

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF KEY WEST BOARD OF ADJUSTMENT APPROVING A VARIANCE ALLOWING FOR A PROPOSED NON-HABITABLE STRUCTURE TO EXCEED THE MAXIMUM BUILDING HEIGHT BY FOUR (4) FEET ON PROPERTY LOCATED AT 5501 COLLEGE ROAD (RE #00072080-000101) WITHIN THE PUBLIC AND SEMIPUBLIC SERVICES (PS) ZONING DISTRICT, PURSUANT TO SECTION 90-395, SECTION 122-1020, AND SECTION 122-1149 OF THE LAND DEVELOPMENT REGULATIONS, AND CHARTER SECTION 1.05 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA.**

**WHEREAS**, the City of Key West Code of Ordinances Section 90-97 provides that the board of adjustment may authorize in specific cases a variance from the maximum height requirement of the land development regulations; and

**WHEREAS**, the City of Key West Charter Section 1.05(b) provides that height variance for nonhabitable purposes shall be final and not be subject to a referendum; and

**WHEREAS**, the owner/occupant of real property at 5501 College Road is the Monroe County Sheriff and the jail's existing indoor generator machinery needs to be replaced; the Sheriff has proposed to construct a free-standing structure to house the equipment; and

**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 finds that the applicant has satisfied the conditions of Section 90-395 of the Code of Ordinances (the "Code") of the City of Key West, Florida (the "City") and likewise met the requirements established by Code Section 90- 274; and

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

**Section 1.** That a variance to the 38-foot maximum building height allowed by the Flood Protection Building Height Exception under Section 122-1149(d)(1) of the Code of Ordinances of the City of Key West, Florida to the proposed 44 feet is hereby approved pursuant to City Code Sections 90-395 and 122-1149.

**Section 2.** That this approval is subject to the following conditions:

1. The proposed construction shall be consistent with the plans signed, sealed, and dated, July 11, 2022, by William P. Horn Architect, P.A. for 5501 College Road.
2. Use of the structure shall remain for non-habitable purposes.

**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 Commission.

**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 will 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 forty five (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 forty five (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 6<sup>th</sup> day of October,  
2022.

Authenticated by the Presiding Officer and Clerk of the Board on \_\_\_ day of \_\_\_\_\_,  
2022.

Filed with the Clerk on \_\_\_\_\_, 2022.

Chairman Teri Johnston	_____
Vice Chairman Samuel Kaufman	_____
Commissioner Gregory Davila	_____
Commissioner Mary Lou Hoover	_____
Commissioner Clayton Lopez	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____