

RESOLUTION NO. _____

VARIANCE: 533 EATON STREET
RE # 00004130-000000, AK # 1004294

A RESOLUTION OF THE KEY WEST BOARD OF ADJUSTMENT APPROVING A NON-HABITABLE SPACE VARIANCE TO BUILDING HEIGHT REGULATIONS TO ACCOMMODATE NON-HABITABLE HARDWARE AND UTILITY STRUCTURES FOR PROPERTY LOCATED AT 533 EATON STREET (RE # 00004130-000000, AK # 1004294) IN THE HISTORIC NEIGHBORHOOD COMMERCIAL - TRUMAN/SIMONTON (HNC-1) ZONING DISTRICT, UNDER THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA

WHEREAS, the Key West Board of Adjustment (the "Board") finds that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district; and

WHEREAS, the Board finds that granting the variance requested would not confer upon the applicant special privileges denied by the land development regulations to other lands, buildings or structures in the same zoning district; and

WHEREAS, the Board finds that literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would

work unnecessary or undue hardship on the applicant; and

WHEREAS, the Board finds that the variance requested is the minimum variance that would make possible the reasonable use of the land, building or structure; and

WHEREAS, the Board finds that the grant of the variance would be in harmony with the general intent and purpose of the land development regulations and that such variance would not be injurious to the area involved and otherwise detrimental to the public interest or welfare; and

WHEREAS, the Board finds that the applicant cannot make reasonable use of the land, building or structure without the grant of the instant variance; and

WHEREAS, the Board of Adjustment finds that the applicant has satisfied the conditions of Key West Code of Ordinances section 90-395 and likewise met the requirements established by Code section 90-274.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the City of Key West, Florida:

Section 1: That a non-habitable space variance to the 35-foot maximum building height allowed in the HNC-1 Zoning District under Section 122-810(3) of the Code of Ordinances of the City of Key West, Florida from the approved 55 feet, three inches to the proposed 60 feet four and a half inches maximum building height is hereby approved.

Section 2: That this approval is conditioned upon:

(1) This height variance shall only be for the roof garden penthouse structure and railing as shown on the approved plans dated March 7, 2016 by Michael Miller Architecture. Any future increase of height beyond this would require a new height variance application.

(2) The roof shall not be used for any commercial activities that are unrelated to the principal uses, but may serve as an accessory use.

Section 3: This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Board.

Section 4: This Resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order shall be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for 45 days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the 45-day review period, the DEO can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is

resolved by agreement or order.

Passed and adopted by the Board of Adjustment at a meeting held this _____ day of _____, 2016.

Authenticated by the Presiding Officer and Clerk of the Board on _____ day of _____, 2016.

Filed with the Clerk on _____, 2016.

Chairman Craig Cates	_____
Commissioner Samuel Kaufman	_____
Commissioner Clayton Lopez	_____
Commissioner Richard Payne	_____
Commissioner Margaret Romero	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

CRAIG CATES, CHAIRMAN
BOARD OF ADJUSTMENT

ATTEST:

CHERY L SMITH, CITY CLERK