

RESOLUTION NO. 08-138

VARIANCE: 2514 LINDA AVENUE

A RESOLUTION OF THE KEY WEST BOARD OF ADJUSTMENT TO ALLOW THE CONSTRUCTION OF A NEW STORAGE SHED TO REPLACE A PREVIOUSLY EXISTING (FLOOD DAMAGED) SHED BY GRANTING A VARIANCE TO THE LEFT-SIDE YARD SETBACK REGULATIONS FOR PROPERTY IN THE SF, SINGLE FAMILY RESIDENTIAL ZONING DISTRICT, UNDER THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA FOR PROPERTY LOCATED AT 2514 LINDA AVENUE, KEY WEST, FLORIDA (RE# 00064530-000000)

**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 a variance to **SIDE YARD SETBACK** regulations in the **SF, SINGLE FAMILY RESIDENTIAL Zoning District**, under the Code of Ordinances of the City of Key West, Florida, is hereby granted as follows to: **SECTION 122-1181 OF 1.5 FEET, FROM THE 5 FEET SIDE YARD SETBACK REQUIRED TO THE 3.5 FEET PROPOSED (3.0 FEET PREVIOUSLY EXISTING)**. **THE PURPOSE OF THE REQUEST IS TO ALLOW THE CONSTRUCTION OF STORAGE SHED TO REPLACE A PREVIOUSLY EXISTING (FLOOD DAMAGED) SHED FOR PROPERTY LOCATED AT 2514 LINDA AVENUE, KEY WEST, FLORIDA (RE# 00064530-000000)**.

**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 two years 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 two-year 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.

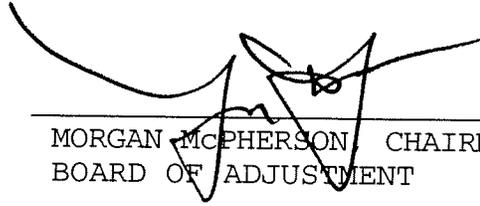
**Section 5.** This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures

of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held  
this 7th day of May, 2008.

Authenticated by the presiding officer and Clerk of the Board  
on 8th day of May, 2008.

Filed with the Clerk on May 8, 2008.



MORGAN MCPHERSON, CHAIRMAN  
BOARD OF ADJUSTMENT

ATTEST:



CHERYL SMITH, CITY CLERK