

**PLANNING BOARD
RESOLUTION NO. 2018-**

A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD GRANTING WITH CONDITIONS AN AMMENDMENT TO A VARIANCE APPROVED BR RESOLUTION 2015-27 AND EXTENDED BY RESOLUTION 2017-29 TO THE MINIMUM SIDE AND REAR YARD SETBACKS ON PROPERTY LOCATED AT 805 OLIVIA STREET (RE # 00019930-000000) IN THE HISTORIC HIGH DENSITY RESIDENTIAL (HHDR) ZONING DISTRICT PURSUANT TO SECTIONS 90-395 AND 122-630(6)B. & C. OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA.

WHEREAS, the applicant proposes to construct a second residential unit (2 ½ story structure) within the side and rear yard setbacks on property located at 805 Olivia Street (RE # 00019930-000000); and

WHEREAS, on July 16, 2015 the Planning Board granted Resolution 2015-27 for a side yard setback; and

WHEREAS, on July 20th, 2017 the Planning Board granted Resolution 2017-29 for a 12 month extension; and

WHEREAS, the applicant revised the design that was granted per Resolution 2015-27; and

WHEREAS, the revised design of the 2 ½ story structure requires a variance to side and rear yard setbacks; and

WHEREAS, Section 122-630(6) (b) of the Land Development Regulations (the “LDRs”) of the Code of Ordinances (the “Code”) of the City of Key West, Florida (the “City”) provides that the minimum side yard setback is five (5) feet (or 10 percent of lot width to a maximum of 15 feet, whichever is greater); and

WHEREAS, the proposed northeast side yard setback is 5 feet from the 10.5 feet minimum required; and

WHEREAS, Section 122-630(6) (c) of the Land Development Regulations (the “LDRs”) of the Code of Ordinances (the “Code”) of the City of Key West, Florida (the “City”) provides that the minimum rear yard setback is twenty (20) feet; and

WHEREAS, the proposed rear yard setback is 10 feet 11 inches from the 20 feet minimum required; and

WHEREAS, the applicant requests a variance to the minimum side and rear yard setbacks; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on January 18, 2018; and

WHEREAS, the Planning 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 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 Planning 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 Planning 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 Planning 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 Planning 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 Planning 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 variance; and

WHEREAS, the Planning Board finds 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.

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

_____ Chairman
_____ Planning Director

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

Section 2. An approval by Resolution of the Key West Planning Board for side and rear yard setback variances for the construction of a 2 ½ story structure on property located at 805 Olivia Street (RE # 00019930-000000) in the HHDR Zoning District pursuant to Sections 90-395 and 122-630(6) b. & c. of the City of Key West Land Development Regulations with the following conditions:

General Conditions:

1. The proposed development shall be consistent with the plans dated October 30, 2017 by William Shepler, Registered Architect. No approval granted for any other work or improvements shown on the plans other than the construction of a 2 ½ story structure.

Conditions required to be completed prior to issuance of a building permit:

2. A Certificate of Appropriateness shall be obtained for the revised design.
3. Trees near and within the project area (including tree canopy in the adjacent property) will be protected during construction. Trees located within the work area that may need to be removed or trimmed may require permits from the Tree Commission. If a root or roots of a neighboring tree are located within the proposed work area, the property owner/contractor must consult with the Urban Forestry Manager before commencing any work that will result in severing the root/roots.

Condition to be completed prior to the issuance of certificate of occupancy:

4. Roof gutters shall be installed and downspouts shall be routed back onto the property, into landscaped areas, to prevent storm water runoff from impacting adjacent properties.

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 their entirety within two years after the date hereof; and further, that no application shall be made after expiration of the two-year period without the applicant obtaining an extension from the Planning Board and demonstrating that no change of circumstances to the

property or its underlying zoning has occurred.

Section 4. The failure to fully and completely apply the conditions of approval for permits for use and occupancy pursuant to this variance in accordance with the terms of the approval as described in Section 3 hereof, shall immediately operate to terminate this variance, which variance 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 Commission.

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 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.

Read and passed on first reading at a regularly scheduled meeting held this 18th day of
January 2018.

Authenticated by the Chairman of the Planning Board and the Planning Director;

Sam Holland, Chairman Key West Planning Board

Date

Attest:

Patrick Wright, Planning Director

Date

Filed with the Clerk:

Cheryl Smith, City Clerk

Date

_____ Chairman

_____ Planning Director