

RESOLUTION NO. 05-104

VARIANCE: 528 FRONT STREET

A RESOLUTION OF THE KEY WEST BOARD OF ADJUSTMENT TO ALLOW THE REPLACEMENT OF A 150 SEAT RESTAURANT/BAR BUILDING (FORMERLY AMERICAN BAR & GRILL) WITH A NEW RESTAURANT/BAR BUILDING (RUM BARREL RESTAURANT) BY GRANTING VARIANCES TO THE BUILDING SETBACK, BUILDING COVERAGE, IMPERVIOUS SURFACE RATIO, AND MINIMUM LANDSCAPE REGULATIONS FOR PROPERTY IN THE HRCC-1, HISTORIC RESIDENTIAL/COMMERCIAL CORE: BAY SIDE ZONING DISTRICT, UNDER THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING CONDITIONS. FOR PROPERTY LOCATED AT 528 FRONT STREET, KEY WEST, FLORIDA (RE# 00003100-000000)

WHEREAS, the Board of Adjustment 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; and

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

WHEREAS, the Board of Adjustment 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 of Adjustment 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 of Adjustment 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 of Adjustment finds that the grant 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 of Adjustment 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 shall be considered grounds for the issuance of a variance; and

**WHEREAS,** the Board of Adjustment finds that the applicant has demonstrated a "good neighbor policy" by contacting or making a reasonable attempt to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by those neighbors.

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

Section 1. That variances to BUILDING SETBACK, BUILDING COVERAGE, IMPERVIOUS SURFACE RATIO, AND MINIMUM LANDSCAPE regulations in the HRCC-1, HISTORIC RESIDENTIAL/COMMERCIAL CORE: BAY SIDE Zoning District, under the Code of Ordinances of the City of Key West, Florida, are hereby granted as follows to: SECTION 122-690(6)(c), OF 7.4 FEET FROM THE 10 FEET MINIMUM REAR SETBACK REQUIRED TO THE 2.6 FEET PROPOSED, COMMENCING AT LEFT REAR PROPERTY LINE AND RUNNING 86.6 FEET ALONG REAR PROPERTY LINE; SECTION 122-690(4)(a) OF 45%, FROM THE 50% MAXIMUM BUILDING COVERAGE ALLOWED TO THE 95% PROPOSED; SECTION 122-690(4)(b), OF 30%, FROM THE 70% MAXIMUM IMPERVIOUS SURFACT RATIO ALLOWED TO THE 100% PROPOSED AND TO SECTION 108-413(b), OF 10 FEET, FROM THE 10 FEET MINIMUM LANDSCAPE BUFFER ON RIGHT-OF-WAY REQUIRED TO THE 0 FEET PROPOSED; PROVIDING CONDITIONS. THE PURPOSE OF THE REQUEST IS TO ALLOW THE REPLACEMENT OF A 150 SEAT RESTAURANT/BAR BUILDING (FORMERLY AMERICAN BAR & GRILL) WITH A NEW RESTAURANT/BAR BUILDING (RUM BARREL RESTAURANT) FOR PROPERTY LOCATED AT 528 FRONT STREET, KEY WEST, FLORIDA (RE# 00003100-000000).

**Section 2.** It is a 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; and further, that no application or reapplication for new construction for which the variance is wholly or partly necessary shall be made after expiration of the 12-month period without the applicant obtaining an extension from the Board of Adjustment and demonstrating that no change of circumstances to the property or its underlying zoning has occurred.

**Section 3.** The failure to submit a full and complete application for permits for new construction for which this variance is wholly or partly necessary, or the 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.

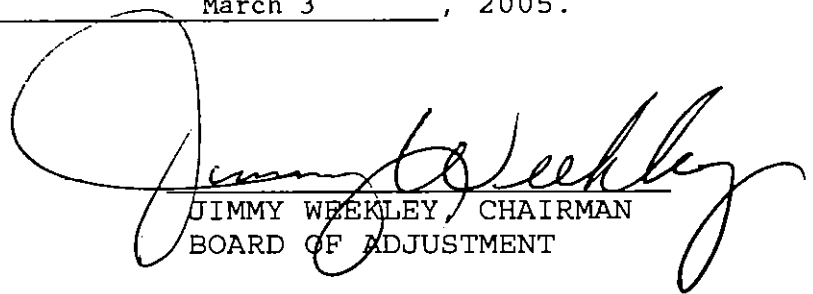
**Section 5.** The grant of variances is conditioned upon the property owner: (1) connecting to the injection well between 524 & 528 Front Street; (2) installing ADA-compliant public sidewalks along Front Street and Simonton Street; (3) installing a four-bike bicycle rack at the northwest corner of the parcel; (4) satisfying the Fire Department concerns with the rear setback by constructing a two-hour firewall at the rear without openings, and using non-combustible construction material; (5) providing trees that are 70% native species; (6) assuring that the structure does not encroach on City property along Front Street and Simonton Street; and (7) obtaining HARC 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 2nd day of March, 2005.

Authenticated by the presiding officer and Clerk of the Board on 3rd day of March, 2005.

Filed with the Clerk on March 3, 2005.

  
JIMMY WEEKLEY, CHAIRMAN  
BOARD OF ADJUSTMENT

ATTEST:

  
CHERYL SMITH, CITY CLERK