

IN THE CITY OF KEY WEST, HISTORIC ARCHITECTURAL REVIEW  
COMMISSION, BEFORE THE SPECIAL MAGISTRATE OF  
THE CITY OF KEY WEST, FLORIDA

DONALD LYNCH and SUSAN LYNCH,

Appellants,

v.

CITY OF KEY WEST,

Appellee,

and

KEVIN SCOTT, LAURIE SCOTT,  
MICHAEL MCGRATH, M.D., PAUL  
GRAY, RICHARD JENKINS, and  
BEVERLY JENKINS,

Intervenors.

HARC Application No.: H16-03-0015

Special Magistrate Donald E. Yates

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KEY WEST, FLORIDA

**INTERVENORS' NOTICE OF FILING**  
**THE TRANSCRIPT OF HARC PROCEEDINGS BELOW**

Intervenors, KEVIN SCOTT, LAURIE SCOTT, MICHAEL MCGRATH, M.D., PAUL GRAY, RICHARD JENKINS and BEVERLY JENKINS ("Intervenors"), by and through counsel, give notice of filing the verbatim transcript of the HARC meeting that took place on October 24, 2017, which transcript is attached to this Notice.

/s/ Wayne LaRue Smith  
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**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that on November 9, 2017, a true and correct copy of the foregoing was sent to the Counsel for the Appellee, Assistant City Attorney Ronald Ramsingh, Esq., for the City of Key West Historic Architectural Board by e-mail at [rramsingh@cityofkeywest-fl.gov](mailto:rramsingh@cityofkeywest-fl.gov), Counsel for the Appellant, Gregory S. Oropeza, Esq., by email at [Greg@oropezastonescardenas.com](mailto:Greg@oropezastonescardenas.com), and personally served on Cheri Smith, Clerk of the City of Key West 1300 White Street, Key West, Florida 33040.

/s/ Wayne LaRue Smith  
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1 CITY OF KEY WEST, FLORIDA  
2 HISTORIC ARCHITECTURAL REVIEW COMMISSION

3 APPELLATE REMAND

4 Agenda Item 2: Remanded by Special Magistrate Yates. After  
5 the fact enclosure of second floor rear addition and  
6 renovation of siding and windows. Renovations to historic  
7 building. Elevate the house one foot. New roof on second  
8 floor addition to retain existing height. New rear covered  
9 porch. Paint to match. #820 Carsten Lane - William Rowan  
10 Architects (H16-03-0015)

11 TRANSCRIPT OF PROCEEDINGS

12  
13  
14  
15 DATE TAKEN: October 24, 2017  
16 TIME: 5:41 PM - 6:00 PM  
17 PLACE: City Hall  
18 1300 White Street  
19 Key West, Florida 33040  
20

21 This cause came on to be heard at the time and  
22 place aforesaid, when and where the following proceedings  
23 were reported by:

24 Amy Landry, RPR, FPR  
25 All Keys Reporting, a U.S. Legal Support Company  
Olde Towne Centre 600 Whitehead Street  
9701 Overseas Highway Suite 207-208, 2nd Floor  
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APPEARANCE FOR THE CITY OF KEY WEST

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CITY STAFF

Enid Torregrosa, HARC Planner  
Kelly Perkins, HARC Assistant Planner

COMMISSIONERS

Chairman Bryan Green  
William Shepler  
Joe Moody  
Joel Cognevich

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(No exhibits were marked.)

1 (WHEREUPON, the following proceedings were had with all  
2 parties present:)

3 CHAIRMAN GREEN: Okay. We move on Item 2. Ron,  
4 I'm just going to read Item 2 and what the heading is,  
5 and then come to you for a brief overview of the steps  
6 we have to take, if that's okay.

7 Item 2, Appellate Remand. Remanded by  
8 Special Magistrate Yates. After the fact enclosure of  
9 second floor rear addition and renovation of siding and  
10 windows. Renovations to historic building. Elevate  
11 the house one foot. New roof on the second floor  
12 addition to retain existing height. New rear covered  
13 porch. Paint to match, at 820 Carsten Lane. William  
14 Rowan Architects (H16-03-0015).

15 Now, this one is different from all the  
16 others that we do insofar as this is not calling for a  
17 vote. It's calling for amplification. We're being  
18 asked by the Special Magistrate; is that correct?

19 MR. RAMSINGH: Yes, sir. This is -- this happens  
20 very rarely when someone takes a HARC appeal, and the  
21 magistrate sitting in its capacity as the appellate  
22 judge for HARC decisions has a few choices. One, to  
23 uphold your decision; secondly to reverse; or third, to  
24 remand for clarification.

25 In this particular instance, before the

1 hurricane we had extensive argument on this HARC  
2 appeal. And Magistrate Yates wanted more clarification  
3 as to the basis of the motion, and specifically how it  
4 applies to the facts of this application, and how it  
5 applies to the guidelines.

6 So in that vein, Commissioner Bender, who is  
7 not here tonight, made the motion to deny on several --  
8 based on several guidelines, which was seconded by  
9 Mr. Moody. The three of you that are here that were  
10 also here during that discussion and deliberation need  
11 to clarify the reasons behind your vote, if needed.

12 Now, since Mr. Bender is not here, he  
13 submitted his comments in writing, which Vickie will  
14 read into the record shortly. And then if you agree  
15 with basically what was proposed by Mr. Bender in his  
16 letter dated September 21, 2017, you can indicate that.  
17 If you want to differentiate some aspects of it, feel  
18 free to do so as well. But at this time I will ask  
19 Vickie to read Mr. Bender's memo into the record.

20 THE CLERK: It's addressed to Enid Torregrosa,  
21 Kelly Perkins, carbon copy to Ron Ramsingh, from Bert  
22 Bender, HARC Application H16-03-0015. The address is  
23 820 Carsten Lane. The date of this document is  
24 September 21, 2017.

25 "The project at 820 Carsten Lane was reviewed

1 by HARC at the February 2017 and April 2017 meetings.  
2 The proposed design was denied based on several  
3 factors, including, but not limited to the following:  
4 The Description. The Description is the house at  
5 820 Carsten Lane is a contributing resource. First  
6 appearing on the 1912 Sanborn map as a one-story  
7 structure, the house has undergone a few changes since  
8 then, such as siding replacement, new skylights, a new  
9 side addition, and a large two-story addition in the  
10 rear.

11 "This property came to HARC in March, but was  
12 postponed by the Commission due to questions over the  
13 accuracy of the plans and whether what was built  
14 matched the HARC approval in 2006.

15 "After conducting research, it appears that a  
16 rear porch addition with a height of 23 feet was  
17 approved by the HARC Commission on November 28, 2006.  
18 A building permit was submitted and picked up in early  
19 2007. Two inspections were conducted (auger holes and  
20 framing), but the applicant never scheduled any more  
21 inspections or closed out the permit. It appears that  
22 the structure was built, but without the necessary  
23 inspections and approvals. The plans that were issued  
24 were kept by the architect, and now the City has a  
25 copy. The City Attorney has opined that the existing

1 two story massing is very similar to the massing that  
2 was approved in the 2007 plans. Therefore, the massing  
3 was approved by HARC in 2006, but not the side  
4 staircase or the current enclosure. There is currently  
5 a code case for the rear addition.

6 "This project was heard in front of the HARC  
7 Commission again in November 2016, but again, there  
8 were errors in the plans. The applicant has measured  
9 the building again and corrected the plans.

10 "The project last came to HARC in February  
11 2017, but was postponed for redesign.

12 "Guidelines Cited in Review: Secretary of  
13 the Interiors Standards for Rehabilitation (pages  
14 16-17), specifically Standards 2, 5, 6, 9, and 10.

15 "2013 HARC Guidelines for Additions and  
16 Alterations/New Construction (pages 36-38a),  
17 specifically guidelines for additions and alterations  
18 1, 3, 4, 5, 6, and 7 and guidelines 2, 3, 4 and 5 of  
19 new construction (pages 38-38a).

20 "Entrances, Porches, and Doors (pages 32-33),  
21 specifically guidelines 13 and 14.

22 "Analysis: The Secretary of the Interiors  
23 Standards for Rehabilitation and the HARC guidelines  
24 require that additions honor the size, scale, and  
25 character of the property, neighborhood, or



1 environment, as follows.

2 "Standards For Rehabilitation, Number 9.  
3 Contemporary design for alterations and additions to  
4 existing properties shall not be discouraged when such  
5 alterations and additions do not destroy significant  
6 historic architectural, or cultural material and such  
7 design is compatible with the size, scale, color,  
8 material, and character of the property, neighborhood,  
9 or environment.

10 "Number 10. Whenever possible, new additions  
11 or alterations to structures shall be done in such a  
12 manner that if such additions or alterations were to be  
13 removed in the future, the essential form and integrity  
14 of the structure would be unimpaired.

15 "From page 37 of the old HARC guidelines,  
16 which apply to this application:

17 "1. A structure shall not be altered and/or  
18 expanded in such a manner that its essential  
19 character-defining features are disguised or concealed.  
20 The application fails to meet this guideline because  
21 the two-story enclosed addition and exterior staircase  
22 alters the essential character-defining feature, which  
23 is a one-story bungalow. The addition enlarges the mass  
24 of the historic cottage and overpowers the historic  
25 structure.

1                   "2. N/A

2                   "3. Addition design should be compatible with  
3 the characteristics of the original structure,  
4 neighboring buildings and streetscapes. The  
5 application fails to meet this guideline because the  
6 characteristics of the original structure, neighboring  
7 buildings and streetscapes are all one story, small  
8 scale buildings. This is evident by reviewing page 66  
9 of 91 in the PDF application, which shows the heights  
10 of adjacent historic structures, and the historic  
11 structure as follows: 822 Carsten is 186, 820 Carsten  
12 (the applicant) is 160, 818 Carsten is 180, and  
13 816 Carsten is shown as lower than 160. The proposed  
14 addition is 248 tall and clearly overshadows the  
15 adjacent historic structures.

16                   "4. Additions should be constructed with a  
17 scale, height and mass that is appropriate to the  
18 original building and its neighbors. The application  
19 fails to meet this guideline because the addition is at  
20 least a full story, 10 feet, taller than adjacent  
21 historic structures (height), encloses an open porch as  
22 a solid volume (mass) and adds to the length, width,  
23 and height of the historic building (scale).

24                   "5. Additions should be attached to less  
25 publicly visible secondary elevations of an historic

1 structure. The application fails to meet this  
2 guideline because the two-story addition is clearly  
3 visible from Carsten Lane while standing in front of  
4 820 Carsten Lane or while approaching the building from  
5 any direction on Carsten Lane.

6 "6. Additions should not alter the balance  
7 and symmetry of an historic structure. The application  
8 fails to meet this guideline because the two-story 21  
9 foot square addition alters the balance and symmetry of  
10 the historic structure by increasing its height, width,  
11 and length beyond what is appropriate or necessary.

12 "7. No existing structure shall be enlarged  
13 so that its proportions are out of scale with its  
14 surroundings. The application fails to meet this  
15 guideline because it enlarges the historic structure so  
16 that it outsizes the historic structure and creates  
17 proportions that are out of scale with its  
18 surroundings.

19 "From page 38 of the applicable guidelines:  
20 3. Height must not exceed two and a half stories (see  
21 Figures 1 and 2 pages 77 and 78). There must be a  
22 sympathetic relationship of height between new  
23 buildings and existing adjacent structures of the  
24 neighborhood. New buildings must be compatible with  
25 historic floor elevations. The height of all new

1 construction shall be based upon the height of existing  
2 structures within the vicinity. The application fails  
3 to meet this guideline because it proposes a two-story  
4 structure that is more than 10 feet taller than the  
5 adjacent one-story historic structures.

6 "4. Proportion, scale and mass massing,  
7 scale and proportion shall be similar to that of  
8 existing historical buildings in the historical zone.  
9 No new construction shall be enlarged so that its  
10 proportions are out of scale with its surroundings. No  
11 new construction shall be more than two-and-a-half  
12 stories. No structure shall outsize the majority of  
13 structures in the streetscape or historic zone. The  
14 application fails to meet this guideline because it  
15 outsizes the majority of structures in the streetscape.

16 "5. Compatibility Design must be compatible  
17 with Key West architectural characteristics in the  
18 historical zones. All new construction must be in  
19 keeping with the historic character in terms of size,  
20 scale, design, materials, color and texture. The  
21 application fails to meet this guideline because it is  
22 not in keeping with the size and scale of the historic  
23 zone.

24 "In all cases, the standards and guidelines  
25 emphasize compatibility of new additions to the size

1 and scale of adjacent historic structures. All of the  
2 adjacent historic structures, including the original  
3 structure at 820 Carsten Lane are one story.

4 "The plans that were approved in 2006 were  
5 for an open porch. The current addition is an enclosed  
6 two-story building. When the addition was enclosed, it  
7 changed the massing and proportions of the addition, as  
8 previously approved in 2006. In other words, what  
9 currently exists is not what was approved and permitted  
10 in 2006.

11 "The following terms are defined by the  
12 'Dictionary of Building Preservation' published by the  
13 Preservation Press, John Wiley & Sons, Inc.

14 "Massing: The overall composition of the  
15 exterior of the major volumes of a building, especially  
16 when the structure has major and minor elements.

17 "Proportion: The relationship of the size,  
18 shape, and location of one building element to all the  
19 other elements; each architectural style typically has  
20 its own rules of proportion.

21 "Scale: The proportions of the elements of a  
22 building to one another and the whole, and sometimes to  
23 adjacent buildings; may be related to a module.

24 "Using the referenced guidelines, and as  
25 reinforced by the recognized industry standard

1 definitions, the proposal for 820 Carsten Lane does not  
2 comply with the requirements for massing, proportion  
3 and scale. Furthermore, when the 2006 HARC approval  
4 for a porch was enclosed, the work not only exceeded  
5 the approved scope, but it altered the massing by  
6 creating a solid mass where an open porch was proposed,  
7 altering the mass, proportion, scale and rhythm of the  
8 previous 2006 approval.

9 "Therefore, the proposal for 820 Carsten Lane  
10 application H16-03-0015 fails to meet the guidelines."  
11 End of memo.

12 CHAIRMAN GREEN: Okay. Thanks very much. Enid, I  
13 need some clarification, because I'm not quite sure the  
14 reference numbers that Bert has been using here,  
15 whether these are old, new, or what. And he refers  
16 to -- we've used page 37, 1, 3, 4, 6, and 7. He is  
17 referring to page 38, 3, 4, 5. These are not reasons  
18 for refusal which were given in the denial.

19 MR. RAMSINGH: When I reviewed the -- and again, I  
20 would caution the board from addressing the memo and  
21 striking items that you -- I mean, you can certainly  
22 individually say, "I don't agree with X and Y and Z as  
23 being part of my deliberation individually." But you  
24 know, any redacting or striking of the memo would be  
25 done by the magistrate in another form.

1           CHAIRMAN GREEN: Okay. That's fine. Then let me  
2 just -- I think probably to help my colleagues, I'm  
3 going to just pound in. I think that that memo goes  
4 too far. I think he -- my deliberation of this, and I  
5 remember clearly at the beginning of all this agenda  
6 item, I said that what we were looking at was the  
7 in-filling of the consented, by default or otherwise,  
8 pergola or enclosure of the back, and the raising of  
9 the roof line at the eaves by one foot.

10                   Therefore, some of the reasoning in the  
11 denial I do not believe actually strictly applies,  
12 because it assumes -- when you start to talk about  
13 massing, it assumes that the addition of the second  
14 floor is being considered as part of this denial, where  
15 I do not believe that that is what we were doing. And  
16 I -- and I remember clearly that's what I introduced  
17 this agenda item to be.

18                   So for me, I do not believe that when I came  
19 to that deliberation, the Secretary of Interior's Items  
20 1, 3, 6, 9 or 10 applied. But I did think and I did  
21 base my decision to vote against this on the alteration  
22 and the addition of 37, Items 3, 4, and 7, insofar as  
23 whether or not we would have chosen to permit that  
24 second floor open porch now is not the issue. The  
25 issue here is whether in-filling that, turning it from

1 an open framework to a solid one, changes the perceived  
2 massing.

3 I believe that it does change that perceived  
4 massing. I believe it makes it visually heavier. And  
5 therefore, I think it makes a bad situation worse.

6 And therefore, for those reasons, I believe  
7 that it's contrary to Item 3, "The addition design  
8 should be compatible with the characteristics of the  
9 original structure, neighboring buildings and  
10 streetscapes." There is nothing in that structure of  
11 buildings which has a second floor addition in that way  
12 which has solid walls.

13 Item 4, "Additions should be constructed with  
14 a scale, height, and mass that is appropriate to the  
15 original building and its neighbors." I believe  
16 changing it from being open to being solid changes that  
17 perceived massing.

18 Item 7, "No existing structure shall be  
19 enlarged so that its proportions are out of scale with  
20 its surroundings," falls on the same basis.

21 So for me, that was the thinking behind my  
22 decision to vote against this application. It was  
23 against 3, 4, and 7 because of the additional weight of  
24 enclosing that open framework.

25 MR. RAMSINGH: Thank you.



1           COMMISSIONER MOODY: Mr. Chairman, I agree. I  
2 think the memo that has been read into the record is  
3 further detail and argument beyond what I considered in  
4 the meeting as well. I agree with what you have read  
5 on I believe Items 3, 4, 5, and 7.

6           CHAIRMAN GREEN: 3, 4 --

7           MR. RAMSINGH: 3, 4, 7.

8           COMMISSIONER MOODY: Yeah, 3, 4, 7. I would add  
9 Item Number 6, which also states that I also  
10 considered, which was identified by staff, Item 6,  
11 which is, "Additions should not alter the balance and  
12 symmetry of an historic structure." And I believe that  
13 the proposed modifications did in fact alter the  
14 balance and symmetry of the proposed -- or of the  
15 historic structure. And I feel that it fails that  
16 guideline in addition to what the chairman cited.

17           MR. RAMSINGH: So Mr. Moody, do you agree and  
18 adopt Mr. Green's arguments regarding 3, 4, and 7? I  
19 understand you expanded on 6.

20           COMMISSIONER MOODY: Correct.

21           MR. RAMSINGH: But 3, 4, and 7, do you adopt what  
22 Mr. Green said tonight?

23           COMMISSIONER MOODY: Yes.

24           MR. RAMSINGH: Okay. Thank you.

25           CHAIRMAN GREEN: Mr. Shepler?

1           COMMISSIONER SHEPLER: Yeah, I would also concur  
2 with how they made their decision. I also believe it's  
3 inconsistent with those guidelines, and that's why I  
4 voted the way I did.

5           That enclosure, to me, is adding mass, bulk.  
6 It's changing the scale. And clearly it's contrary to  
7 the guidelines. Therefore, that's why I voted the way  
8 I did.

9           MR. RAMSINGH: Mr. Shepler, do you agree with  
10 Chairman Green's analysis of 3 -- or further analysis  
11 of 3, 4, and 7?

12           COMMISSIONER SHEPLER: Yes. And I also agree with  
13 Chairman -- I'm sorry, Commissioner Moody's  
14 Recommendation Number 6 as another guideline cited.

15           MR. RAMSINGH: Thank you. That was my follow-up  
16 question. Thank you. Okay. Thank you.

17           CHAIRMAN GREEN: Thank you very much.

18           (The proceedings concluded at 6:00 p.m.)  
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CERTIFICATE OF REPORTER

I, Amy Landry, Registered Professional Reporter and Florida Professional Reporter, do HEREBY CERTIFY that I was authorized to and did report the foregoing proceedings; and that the transcript, pages 1 through 16, is a true and correct record of my stenographic notes.

Dated this 4th day of November, 2017, at Key West, Monroe County, Florida.



---

Amy Landry, RPR, FPR  
All Keys Reporting,  
a U.S. Legal Support Company  
9701 Overseas Highway  
Marathon, Florida 33050

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