay-Vickrey, to approve payment of the Wilscot invoice in the amount of \$7,893.28.

DISCUSSION: None.

ON THE MOTION: Roll call vote. Unanimous approval.

b) City Administrator Dave Turner reported on the Engineering Services bid. The City Administrator explained that the bid was put out via DemandStar and the Review Committee met on June 7th for the reviewal of the bid. City Administrator Turner stated the staff recommendation is to select K2M Engineering Services. The City Administrator explained that the firm is local with offices throughout the Keys with a diverse staff, anticipated short response time, and recommends moving forward with K2M. City Administrator Dave Turner reported that K2M had representatives from the company at the meeting in case the Commission had questions. City Administrator Turner further stated that the agenda packet included past and current K2M projects and believes that the company would be a great fit for Key Colony Beach. Mayor Trefry asked for a motion to approve the Engineering Services Bid for K2M. City Administrator Turner clarified that the agreement would be for three years as needed for services with no dollar amount attached and a contract would be drawn by legal after approval.

MOTION: Motion made by Commissioner DeNeale, seconded by Commissioner Ramsay-Vickrey, to approve the bid for the Engineering Services.

DISCUSSION: Vice-Mayor Harding asked if the company would have a local person assigned to the city. Steve Grasley, co-owner of K2M, addressed the Commission and stated that he has been a resident of Marathon for over 23 years. Mr. Grasley explained that K2M has three offices in the Keys and seven additional offices throughout the country. Mr. Grasley further stated that Mr. Eddie Blanco works in the Marathon Office and will be the contact person for Key Colony Beach. Mr. Grasley continued saying that one of their best clients is Key Colony Point, and they have been working with them for nearly twenty years, as well as the previous Building Official, and are looking forward to a great continued relationship with Key Colony Beach. Vice-Mayor Harding asked if the local contact would be assigned for one-on-one contact for the City Administrator or the Building Official, which Mr. Grasley confirmed and stated it will be Mr. Eddie Blanco out of the Marathon Office.

ON THE MOTION: Roll call vote. Unanimous approval.

c) City Administrator Dave Turner reported on the Playground Equipment Bid. The City Administrator explained that the city received \$50,000.00 for a grant, and the city went out to bid for shade for 1st Street and a complete redo of the 7th/8th Street area. The City Administrator further explained that the submitted design is a concept, ADA compliant, with name brand equipment, and includes shade for 1st Street as well as 7th and 8th Street areas. City Administrator Dave Turner continued saying that the Review Committee met on June 7th, and after review and scoring, selected KorKat as the leader for the bids, and asked for approval of the bid in the amount of no more than \$94,683.07. City Administrator Dave Turner stated that the balance of \$50,000.00 will come out of ARP or Impact Funds which will be decided after meeting the City Accountant. City Administrator Turner stated that he believes this is a great investment for the city's parks. City Attorney Dirk Smits explained that the Commission will approve the number one ranked bid and that the contract will come later with a notice of intent to award. Mayor Trefry called for a motion to award the contract to KorKat in the amount of no more than \$94,683.07.

MOTION: Motion made by Vice-Mayor Harding, seconded by Commissioner DeNeale, to award the playground equipment bid to KorKat in the amount of no more than \$94,683.07.

DISCUSSION: Vice-Mayor Harding asked for clarification on the inclusion of 1st Street and 8th Street in the bid. City Administrator Turner explained that the bid includes shade for 1st Street, and equipment and shade for 8th Street, and further confirmed that the grant was for general playground equipment and includes resurfacing.

ON THE MOTION: Roll call vote. Unanimous approval.

Commissioner DeNeale asked City Administrator Turner if the update on the temporary Building trailer concluded the city hall update which the City Administrator confirmed. City Administrator Turner stated that the new city hall drawings should be received by the first week of July, which then will go to the Building Official and then to the State. City Administrator Dave Turner further stated that he will have to reach out personally to Congressman Hernandez and Senator Rubio since FEMA is not moving forward. The City Administrator further stated that the city's lobbyist firm is also being contacted on the issue. Vice-Mayor Harding asked for clarification if FEMA is not responding, which City Administrator Turner stated that FEMA is responding but has no

updates to give and is still under review. The Commission discussed on further possible ways to move along with FEMA. Mayor Trefry asked if additional Townhall Meetings were planned for the topic on building heights, which the City Administrator explained were currently not scheduled due to staff timetables, but will have one or two more Townhall meetings scheduled for residents in the future. Commissioner Ramsay-Vickrey asked City Administrator Dave Turner to update on the 7th Street retention pond. City Administrator Turner reported that with the appropriations money of 2.6 Million Dollars, in addition to the Stewardship money of \$400,000.00, the balance after the Stormwater project will go to landscaping and replacing trees along the roadway to improve the neighborhood in that area. The City Administrator further explained that the pond was under review for one year to monitor drainage and seems to be draining well.

7. Commissioner Items for Discussion/Approval:

Emergency Resolution 2022-07: A Resolution Of The City Of Key Colony Beach, Florida, Commission, Finding That Emergency Circumstances Warrant Expedited Adoption Of Ordinance No. 2022-477 Concerning Condemnation And Demolition Of Unsafe Structures, And Providing For An Effective Date.

Mayor Trefry asked City Attorney Dirk Smits if he had additional explanations to add to the agenda item, who stated that it is hurricane season and the city needs to be able to address situations quicker than what the current process allows to deal with dangerous structures in case a hurricane approaches.

MOTION: Motion made by Commissioner Sutton, seconded by Commissioner DeNeale, to approve Emergency Resolution 2022-07.

DISCUSSION: None.

ON THE MOTION: Roll call vote. Unanimous approval.

A. Discussion on Proposed Condemnation/Demolition Ordinance No. 2022-477: An Ordinance Of City Of Key Colony Beach, Florida, Amending Chapter 6, Article II Of The Code Of Ordinances Of The City Of Key Colony Beach By Adopting Sections 6-38 Through 6-43 Providing For Authority And Procedure To Condemn And Order The Demolition And Removal Of Any And All Buildings And Structures Within The City Limits Found To Be In A Dilapidated, Unsanitary, Unsafe, Or Uninhabitable Condition; Providing For The Definition Of Uninhabitable, Dilapidated, Unsafe, Or Unsanitary Buildings Or Structures; Providing For Periodic Inspection Of Buildings And Structures And Notice Of Condemnation Hearing; Providing For Order Of Condemnation; Repair Or Removal; Providing For Demolition By The City; Municipal Special Assessment Lien; Providing For Emergency Powers;

Mayor Trefry read the proposed ordinance and stated to the Commission that everyone had a chance to review the proposed ordinance. City Attorney Ryan Benninger stated the purpose behind the requested ordinance and explained, that initially the matter was up for discussion today, but it was declared as imperative and imminent to have the matter finalized today by a single emergency adoption which is permitted via Chapter 166 Florida Statues. City Attorney Benninger explained

that a few edits are still necessary on the proposed ordinance and asked Mayor Trefry for permission to screenshare the document and make the last edits on the record to be able to vote on the finalized document today. Mayor Trefry asked if this would be the first reading today or at the next meeting which the City Attorney explained the reading would be today. Mayor Trefry gave permission to open the document via screenshare on the Zoom meeting. City Attorney Benninger opened the document and explained edits being made as he was making them in real time. Vice-Mayor Harding stated to the City Administrator and Building Inspector, that if the city tears down a building, the city needs an independent licensed engineer to approve it which would be important if litigation should occur later, and asked City Attorney Ryan Benninger to add it to the document. Vice-Mayor Harding stated that the ordinance is there for the city's discretion and only be done if needed. City Administrator Turner agreed with Vice-Mayor Harding and stated that now that the city has an engineering service it can be taken care of immediately. City Attorney Benninger made another minor non-substance change and the Commission had no further questions. Mayor Trefry asked for a motion to approve Ordinance No. 2022-477 as amended and edited on screen.

MOTION: Motion made by Commissioner DeNeale, seconded by Commissioner Ramsay-Vickrey, to approve Ordinance No. 2022-477 with changes and edits made on the record.

DISCUSSION: None.

ON THE MOTION: Roll call vote. Unanimous approval.

8. **Approval of Warrant** – None.

9. **ORDINANCES & RESOLUTIONS**

A. **Ordinances - First Reading**

a) **Ordinance No. 2022-473 Recertification Ordinance: An Ordinance Of City Of Key Colony Beach, Florida, Amending Chapter 6, Article II (“Dangerous Structures”) Of The Code Of Ordinances Of The City Of Key Colony Beach By Amending Section 6-31 – Definitions And Further Adopting Section 6-37 – Existing Buildings, Which Shall Provide For A Certification And Recertification Process For Existing And Future Multistory Structures; Providing For The Repeal Of All Ordinances Or Parts Thereof Found To Be Conflict; Providing For Severability; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date.**

Mayor Trefry gave City Attorney Ryan Benninger permission to open the screenshare via Zoom to edit Ordinance No. 2022-473 on screen. City Attorney Ryan Benninger opened the proposed ordinance via screenshare and explained the proposed edits to the Commission. City Attorney Benninger continued to edit the document live on the screen. Commissioner Beth Ramsay-Vickrey suggested an edit on page 2 regarding definitions on dwellings and accessory structures. Mayor Trefry asked if the Building Department had an input on the change which it had not. Commissioner Ramsay-Vickrey suggested a further edit under item V. on threshold buildings regarding who completes inspections. Vice-Mayor Harding asked to go back to the previous edit on 631 and asked Commissioner Ramsay-Vickrey on clarification on the wording of accessory and the

swimming pool being part of the structure. Commissioner Ramsay-Vickrey and Vice-Mayor Harding discussed the definitions and meanings of dwellings and accessories of a structure and subsequent needed inspections. Vice-Mayor Harding explained that state law tells that if a swimming pool is on top of a 3-story structure it is part of the structure and if it is separate from the building there is no need for an inspection short of the Health Department. Building Inspector Leggett suggested to change the language in the ordinance to come into compliance. Vice-Mayor Harding and Commissioner Ramsay-Vickrey continued to discuss the understanding of the definitions. City Attorney Dirk Smits, Vice-Mayor Harding, and Commissioner Ramsay-Vickrey, continued to discuss the meaning and understanding of language in the proposed ordinance and agreed upon the change in wording. City Attorney Ryan Benninger edited the proposed document on screen per City Attorney's Dirk Smits direction. City Clerk Gransee asked if the definition of the seawalls should still be included in the language which City Attorney Dirk Smits confirmed. Mayor Trefry asked Commissioner Ramsay-Vickrey if there were many additional edits which Commissioner Ramsay-Vickrey declined. Mayor Trefry stated that perhaps the ordinance should be deferred to when the Building Official is there to verify some of the language changes. Vice-Mayor Harding stated that he is very supportive of the ordinance change and that the State is putting into law a very similar document, but their timing is a year and half from now, with one year to complete the work after the year and half. Vice-Mayor Harding stated that basically the work would have to be done in 2.5 years on any existing property in Florida. Vice-Mayor Harding stated that his understanding is that if this ordinance is approved, in 90 days the inspection has to be done by a state licensed Florida engineer which he believes is too aggressive with the current engineering workload. Vice-Mayor Harding suggested to change the timing to allow an engineering inspection of six month and further suggested to change the effective date of the ordinance to allow residents time to prepare for it. Vice-Mayor Harding suggested the effective date of October and to give 6 months to complete the inspections, which would bring the timeline to March, and then to allow 180 days to complete all work. Mayor Trefry asked Vice-Mayor Harding to confirm that he would like 180 days on Section 4 which the Vice-Mayor confirmed. Vice-Mayor Harding further stated that the effective date of October 1st of 2022 is a suggestion. City Attorney Ryan Benninger asked the Commission to confirm the requested changes and made the live edits as requested. The Commission agreed to Vice-Mayor Harding suggested changes. Vice-Mayor Harding stated that the State document has different inspection levels where the city only has one inspection level. Commissioner Ramsay-Vickrey asked if the prior edit request was completed which City Attorney Ryan Benninger stated was drafted as they were speaking. Mayor Trefry asked if there were any other requested changes which there were none. Mayor Trefry asked for a motion on Ordinance No. 2022-473 Recertification Ordinance with edits. Mayor Trefry read the Recertification Ordinance 2022-473.

MOTION: Motion made by Commissioner DeNeale, seconded by Commissioner Ramsay-Vickrey, to approve Ordinance No. 2022-477 with changes and edits made on the record.

DISCUSSION: None.

ON THE MOTION: Roll call vote. Unanimous approval.

b) Ordinance No. 2022-475 Legal Notice between P&Z and Commission Meetings: An Ordinance Of The City Of Key Colony Beach Florida, Amending Land Development Regulation Article XII – Other Development Review Procedure, Section 101-173(3) Requiring Mailed Notice Of City Commission Public Hearings In Circumstances Of Appeals And Variance Applications Submitted To – And On Behalf Of The City And Further Requiring That Such Notice Shall Be Mailed To The Last Known Address Of Property Owners By Reference To The Latest Ad Valorem Tax Records, At Least Ten (10) Days Prior To The Hearing; Repealing Conflicting Ordinances; Providing For Severability; Providing For Inclusion In The Code Of Ordinance And Land Development Regulations; And Providing For An Effective Date.

City Attorney Ryan Benninger asked for permission from Mayor Trefry for screensharing to correct two scrivener's errors. Mayor Trefry gave permission and City Attorney Benninger made the live edits on the document. Mayor Trefry asked for a motion to approve Ordinance No. 2022-475 with edits.

MOTION: *Motion made by Commissioner Ramsay-Vickrey, seconded by Commissioner Sutton, to approve Ordinance No. 2022-475 with edits.*

DISCUSSION: *None.*

ON THE MOTION: *Roll call vote. Unanimous approval.*

c) Ordinance No. 2022-476 Utility Board Ordinance: An Ordinance Of City Of Key Colony Beach, Florida, Amending Chapter 14 Of The Code Of Ordinances Of The City Of Key Colony Beach Article III, Section 14-50; Providing For The Repeal Of All Ordinances Or Parts Thereof Found To Be In Conflict; Providing For Severability; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date.

City Attorney Ryan Benninger asked Mayor Trefry to open the screenshare with the Mayor's permission. City Attorney Benninger stated that the green highlighted language are the edits that were approved during the discussion at the last City Commission Hearing. City Attorney Benninger removed the green highlighting in the document live on screen. Mayor Trefry asked for a motion to approve Ordinance No. 2022-476 Utility Board Ordinance with edits.

Motion: *Motion made by Commissioner Ramsay-Vickrey, seconded by Commissioner DeNeale, to approve Ordinance No. 2022-476 with edits.*

DISCUSSION: *None.*

ON THE MOTION: *Roll call vote. Unanimous approval.*

Mayor Trefry stated that her hope is for ordinances, with the Commissions input, to have a clean reading in Commission meetings. City Attorney Dirk Smits stated that the live edits were done, and all is good to go.

B. Ordinances – Second Reading

a) Ordinance No. 2021-468 Comprehensive Plan Amendment: An Ordinance Of Key Colony Beach, Florida, Amending The Goals, Objectives And Policies Of The Future Land Use, Transportation, Housing, Infrastructure, Coastal Management, Conservation, Recreation And Open Space, Intergovernmental Coordination, And Capital Improvements, Elements Of The Comprehensive Plan; Adding A Property Rights Element And Accompanying Goal, Objective And Policies; As Mandated By Florida Statutes 163.3177; Providing For Transmittal To The State Land Planning Agency; Providing A Conflicts Clause And Severability Clause, Providing An Effective Date.

Mayor Trefry read Ordinance No. 2021-468 and stated her understanding that the Water Management Plan and Comprehensive Plan will be addressed individually. Mayor Trefry asked if Jim LaRue from LaRue Planning was available on Zoom. Mr. LaRue had technical difficulties unmuting himself but was able to after login back into the Zoom meeting. Mr. LaRue gave a review on adopting the plan amendments, which were initiated several months ago, and include updates to the property rights element and the capital improvements element, as well as other elements to modernize the comprehensive plan. Mr. LaRue reported on the Response to the Objections, Recommendations, and Comments Report to the DEO, and explained the different objections and corresponding solutions that were given. Vice-Mayor Tom Harding asked Mr. LaRue on the question on sea level rise and the timeline of the city addressing the issue prior to August 3rd. Mr. LaRue explained that it is a deadline that has been given but an extension can be given, and that he has a clear understanding of what is expected. Commissioner DeNeale asked Mr. LaRue on the separation between the Comprehensive Plan and the Water Plan. Mr. LaRue stated that the response included that the Water Plan has been revised and submitted to the SFWM for compliance purposes. Mr. LaRue further stated that the Water Plan is not part of the Comprehensive Plan and that the Commission will have a separate motion so it can be amended in the future without having the Comprehensive Plan amended. Commissioner DeNeale asked Mr. LaRue if it is mentioned in the Comprehensive Plan that the Water Plan is being handled separately, to which Mr. LaRue stated that the policies are changing the Comprehensive Plan, and along with the submittal of the plan amendments the Water Management Plan will be submitted as well. Mr. LaRue explained further that the Water Management Plan was part of the response but is no longer part of the Comprehensive Plan but a separate document.

Mayor Trefry called for two separate votes and called for a motion on adopting the 2022 Water Supplies Facilities Workplan Update.

MOTION: *Motion made by Commissioner Sutton, seconded by Commissioner Ramsay-Vickrey, to adopt the 2022 Water Supplies Facilities Workplan Update.*

DISCUSSION: *None.*

ON THE MOTION: *Roll call vote. Unanimous approval.*

Mayor Trefry asked for a motion to approve Ordinance No. 2021-468 Comprehensive Plan Amendment.

MOTION: Motion made by Commissioner DeNeale, seconded by Commissioner Sutton, to approve Ordinance No. 2021-468 Comprehensive Plan Amendment.

DISCUSSION: None.

ON THE MOTION: Roll call vote. Unanimous approval.

10. Commissioner's Reports or Comments

Commissioner DeNeale had no report.

Commissioner Sutton had no report.

Vice-Mayor Harding updated on continuing answering questions to the State for the Flood Panels and reported that things are going well. Vice-Mayor Harding further updated on FEMA being awarded additional monies and the cost split will go to 90/10 instead of 75/25 which in return will mean a lower cost of funding for the city if approved. Vice-Mayor Harding continued his update by reporting that the Transportation Committee met recently and for Chief DiGiovanni to be informed that FDOT has started work with some of the city's request on US1 and the Causeway. Vice-Mayor Harding further reported that the Transportation Committee is considering a separate Transportation Committee for Monroe County of which FDOT is supportive of.

Commissioner Ramsay-Vickrey reported on participating in the Walk-n-Wag Charity event at Sunset Park dedicated to children with cancer. The Commissioner further reported on touring the city with Public Works Department Head Mike Guarino, attending the dedication to the new government facility in Plantation Key, attending the Strategic Planning Townhall in the Middle Keys, meeting with KCB Community Leaders, touring the city with Kimmeron Lisle from the Code Board and Beautification Committee, and attending a Marathon Chambers After-Hours Event. Commissioner Ramsay-Vickrey continued by reading a public service announcement which addressed the need for fostering animals from the Marathon Animal Shelter in case evacuations are needed during a hurricane.

Mayor Trefry reported on having contacted Representative Moony, Senator Albritton's office, as well as Senator Rodriguez' office and reminded everyone that the city's lobbyist group will be here next week. Mayor Trefry thanked everyone for working hard to receive the 2.6 Million in appropriation funds and thanked City Administrator Dave Turner.

11. City Attorney Dirk Smits thanked the Commission for working with Attorney Ryan Benninger for passing the days ordinances and stated that he is available for questions. City Attorney Dirk Smits updated that Mr. Harper appealed the Code Boards Stipulation Order but stated that this should have no impact at this point. The Commission had no further questions.

12. The meeting adjourned at 11:12 a.m.

Respectfully Submitted,

Silvia Gransee

City Clerk

ADOPTED: June 23, 2022

Silvia Gransee

City Clerk

AFFIDAVIT OF MAILING

**STATE OF FLORIDA
COUNTY OF MONROE**

Before me, the undersigned authority, personally appeared Silvia Gransee, who, having been first duly sworn according to law, deposes and says:

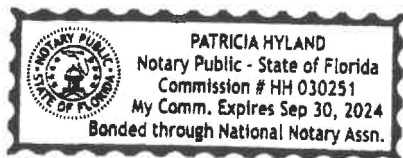
1. I am City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the 22nd day of July, 2022 (no less than 30 days prior to the Special Master Hearing on August 26, 2022) I mailed the Notice of Hearing by first class U.S. mail to the address on file with the Monroe County Property Appraiser's Office for all property owners within 300 feet of the property located at 200 15th Circle

Silvia Gransee
Signature

Sworn and subscribed before me this
22nd day of July, 2022.

Patricia Hyland
Notary Public, State of Florida
My commission expires: 9/30/24

X Personally known
_____ Produced _____ as identification



City of Key Colony Beach

PO Box 510141 Key Colony Beach, Florida • Phone # 305-289-1212 • Fax# 305-289-1767



To: Property Owners within 300 feet of 200 15th Circle
From: The City of Key Colony Beach
Subject: Special Master & Public Hearing for a Variance Request

CITY OF KEY COLONY BEACH **NOTICE OF SPECIAL MASTER & PUBLIC HEARING**

The City of Key Colony Beach will hold a Special Master Hearing and Public Hearing on:

Special Master Hearing: Friday, August 26, 2022, 10:30 A.M.

City Commission Public Hearing: Thursday, September 22, 2022, 9:30 A.M.

NOTICE IS HEREBY GIVEN that the City of Key Colony Beach, Florida, will hold a **Special Master Hearing on Friday, August 26, at 10:30 A.M.**, and a **City Commission Public Hearing, on September 22, 2022, at 9:30 A.M.**, at a Temporary City Hall located at 600 W. Ocean Drive, Key Colony Beach, Florida, 33051, to hear a Variance Request from Thomas E. Carden, Owner of 200 15th Circle. This meeting will be available virtually via Zoom Meetings. Members of the public who wish to attend virtually may email cityclerk@keycolonybeach.net or call 305-289-1212, Ext. 2 for further instructions on attending via Zoom Meetings.

Applicant requests a Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6'-8". Current maximum height is 30'0".

The Applicant further requests a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'.

Interested parties may attend the Hearing and be heard with respect to the requested variance.

If any person decides to appeal any decision made by the City Commission of the City of Key Colony Beach with respect to any matter considered at the Variance Hearing, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

If you are unable to attend the Hearings on Friday, August 26, 2022, or Thursday, September 22, 2022, but wish to comment, please direct correspondence to P.O. Box 510141, Key Colony Beach, FL 33051, or cityclerk@keycolonybeach.net, and your comments will be entered into the record.

AFFIDAVIT OF POSTING

**STATE OF FLORIDA
COUNTY OF MONROE**

Before me, the undersigned authority, personally appeared Silvia Gransee, who, having been first duly sworn according to law, deposes and says:

1. I am the City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the 12 day of August, 2022 (no less than 14 days prior to the Special Master Hearing on August 26, 2022) I posted the Notice of Hearing for the Property at 200 15th Circle at the local United States Postal Service and City Hall.

Further affiant saith not.

Silvia Gransee
Signature

Sworn and subscribed before me this
12th day of August, 2022.

Christine Marie McLeod
Notary Public, State of Florida
My commission expires: 6/5/2026

Personally known

Produced _____ as identification



CITY OF KEY COLONY BEACH
NOTICE OF SPECIAL MASTER & PUBLIC HEARING

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If you are unable to attend the Hearings on **Friday, August 26, 2022**, or **Thursday, September 22, 2022**, but wish to comment, please direct correspondence to P.O. Box 510141, Key Colony Beach, FL 33051, or cityclerk@keycolonybeach.net and your comments will be entered into the record.

Posted: On or before August 12, 2022
City of Key Colony Beach



Published Weekly
Marathon, Monroe County, Florida

PROOF OF PUBLICATION

**STATE OF FLORIDA
COUNTY OF MONROE**

Before the undersigned authority personally appeared **JASON KOLER** who on oath, says that he is **PUBLISHER** of the **WEEKLY NEWSPAPERS**, a weekly newspaper published in Marathon, in Monroe County, Florida; that the attached copy of advertisement was published in said newspaper in the issues of: (date(s) of publication)

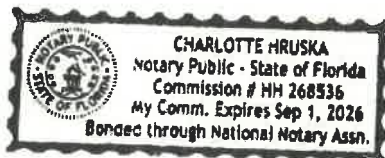
August 11, 2022

Affiant further says that the said **WEEKLY NEWSPAPERS** is a newspaper published at Marathon, in said Monroe County, Florida, and that the said newspaper has heretofore been continuously published in said Monroe County, Florida, once each week (on Thursday) and has been qualified as a second class mail matter at the post office in Marathon, in Monroe County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement. The affiant further says that he has neither paid nor promised any person, firm, or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper(s) and that The Weekly Newspapers is in full compliance with Chapter 50 of the Florida State Statutes on Legal and Official Advertisements.

Sworn to and subscribed before me this 11 day of Aug, 2022.

(SEAL)

Charlotte Hruska
Notary



**CITY OF KEY COLONY BEACH
NOTICE OF SPECIAL MASTER &
PUBLIC HEARING**

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Special Master Hearing: Friday, August 26, 2022, 10:30 A.M.
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Applicant requests a Variance to Land Development Regulations Chapter 101, Section 101 - 10 (a) height variance of 6'-8". Current maximum height is 30'0".

The Applicant further requests a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6".

Current rear yard minimum is 25'. Interested parties may attend the Hearing and be heard with respect to the requested variance.

If any person decides to appeal any decision made by the City Commission of the City of Key Colony Beach with respect to any matter considered at the Variance Hearing, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

If you are unable to attend the Hearings on Friday, August 26, 2022, or Thursday, September 22, 2022, but wish to comment, please direct correspondence to P.O. Box 510141, Key Colony Beach, FL 33051, or cityclerk@keycolonybeach.net and your comments will be entered into the record.

City of Key Colony Beach
Publish:
August 11, 2022
The Weekly Newspapers

**CITY OF KEY COLONY BEACH
P.O. BOX 510141
KEY COLONY BEACH, FL 33051-0141
305-289-1212 FAX: 305-289-1767**



APPLICATION FOR VARIANCE

APPLICANT: Thomas E Carden 815 329-5220
Property Owner Name Phone Number
200
190 15th circle K.C.B. 4 3 COURY SUBD
Street Address of Variance Lot Block Subdivision
696 105th Street Marathon FL. 33050
Mailing Address of Property Owner

Owners may have an agent complete this application and represent them at the hearings. In this case, owners must attach to this application a written, signed statement stating the name of the individual or business that may represent them in this matter.

Agent Name _____ Agent Phone Number _____

VARIANCE REQUESTED to: Land Development Regulations Chapter 101, Section 10 R1A (5) (8)
Code of Ordinances Chapter _____, Section _____

DESCRIPTION OF VARIANCE: Please describe the variance request in regard to type of structure, location on lot, distance from side, rear or front lot lines, or details of the variance, including the current rule in effect and the reason for the variance (for example, building would encroach into the setback by _____ feet). Also state if this is for future construction or existing conditions.

I'm requesting a rear yard variance of 8'-6". The furthest point of the back of the proposed single family home will encroach into the 25 foot rear yard setback by 8'-6". This lot has a unique and deviated feature that the other adjacent lots do not have. The property, when originally platted was designed with the rear property line at an angle making the right side of the lot dramatically shorter in depth.

I'm also requesting a height variance of 6'-8" above the 30 foot height requirement. The reason for the height increase is to anticipate the new/proposed flood maps being approved. This height increase is less than the 40 foot building height ordinance change that was proposed by the city.

Please attach the following to this application:

- A sketch or site plan of the property showing the variance requested.
- Written responses to the five criteria (questions attached).
- Fee of \$700.00

Signature of Applicant _____

Thomas Carden
dotloop verified
02/22/22 9:30 AM EST
MOHM-OPST-MHEL-UPVN

Office Use Only

Date Filed 3-8-2022

Date Paid 3-8-22 Check # 1167

Variance granted / denied on (date) _____

Shirley Gause
Signature of City Official

Applicant Questions and Responses-

Summarizing Land Development Code 101-171 (5)(a): Variances shall be approved only if the applicant can demonstrate a good and sufficient cause, that denial would result in unnecessary hardship, it will not be contrary to the public interest, that special conditions exist, and that it will not confer any special privilege on the applicant. Please see the attached pages for the entire city codes relating to Variances.

To assist the Planning & Zoning Committee and City Commission in evaluating this variance request, please answer the following questions:

1. What is the "good and sufficient cause" that explains why this variance should be granted?

This lot has a unique and deviated feature that the other adjacent lots do not have.

2. What are the unnecessary hardships that would result if the variance is not granted?

Unnecessary hardship would result from the strict application of the ordinance and would make designing a home on this lot very difficult.

The hardship is not a self-created hardship and the hardship resulted from conditions that are peculiar to this property.

3. If this variance is granted, would there be any increase to public expense that would not otherwise occur? Would it create a threat to public health and safety? Would it create a nuisance? Or cause fraud or victimization of the public?

The variance if granted would not cause any increases to public expense or create a threat to public health and safety. The variance would not cause a nuisance. The proposed location of the building into the rear yard setback still would be behind the adjacent home. See reference point of line of sight on the drawing for the adjacent home.

4. What are the unique or peculiar physical/geographical circumstances or conditions that apply to this property, but do not apply to other properties in the same zoning district?

This lot has a unique and deviated feature that the other adjacent lots do not have. The property, when originally platted was designed with the rear property line at an angle making the right side of the lot dramatically shorter in depth than the adjacent lots.

5. If the variance is granted, would it confer upon the applicant any special privilege that is denied to other properties in the immediate neighborhood in terms of the established development pattern?

No, it just would make this lot useable like every other lot and still have the same rear line of sight of the adjacent properties.

Office Use Only

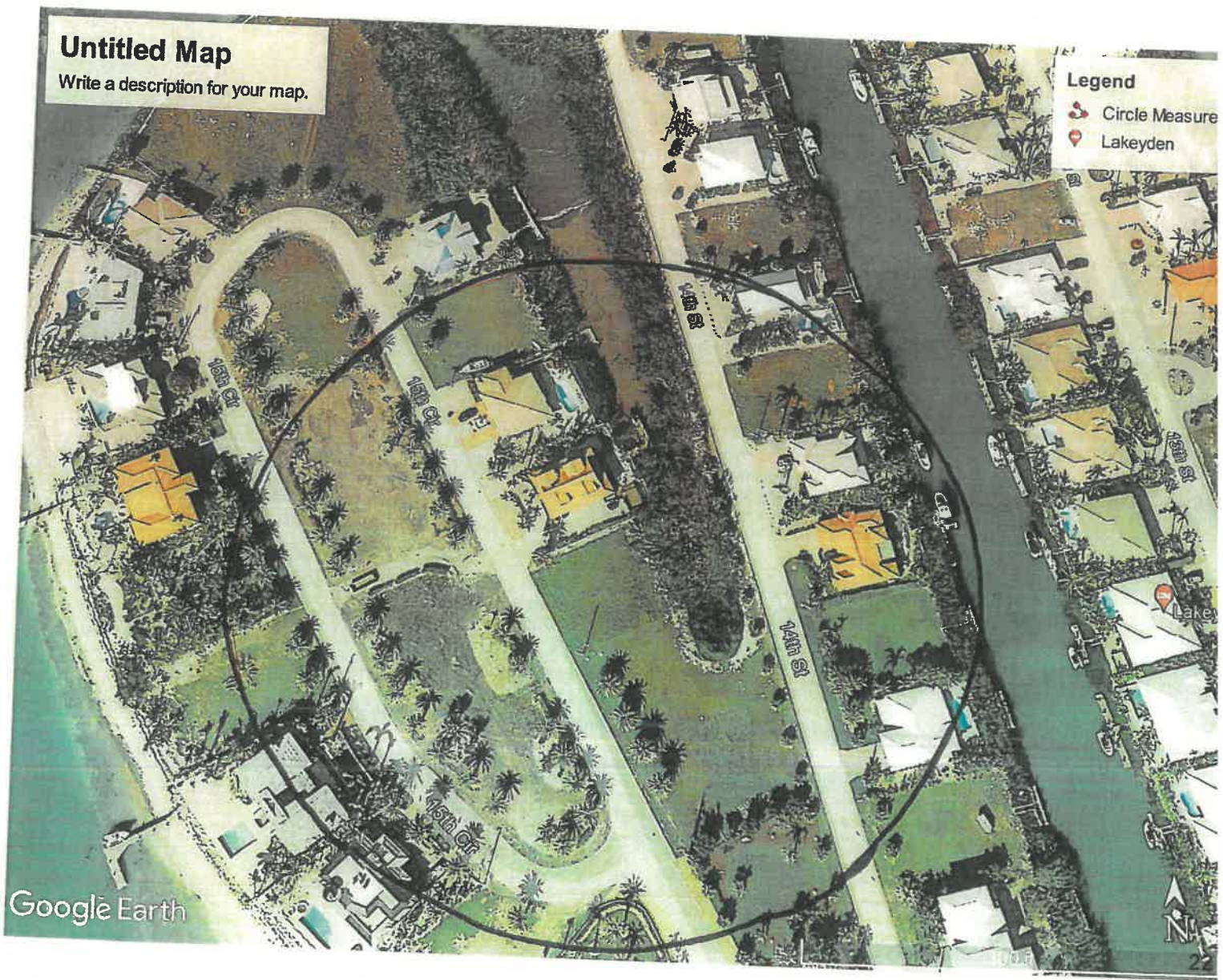
Comments and Recommendation of the Building Official

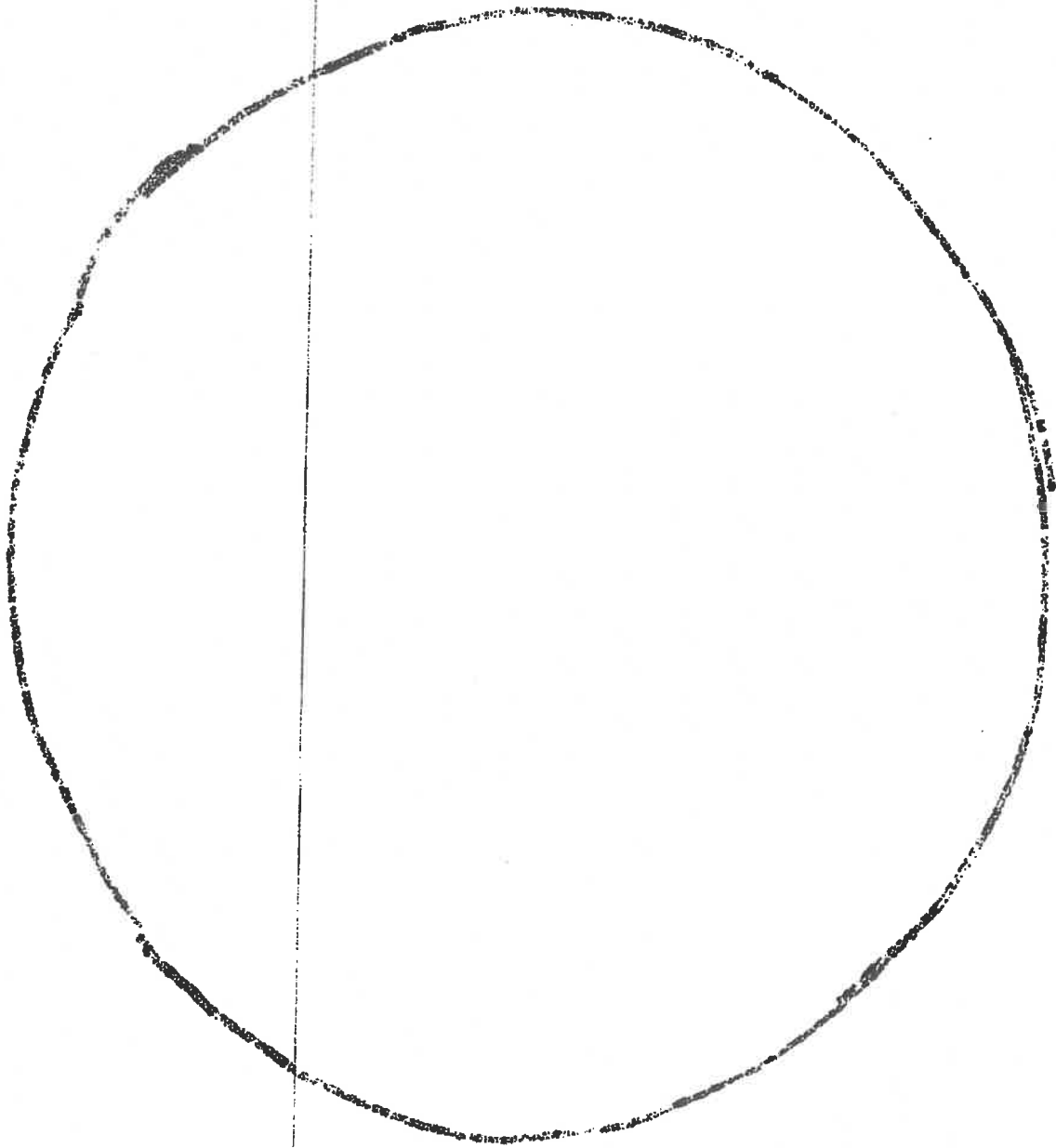
Applicant Questions and Responses-
LAND DEVELOPMENT REGULATIONS - Section 101-171. Variances.

- (1) **Initiation.** Any owner, agent, lessee or occupant of land or a structure may apply in writing to the city clerk for a variance, on that land, from the requirements of this chapter, except that no request for a use variance will be considered. Details must be included with the request and be filed with the city clerk together with the established fee for a variance. If the applicant is other than the owner of the property, the written consent of the owner for the variance requested must be submitted with the application. When the petitioner is a public agency, the city commission may authorize the waiver or reduction of the fee.
- (2) **Planning and zoning committee procedure.**
- (a) Upon receipt of a written request, the city clerk will deliver the request to the planning and zoning committee.
 - (b) The planning and zoning committee shall make an investigation of the conditions pertaining to the requested variance in advance of the public hearing by the city commission. This investigation shall be at a duly noticed meeting. Mailing of notice of the meeting shall be made by the city to all property owners within three hundred (300) feet of the boundaries of the property which is the subject of the variance request.
 - (c) The planning and zoning committee, shall make their recommendation to the city commission in writing, based upon the standards in (5) below. They may recommend approval or disapproval of the variance or may recommend approval of the same subject to such specified conditions as it may deem to be necessary or advisable in furtherance of the provisions of this chapter. Reasons for the recommendation shall be stated.
- (3) **City commission procedure.**
- (a) After receipt of the planning and zoning committee report, the city commission shall give notice in a newspaper stating the date, time and place of a city commission public hearing as provided for in section 101-173.
 - (b) After their public hearing the city commission may approve or disapprove the requested variance or may approve the same subject to specified conditions as it may deem to be necessary or advisable in furtherance of the provisions of the zoning ordinance. If the applicant desires to present evidence not presented to the planning and zoning committee, the matter shall be returned to the planning and zoning committee for further deliberation and recommendation unless the city commission finds by majority vote that the new evidence is insignificant or unsubstantial.
 - (c) The commission shall state reasons for their decision, based on the standards detailed in (5) below.
 - (d) The decision of the city commission shall be final. No new request for similar action concerning the same property may be made to the city commission or planning and zoning committee for a period of not less than six (6) months after the date of said decision by the city commission.
- (4) **Effective period.**
A building permit application must be submitted within twelve (12) months of variance approval otherwise the approval expires. Any extension of up to twelve (12) months may be granted by the city commission for good cause.

Applicant Questions and Responses-

- (5) Standards for granting variances.
- (a) Specific criteria:
- (1) The applicant shall demonstrate a showing of good and sufficient cause;
 - (2) Failure to grant the variance would result in unnecessary hardship to the applicant;
 - (3) Granting the variance will not result in increased public expenses, create a threat to public health and safety, create a public nuisance, or cause fraud or victimization of the public;
 - (4) Property has unique or peculiar circumstances, which apply to this property, but which do not apply to other properties in the same zoning district;
 - (5) Granting the variance will not give the applicant any special privilege denied other properties in the immediate neighborhood in terms of established development patterns.
- (b) Recommendations to the city commission.
- (1) If all 5 specific criteria are met, then the planning & zoning committee shall recommend approval to the city commission. Approval by the city commission would be by majority vote of the city commission.
If the planning & zoning committee finds the five (5) specific criteria are not met, they shall recommend disapproval of the variance unless they specifically find that the granting of the variance will have minimal adverse effect on other citizens of the city or on the city. Approval of a variance where all five (5) specific criteria are not met shall require a favorable vote of four-fifths (4/5) of the city commission.
 - (2) Conditions: The planning and zoning committee may recommend, and the city commission may prescribe, appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.
 - (3) Use Variance: Under no circumstances shall the city commission grant a variance to permit a use not generally permitted in the zoning district. No nonconforming use of neighboring lands, structures or buildings in the zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.





(A) Building Restrictions:

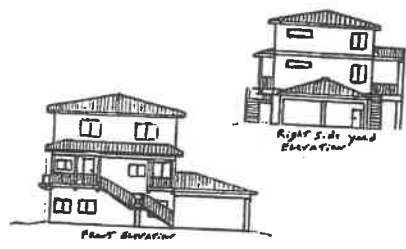
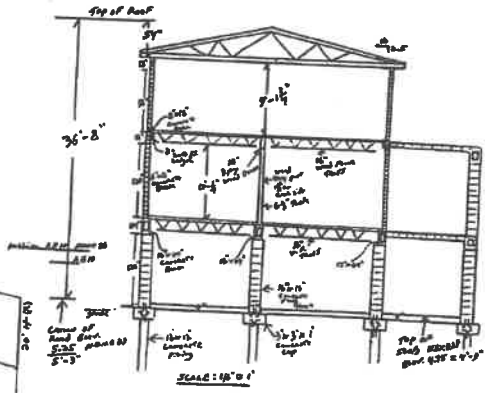
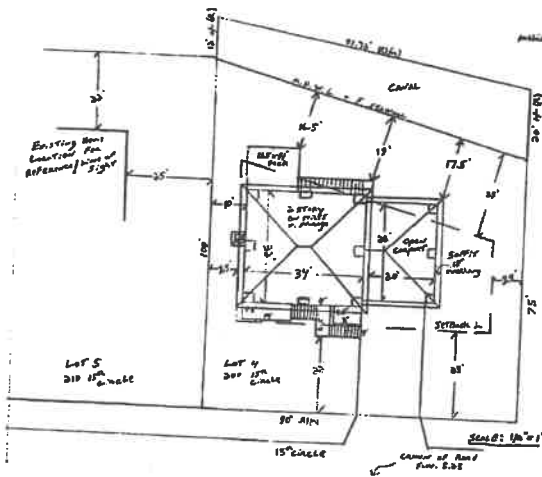
- (1) All construction shall be set back from the front yard setback by 3 feet, which is assumed for 30% of the lot.
- (2) The building shall be constructed with the rear yard setback by 5'-6".
- (3) The side setbacks project into the rear yard setback by 5'-0".
- (4) The rear setback shall be 5'-0".
- (5) The building height to the top of the roof shall be 36'-0" from the corner of the road, which is a projection past the building height of 32'-0".

(B) Minimums:

- (1) Minimum 3' and 5' require a minimum of 2'-0" into the rear yard setback.
- (2) Minimum 6' width a minimum requirement of 6'-0" above the 3' max building height. Building height is measured from the corner of the road per Article 11 Distinctions.

zoning: R2A

Street: S. 2nd St
 Lot: 200 ft x 100 ft
 215-720-2220



(A) Building Restrictions:

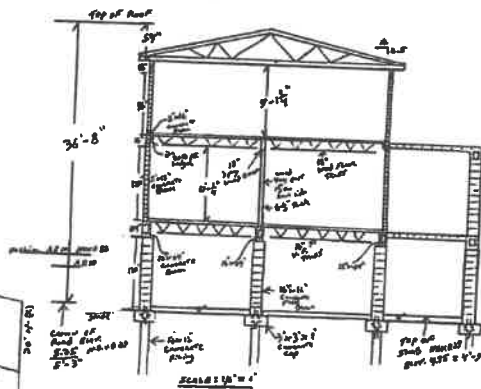
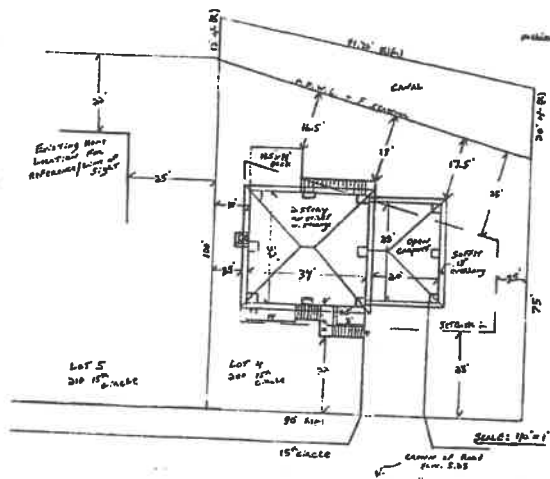
- (1) All foundation encumbrances shall be set back by 2'-0" which is assumed per sec. 101.22 (C)
- (2) Front porch, platform and staircase projects into the front yard setback by 3 feet, which is assumed per sec. 101.22 (C)
- (3) All balconies shall encroach into the rear yard setback by 2'-0"
- (4) All deck staircase projects into the rear yard setback by 6'-0"
- (5) All open ramp encumbrances into the rear yard setback by 7'-0"
- (6) The building height to the top of the roof shall be 36'-8" from the corner of the road, which is a projection past the building height of 6'-8"

(B) Setbacks:

- (1) Articles 3, 4 and 5 require a minimum of 8'-6" into the rear yard setback.
- (2) Article 6 needs a minimum height of 6'-8" above the 30' rear building height. Building height is measured from the corner of the road per Article 11 Definitions.

Shane Kessler
Lot 4, 300 1st Street
310-330-2000

Building S.I.A.

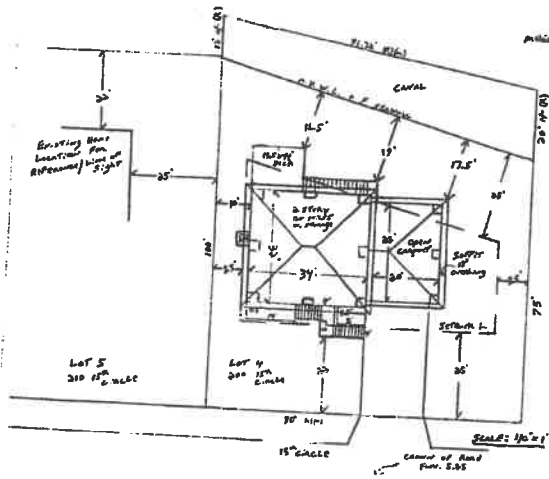


(A) Building Restrictions:

- (1) All platform overhangs into the back yard by 12" which is allowed per sec. 101.02 (4)
- (2) Front yard platform and structure project into the front yard setback by 3 feet, which is allowed per sec. 101.02 (2)
- (3) The Backyard Deck overhangs into the back yard setback by 8'-6"
- (4) The Deck structure projects into the front yard setback by 0'-0"
- (5) The new compact overhang into the back yard setback by 7'-6"
- (6) The building height to the top of the roofline is 36'-8" from the center of the road, which is a projection over the building height of 6'-8"

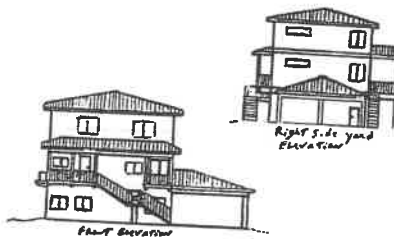
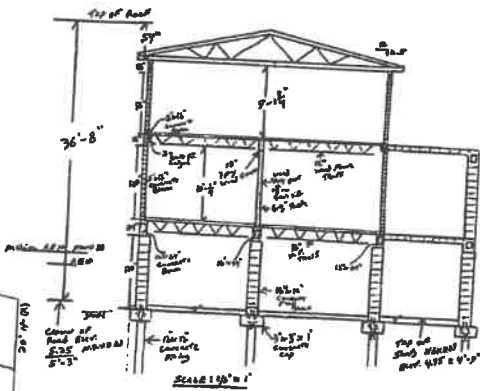
(B) ELEVANCE:

- (1) number 3, 4 and 5 require a clearance of 2'-6" into the front yard setback.
- (2) number 6 need a clearance of 6'-8" above the 30' main building height. Building height is measured from the center of the road per article 11 Department.



Readings R.3A

Shane & Carter
Lot 4 200 sq. ft. MISC
210-735-9000



(A) Building Footprints:

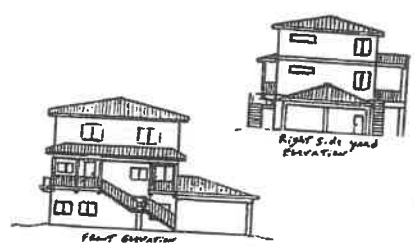
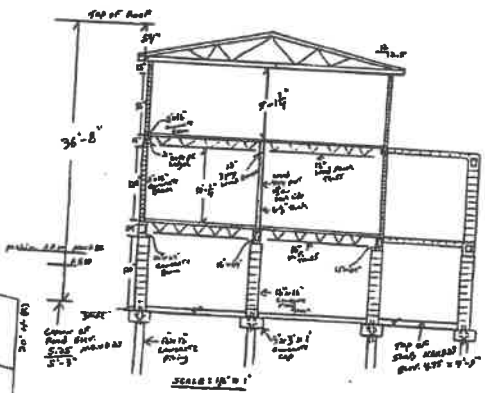
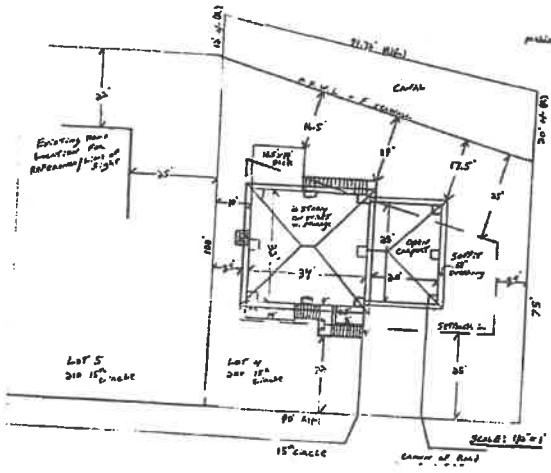
- (1) The plan area encroaches into the rear yard by 24" which is allowed per 710.10.02 (6)
- (2) Front of the porch and staircase projects into the rear yard setback by 3 feet, which is allowed per 710.10.02 (9)
- (3) The Backyard Deck encroaches into the Rear yard setback by 8'-6"
- (4) The Deck staircase projects into the Rear yard setback by 6'-0"
- (5) The rear compact encroaches into the Rear yard setback by 7'-6"
- (6) The building height to the top of the roof ridge is 36'-8" from the corner of the road, which is a projection past the building height of 6'-8"

(B) Setbacks:

- (1) Items 3, 4 and 5 require a minimum of 8'-6" into the rear yard setback.
- (2) Item 6 needs a minimum height of 6'-8" above the 3rd floor building height. Building height is measured from the corner of the road per Article 11 Definitions.

Section 8.3A

Home Elevation
Lot 5 and 6
100-720-0200



Zoning 6.3.3

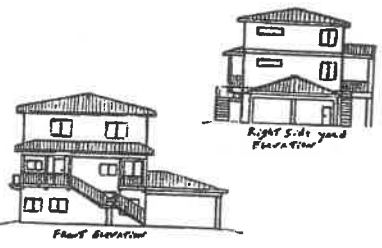
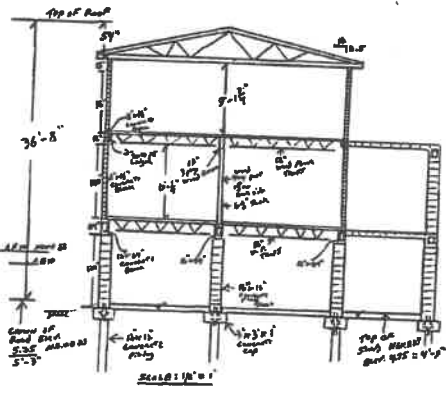
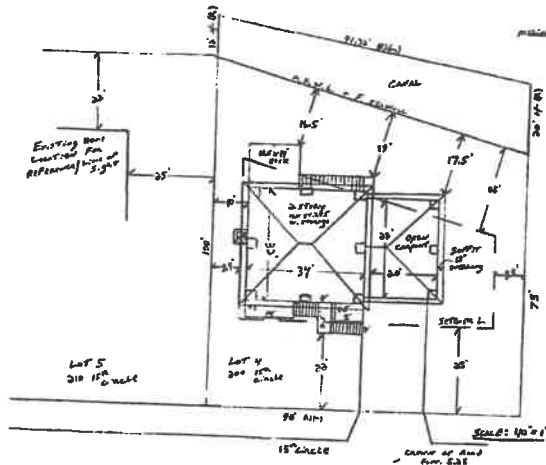
Sharon A. Gardner
Lot 4 - 110' x 120'
R1F-330-030

(A) Building Restrictions:

- (1) All platform dimensions into the side yard by 36" which is assumed per sec. 101.25 (c)
- (2) Front porch platform and staircase projects into the front yard setback by 3 feet, which is assumed per sec. 101.25 (c)
- (3) All (balcony) beam enclosures into the rear yard setback by 3'-6"
- (4) All back staircase projects into the rear yard setback by 3'-6"
- (5) All open carport enclosures into the rear yard setback by 3'-6"
- (6) The building height to the top of the roofline is 36'-8" from the corner of the lot, which is a projection past the building height of 36'-8"

(B) Variances:

- (1) Number 3, 4 and 5 require a variance of 3'-6" into the rear yard setback.
- (2) Number 6 needs a variance request of 6'-8" above the 36' rear building height. Building height is measured from the corner of the lot per Article 11 Definitions.



(A) Building Restrictions:

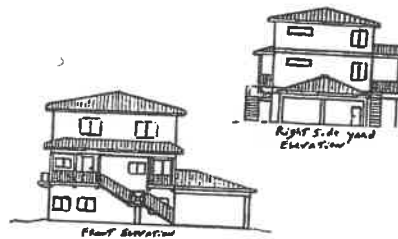
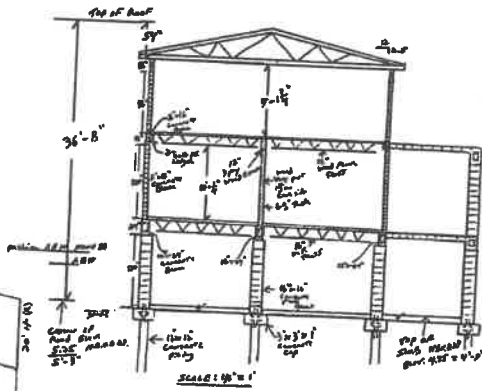
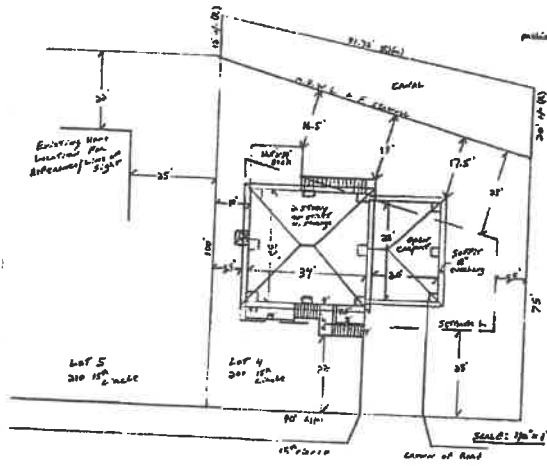
- (1) All projections encroach 5'-0" to the side yard by 24" which is allowed per Z.O.C. 10.12.02 (1)
- (2) Front set-back, porch and structure projects into the front yard setback by 3 feet, which is allowed per Z.O.C. 10.12.02 (2)
- (3) The backyard deck encroaches into the rear yard setback by 8'-6"
- (4) The back structure projects into the rear yard setback by 8'-0"
- (5) The open carport encroaches into the rear yard setback by 7'-6"
- (6) The building height to the top of the roof is 36'-8" from the corner of the lot, which is a projection past the building height of 32'-0"

(B) Variances:

- (1) Variances 3, 4 and 5 require a minimum of 5'-6" into the rear yard setback.
- (2) Variances 6 require a variance request of 4'-8" above the 32' max building height. Building height is measured from the corner of the lot per PARISH II DEFINITIONS.

Zoning: R3A

Home Address:
LOT 4 300 W. 21st St
215-782-5880



City of Key Colony Beach

P.O. Box 510141, Key Colony Beach, FL 33051-0141 • Phone: 305-289-1212
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www.keycolonybeach.net



April 20, 2022

To: The City of Key Colony Beach Board of Commissioners

From: The Key Colony Beach Planning & Zoning Board

Re: 200 15th Street – Owner: Thomas E. Carden

The Planning & Zoning Board heard the applicant requests for a Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6'-8'. Current maximum height is 30'0".

Post Hearing Questions Results:

- | | |
|--------------------------------|--|
| 1) Chairperson Joey Raspe | YES - on all 5 (five) Post Hearing Questions |
| 2) Vice-Chair George Lancaster | **Excused** |
| 3) Board Member Mike Yunker | YES - on all 5 (five) Post Hearing Questions |
| 4) Board Member Lin Walsh | **Excused** |
| 5) Board Member Tom DiFransico | YES - on all 5 (five) Post Hearing Questions |

MOTION: Motion made by Tom DiFransico, seconded by Joey Raspe, to approve the granting of the requested height variance for 200 15th Circle.

ON THE MOTION: Roll Call vote. Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Unanimous approval. The Height Variance Request was granted.

Final Recommendation: The Planning & Zoning Board recommends to the City of Key Colony Beach Board of Commissioners for the requested height variance for the property at 200 15th Circle to be approved.


Joey Raspe, Chairperson

City of Key Colony Beach

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April 20, 2022

To: The City of Key Colony Beach Board of Commissioners

From: The Key Colony Beach Planning & Zoning Board

Re: 200 15th Street – Owner: Thomas E. Carden

The Planning & Zoning Board heard the applicants request for a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'.

Post Hearing Questions Results:

- | | |
|--------------------------------|---|
| 1) Chairperson Joey Raspe | NO - on all 5 (five) Post Hearing Questions |
| 2) Vice-Chair George Lancaster | **Excused** |
| 3) Board Member Mike Yunker | YES - on all 5 (five) Post Hearing Questions |
| 4) Board Member Lin Walsh | **Excused** |
| 5) Board Member Tom DiFransico | YES - on No. 1 (one), No. 3 (three), No. 4 (four),
NO - on No. 5 (five), No. 2 (two) |

MOTION: Motion made by Tom DiFransico, seconded by Joey Raspe, to disapprove the granting of the requested setback variance for 200 15th Circle.

ON THE MOTION: Roll Call vote. Mike Yunker – no, Tom DiFransico – yes, Joey Raspe – yes. 1 – NO, 2 – YES. The Setback Variance Request was denied.

Final Recommendation: The Planning & Zoning Board recommends to the City of Key Colony Beach Board of Commissioners for the requested setback variance for the property at 200 15th Circle to be disapproved.


Joey Raspe, Chairperson

**City of Key Colony Beach
Planning & Zoning Board**

Post Hearing Questions

- 1.) Has the applicant shown good and sufficient cause to grant the variance? Y / N

- 2.) Will denial of the variance result in unnecessary hardship to the applicant? Y / N

- 3.) Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat to or nuisance, or cause fraud or victimization of the public? Y / N

- 4.) The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district. Y / N

- 5.) Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood? Y / N

Applicant Questions and Responses-

(5) Standards for granting variances.

(a) Specific criteria:

- (1) The applicant shall demonstrate a showing of good and sufficient cause;**
- (2) Failure to grant the variance would result in unnecessary hardship to the applicant;**
- (3) Granting the variance will not result in increased public expenses, create a threat to public health and safety, create a public nuisance, or cause fraud or victimization of the public;**
- (4) Property has unique or peculiar circumstances, which apply to this property, but which do not apply to other properties in the same zoning district;**
- (5) Granting the variance will not give the applicant any special privilege denied other properties in the immediate neighborhood in terms of established development patterns.**

(b) Recommendations to the city commission.

- (1) If all 5 specific criteria are met, then the planning & zoning committee shall recommend approval to the city commission. Approval by the city commission would be by majority vote of the city commission.
If the planning & zoning committee finds the five (5) specific criteria are not met, they shall recommend disapproval of the variance unless they specifically find that the granting of the variance will have minimal adverse effect on other citizens of the city or on the city. Approval of a variance where all five (5) specific criteria are not met shall require a favorable vote of four-fifths (4/5) of the city commission.**
- (2) Conditions: The planning and zoning committee may recommend, and the city commission may prescribe, appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.**
- (3) Use Variance: Under no circumstances shall the city commission grant a variance to permit a use not generally permitted in the zoning district. No nonconforming use of neighboring lands, structures or buildings in the zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.**