

**RESOLUTION NO. 2025-\_\_**

**A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD GRANTING AN AFTER-THE-FACT VARIANCE TO THE MINIMUM REQUIRED REAR AND SIDE YARD ACCESSORY STRUCTURE SETBACK AND MINIMUM OPEN SPACE REQUIREMENT FOR AN EXISTING ACCESSORY STRUCTURE LOCATED WITHIN THE HISTORIC MEDIUM DENSITY RESIDENTIAL ZONING DISTRICT (HMDR) PURSUANT TO SEC. 122-1181, SEC. 108-346 AND SEC.90-395 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA.**

**WHEREAS**, the real property located at 620 Dey Street and identified by RE# 00000880-000000 is located in Historic Medium Density Residential Zoning District (HMDR); and

**WHEREAS**, pursuant to Section 122-1181 of the Land Development Regulations (the “LDRs”) of the Code of Ordinances (the “Code”) of the City of Key West, Florida (the “City”) the minimum required setback for accessory structures is 5’ from any lot line; and

**WHEREAS**, pursuant to Code Section 108-346, residential uses shall provide a minimum of 35 percent open space; and

**WHEREAS**, the owner of the real property located at 620 Dey Street submitted a request for an after-the-fact variance to allow a rear setback of 2’1” and a side setback of 1’3” for an accessory structure, and to allow for an open space percentage of 20.9%; and

**WHEREAS**, this matter came before the Planning Board at a duly noticed public hearing on March 27, 2025; and

**WHEREAS**, the Key West Planning Board (the “Board”) finds that circumstances exist

which are peculiar to the land, structure, or building involved and that special conditions which are not applicable to other land, structures, or buildings in the same district; and

**WHEREAS**, the Planning Board finds that the special conditions do not result from the action or negligence of the applicant; and

**WHEREAS**, the Board finds that granting the variance 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; 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 and undue hardship on the applicant; and

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

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

**WHEREAS**, the Board finds that no nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts are grounds for the issuance of the requested variances; and

**WHEREAS**, the Board finds that the applicant has satisfied the conditions of Section 90-395 of the Code of Ordinances;

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

**Section 1.** That the above recitals are incorporated by reference as if fully set forth herein.

**Section 2.** A request for a variance to the required setback for accessory structures, from a 5' setback from any lot line requirement to a rear setback of 2' - 1" and a side setback of 1'3" and a request for a variance to the required open space percentage, from 35% to 20.9%, District pursuant to Sec. 122-1181, Sec. 108-346. and Sec.90-395 of the Code of Ordinances of the City of Key West, Florida is hereby approved with the following conditions:

**General Conditions:**

1. The proposed construction shall be consistent with the plans prepared by Lakewood Engineering, Inc. dated February 26th, 2025.
2. Building plans shall be subject to the review and approval by the Historic Architectural Review Commission (HARC) prior to the issuance of an After-the-Fact building permit and/or Certificate of Occupancy.
3. The applicant shall install a gutter along the east eave of the accessory structure to prevent roof runoff onto the adjacent parcel. The downspout must be directed back onto the property into landscaped area.
4. The accessory structure shall not be rented, bartered, or leased separately from the principal structure.

**Section 3.** It is a condition of this variance that full, complete and final application for all conditions of this approval for any use and occupancy for which this variance is wholly or

partly necessary, shall be submitted in its entirety within two years after the date hereof.

**Section 4.** The failure to fully and completely apply the conditions of approval for permits for use and occupancy pursuant to these variances in accordance with the terms of the approval as described in Section 3 hereof, shall immediately operate to terminate these variances, which variances shall be of no force or effect.

**Section 5.** This variance does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

**Section 6.** 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 7.** 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 will be rendered to the Florida Department of Commerce (DOC). Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DOC with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period, the DOC 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.

Authenticated by the Chair of the Planning Board and the Planning Director.

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Peter Batty, Planning Board Chairman

Date

**Attest:**

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Katie Halloran, Planning Director

Date

**Filed with the Clerk:**

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Keri O'Brien, City Clerk

Date