

RECEIVED

DEC 23 2014



Application For Variance

City of Key West, Florida • Planning Department

CITY OF KEY WEST
PLANNING DEPT.

3140 Flagler Avenue • Key West, Florida 33040-4602 • 305-809-3720 • www.keywestcity.com

Application Fee: \$1,150.00 / After-the-Fact: \$2,150.00
(includes \$100.00 advertising/noticing fee and \$50.00 fire review fee)

Please complete this application and attach all required documents. This will help staff process your request quickly and obtain necessary information without delay. If you have any questions, please call 305-809-3720.

PROPERTY DESCRIPTION:

Site Address: 816 EATON STREET KEY WEST, FL 33040

Zoning District: _____ Real Estate (RE) #: _____

Property located within the Historic District? Yes No

APPLICANT: Owner Authorized Representative

Name: FAIRBANK CONSTRUCTION INC.

Mailing Address: 3440 DUCK AVE.

City: KEY WEST State: FL. Zip: 33040

Home/Mobile Phone: 305-304-4495 Office: 305-292-6534 Fax: 305-292-6581

Email: JAY@FAIRBANKKEYWEST.COM

PROPERTY OWNER: (if different than above)

Name: STEPHEN & JANICE DICKSON

Mailing Address: 1103 N. HIGHLAND AVENUE, NE

City: ATLANTA State: GA Zip: 30306

Home/Mobile Phone: 770-231-4178 Office: 404-715-1002 Fax: _____

Email: SANDJDICKSON@COMCAST.NET

Description of Proposed Construction, Development, and Use: PRIVACY FENCE AROUND BACK & SIDES OF PROPERTY

List and describe the specific variance(s) being requested:

VARIANCE TO HEIGHT OF FENCE, TO ACCOUNT FOR HEIGHT OF MOURS FOUNDATION AND REAR DECKING RELATIVE TO GRADE OF PROPERTY.

Are there any easements, deed restrictions or other encumbrances attached to the property? Yes No

If yes, please describe and attach relevant documents: _____

X

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Will any work be within the dripline (canopy) of any tree on or off the property? Yes No
 If yes, provide date of landscape approval, and attach a copy of such approval. *-WORK ALREADY COMPLETED*

Is this variance request for habitable space pursuant to Section 122-1078? Yes No

Please fill out the relevant Site Data in the table below. For Building Coverage, Impervious Surface, Open Space and F.A.R. provide square footages and percentages.

Site Data Table				
	Code Requirement	Existing	Proposed	Variance Request
Zoning				
Flood Zone				
Size of Site				
Height				
Front Setback				
Side Setback				
Side Setback				
Street Side Setback				
Rear Setback				
F.A.R				
Building Coverage				
Impervious Surface				
Parking				
Handicap Parking				
Bicycle Parking				
Open Space/ Landscaping				
Number and type of units				
Consumption Area or Number of seats				

This application is reviewed pursuant to Section 90-391 through 90-397 of the City of Key West Land Development Regulations (LDRs). The City's LDRs can be found in the Code of Ordinances online at <http://www.municode.com/Library/FL/Key West> under Subpart B.

*Please note, variances are reviewed as quasi-judicial hearings, and it is improper for the owner or applicant to speak to a Planning Board member or City Commissioner about the hearing.

Standards for Considering Variances

Before any variance may be granted, the Planning Board and/or Board of Adjustment must find all of the following requirements are met:

1. Existence of special conditions or circumstances. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structures or buildings in the same zoning district.

SEE ATTACHED DOCUMENT.

2. Conditions not created by applicant. That the special conditions and circumstances do not result from the action or negligence of the applicant.

SEE ATTACHED DOCUMENT.

3. Special privileges not conferred. That granting the variance(s) requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings or structures in the same zoning district.

SEE ATTACHED DOCUMENT.

4. Hardship conditions exist. 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 and undue hardship on the applicant.

SEE ATTACHED DOCUMENT.

5. Only minimum variance(s) granted. That the variance(s) granted is/are the minimum variance(s) that will make possible the reasonable use of the land, building or structure.

SEE ATTACHED DOCUMENT.

City of Key West • Application for Variance

6. Not injurious to the public welfare. That granting of the variance(s) will be in harmony with the general intent and purpose of the land development regulations and that such variances will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.

SEE ATTACHED DOCUMENT.

7. Existing nonconforming uses of other property shall not be considered as the basis for approval. That no other nonconforming use of neighboring lands, structures, or buildings in the same district, and that no other permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

SEE ATTACHED DOCUMENT.

The Planning Board and/or Board of Adjustment shall make factual findings regarding the following:

- That the standards established in Section 90-395 have been met by the applicant for a variance.
- That the applicant has demonstrated a "good neighbor policy" by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by these neighbors. Please describe how you have addressed the "good neighbor policy."

REQUIRED SUBMITTALS: All of the following must be submitted in order to have a complete application. Please submit one paper copy and one electronic copy of all materials.

- Correct application fee. Check may be payable to "City of Key West."
- Notarized verification form signed by property owner or the authorized representative.
- Notarized authorization form signed by property owner, if applicant is not the owner.
- Copy of recorded warranty deed
- Property record card
- Signed and sealed survey
- Site plan (plans MUST be signed and sealed by an Engineer or Architect)
- Floor plans
- Stormwater management plan

Standards for Considering Variances

- 1. Existence of special conditions or circumstances.** The exterior backyard renovation of 816 Eaton Street consisted of replacing pool decking at the same height as the previous deck, approximately 20-24" above grade in most locations. The fence was constructed based upon the permit (attached), which specified "6' from natural grade." The grade at the rear of the property slopes downward slightly toward the alley, making the height 6' at one end and approximately 7.5' at the other end. Our understanding throughout the project is that the measurement for the purpose of the fence permit is from the highest point of natural grade. Stepping down the height of the fence would be unattractive and not in accordance with other properties in the vicinity (or the design of the previous fence). Property values would also be adversely affected due to loss of privacy.
- 2. Conditions not created by applicant.** As noted above, the permit did not specify where and how the height of the fence was to be measured. Our contractor built the fence at the same height as the previous fence, and in accordance with accepted practice of measuring height from the highest point of grade along the property line. This was also our understanding of the meaning expressed by the building permit.
- 3. Special privileges not conferred.** We are not seeking any special privileges, but rather only the best outcome for the neighborhood.
- 4. Hardship conditions exist.** The completion of this project has been substantially delayed due to a boundary dispute which has recently been settled. Re-constructing the fence will create additional unnecessary expense and further disruption to the neighborhood. Additionally, due to the downward slope of the grade, and the level pool decking approximately 22" above grade, the end result of reducing the fence height is a "privacy" fence only 4' above the pool deck next to the public alley. This results in a lack of privacy for owners and guests using the pool, as well as a corresponding reduction in property value. Due to the configuration (access to servicing of propane tank), mitigation with landscaping is not possible in this area.
- 5. Only minimum variance granted.** We are only asking for a variance that will create a reasonable height relative to the pool deck (this is actually less than 6' in some areas) and measured from the highest point of grade along the boundary.
- 6. Not injurious to the public welfare.** Maintaining the existing fence height is the best solution to maintain all adjacent property values, and is also least disruptive to the neighborhood.
- 7. Existing nonconforming uses of other property not considered.** Other non-conforming uses have not been considered. This application for variance only considers the impact to our own and our neighbors' property values and privacy, along with further disruption and expense.

Verification

City of Key West
Planning Department



Verification Form
(Where Authorized Representative is an entity)

I, Jay Fairbank, in my capacity as President
(print name) (print position; president, managing member)
of Fairbank Const. Inc.
(print name of entity serving as Authorized Representative)

being duly sworn, depose and say that I am the Authorized Representative of the Owner (as appears on the deed), for the following property identified as the subject matter of this application:

816 Eaton St., Key West, FL.
Street Address of subject property

All of the answers to the above questions, drawings, plans and any other attached data which make up the application, are true and correct to the best of my knowledge and belief. In the event the City or the Planning Department relies on any representation herein which proves to be untrue or incorrect, any action or approval based on said representation shall be subject to revocation.

[Signature]
Signature of Authorized Representative

Subscribed and sworn to (or affirmed) before me on this Dec. 23, 2014 by
date
Johnathan Jay Fairbank
Name of Authorized Representative

He/She is personally known to me or has presented FL DL as identification.

[Signature]
Notary's Signature and Seal

CLAIRE L. HURD
Name of Acknowledger typed, printed or stamped



EE 134561
Commission Number, if any

Authorization

City of Key West
Planning Department



Authorization Form
(Individual or Joint Owner)

Please complete this form if someone other than the owner is representing the property owner in this matter.

I, DICKSON, STEPHEN & JANICE authorize
Please Print Name(s) of Owner(s) as appears on the deed

JAY FAIRBANK, FAIRBANK CONSTRUCTION, INC.
Please Print Name of Representative

to be the representative for this application and act on my/our behalf before the City of Key West.

[Signature]
Signature of Owner

Signature of Joint/Co-owner if applicable

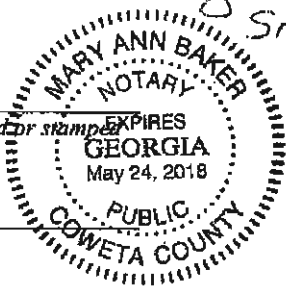
Subscribed and sworn to (or affirmed) before me on this DECEMBER 23, 2014
Date

by STEPHEN M. DICKSON
Name of Owner

He/She is personally known to me or has presented GA DRIVER'S LICENSE as identification.

[Signature] Notary's Signature and Seal solely FOR
STEPHEN M. DICKSON

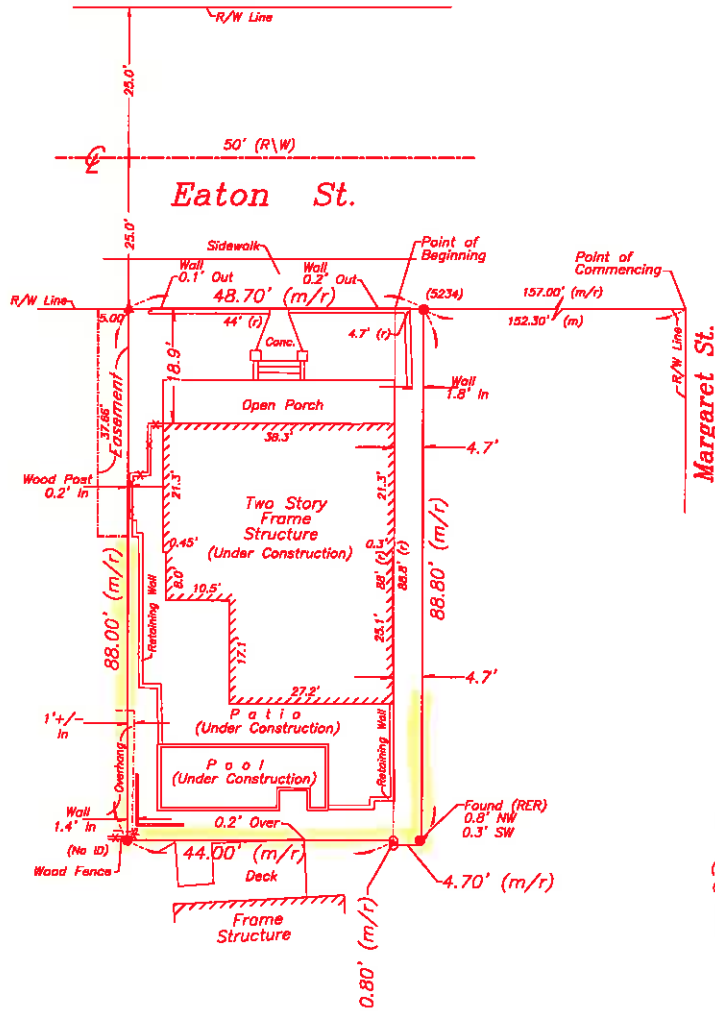
MARY ANN BAKER
Name of Acknowledger typed, printed or stamped



N/A
Commission Number, if any

Survey

Boundary Survey Map of part of Lot 2, Square 34, Island of Key West, Florida



LEGEND

- Set 3/4" Iron Pipe w/cap (6298)
- Found 1/2" Iron Rod (RER)(5234)
- ▲ Found Nail & Disc (RER)
- △ Set Nail & Disc (6298)
- (M) Measured
- (R) Record
- (M/R) Measured & Record
- C.B.S. Concrete Block Structure
- R\W Right of Way
- CLF Chain Link Fence
- ⊕ Centerline
- ⊗ Wood Utility Pole
- ⊠ Concrete Utility Pole
- P- Overhead Utility Lines
- Conc. Concrete

NOTE:
This Survey Map is not full and complete without the attached Survey Report.

Sheet One of Two Sheets

J. LYNN O'FLYNN, Inc.



Professional Surveyor & Mapper
FSM #8298

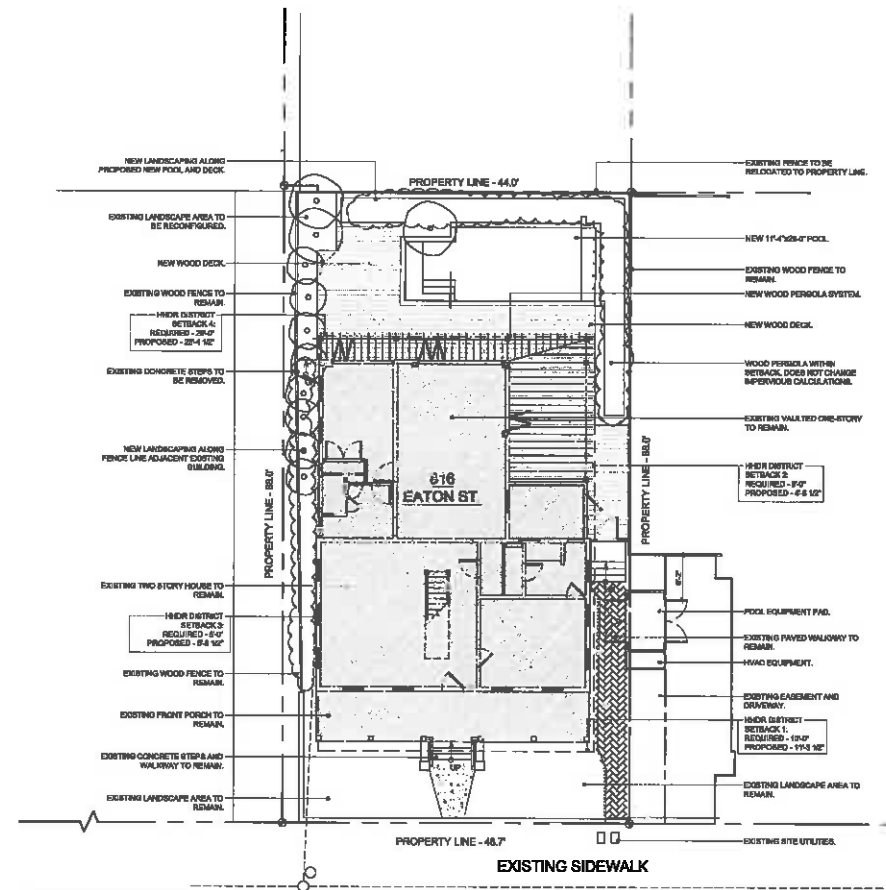
3430 Duck Ave., Key West, FL 33040
(305) 296-7422 FAX (305) 296-2244

PROJECT STATISTICS:

	CODE REQUIREMENT	EXISTING	PROPOSED	VARIANCE REQUESTED
EXISTING	MSBR			
FLOOD ZONE	AE (EL. 6)			
SIZE OF SITE	4,818 SF			
SETBACK	25'-0"	25'-0 1/2"	25'-0 1/2"	NONE
SETBACK 1: FRONT	15'-0"	11'-3 1/2"	11'-3 1/2"	NONE
SETBACK 2: RIGHT SIDE SETBACK	5'-0"	4'-8 1/2"	4'-8 1/2"	NONE
SETBACK 3: LEFT SIDE SETBACK	5'-0"	5'-4 1/2"	5'-4 1/2"	NO CHANGE
SETBACK 4: REAR SETBACK	25'-0"	23'-4 1/2"	23'-4 1/2"	NO CHANGE
FLOOR AREA RATIO	1.0	0.41	0.41	NO CHANGE
BUILDING COVERAGE	60% (2,898 SF)	84.0 % (3,268 SF)	85% (3,143 SF)	NONE
IMPERVIOUS SURFACE	50% (2,409 SF)	69% (3,317 SF)	69% (3,248 SF)	NONE

SITE PLAN LEGEND

	NEW WOOD DECKS
	EXISTING BUILDING AREA
	EXISTING PAVED WALKWAY
	EXISTING CONCRETE WALKWAY



EATON STREET



PROPOSED SITE PLAN

SCALE: 1/8" = 1'-0"



See:

Consultants:

Architects:

Mr. J. M. Dickson
Mr. J. M. Dickson
Mr. J. M. Dickson
Mr. J. M. Dickson
Mr. J. M. Dickson
Mr. J. M. Dickson
Mr. J. M. Dickson
Mr. J. M. Dickson
Mr. J. M. Dickson
Mr. J. M. Dickson

STEVE AND JANICE DICKSON
 816 Eaton Street, Key West, Florida 33040
RESIDENTIAL RENOVATION

PLATTED: 08/08/13 10:07 AM

Drawing Date: 2/13/13	Project #: 13C-13-043
Drawn By: JMD	Checked By: JMD

PROPOSED SITE PLAN

Sheet Number:

A1.1.1

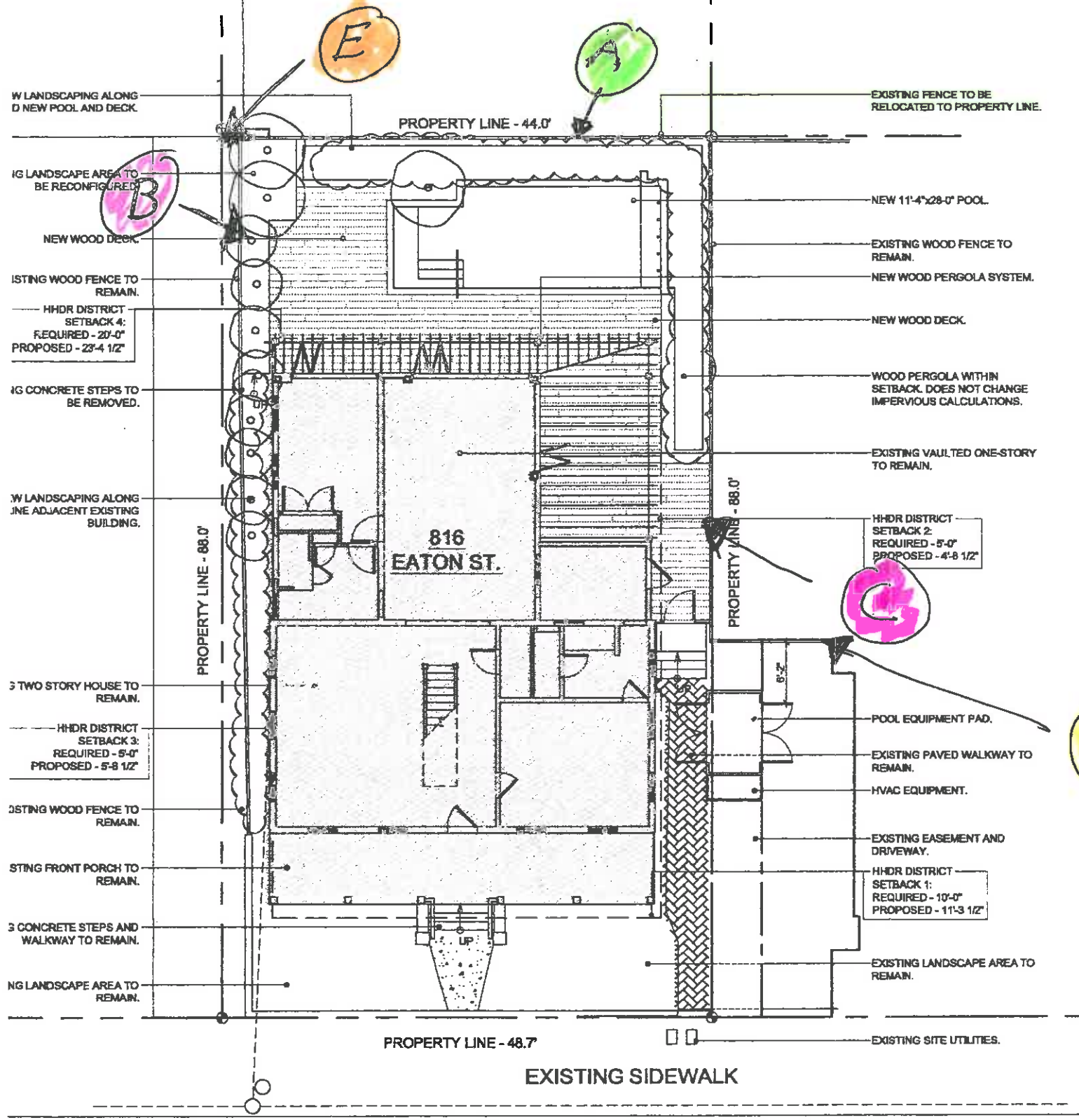
Date: September 9, 2013
 816 Eaton Street | Steve and Janice Dickson

Seal:

Consultants:

Submissions:

- Nov 5, 2013 - City Review
- Nov 16, 2013 - HARC Submittal
- June 3, 2013 - Construction Documents
- August 2, 2013 - Structural Repair Permit
- August 5, 2013 - HARC Submittal
- August 14, 2013 - Decks/Pool Permits
- October 9, 2013 - Structural Repair Permit



DAVE AND JANICE DICKSON
 816 Eaton Street, Key West, Florida 33040
SIDENTIAL RENOVATION

Site Photos



Location A



Location B



Location 



Location D



Location **E** 6' Above Natural Grade

Additional Information



THE CITY OF KEY WEST

Building Department 809-3956
3140 Flagler Avenue, Key West, Florida 33040

BUILDING PERMIT

FOR NEXT BUSINESS DAY INSPECTIONS, CALL 293-6462 BEFORE 3:00 PM.

PERMIT # 14-00000465-000-000-FENC-01 ISSUED 5/05/14
LICENSE# 14-00028555 EXPIRES 5/04/16
MEDIUM DENSITY RES
APPLICATION BY... FAIRBANK CONSTRUCTION
ON PROPERTY OF... DICKSON STEPHEN M & JANICE E
FOR A PERMIT TO.. REVISION: CONSTRUCT 6' HI WOOD FENCE
BASED ON RECENT SURVEY MOVED TO
SURVEYED PROPERTY LINE, FENCE TO BE 6'
FROM NATURAL GRADE AS PER HARC. * * MC
HARC #14-01-0700-HSA-4/21/14-ET.
Fence to be installed in the
property. (ET)**
T/S: 04/15/2014 11:58 AM KEYWMXC ---

816 EATON ST

WARNING TO OWNERS

YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY PRIOR TO RECORDING YOUR NOTICE OF COMMENCEMENT.

Notice: In addition to the requirements of this permit, there may be additional restrictions applicable to this property that may be found in the public records of this county, and there may be additional permits required from other governmental entities such as water management districts, state agencies, or federal agencies.

This card and approved plans must be posted in a location clearly visible from the street. The location of construction must have posted a clearly legible address visible from the street.

PERMIT VOID IF CONSTRUCTION IS NOT STARTED WITHIN 180 DAYS.
Commercial construction allowed M-F 8:00 am - 7:00 pm, Saturday 9:00 am - 5:00 pm.

FOUNDATION
APPROVED BY _____
DATE ____/____/____

FOOTING
APPROVED BY _____
DATE ____/____/____

FRAMING
APPROVED BY _____
DATE ____/____/____

STRAPPING
APPROVED BY _____
DATE ____/____/____

SHEATHING
APPROVED BY _____
DATE ____/____/____

FINAL
APPROVED BY _____
DATE ____/____/____

FEMA SLAB
APPROVED BY _____
DATE ____/____/____

FEMA VENT
APPROVED BY _____
DATE ____/____/____

FEMA FINAL
APPROVED BY _____
DATE ____/____/____



THE CITY OF KEY WEST

Building Department 809-3956
3140 Flagler Avenue, Key West, Florida 33040

H.A.R.C.

Certificate of Appropriateness

FOR NEXT BUSINESS DAY INSPECTIONS, CALL 293-6462 BEFORE 3:00 PM.

PERMIT # 14-01000700-000-000--00 ISSUED 5/05/14
LICENSE# 14-00028555 EXPIRES 5/04/16
MEDIUM DENSITY RES
APPLICATION BY... FAIRBANK CONSTRUCTION
ON PROPERTY OF... DICKSON STEPHEN & JANICE
FOR A PERMIT TO... **AK#1006009** Install a 6' tall open
picket fence to the back property
line. (JOB) **HSA 04/21/14 Fence to be
installed in the property/(ET)**
816 EATON ST

Notice: In addition to the requirements of this permit, there may be additional restrictions applicable to this property that may be found in the public records of this county, and there may be additional permits required from other governmental entities such as water management districts, state agencies, and federal agencies.

This card and approved plans must be posted in a location clearly visible from the street. The location of construction must have posted a clearly legible address visible from the street.

FINAL INSPECTION REQUIRED

FINAL INSPECTION
APPROVED BY _____
DATE ____/____/____



THE CITY OF KEY WEST

Code Compliance Division

P.O. Box 1409, Key West, FL 33040

(305) 809-3740 (305) 809-3978 FAX

BEFORE THE CODE ENFORCEMENT SPECIAL MAGISTRATE
OF THE CITY OF KEY WEST, FLORIDA

CITY OF KEY WEST

FILE NO. 14-936

CERTIFIED MAIL # 7013 2630 0000 9565 6665

VS.

Stephen & Janice Dickson
816 Eaton Street
Key West, FL 33040

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This cause having come before the Special Magistrate on December 17, 2014, pursuant to the Florida Statutes Chapter 162 and Article VI et seq of the Key West Code, and the Special Magistrate having heard sworn testimony, having reviewed the evidence submitted, and being otherwise advised of the premises; The Special Magistrate finds that Stephen & Janice Dickson are in violation of Key West Code of Ordinances, section(s) 14-37 and 14-40. In that the following condition(s) exists at 816 Eaton Street, Key West, FL: **Count 1:** For exceeding the scope of the permit by building the fence 8 feet tall. **Count 2:** For exceeding the scope of the certificate of appropriateness for building the fence 8 feet tall.

Accordingly it is hereby

ORDERED:

1. That you pay a \$250.00 Administrative Fee. Also imposed is a fine of \$250.00 per day, per count (total 2 counts) if compliance is not achieved by January 27, 2015. A compliance hearing will be held on January 28, 2015 at Old City Hall, 510 Greene Street, Key West, FL at 1:30 pm. All fines and fees are payable within thirty (30) days from the date of this order to the City of Key West, Attn: Code Compliance Division, P. O. Box 1409, Key West, FL 33040.
2. The Respondent is further ordered to contact the City of Key West Code Inspector to verify compliance, which may include an inspection. Any continuing fine imposed shall continue to accrue until such time as the Code Inspector inspects the property and verifies compliance with this Order. This Order may be recorded in the official records of Monroe County for lien and judgment purposes. This case may serve as a predicate for a repeat violation should similar violations occur in the future as applicable.
3. If you request that the fine be reduced or mitigated you must be in compliance and you must request in writing to appear before the Special Magistrate two weeks prior to a hearing to show cause why said fine should be mitigated.


Done and Ordered this 18th day of Dec 2014.

The Code Enforcement Special Magistrate of the City of Key West, Florida


J. Jefferson Overby

Certificate of Order and Service

I hereby certify that this is a true and correct copy of the above Order and that a true and correct copy has been furnished to the Respondent(s) and/or Authorized Representative via certified mail to address of record with the Monroe Property Appraiser's Office on this 19th day of Dec, 2014.


Deborah Millett-Fowley, Recording Secretary