

Minutes of the Key West Planning Board

January 21, 2010

Approved March 11, 2010

Chairman Richard Klitenick called the Key West Planning Board Meeting of January 21, 2010 to order at 6:05 pm at Old City Hall, in the antechamber at 510 Greene Street, Key West.

ITEM 1. ROLL CALL

Present were: Chairman Richard Klitenick; Vice-Chairman Tim Root; Members, Ed Gartenmayer, Jim Gilleran, Michael Browning, and Sam Holland, Jr.

Excused absence: Gregory Oropeza

Also in attendance were: Planning Director, Amy Kimball-Murley; Chief Assistant City Attorney, Larry Erskine; Alan Averette, KW Fire Department; Jim Young, Code Compliance Manager; and Planning Department staff, Brendon Cunningham, Ashley Monnier, Nicole Malo and Carlene Cowart.

ITEM 2. APPROVAL OF AGENDA

A motion to approve the agenda was made by Mr. Browning and seconded by Mr. Root.

Motion carried by unanimous voice vote.

SO ORDERED.

ITEM 3. APPROVAL OF MINUTES

a. Planning Board Special Meeting Minutes – November 10, 2009

Mr. Klitenick stated that Item 4a5 should state that he recused himself since his client is involved in a related matter.

A motion to approve the November 10, 2009 Planning Board Special Meeting minutes as AMENDED was made by Mr. Gartenmayer and seconded by Mr. Browning.

Motion carried by unanimous voice vote.

SO ORDERED.

b. Planning Board Meeting Minutes – November 19, 2009

A motion to approve the November 19, 2009 Planning Board Meeting minutes was made by Mr. Gilleran and seconded by Mr. Gartenmayer.

Motion carried by unanimous voice vote.

SO ORDERED.

ITEM 4. ITEMS FOR PUBLIC HEARING

a. NEW BUSINESS

- 1. Variances – 405 Frances Street (RE# 00004910-000000) – An application for variances to front, street-side and rear-yard setbacks, building coverage, open space and impervious**

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surface requirements in the Historic Neighborhood Commercial (HNC-2) zoning district per Section 122-840 (4) & (6) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Mrs. Cowart informed members that 75 notices were sent to surrounding property owners; two were returned as undelivered and there were eleven web site hits. She then read the names of those who offered comments in favor of the project: Thomas and Carole Bowker, 402A Frances; Richard Robinson, 401 Frances; Daniel Nona and John Russell, 1029 Fleming; Brenda and Scott Hutton, 1106 Elgin Lane; and Kevin Schultze and Christopher Kush, 404A Frances.

Mr. Brendon Cunningham gave an overview of the variance request. He informed members that the existing building coverage is 89.5% and the requested impervious surface is 59.5%. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variances be denied.

The applicant's representative, Tom Pope, gave an overview of the application.

The following member of the public spoke on the matter:

- John Jones, 1024 James Street
- Chuck Sherman, 1101 Fleming Street

Mr. Klitenick asked Mrs. Kimball-Murley if this application falls into one of the categories that we have seen before with historic renovations with respect to the hardship conditions. Mrs. Kimball-Murley stated that this structure is not habitable and might meet the hardship relative to renovations associated with the 60% rule, but that the addition of the second story was an expansion that was not arguably part of the reasonable use.

Mr. Holland stated that he is very familiar with this home and is in favor of this project.

A motion to approve the variance request was made by Mr. Holland and seconded by Mr. Browning.

Motion carried by unanimous voice vote.

SO ORDERED.

- 2. Variance - 1831 Harris Avenue (RE# 00049510-000000) - An After-the-Fact variance for side setback requirements in the Single Family zoning district per Section 122-238 (6) a (2) of the City Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Mrs. Kimball-Murley informed members that 46 notices were sent to surrounding property owners; one was returned as undelivered and there were thirteen web hits. She then read the name of the person who offered comments in favor of the project: Danny Trevor, 1829 Harris.

Ms. Nicole Malo gave an overview of the variance request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variances be denied. However, if approved, staff recommends that the variance should include the following conditions:

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1. The applicant shall meet all stormwater mitigation requirements including gutters and a swale as designed in the site plans and will provide a gutter plan prior to building permit issuance.
2. After-the-fact building permits are required to be issued for the addition.
3. Prior to the issuance of building permits the applicant will submit a Lawful Unit Determination or otherwise resolve any existing or proposed residential use of the rear yard structure.

Mrs. Kimball-Murley informed members that this application is in result to a code compliance case. She then stated that the second structure in the rear portion of the lot appears to be an unlicensed second unit.

Mr. Klitenick asked why staff is including the lawful unit determination in the conditions. Mrs. Kimball-Murley stated that they would like this brought forward so that it can be resolved.

The applicant's legal representative, Manuel Garcia, gave members an overview of the application.

Mr. Jim Young clarified for members that there is an active code case regarding the setbacks. Mr. Browning stated that it would be nice to resolve the lawful unit issue; however, he is unsure it should be included as a condition.

Mr. Garcia stated that the owner would like to come into compliance. He then clarified for members that the owners bought the home with the accessory structure that formed a part of the expansion footprint already in place.

Mr. Root asked staff when the code case was filed. Mrs. Kimball-Murley stated that they are unsure of the date, but that the application was submitted in March 2009. Planning staff has been coordinating with the applicant since then to bring this case into compliance.

Mr. Root stated that this project does not follow the guidelines. He then expressed his concern that by approving this project, we are sending a message that we are enabling after-the-fact variances.

Mr. Klitenick stated that the owner's inherited this issue and it does not meet the standards for a variance; however, there is reasonable use of the property as it is zoned.

Mr. Holland asked members for clarification if this request was approved with the conditions, what would happen if the lawful unit determination was denied. Both Mr. Klitenick and Mr. Erskine stated that approval is not contingent on it being successful. Planning Staff would just like the matter to be brought forward.

Mr. Garcia agreed to Mr. Browning's request that the applicant submit the lawful unit determination request within 30 days.

A motion to approve the variance request to include Planning staff recommendations was made by Mr. Gartenmayer. A friendly amendment to modify condition number three to include 30 days to submit a lawful unit determination request was made by Mr. Browning.

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Mrs. Kimball-Murley clarified that condition number three would read: Prior to the issuance of building permits the applicant will submit a Lawful Unit Determination within 30 days or otherwise resolve any existing or proposed residential use of the rear yard structure **Motion was seconded by Mr. Klitenick.**

Motion carried by 4-2 vote (opposed by Mr. Gilleran and Mr. Root)

SO ORDERED.

- 3. Conditional Use - 629 Duval Street (RE# 00012440-000100) - An application for a Conditional Use for the reconfiguration of an existing commercial parking lot for use as an electric car rental operation for 16 electric cars in the HRCC-1 zoning district per Sections 122-62 and 122-688(17) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Mrs. Kimball-Murley informed members that 66 notices were sent to surrounding property owners; and there were 24 web hits.

Mrs. Ashley Monnier gave an overview of the conditional use request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the conditional use request be approved with the following conditions:

- Landscape Plan approval is obtained prior to Building Department Permit issuance.
- There will only be 16 electric cars available for rent on the site. If an electric car is rented and off the premises, another electric car will not be replaced and available for rent while the former car is vacant.
- Plans consistent with the resurfacing material that H.A.R.C. approved on June 9, 2009 (application # H09-04-16-405) must be provided prior to issuance of building permits.
- Batteries for the electric cars will not be stored on the site.
- Servicing, washing, and repairation of the vehicles are not to take place on the site.

The applicant's representative, Rick Milelli, gave an overview of the request.

Mrs. Monnier clarified for members that this area has never been designated as a parking area.

Board members reviewed and discussed the request with the applicant and staff. Members voiced their concern over any servicing taking place onsite, and backing out vehicles onto Angela Street.

Mr. Browning requested that the language being used in other recent resolutions from the Gilleran Ordinance which allowed onsite inspection be added as a condition.

Mr. Klitenick asked staff what prior conditions were placed on electric cars in regards to signage on the vehicles. Mr. Erskine stated that conditions were placed on 301 Duval Street and on the Southard Street project. Mr. Klitenick stated he would like to see some continuity on conditions.

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Mr. Jim Young informed members that conditions on 301 Duval stated that they were not granted permission to rent the electric cars from the space; they were allowed to store one vehicle for the purpose of advertising. The applicant was supposed to provide Code Compliance the VIN number for that vehicle and that vehicle was not to be rented. In that case, there were also signage limitations associated with the stored vehicle. Mr. Root stated that HARC would handle signage issues and if they do not comply then Code Compliance would handle the issue.

A motion to approve the conditional use request with the conditions listed below was made by Mr. Root.

- Landscape Plan approval is obtained prior to Building Department Permit issuance.
- There are only to be 16 electric cars available for rent on the site. If an electric car is rented and off the premises, another electric car will not be replaced and available for rent while the former car is vacant.
- Plans consistent with the resurfacing material that H.A.R.C. approved on June 9, 2009 (application # H09-04-16-405) must be provided prior to issuance of building permits.
- Batteries for the electric cars will not be stored on the site.
- Prior to initiating operation, the applicant will identify an off-site location for servicing, washing, and reparation of the vehicles and will maintain such a site for the duration of the use.
- Hours of operation are limited to 8:00 a.m. to 6:00 p.m.
- The applicant expressly consents to permit agents from the City to enter onto the subject property to assure compliance to enforce the conditions contained herein, without the conditions of a dually issued search or administrative warrant and furtherance of an annual inspection.

Mr. Klitenick made a friendly amendment to add that the location where off-site servicing will take place must be filed with the City.

Motion was seconded by Mr. Holland.

Motion carried by unanimous voice vote.

SO ORDERED.

ITEM 5. PLANNER'S REPORT

Mrs. Kimball-Murley reminded members of the special Planning Board meeting on January 28, 2010. She then informed members that the applicant for the City Hall project has requested postponement to the February 18, 2010 meeting.

She then stated that the City Commission approved the CRA plan and 2nd readings were passed on the following: 2 ½ Story Definition, 2 ½ Story LDR Ordinance, Historic Markers, and HPS-1 Amendment.

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Mrs. Kimball-Murley informed members that the Gilleran Ordinance is tentatively scheduled for the 2nd City Commission meeting in February.

ITEM 6. ADJOURNMENT

A motion to adjourn was made by Mr. Browning.

Motion was carried by unanimous voice vote.

SO ORDERED.

Meeting adjourned at 7:25 pm.

**Submitted by,
Carlene Cowart
Development Review Administrator
Planning Department**