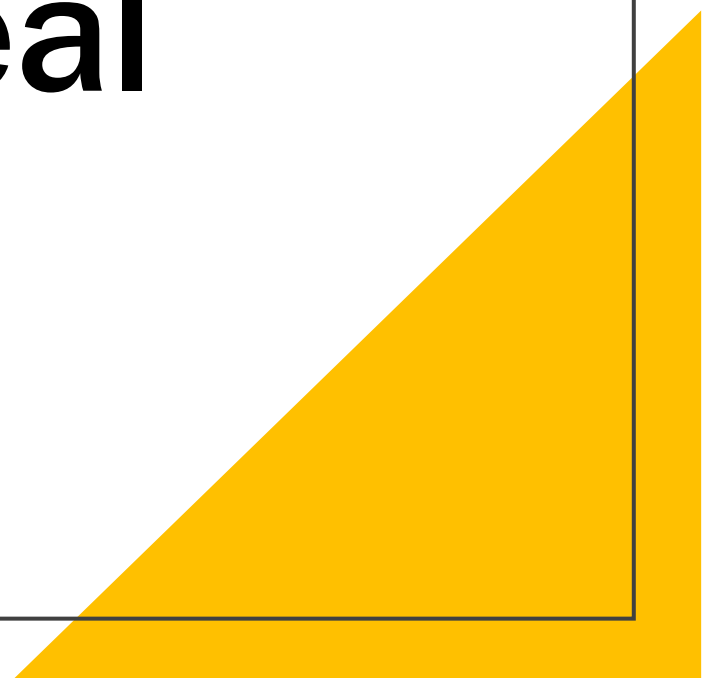


329 Peacon Lane Lawful Unit Determination Appeal

City of Key West

Board of Adjustment

September 14, 2023



329 Peacon Lane Background

- Purchased in 2017 as an undivided parcel with 3 units and two structures
- Subdivided in 2020, creating 1,535 SF lot with no dwelling unit allocations



Key Question:

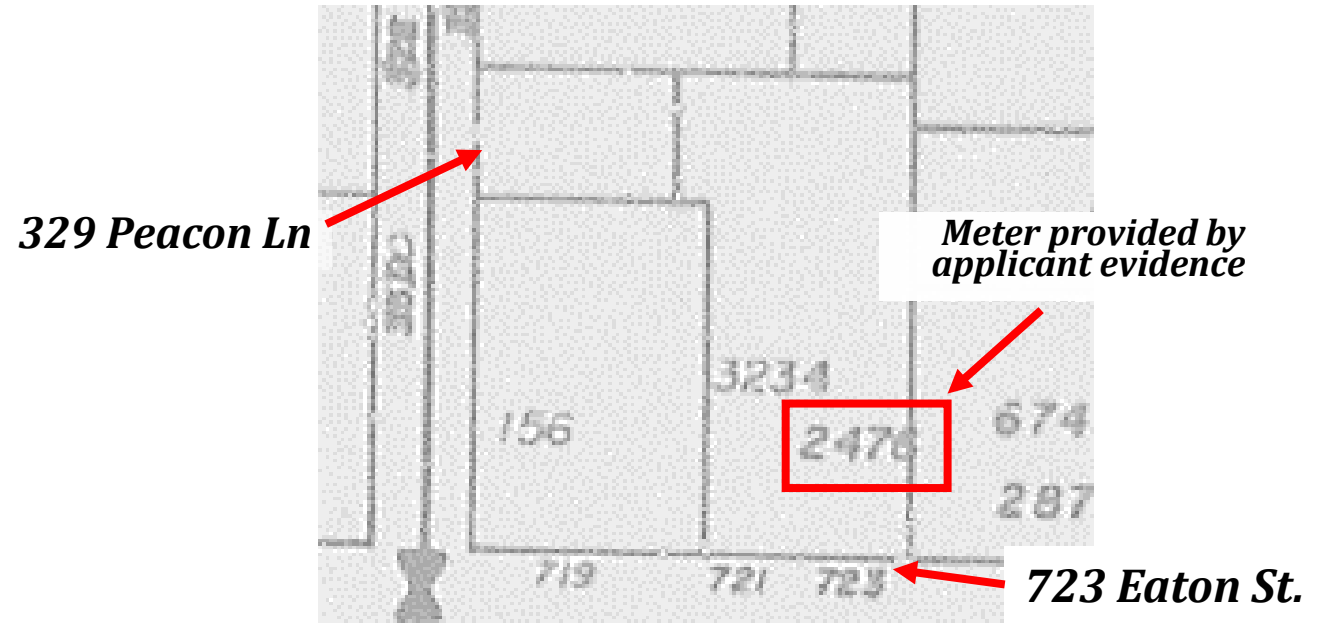
Is there a body of evidence to support the claim that a dwelling unit existed in this structure around April 2010?



Documentation

- Photos of structure circa 2010
- Early 2000s building permits for gate, fence, and sewer line
- Directory entries
- FCAA record for meter established in 1945
- KEYS records for “723 Eaton St. Front”
- 2009 MCPA Property Card

Circa 1987 FCAA Meter Map



723 Eaton St Listing:

723 Verge William G [17]305-296-8469
1 Brennan Katherine A [8]

329 Peacon Lane Listing

329 Verge William G [16] 🏠
+ **EATON ST INTERSECTS**

- Homeowners (🏠)
- Multiple adults in household
- New listing in the directory (📍)

EXHIBIT K

Monroe County Property Record Card (185)

Alternate Key: 1003531 Roll Year 2009
Effective Date: 10/26/2009 11:59:59 PM Run: 05/16/2017 09:45 AM

Building Sketch 185



- Enclosed Finished Cabana
- R3 = Residential - 3 Units
- Permit #02-0924 is a City of Key West Building Permit for 703 Eaton Street. The inclusion on this property card is an error.

Building Characteristics

Building Nbr	1	Building Type	R3	Perimeter	286	Functional Obs	0.00
Effective Age	16	Condition	G	Depreciation %	0.19	Economic Obs	0.00
Grnd Floor Area	2,282	Quality Grade	650	Year Built	1933	Special Arch	0

Inclusions: R3 includes 3 3-fixture baths and 3 kitchens.

Roof Type 4	Roof Cover 2	Heat 1 1	Heat 2 0	Heat Src 1 4	Heat Src 2 0	Foundation 2	Bedrooms 5
Extra Features:	2 Fix Bath 0	4 Fix Bath 0	6 Fix Bath 0	Extra Fix 0	Vacuum 0	Security 1	Garbage Disposal 0
	3 Fix Bath 0	5 Fix Bath 0	7 Fix Bath 0	Dishwasher 0	Intercom 0	Fireplaces 0	Compactor 0

Sections

Type	Number	Exterior Wall Type	# Stories	Year Built	Attic	A/C	Basement %	Finished Bsmt %	Area	Sketch ID	SOH %
FLA	1	12:ABOVE AVERAGE WOOD	1	1988	N	N	0.00	0.00	1,194	000	100.00
CBF	10	12:ABOVE AVERAGE WOOD	1	1988	N	N	0.00	0.00	286	009	100.00
FLA	10	12:ABOVE AVERAGE WOOD	1	1988					704	011	100.00
OPX	11	:	1	1988					48	012	100.00

Building Permits

Bldg	Number	Date Issued	Date Completed	Amount	Description	Notes
	9601645	Apr 1 1996 12:00AM	Aug 1 1996 12:00AM	13,927	Residential	ROOF
	02-0884	Apr 19 2002 12:00AM	Aug 19 2002 12:00AM	530	Residential	WOOD PICKET FENCE
	04-2254	Jul 7 2004 12:00AM	Jun 16 2004 12:00AM	500	Residential	ELECTRIC
	03-3588	Oct 9 2003 12:00AM	Dec 31 2003 12:00AM	426	Residential	BACKYARD GATE
	02-0924	Apr 15 2002 12:00AM	Jun 16 2004 12:00AM	1,000	Residential	RENOVATION OF 2 OUT OF 4 RES UNITS ON TOP FLOOR

Site Visit



April 2022 Site Visit



March 2019 - Google Maps

Appellant's Arguments + Addendums

- Asks City to disregard Code
- Internally inconsistent
- Inaccurate claims

CONSTRUCTION DATA									
IMPROVEMENT	1	2	3	4	IMPROVEMENT	1	2	3	4
TYPE OF STRUCTURE	GARAGE				INTERIOR FINISH				
	GAR				Unfinished	✓			
YEAR BUILT					Wd. or Cell. Bds.				
ROOMS					Wallboard				
Total Rooms					Plaster, No Furring				
Eff. Apts.					Plaster, Furring				
— Rm. Apts.					Drywall				
— Rm. Apts.					Wood Panel				
No. of Baths					FLOORS				
No. of Rest Rms.					None				
— Fixt. R. Rms.					Single Pine				
— Fixt. R. Rms.					Concrete	✓			
Total Fixtures					Conc., Asph. Tile				
FOUNDATION					Conc., Terrozzo				
Continuous Wall	CONCR				Double Pine				
Piers					Double Hardwood				
Piling					Precast Conc.				
ADJUSTMENTS					Parquet				
Frame					Conc. Q. Tile				
Height					Conc. Cer. Tile				
Front & Interior					Marble				
Apt. Equiv.					PLUMBING				
Partitions					None	✓			
Special Use					Poor				
					Good, Plain				
					Good, Tile				
					HEATING				

Appellant's addendum says the structure has contained a unit since 1948 yet provides documentation that the structure was a garage with no plumbing in the 1970s.

108-991. Development not affected by [BPAS]:

- “Such development shall comply with all applicable sections of the city’s land development regulations.”
- Must demonstrate that the unit is or has been a legally permissible under the current or any former zoning requirements of the applicable district

122-31. Noncomplying lots or building sites of record:

If two or more adjoining lots or portions of lots in **single ownership on January 1, 1994**, do not meet the requirements for building site area, the land involved shall be considered to be an **undivided parcel**, and no portion shall be used or **sold** that does not meet building site area requirements, **nor shall any division of the parcel be made that leaves remaining any lot with substandard area...**

Section 122-1079. Lots of record less than a minimum size.

Any legally platted lot of record, which conformed with the regulations and procedures governing subdivision of lots [in July 1997] which contains less lot area or width than required... may be used for a use permitted in such district... However, **if the substandard lot adjoins other land under the same ownership** which if used could correct the nonconforming lot area or width:

- (1) The substandard lot shall **not be permitted a vested development right** unless the nonconformity is remedied; and
- (2) Any subsequent **sale or ownership transfer** of the substandard lot, adjoining lot, or portion thereof shall not result in a vested development right in the subject substandard lot **unless the transaction corrects deficiencies in the substandard lot.**

Summary of Evidence



Photos show structure existed



FKAA meter was for 723 Eaton St



KEYS records are for 723 Eaton Street



Phone directory entry was deemed insufficient, a determination which was further supported by appellant's letter on 9/9/23



Building permits don't show evidence of a dwelling unit



2009 Property Record card lists R3 for 3-unit residential, describes the subject structure as a Cabana



Other documentation provided wasn't relevant to 2010 date

Planning Department Findings

The evidence of record does not support the existence of a dwelling unit in the subject structure on or around April 1, 2010.

Therefore, the request for the City to recognize one market-rate dwelling unit at 329 Peacon Lane was denied.

Furthermore, the unit does not comply with applicable sections of the Land Development Regulations, as required by Sec. 108-991.