

AGENDA

KEY COLONY BEACH CITY COMMISSION PUBLIC HEARING

Thursday, December 1, 2022 – 10:00 a.m. OR at the End of the Organizational Meeting
Temporary City Hall & Virtually Via Zoom Conferencing
<https://us02web.zoom.us/j/86584597011> - Meeting ID: 865 8459 7011

1. **Call to Order, Pledge of Allegiance, Prayer, Roll Call**
2. **Administration of Oath to Witnesses**
3. **Citizen Comments and Correspondence – Pgs. 1-5**
4. **Disclosure of Ex-Parte Communications – Pg. 6**
5. **Proof of Publications, Affidavit of Mailing/Posting Notices**
 - a. 68 7th Street - Owner: Chad O'Rourke – Pgs. 7-11
 - b. 200 15th Circle – Owner: Thomas E. Carden: No new legal notices required for matter was tabled on November 17th meeting.

6. Variance Request:

A. 68 7th Street, Owner: Chad O'Rourke

Applicant requests a Variance After-The-Fact to Land Development Regulations Chapter III, Section 101-13, Subsection (8); requesting approval for an after-the-fact variance in height, width, and depth for the construction of a Tiki Hut on top of the roof top deck.

- a. Presentation of Variance Request – Building Department – Pgs. 12-20
- b. Statement by Applicant
- c. Planning & Zoning Board Recommendation – Pg. 21
- d. Planning & Zoning Meeting Minutes 11-16-2022 – Pgs. 22-26
- e. Commissioner Comments
- f. Motion to Approve, Deny, or Approve with Conditions

B. 200 15th Circle – Owner: Thomas E. Carden

(Supporting Materials were included in the 09-22-2022 agenda packet)

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. Review of Meeting Minutes
 - I. Planning & Zoning Hearing Minutes 04-20-2022
 - II. City Commission Public Hearing Minutes 05-26-2022
 - III. City Commission Public Hearing Minutes 06-09-2022
 - IV. Special Master Hearing Minutes 08-26-2022
- b. Presentation of Variance Request – Building Department
- c. Statement by Applicant
- d. Planning & Zoning Board Recommendation
- e. Special Master Findings & Recommendation
- f. Commissioner Comments
- g. 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.

September 7, 2022

Members of the commission
Key Colony Beach

Dear members,


Robert Adams and Gal Adams would like to show our support for the request of a variance by our neighbors Chad O'Rourke and Kim Fabry. We are direct abutters located at 163rd Street.

We understand the request is to allow a change of height in order to install a structure on the roof deck to cover the roof deck and expose to the level below.

Please read this letter into record to show our support of the variance request.

Sincerely,

Robert & Gal Adams



September 9, 2022

**Members of the commission
City of Key Colony Beach
600 W. Ocean Drive
Key Colony Beach, FL 33051**

Dear members,


We are writing you regarding the request for a variance of height for the property located at 68 7th Street.

We live at 69 7th Street. As a direct abutter to the said property, we would like to state our support in granting Chad O'Rourke & Kara Fabry the variance that is needed in order to install the structure on top of the roof deck to adequately protect the roof cut and stairwell to the level below.

Please read this letter into the record to make those in attendance and my neighbors aware of our support of the variance request.

Thank you,

Mike Day
Mike & Pat Day




Attention, City of Key Colony Beach

September 11, 2022

I am writing this letter as the owners of 65 7th Street. I am contacting you in regards to the request for a variance of height for the property located at 68 7th Street. I am a direct abutter to this property. Brian Cahir and my wife Lisa Cahir are writing to inform you that we support Chad O'Rourke and Kara Fabry's request for this variance for their Tiki Hut.

If we may be of any further assistance, please feel free to contact me.

Thank you,


Brian & Lisa Cahir

Silvia Gransee

From: chris bloch <chrisbloch3@yahoo.com>
Sent: Tuesday, November 1, 2022 4:50 PM
To: Silvia Gransee
Subject: [External] Variance 68 7th Street Tiki Hut Chad O'Rourke

Planning and Zoning Boards,

As owners of 62 7th Street, KCB LLC, my wife and myself do not oppose the requested variance. As a matter of fact we welcome improvements. Hopefully the boards approve this request.

Best
Chris Bloch
KCB LLC

[Sent from Yahoo Mail on Android](#)

Silvia Gransee

From: Sally <sache47@yahoo.com>
Sent: Friday, November 11, 2022 12:16 PM
To: Silvia Gransee
Subject: Re: [External] Key Colony Beach Planning & Zoning Board Meeting-11/16/2022

Please forward our letter to the Planning & Zoning Board Members. -Thank you

Planning and Zoning Board:

We are opposed to allowing an After-The-Fact Variance for a tiki hut on top of the roof top deck at 68 7th Street, Key Colony Beach, FL.

Respectfully,
William and Sally Cherry
601 W. Ocean Dr. Apt 413
Key Colony Beach, FL
33051

Sent from my iPhone

On Nov 9, 2022, at 9:05 AM, City of Key Colony Beach <cityclerk@keycolonybeach.net> wrote:

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 **Tamara Anderson**, who, having been first duly sworn according to law, deposes and says:

1. I am the Administrative Assistant to the City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the **14th day of October 2022** (no less than 30 days prior to the Planning & Zoning Public Hearing on **November 16th, 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 at 68 7th Street.

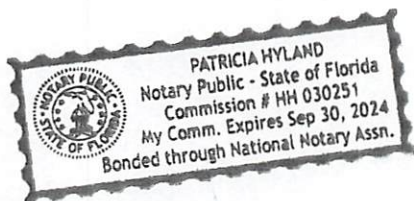
Tamara M. Anderson
Signature

Sworn and subscribed before me this
14th day of OCTOBER, 20 22

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 68 7th Street
From: The City of Key Colony Beach
Subject: Planning & Zoning Hearing and City Commission Public Hearing for a Variance Request

The City of Key Colony Beach will be holding Public Hearings on:

Planning & Zoning Hearing: Wednesday, November 16, 2022, 9:30 A.M.
City Commission Public Hearing: Thursday, December 1, 2022, 9:30 A.M.

NOTICE IS HEREBY GIVEN that the City of Key Colony Beach, Florida, will hold a **Planning & Zoning Hearing on Wednesday, November 16, at 9:30 A.M.**, and a **City Commission Public Hearing, on December 1, 2022, at 9:30 A.M.**, at Temporary City Hall located at 600 W. Ocean Drive, Key Colony Beach, Florida, 33051, to hear a Variance Request from Chad O'Rourke, 68 7th Street, Key Colony Beach, Florida 33051. 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 After-The-Fact to Land Development Regulations Chapter III, Section 101-13, Subsection (8); requesting approval for an after-the-fact variance in height, width, and depth for the construction of a Tiki Hut on top of the roof top deck.

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 Wednesday, November 16, 2022, or Thursday, December 1, 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 October 17, 2022.

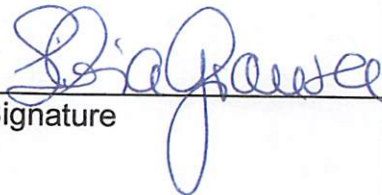
AFFIDAVIT OF POSTING

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 **2nd day of November 2022** (no less than 14 days prior to the Planning & Zoning Public Hearing on **November 16th, 2022**, and no less than 10 days prior to the City Commission Public Hearing on **December 1, 2022**) I posted the Notice of Hearing for the property at 68 7th Street at the local United States Postal Service and City Hall.

Further affiant saith not.



Signature

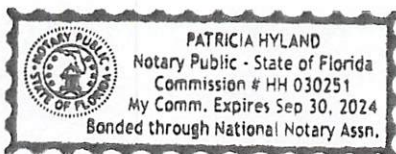
Sworn and subscribed before me this
2nd day of NOVEMBER, 2022.



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

Personally known

Produced _____ as identification



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Posted: November 2, 2022
City of Key Colony Beach, Florida



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)

November 3 2022

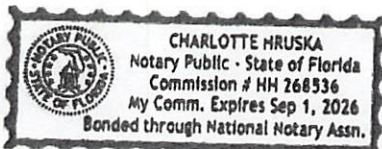
Affiant further says that the said WEEKLY NEWSPAPERS is a newspaper published at Marathon, in said Monroe County, Florida, and that the said newspaper has heretofore been continuously published in said Monroe County, Florida, once each week (on Thursday) and has been qualified as a second class mail 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 3 day of Nov, 2022.

(SEAL)

Charlotte Hruska

Notary



PUBLIC HEARING NOTICE

The City of Key Colony Beach will be holding Public Hearings on:
Planning & Zoning Hearing:
Wednesday, November 16, 2022,
9:30 A.M.
City Commission Public Hearing:
Thursday, December 1, 2022,
9:30 A.M.
At Temporary City Hall, 600 W.
Ocean Drive, Key Colony Beach,

FL 33051.

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City of Key Colony Beach, Florida
Publish:
November 3, 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: Chad O'Rourke (413) 348-4741
Property Owner Name Phone Number
68 7th Street 35
Street Address of Variance Lot Block Subdivision
Box 570302
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 _____, Section 101-13 Subsection (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.

See Attached

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 *CA* Chara Management Group@gmail.com

Office Use Only

Date Filed 9-16-22

Date Paid 9-16-22 Check # 1164

Variance granted / denied on (date) _____

[Signature]
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?

See attached

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

See attached

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?

See attached

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?

See attached

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?

See attached

Office Use Only

Comments and Recommendation of the Building Official

Description of Variance:

We are seeking an after the fact variance in the height allowance to allow the structure covering the stairwell egress from the lower level of the house to the roof deck above it to remain. The previous aluminum & canvas structure was 10.5' high (from base of mount to peak) by 8' round aluminum framed with a canvas cover. The look of it is that of a circus tent. This was designed into the build of the house in 2007 when the original plans were drawn and stamped and put into place in 2011 when the house was built. The existing structure has been in place for 11 years. Please see the attached pictures for details of the previous structure.



We installed a tiki hut cover structure to replace the existing aluminum frame with canvas structure. This structure is 13' wide by 16' long by 13' high. The previous structure did not do a good job of keeping the rainwater from penetrating the roof deck and lower level causing many problems including concrete spalling. In order to correctly obtain this protection, we needed a greater area of coverage. This can be best achieved by using a natural product in that of a tiki hut and nothing says Florida Keys like a tiki hut, instead of a metal framed circus tent. Please see attached pictures for details of what was installed.



We are asking to increase the height allowance of the structure from the 10.5' (in which the aluminum framed structure was previously) to 13' (at which the peak of the new tiki hut structure). We are also asking to increase the width and depth to 13' by 16' from the 8' round that the previous structure was.

This width was determined to be the sufficient coverage needed to protect the stairwell from any weather. The previous coverage was 8' round and did not work at all. The overall variance would be 10' as the base of the roof deck is 3' below the current allowance. Please see the survey letter from J.P. Grimes showing the elevations.

Applicant Questions and Responses:

- 1) The variance should be granted because the structure protects the roof deck and stairwell (from the lower level) from the elements that would penetrate the 60" round hole cut into it, which allows egress from the lower level to the roof deck. This cover is needed to protect against rain penetration of the lower level.
- 2) If the variance were not granted there would be no protection of the roof deck and stairwell allowing rainwater to get into the lower level through the 60" opening causing damage to the structure including the already existing spalling.
- 3) If the variance were granted there would be no increase in public expense or threat to public health and safety. It would not create a nuisance or cause fraud or victimization of the public.
- 4) This house has a unique physical condition in that it has higher elevation overall than the other houses around it.
- 5) If the variance were granted it would not confer upon the applicant any special privilege that is denied to properties in the immediate neighborhood in terms of the established development pattern.

We have wind mitigation and elevation drawings stamped from an architect for the tiki hut design. Please see them attached. We had turned in the drawings with a site plan and were issued a building permit. Not realizing there was incorrect information on the drawings and thinking we had everything in place as required, we installed the tiki hut. We then found out we would need to seek a new variance of the height requirement as the new tiki hut was higher than the structure it was replacing. With the tiki hut already being installed we are seeking an after the fact variance.

Also, please see attached the letters from our abutting neighbors in support of the allowance of this variance and replacement of the existing cover structure by the new tiki hut structure as well as signatures from other tax paying citizens of the Key Colony Beach community.

Application for variance – Addendum:

After my conversation with David Turner, the Town Administrator, it has come to our attention that there was never in fact an application for variance or permit submitted by the previous owners for the previous structure that was attached to the roof deck as coverage for the stairs. This was an 8' round by 10.5' high aluminum frame with canvas cover which has since been replaced.

This application for a variance is an after the fact application to seek a variance for 10' to allow the tiki hut which is 13' wide x 16' deep by 13' high to remain in place on the roof deck as coverage for the stairwell.

<u>MON/YR</u>	<u>SUBDIVISION/BLOCK/LOT</u>	<u>TYPE</u>	<u>RESOLUTION</u>
2005	Coury 2 / 1 / 35	Frt Yd Fountain-DiGennaro	Approved 3/24
2005	KCB 2 nd / 11 / 42N	Side Setback - Baran	Withdrawn 4/20
2005	Botel // 14&15	Height, 2-story-Dalton	Approved 4/28
2005	KCB 1 st / 10 / 57S	Side Setback - Kiley	Approved 9/22
2005	Vista Del Sol // 7	Yard Fountain - Brickham	Approved 9/22
2005	KCB / 2 / 17,18,25&26	Setbks&Access Use-Kellogg	Withdrawn 11/8
2006	KCB 1 st / 11 / 53N	Side Setback, Caport - Galloway	Approved 3/23
2006	KCB 2 nd / 12 / 26	Height - Blais	Approved 3/23
2006	Vista Del Sol // 3	Dock Width - Kringel	Approved 3/23
2006	KCB / 5 / 7	Side Setback - Rea	Approved 7/13
2006	Yacht Club // 35	Height - Wood/Dickens	Withdrawn 5/25
2006	KCB 2 nd / 12 / 27	Dock - Fincher	Withdrawn 6/1
2006	KCB 2 nd / 12 / 27	Dock - Fincher	Approved 9/14
2006	Coury 2 / 2 / 46	Dock - Gentile	Approved 9/28
2006	Coury 2 / 1 / 35	Dock - DiGennaro	Approved 10/26
2007	KCB 1 st / 8 / 33	Dock - Cropper	Approved 3/22/07
2007	KCB 1 st / 10 / 17N	Side Setback - Alonso	Approved 3/8/07
2007	KCB / 2 / 18	Dock - Coastal Properties	Withdrawn 7/13/07
2007	KCB / 3 / 12	Floor Area - Williamson	Withdrawn 3/5/07
2007	Botel / / 1-4	Front Setback - Circle K	Approved 4/12/07
2007	KCB / 3 / 46	Front Setback - Hennemann	Approved 6/28/07
2007	KCB 1 st / 9 / 34	Side Setback - Kegerreis	Approved 6/28/07
2007	KCB / 3 / 16	Height - Malaczewski	Approved 7/26/07

OCT 7, 2022	Revision

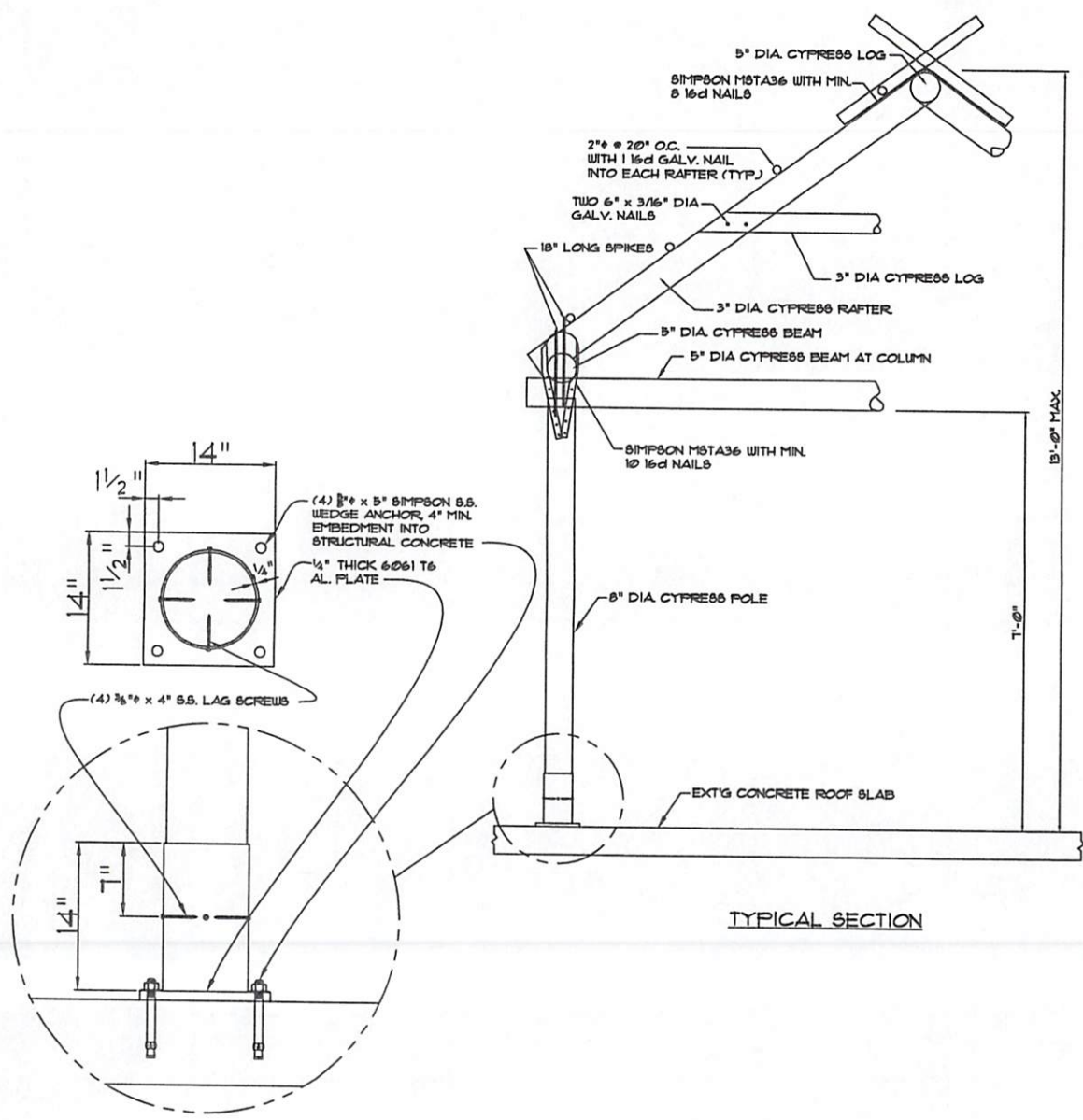
APPLICABLE CODES AND SPECIFICATION SPECIFICATIONS:

FBC 2020 FBC 2020
NDS NDS 2018
ASCE 7-16 ASCE 7-16

WIND DESIGN WIND SPEED 120 MPH
EXPOSURE: D
RISK CATEGORY: II

STRUCTURAL GENERAL NOTES:

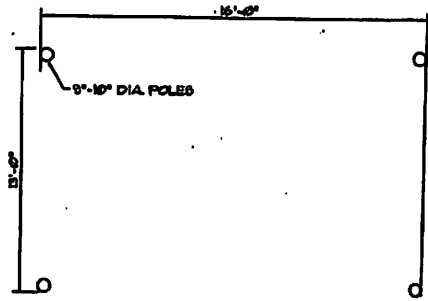
1. WOOD MEMBERS TO BE DRY-ROBLED CYPRESS LOGS
2. NAILS TO BE GALVANIZED
3. NAILS TO BE MIN. 3000 PSI AT 28 DAYS
4. ALL COLUMNS TO BE INSERTED BUTT END INTO FOOTING
5. MEMBER DIAMETERS SHOWN ARE BUTT DIAMETERS



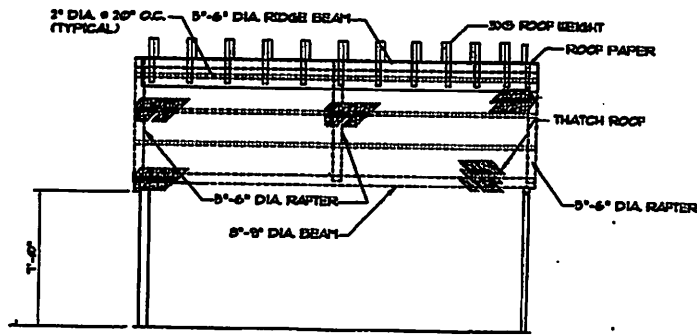
TYPICAL SECTION

Wayne A Sutherland
Digitally signed by Wayne A Sutherland
 DN: cn=Wayne A Sutherland,
 o=Wayne A Sutherland Engineering, ou=Wayne A Sutherland
 Engineering, email=Wayne.A.Sutherland@rsd-engineers.com,
 c=US
 Reason: I am the author of the document
 Date: 2022.10.07 15:23:04-0700

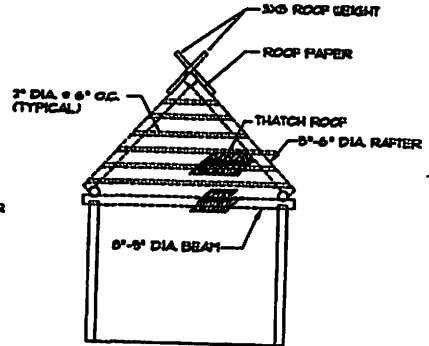
Wayne A Sutherland, Professional Engineer, State of Florida, PE44299
 This file has been electronically signed and sealed by Wayne A Sutherland, PE, using a BNA authorization code.
 Physical copies of this document are not considered signed and sealed and the BNA authorization code must be verified on any electronic copies.



FLOOR PLAN



FRONT ELEVATION



SIDE ELEVATION



TKI HIT
AT
68 T ST
KEY COLONY BEACH, FL 33050

R.D.
ENGINEER
1100 S. W. 10th Ave.
MIAMI, FL 33135

1 of 2

02/13/08

J. P. GRIMES
REGISTERED FLORIDA SURVEYOR AND MAPPER
#14 6th STREET
P.O. BOX 510403
KEY COLONY BEACH, FLORIDA
33051-0403

TO: CHAD OROURKE AND KARA FABRY

FROM: JOHN PAUL GRIMES, III, P.S.M.

RE: HEIGHT OF PEAK OF BUILDING

**SUBJECT PROPERTY: LOT 35, "KEY COLONY BEACH YACHT CLUB SUBDIVISION",
PLAT BOOK 4, PAGE 68, CITY OF KEY COLONY BEACH, SHELTER KEY, MONROE
COUNTY, FLORIDA, PUBLIC RECORDS.
ADDRESS: 68 FIRST STREET (ALSO KNOWN AS 7th STREET)**


TO WHOM IT MAY CONCERN:

**THIS LETTER IS TO CERTIFY THAT ON 02/13/08, I HAVE DETERMINED THE
ELEVATION OF THE PEAK OF THE ROOF OF THE NEWLY CONSTRUCTED STRUCTURE ON
SAID SUBJECT PROPERTY TO BE AT AN ELEVATION OF 24.43' (N.G.V.D. 29), AND THAT THE
APPROXIMATE CROWN OF ROAD, ADJACENT TO THIS SITE, TO BE AT AN ELEVATION OF
4.58' (N.G.V.D. 29), EQUATING A DIFFERENCE OF 19.85'.**

REVISED 9/14/22

**PEAK OF ROOF ELEVATION OF 24.43' (N.G.V.D. 29)
PEAK OF NEWLY CONSTRUCTED TIKI HUT ELEVATION OF 34.75' (N.G.V.D. 29) AND THAT
THE APPROXIMATE CROWN OF ROAD, ADJACENT TO THIS SITE, TO BE AT AN ELEVATION
OF 4.58' (N.G.V.D. 29), EQUATING A DIFFERENCE OF 30.17'.**

**PLEASE FEEL FREE TO CALL ME AT ANYTIME FROM 9 AM TO 5 PM, MONDAY THROUGH
FRIDAY, WITH ANY QUESTIONS, AT 305-743-4510.**


JOHN PAUL GRIMES, III
REGISTERED FLORIDA SURVEYOR
AND MAPPER NO. 4906

P.N.071204R_HB.DOC

City of Key Colony Beach

P.O. Box 510141, Key Colony Beach, FL 33051-0141 • Phone: 305-289-1212
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November 16, 2022

To: The City of Key Colony Beach Board of Commissioners

From: The Key Colony Beach Planning & Zoning Board

Re: 68 7th Street – Owner: Chad O'Rourke

The Planning & Zoning Board heard the applicant's request for an After-the-Fact Variance to Land Development Regulations Chapter III, Section 101-13, Subsection (8); requesting approval for an after-the-fact variance in height, width, and depth for the construction of a Tiki Hut on top of the roof top deck.

Post Hearing Questions Results:

- | | |
|--------------------------------|---|
| 1) Chair Joey Raspe | **abstained from voting** |
| 2) Vice-Chair George Lancaster | Yes on all 5 (five) Post Hearing Questions |
| 3) Board Member Mike Yunker | **excused** |
| 4) Board Member Lin Walsh | Yes on all 5 (five) Post Hearing Questions |
| 5) Board Member Tom DiFransico | Yes 4/No 1 - on 5 (five) Post Hearing Questions |

MOTION: Motion made by Lin Walsh, seconded by George Lancaster, to recommend for the requested variance for 68 7th Street to be approved.

ON THE MOTION: Rollcall vote. Lin Walsh – yes, Tom DiFransico – no, George Lancaster – yes. The motion passed two to one.

Final Recommendation: The Planning & Zoning Board recommends to the City of Key Colony Beach Board of Commissioners for the requested variance for the property at 68 7th Street to be approved.


Joey Raspe, Chair

MINUTES
PLANNING & ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING

Wednesday, November 16, 2022, 9:30 a.m.
Temporary City Hall & Virtually via Zoom Conferencing

1. Call to Order, Pledge of Allegiance & Roll Call: *The Planning & Zoning Meeting was called to order by Chair Joey Raspe at 9:38 a.m. in the morning, followed by the Pledge of Allegiance and Roll Call.*

Present: *Chair Joey Raspe, Vice-Chair George Lancaster, Tom DiFransico, Lin Walsh. Excused: Mike Yunker. Also Present: City Administrator Dave Turner, City Clerk Silvia Gransee, City Attorney Janette Smith (virtual), City Attorney Dirk Smits (Virtual), Building Official Gerald Leggett, Building Assistant Trish McLeod, Code Enforcement Officer Barry Goldman.*

Public Attending: *6 in person, 2 virtual*

2. Approval of Minutes:

MOTION: *Motion made by Tom DiFransico, seconded by George Lancaster, to approve the Planning & Zoning meeting minutes from September 21, 2022.*

DISCUSSION: *None.*

ON THE MOTION: *Rollcall vote. Unanimous approval.*

3. Administration of Oath to Witnesses: *City Clerk Gransee administered the Oath of Witness to all planning on testifying.*

4. Citizen Comments and Correspondence: *City Clerk Gransee reported on all correspondence received. There were no additional comments.*

5. Disclosure of Ex-Parte Communication: *None.*

6. Proof of Publications: *The publications were accepted.*

7. VARIANCE REQUEST: *68 7th Street, Owner: Chad O'Rourke*

Applicant requests a Variance After-The-Fact to Land Development Regulations Chapter III, Section 101-13, Subsection (8); requesting approval for an after-the-fact variance in height, width, and depth for the construction of a Tiki Hut on top of the roof top deck.

Chair Joey Raspe excused himself from the proceedings due to a conflict of interest. Form 8B is attached to these minutes in compliance with Florida Statues 112.3143.

Vice-Chair George Lancaster presided over the meeting following Chair Raspe's recusal.

Vice-Chair Lancaster read the variance application as well as the applicants Questions and Responses document.

a. Presentation of Variance Request – Building Department: *Building Official Leggett reported on the variance application and the original permit that was received for the structure. Building Official Leggett reported that the contractor and owner were informed of the code violation and that the after-the-fact variance application was submitted thereafter. Further discussion followed on current height limitations and the actual height of the house.*

Building Official Leggett explained that the actual variance for height would be 14.75 feet. The Board further discussed the previous structure that was on top of the house and agreed that it was a non-conforming structure. City Administrator Turner further explained the history of the original building and it being non-conforming from the beginning. The applicant explained the structure of the roof to the Board. The Board and Building Official further discussed the compliance of the overhang and that the issue at hand is only the height. City Administrator Turner explained that there will be an additional Townhall Meeting on the question on height changes and LDR's. The Board discussed that with the approval of the LDR's the variance would not be needed.

b. Statement by Applicant: *Mr. Chad O'Rourke explained the history of the house and how the determination of constructing the structure on the deck was made due to water intrusion in the house. The Board clarified that the issue at hand is height only and not the structure itself.*

A citizen attending the meeting asked to speak to the board. Mr. Gin Gilbertsum stated he is a resident and commented on the topic on having a tiki on top of a roof. The Building Official explained the requirements needed to receive approval. City Administrator Turner further explained the anticipated height changes and benefits on flood insurance costs with CRS changes. Mr. Gilbertsum further stated his views on the topic. City Clerk Gransee explained the procedure on citizen comments and encouraged Mr. Gilbertsum to attend the Townhall meeting in December.

Mr. Gilbertsum stated his disagreement to the variance to the board.

Board Member Tom DiFransico asked on details on the LDR's and what changes were made in regard to livable space. The City Administrator explained details on the new LDR's and how rebuilding would be affected. Further discussion followed.

c. Applicant Questions & Responses - (see a)

d. Post Hearing Questions

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

<i>George Lancaster</i>	<i>Yes</i>
<i>Lin Walsh</i>	<i>Yes</i>
<i>Tom DiFransico</i>	<i>Yes</i>

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

<i>George Lancaster</i>	<i>Yes</i>
<i>Lin Walsh</i>	<i>Yes</i>
<i>Tom DiFransico</i>	<i>No</i>

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?

<i>Lin Walsh</i>	<i>Yes</i>
<i>Tom DiFransico</i>	<i>Yes</i>
<i>George Lancaster</i>	<i>Yes</i>

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.**

Tom DiFransico Yes
George Lancaster Yes
Lin Walsh Yes

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

George Lancaster Yes
Lin Walsh Yes
Tom DiFransico Yes

e. Planning & Zoning Board Recommendation

MOTION: Motion made by Lin Walsh, seconded by George Lancaster, to recommend for the requested variance for 68 7th Street to be approved.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Lin Walsh – yes, Tom DiFransico – no, George Lancaster – yes. The motion passed two to one.

Final Recommendation: The Planning & Zoning Board recommends to the City of Key Colony Beach Board of Commissioners for the requested variance for the property at 68 7th Street to be approved.

8. Any Other Business

Chair Joey Raspe stated to the Board that he would like to address Vice-Mayor Harding's request to look into setback requirements for the R2B zone which includes the Causeway, Clara and Coral, and 7th Street. Chair Joey Raspe explained the reasoning behind the request is due to smaller properties having to file for variances for swimming pools. The City Administrator explained the benefits for residents in saving money and time. The Board and Building Official continued discussion on purpose for setback requirements and what changes could be implemented. Further discussion followed on limitations to the R2B zone. The Board agreed upon adding the topic unto the next Planning & Zoning Agenda for discussion. City Administrator Turner stated that staff will assist in obtaining supporting materials and also that the topic will be placed on the Townhall meeting agenda on December 12th.

City Administrator Turner further explained the status of the LDR's and Comprehensive Plan, the planned Townhall meeting, and first Commission meeting in January for a second reading.

9. Adjourn: The meeting adjourned at 10:28 a.m.

Respectfully submitted,
Silvia Gransee
City Clerk

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME RASPE JOSEPH ALLEN	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Planning & Zoning Board
MAILING ADDRESS PO Box 510526	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY Key Colony Bch. Monroe	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED 11/16/22	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Joseph Raspe, hereby disclose that on 11/16/22, 20 22.

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____ ;
- inured to the special gain or loss of my relative, Karen Raspe ;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Wife is applicants realtor currently involved in selling properties.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

11/17/22
Date Filed

Joseph Raspe
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.