

RESOLUTION NO. 99-60

VARIANCE: 1406 LEON STREET

A RESOLUTION OF THE KEY WEST BOARD OF ADJUSTMENT GRANTING A VARIANCE TO SETBACK, FENCE HEIGHT, ACCESSORY USE, AND STRUCTURE REGULATIONS FOR PROPERTY IN THE SF, SINGLE FAMILY RESIDENTIAL ZONING DISTRICT, UNDER THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF KEY WEST, FLORIDA, PERMITTING A VARIANCE TO: THE SETBACK REQUIREMENTS BETWEEN SWIMMING POOLS AND THE PRINCIPAL STRUCTURE OF 3 FEET, FROM THE 5 FEET REQUIRED TO THE 2 FEET PROPOSED; THE SETBACK REQUIREMENTS BETWEEN SWIMMING POOLS AND THE PROPERTY LINE OF 4.5 FEET, FROM THE 5 FEET REQUIRED TO THE .5 FEET PROPOSED; THE ACCESSORY USES AND STRUCTURES REGULATIONS TO ALLOW THE CONSTRUCTION OF A SWIMMING POOL AND GAZEBO IN THE FRONT YARD OF A RESIDENCE; TO THE SETBACK REQUIREMENTS OF AN ACCESSORY STRUCTURE OF 3 FEET, FROM THE 5 FEET REQUIRED TO THE 2 FEET PROPOSED; AND TO FENCE AND WALL HEIGHT REQUIREMENTS OVER THE EXISTING LEON STREET ENTRYWAY OF 2 FEET, FROM THE REQUIRED MAXIMUM OF 6 FEET TO THE PROPOSED 8 FEET; PROVIDING CONDITIONS. THE PURPOSE OF THE REQUEST IS TO ALLOW THE CONSTRUCTION OF A SWIMMING POOL, GAZEBO, AND POOL EQUIPMENT STRUCTURE ON PROPERTY LOCATED AT 1406 LEON STREET (RE# 041610).

REAL ESTATE PARCEL #041610, ALSO KNOWN AS 1406 LEON STREET, KEY WEST, MONROE COUNTY, FLORIDA

WHEREAS, special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, buildings or structures in the subject district; and

WHEREAS, literal interpretation of the provisions of the Zoning Ordinance of the City of Key West would deprive the owner of the subject property of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Ordinance.

WHEREAS, the special conditions and circumstances do not result from the actions of the applicant.

WHEREAS, the granting of the variance requested will not confer on the applicant any special privilege that is denied by the ordinance to other land, structures or buildings in the same district.

WHEREAS, the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

WHEREAS, the granting of the variance will be in harmony with the general purpose and intent of the zoning provisions, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; now therefore,

BE IT RESOLVED by the Board of Adjustment of the City of Key West, Florida:

Section 1. That a variance to setback and other regulations for property in the SF, Single Family Residential Zoning District, under the Land Development Regulations of the City of Key West, Florida, is hereby granted as follows: THE SETBACK REQUIREMENTS BETWEEN SWIMMING POOLS AND THE PRINCIPAL STRUCTURE OF 3 FEET, FROM THE 5 FEET REQUIRED TO THE 2 FEET PROPOSED; THE SETBACK REQUIREMENTS BETWEEN SWIMMING POOLS AND THE PROPERTY LINE OF 4.5 FEET, FROM THE 5 FEET REQUIRED TO THE .5 FEET PROPOSED; THE ACCESSORY USES AND STRUCTURES REGULATIONS TO ALLOW THE CONSTRUCTION OF A SWIMMING POOL AND GAZEBO IN THE FRONT YARD OF A RESIDENCE; TO THE SETBACK REQUIREMENTS OF AN ACCESSORY STRUCTURE OF 3 FEET, FROM THE 5 FEET REQUIRED TO THE 2 FEET PROPOSED; AND TO FENCE AND WALL HEIGHT REQUIREMENTS OVER THE EXISTING LEON STREET ENTRYWAY OF 2 FEET, FROM THE REQUIRED MAXIMUM OF 6 FEET TO THE PROPOSED 8 FEET; PROVIDING CONDITIONS. THE PURPOSE OF THE REQUEST IS TO ALLOW THE CONSTRUCTION OF A SWIMMING POOL, GAZEBO, AND POOL EQUIPMENT STRUCTURE ON PROPERTY LOCATED AT 1406 LEON STREET (RE# 041610).

REAL ESTATE PARCEL #041610, ALSO KNOWN AS 1406 LEON STREET, KEY WEST, MONROE COUNTY, FLORIDA

Section 2. It is an essential condition of this variance that full, complete, and final application for all permits required for any new construction for any use and occupancy for which this variance is wholly or partly necessary, whether or not such construction is suggested or proposed in the documents presented in support of this variance, shall be submitted in its entirety within 12 months after the date hereof. It is an essential condition of this variance that no application or reapplication for new construction for which the variance is wholly or partly necessary shall be made after expiration of said 12-month period.

Section 3. Failure to submit full and complete application for permits for new construction for which this variance is wholly or partly necessary, or failure to complete new construction for use and occupancy pursuant to this variance in accordance with the terms of a City building permit issued upon timely application as described in Section 2 hereof, shall immediately operate to terminate this variance, which variance shall be of no force or effect.

Section 4. 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 5. That the attached Contract executed by the applicant shall constitute and include conditions to the approval.

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.

Read and passed on first reading at a regular meeting held this 3rd day of February, 1999.

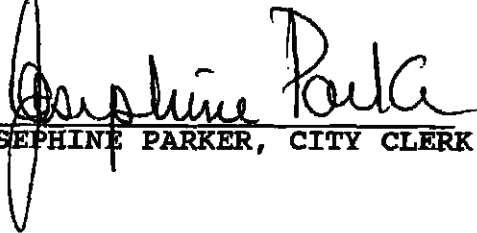
Authenticated by the presiding officer and Clerk of the Board on 4th day of February, 1999.

Filed with the Clerk on February 4, 1999.



SHEILA K. MULLINS, CHAIRMAN
BOARD OF ADJUSTMENT

ATTEST:



JOSEPHINE PARKER, CITY CLERK

A:\1406LEON.WPD

RESOLUTION NO. 99-122

EASEMENT: 1406 LEON STREET

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AND AUTHORIZING EXECUTION OF THE ATTACHED AGREEMENT FOR EASEMENT AT 1406 LEON STREET, KEY WEST, FLORIDA, BETWEEN THE CITY OF KEY WEST AND VICKI L. GORDON; PROVIDING FOR AN EFFECTIVE DATE

BE IT RESOLVED by the City Commission of the City of Key West, Florida:

Section 1: That the attached Agreement for Easement at 1406 Leon Street, Key West, Florida, between the City of Key West and Vicki L. Gordon is hereby approved; provided, however, that it is conditioned upon the Grantee paying an annual rental for the easement property, a rental amount to be determined in an ordinance pertaining to all City easements and enacted by the City Commission prior to the end of the current fiscal year. In the event the Grantee determines that the rental amount is unacceptable, Grantee may terminate the easement.

Section 2: The City Manager is authorized to execute the Agreement for Easement on behalf of the City of Key West, and the City Clerk is authorized to attest to his signature and affix the Seal of the City thereto.

Section 3: This Resolution shall go into effect

99.122

immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 6TH day of APRIL, 1999.

Authenticated by the presiding officer and Clerk of the Commission on JULY 9, 1999.

Filed with the Clerk JULY 9, 1999.


SHEILA K. MULLINS, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK

EASEMENT AGREEMENT

THIS AGREEMENT is made this 9th day of July, 1999, between the City of Key West, Florida (hereinafter Grantor) and Vicki L. Gordon (hereinafter Grantee).

RECITALS

Grantee is owner of the property known as 1406 Leon Street, Key West, Florida, including a cement wall which encroaches Grantor's Leon Street and Washington Street rights-of-way. More specifically, Grantee requests an easement for a length of 37.65 feet and a width varying between 1.81 feet to the north and 1.38 feet to the south along Leon Street and 90 feet in length and 5.14 feet in width along the south side of the property along Washington Street. This encroachment is reflected in the survey by Frederick H. Hildebrandt dated August 25, 1998 (copy attached hereto). The parties agree that this encroachment has existed for some years. This encroachment impedes the marketability of title to the properties.

I. CONVEYANCE OF EASEMENTS

The Grantor hereby agrees to grant and convey to Grantee for the structural life of the encroachment, an easement for a length of 37.65 feet from the northwest corner of the property and a width varying between 1.81 feet to the north and 1.38 feet to the south along Leon Street and 90 feet in length from the southwest corner of the property and 5.14 feet in width along the south side of the property along Washington Street. This easement is reflected in

the attached drawing, dated April 6, 1999, by City Planner Ty Symroski. This easement shall pertain to the cement wall encroachment located within the easement description only, and as it may be legally heightened or connected, and not to any other encroachments. As a condition of this easement, Grantee agrees that no new structures, uses or trees shall be placed in the easement area. Grantee further agrees as a condition of easement immediately to remove the existing wall encroachments not conveyed within the description of this easement. Finally, Grantee agrees that if the existing wall structure is ever taken down or becomes in need of replacement or substantial renovation (in excess of fifty percent of either its value or dimensions), it will have to be removed and shall not be rebuilt.

II. CONSIDERATION

Grantee agrees to pay to Grantor the sum of \$ 300.00, together with all sums and fees for city sewer and city garbage if unpaid; to otherwise promptly bring the property and all uses thereof into full compliance with all city and state laws and regulations, if it is not now in full compliance. Grantee further agrees to pay Grantor an annual rental fee for these easement in the total amount of \$400.00, payable annually on the anniversary date of the execution of this Easement Agreement to the City of Key West. Failure to pay such rental shall constitute grounds for the Grantor to terminate the easement.

III. EASEMENT TERMINATION

Grantee agrees that any enlargement of the presently existing easement referenced herein or any violation of the conditions of this easement agreement shall operate to terminate the easement granted hereby, and that Grantor shall thereupon have the right to require Grantee to fully and entirely vacate the easement on the Leon Street and Washington Street rights-of-way through demolition or structural alteration of the structure.

Grantee agrees that in the event the structure encroaching Leon Street and Washington Street is removed or substantially destroyed, the easement shall terminate, and any new structure shall be built entirely on land owned by the Grantee, or her assigns, and shall not encroach on Grantor's right-of-way.

Additionally, Grantee recognizes and agrees that Grantor may reclaim or retake its property without process upon a determination of necessity to protect the health, safety or welfare of the City's residents.

Notwithstanding the fact that the easement may terminate at some future date, it is a covenant that runs with the land, and shall be binding on and shall inure to the benefit of the parties hereto, their heirs, successors or assigns.

IN WITNESS WHEREOF, the parties have executed the Easement Agreement on the date above written.

ATTEST:

Cheryl Smith
CITY CLERK

CITY OF KEY WEST

Julio Avel
JULIO AVAEL, CITY MANAGER

STATE OF FLORIDA)
COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this 9th day of July, 1999 by JULIO AVAEL of the City of Key West on behalf of the City who is personally known to me or who has produced _____ as identification.

Caroline Principe
Notary Public

My commission expires: _____



Caroline Principe
MY COMMISSION # CC822645 EXPIRES
March 31, 2003
BONDED THRU TROY FAIR INSURANCE, INC.

GRANTEE

Vicki L. Gordon

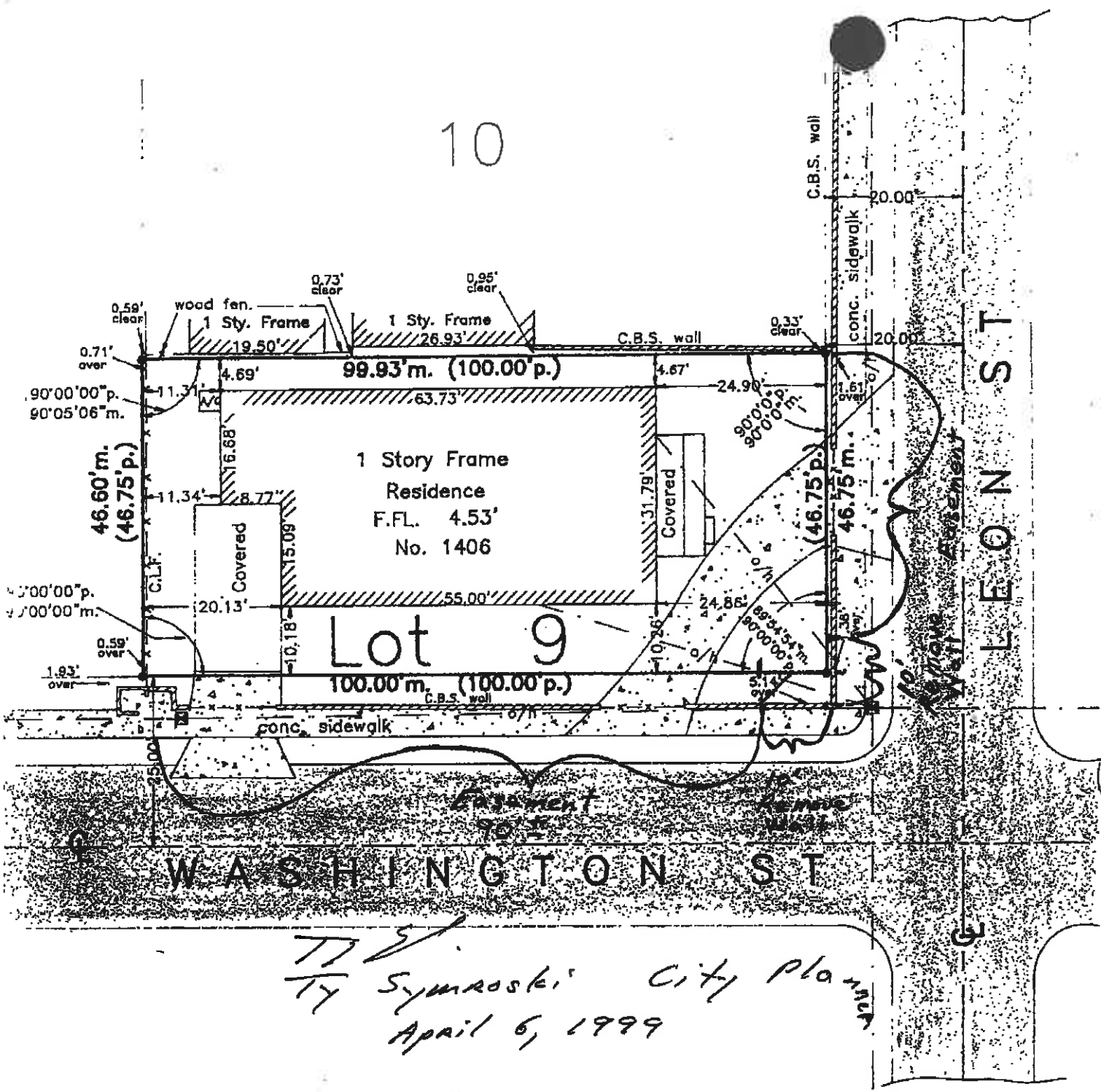
STATE OF FLORIDA)
COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this _____ day of _____, 1999 by VICKI L. GORDON who is personally known to me or who has produced _____ as identification.

Notary Public

My commission expires: _____

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WASHINGTON ST

LEON ST

TS
TS Symroski City Planner
April 6, 1999

Block 177

Vicki Gordon 1406 Leon Street, Key West, Florida 33040			
BOUNDARY SURVEY			Dwn No.:
Scale: 1"=20'	Ref. 138-5	Flood panel No. 1716 H	Dwn. By: F.H.H.
Date: 8/25/98		Flood Zone: AE	Flood Elev. 6'
REVISIONS AND/OR ADDITIONS			
d/key west/block177			

FREDERICK H. HILDEBRANDT
ENGINEER PLANNER SURVEYOR

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 Suite 101
 Key West, Fl. 33040
 (305) 293-0466
 Fax. (305) 293-0237