

RESOLUTION NO. 2026-

A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD APPROVING AN AFTER-THE-FACT VARIANCE TO THE REQUIRED ACCESSORY REAR YARD SETBACK FROM THE REQUIRED 5 FEET TO THE PROPOSED 0 FEET 0 INCHES TO MOVE A PAVILION THAT IS CURRENTLY 2 FEET 4 INCHES OVER THE PROPERTY LINE AT AN EXISTING RESIDENTIAL PROPERTY LOCATED IN THE HISTORIC MEDIUM DENSITY RESIDENTIAL ZONING DISTRICT (HMDR) PURSUANT TO SECTIONS 90-395 AND 122-600 OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA.

WHEREAS, the subject property is located at 712 Eaton Street in the Historic Medium Density Residential Zoning district to maintain and renovate an accessory pavilion; and

WHEREAS, the current pavilion is over the existing property line and does not meet the districts accessory rear yard setback requirement; and

WHEREAS, the property owner requests a variance request to the minimum required accessory rear yard setback from the required 5 feet to the proposed 0 feet 0 inches; 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, this matter came before the Planning Board at a duly noticed public hearing on March 12, 2026; and

WHEREAS, the 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 (the “Code”) of the City of Key West, Florida (the “City”); and

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.

_____ Chairman
_____ Planning Director

Section 2. That the City of Key West Planning Board hereby approves by Resolution an after-the-fact variance to the required accessory rear yard setback from the required 5 feet to the proposed 0 feet 0 inches to move a pavilion that is currently 2 feet 4 inches over the property line at an existing residential property located in the Historic Medium Density Residential zoning district (HMDR) pursuant to sections 90-395 and 122-600 of the Code of Ordinances of the City of Key West, Florida.

General Conditions:

1. The proposed work shall be consistent with the attached signed and sealed plans on January 31, 2026 by Richard Milelli PE.

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; 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 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. 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.

Read and passed on first reading at a regularly scheduled meeting held this 12th day of March, 2026.

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

Peter Batty, Planning Board Chair

Date

Attest:

Taylor Brown, Planning Director

Date

Filed with the Clerk:

Keri O'Brien, City Clerk

Date

_____ Chairman
_____ Planning Director