

RESOLUTION NO. 2026-

A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD DENYING AN AFTER-THE-FACT VARIANCE APPLICATION FOR PROPERTY LOCATED AT 1707 BERTHA STREET (RE# 00062550-000000) IN THE COASTAL MEDIUM DENSITY RESIDENTIAL (MDR-C) ZONING DISTRICT; DENYING VARIANCES FROM THE MINIMUM REAR YARD SETBACK REQUIREMENTS AND THE MAXIMUM BUILDING COVERAGE AND IMPERVIOUS SURFACE REQUIREMENTS PURSUANT TO SECTIONS 90-395, 122-300(4)a., 122-300(4)b., AND 122-300(6)a.3 OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the property located at 1707 Bertha Street (RE# 00062550-000000) is located within the Coastal Medium Density Residential (MDR-C) zoning district in the City of Key West, Florida; and

WHEREAS, the property consists of an approximately 4,625 square foot parcel developed with a single-family residence; and

WHEREAS, the applicant, Owen Trepanier of Trepanier & Associates, on behalf of the property owners, George Beys and Ihona Gonzales, submitted an application for after-the-fact variances associated with unpermitted construction consisting of a rear addition containing a bedroom and associated overhang, together with a rear porch and overhang; and

WHEREAS, the application requests variances from the maximum building coverage requirements pursuant to Section 122-300(4)a., the maximum impervious surface requirements pursuant to Section 122-300(4)b., and the minimum rear yard setback requirements pursuant to Section 122-300(6)a.3 of the Land Development Regulations; and

WHEREAS, the proposed improvements increased building coverage on the subject property from approximately 33% to 41%, exceeding the maximum permitted building coverage of 40%; and

WHEREAS, the proposed improvements resulted in impervious surface coverage of approximately 54%, exceeding the maximum permitted impervious surface limitation of 50%; and

WHEREAS, the rear addition and porch encroach into the required twenty-foot rear setback, reducing the setback to approximately sixteen feet five inches (16'-5"), requiring a variance of approximately three feet seven inches (3'-7"); and

WHEREAS, the Planning Board conducted a duly noticed public hearing on June 18, 2026, pursuant to the requirements of the Code of Ordinances of the City of Key West, Florida; and

WHEREAS, the Planning Board has considered the staff report, applicant testimony, public comment, and the entire record of the proceeding; and

WHEREAS, pursuant to Section 90-395 of the Code of Ordinances, the Planning Board must find that all required variance criteria have been satisfied prior to granting a variance; and

WHEREAS, the Planning Board finds that the applicant has failed to demonstrate compliance with the required variance criteria as set forth below.

NOW, THEREFORE, BE IT RESOLVED By The Planning Board Of The City Of Key West, Florida:

Section 1: Recitals

The above recitals are true and correct and are incorporated herein by reference.

Section 2: Findings of Fact

The Planning Board makes the following findings of fact and conclusions of law regarding the variance criteria set forth in Section 90-395 of the Code of Ordinances:

1. Existence of Special Conditions or Circumstances

The Planning Board finds that no special conditions or circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings within the same zoning district. The subject property does not possess unique physical characteristics warranting relief from the applicable Land Development Regulations.

The application is not in compliance with this criterion.

2. Conditions Not Created by Applicant

The Planning Board finds that the need for the requested after-the-fact variances results from unpermitted construction undertaken by or on behalf of the applicant. The hardship asserted is therefore self-created and cannot serve as the basis for granting a variance.

The application is not in compliance with this criterion.

3. Special Privileges Not Conferred

The Planning Board finds that approval of the requested variances would confer a special privilege upon the applicant that is not otherwise available to similarly situated properties within the MDR-C zoning district.

The application is not in compliance with this criterion.

4. Hardship Conditions Exist

The Planning Board finds that strict application of the Land Development Regulations

would not deprive the applicant of rights commonly enjoyed by other properties within the same zoning district. The requested relief is necessitated by unpermitted improvements rather than by any undue hardship inherent to the property.

The application is not in compliance with this criterion.

5. Only Minimum Variance Granted

The Planning Board finds that the requested variances represent the minimum necessary to allow reasonable use of the property.

The application is in compliance with this criterion.

6. Not Injurious to the Public Welfare

The Planning Board finds that the requested variances are not likely to be injurious to the surrounding area or otherwise detrimental to the public interest or welfare.

The application is in compliance with this criterion.

7. Existing Nonconforming Uses Not Basis for Approval

The Planning Board finds that no nonconforming use of neighboring lands, structures, or buildings has been used as grounds for issuance of the requested variances.

The application is in compliance with this criterion.

Section 3: Concurrency and Public Facilities

The Planning Board finds that the requested variances are not anticipated to create adverse impacts on public facilities, infrastructure, or utility services pursuant to Section 108-233 of the Code of Ordinances.

Section 4: Good Neighbor Policy

The Planning Board finds that, as of June 12, 2026, no letters of support or objection had been received regarding the application.

Section 5: Denial of Variance Request

Based upon the competent substantial evidence contained in the record, the Planning Board finds that the applicant has failed to satisfy all required criteria for approval of a variance pursuant to Section 90-395 of the Code of Ordinances of the City of Key West. Specifically, the Planning Board finds that the requested after-the-fact variances are the result of self-created hardship arising from unpermitted construction and that no unique or special circumstances exist which would justify the requested relief.

Accordingly, the after-the-fact variance request for property located at 1707 Bertha Street (RE# 00062550-000000), seeking variances from the maximum building coverage requirements, maximum impervious surface requirements, and minimum rear yard setback requirements, is hereby DENIED.

Section 6: Effective Date

This Resolution shall become effective immediately upon adoption by the Planning Board of the City of Key West, Florida.

Read and passed at a regularly scheduled meeting held this 18th day of June, 2026.

Authenticated by the Chairman of the Planning Board and the City Planner;

Peter Batty, Planning Board Chairman

Date

Attest:

Taylor Brown, City Planner

Date

Filed with the Clerk:

Keri O'Brien, City Clerk

Date

_____ Chairman

_____ City Planner