

**PLANNING BOARD  
RESOLUTION NO. 2018-**

**A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD GRANTING WITH CONDITIONS VARIANCES TO MINIMUM SIDE SETBACK REQUIREMENT ON PROPERTY LOCATED AT 18 MERGANSER LANE (RE # 00072081-000109) IN THE HISTORIC MEDIUM DENSITY RESIDENTIAL (HMDR) ZONING DISTRICT PURSUANT TO SECTIONS 90-395, AND 122-541 (5) b. OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA.**

**WHEREAS**, the applicant proposes to construct a one and two story porch addition in the rear yard on property located at 18 Merganser Lane (RE # 00072081-000109);

**WHEREAS**, Section 122-541 (5) (b) of the Land Development Regulations (the “LDRs”) of the Code of Ordinances (the “Code”) of the City of Key West, Florida (the “City”) states the minimum side setback is 5 feet (0 feet for air conditioning equipment, pool enclosures, pool equipment, carports and garbage enclosure areas) (2.5 feet for pools). Structures in existence on the effective date of this ordinance, however, shall be entitled to retain their existing side setbacks.;

**WHEREAS**, the existing side setback is 0 inches;

**WHEREAS**, the proposed side setback is 0 inches;

**WHEREAS**, this matter came before the Planning Board at a duly noticed public hearing on June 21, 2018;

**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;

Resolution No. 2018-

\_\_\_\_\_Chairman

\_\_\_\_\_Planning Director

**WHEREAS**, the Planning Board finds that the special conditions do not result from the action or negligence of the applicant;

**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;

**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;

**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;

**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;

**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,

Resolution No. 2018-

\_\_\_\_\_ Chairman

\_\_\_\_\_ Planning Director

Florida:

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

**Section 2.** An approval by Resolution of the City of Key West Planning Board for the North and South side setback requirements variance for the construction of a residential unit on property located at 18 Merganser Lane- (RE# 00072081-000109) in the PRD Zoning District pursuant to Sections 90-395, 122-541 (5) b. 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, December 01, 2017 by Richard J. Milelli, P.E. No approval granted for any other work or improvements shown on the plans other than the proposed construction of a two story porch addition.

**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.

Resolution No. 2018-

\_\_\_\_\_Chairman

\_\_\_\_\_Planning Director

**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.

Resolution No. 2018-

\_\_\_\_\_ Chairman

\_\_\_\_\_ Planning Director

Read and passed on first reading at a regularly scheduled meeting held this 21st day of June 2018.

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

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Sam Holland, Planning Board Chairman

Date

**Attest:**

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Patrick Wright, Planning Director

Date

**Filed with the Clerk:**

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Cheryl Smith, City Clerk

Date

Resolution No. 2018-

\_\_\_\_\_ Chairman

\_\_\_\_\_ Planning Director