

RESOLUTION 2011- 040

A RESOLUTION OF THE KEY WEST PLANNING BOARD TO ALLOW AFTER-THE-FACT GRANTING OF VARIANCES TO SIDE-YARD SETBACK REQUIREMENTS TO MAINTAIN EXISTING AIR CONDITIONING AND POOL EQUIPMENT FOR PROPERTY LOCATED AT 512 MARGARET STREET (RE#00008230-000000), PURSUANT TO SECTIONS 122-630 (6) b. AND 122-1078 UNDER THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

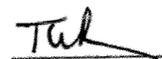
WHEREAS, Section 122-630(6) b. of the Code of Ordinances provides that the side-yard setback in the HHDR zoning district is five feet; and

WHEREAS, the existing side-yard setback is 2 feet 8 inches; and

WHEREAS, the applicant requests a variance to side-yard setback requirements to allow after the fact approval for non-conforming air conditioning and pool equipment; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on August 18, 2011; and

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

 Vice Chairman
 Planning Director

land, structures or buildings in the same district; and

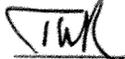
WHEREAS, the Planning Board finds that the special conditions do not result from the action or negligence of the applicant; and

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; and

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; and

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; and

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; and

 Vice Chairman

 Planning Director

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 shall be considered grounds for the issuance of any variance; and

WHEREAS, the Planning Board 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 after the fact variance application, and by addressing the objections expressed by those neighbors;

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

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

Section 2. That after the fact variance for a non-conforming air conditioning and pool equipment within the required side-yard setback for a property in the Historic High Density Residential (HHDR) zoning district located at 512 Margaret Street (RE# 00008230-000000), per Section 122-630(6) b. of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida, as shown on the attached plan set with the following condition:

When the existing air-handling and/or pool equipment is replaced, the new units will not be

 Vice Chairman
 Planning Director

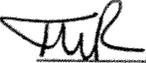
larger than those they replace so as to maintain the established clearance of two feet eight inches.

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 or 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 and as described in Section 3 hereof, shall immediately operate to terminate this after the fact variance, which variance shall be of no force or effect.

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.

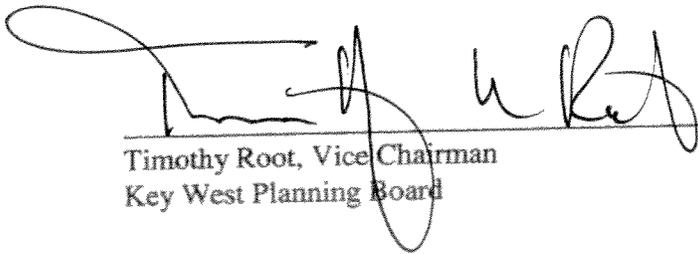
Section 6. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

 Vice Chairman
 Planning Director

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 Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DCA with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DCA 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.

Read and passed on first reading at a regularly scheduled meeting held this 18th day of August, 2011.

Authenticated by the Vice Chairman of the Planning Board and the Planning Director.



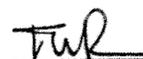
Timothy Root, Vice Chairman
Key West Planning Board

8/23/11

Date

Attest:

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Resolution Number 2011- 040

 Vice Chairman
 Planning Director



8.22.11

Donald Leland Craig, AICP, Planning Director

Date

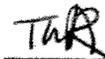
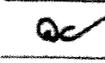
Filed with the Clerk:



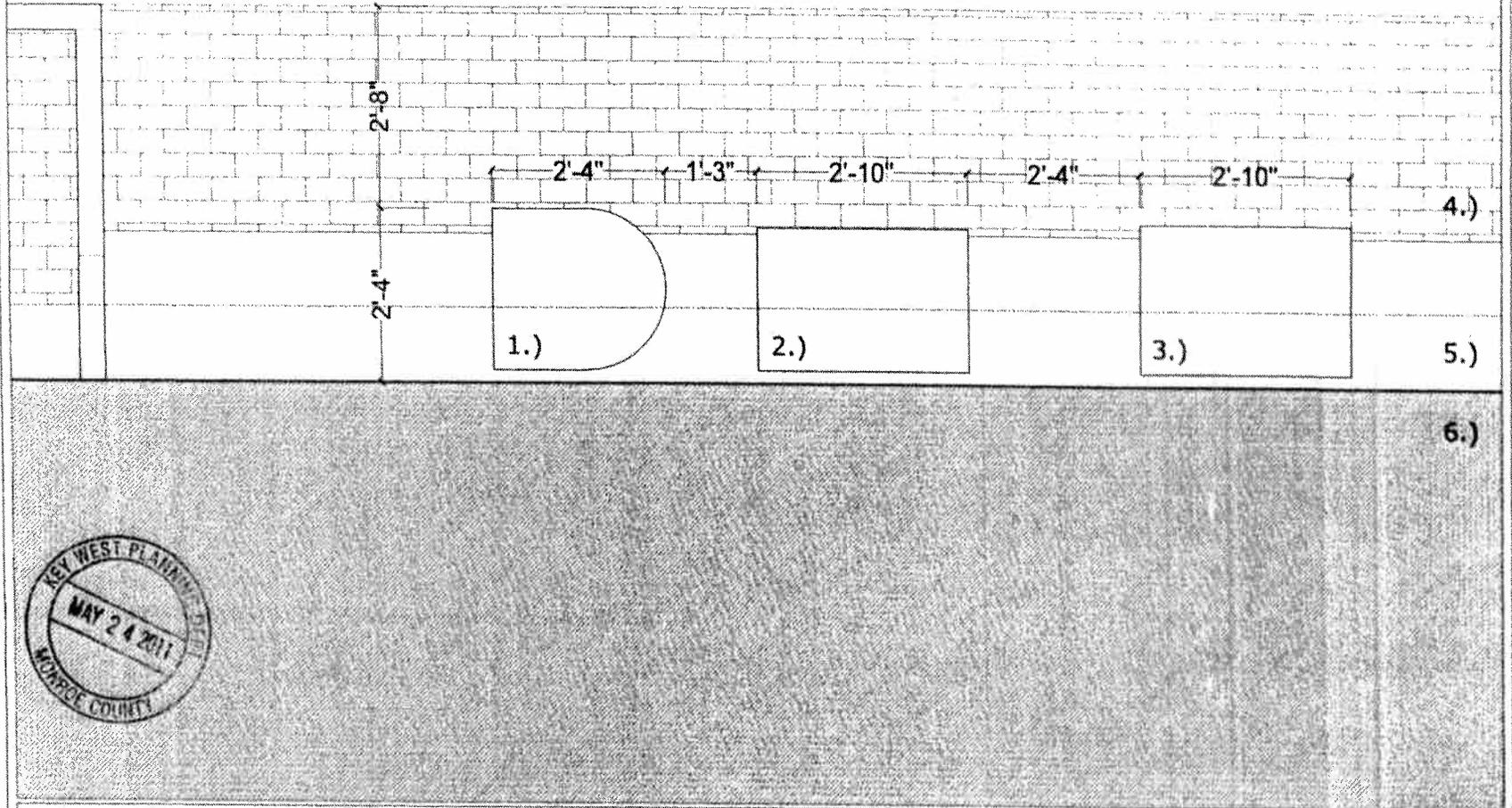
8/24/11

Cheryl Smith, City Clerk

Date

 Vice Chairman
 Planning Director

- 1.) POOL HEATER.
- 2.) AIR CONDITIONING UNIT (ZONE 1).
- 3.) AIR CONDITIONING UNIT (ZONE 2).
- 4.) RECLAIMED BRICK PAVING.
- 5.) PLANTING BED.
- 6.) EXISTING RESIDENTIAL STRUCTURE.



NOTE: THE DRAWINGS CONTAINED IN THESE DOCUMENTS REPRESENT THE EXISTING SITE CONDITIONS. HARC - VARIANCE ACCEPTANCE SHALL BE BASED ON THE EXISTING CONDITIONS.

GROUND FLOOR PLAN
 0 1 2 4 8
 SCALE: 1/4"=1'-0"

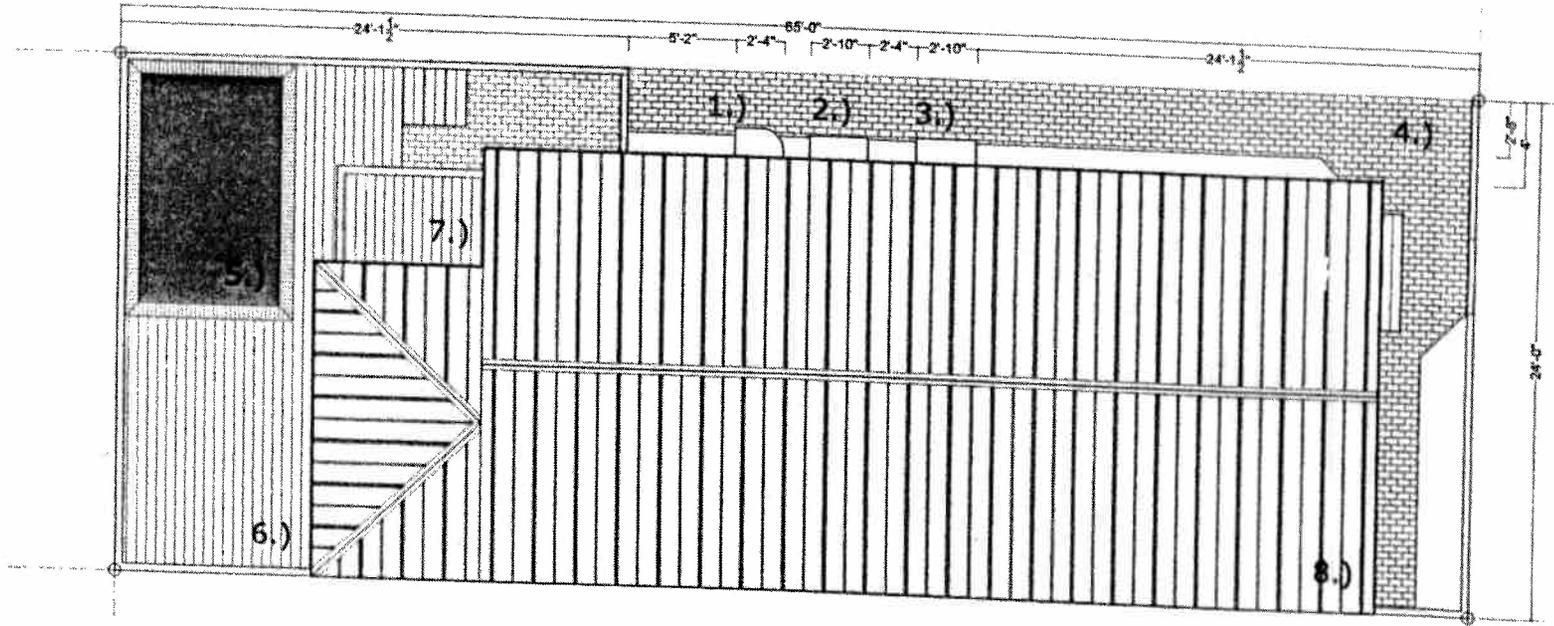


AYER RESIDENCE
 HARC - VARIANCE PROPOSAL
 512 MARGARET STREET
 KEY WEST, FL 33040

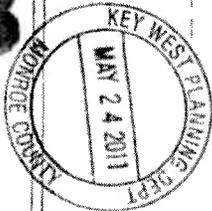
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DC
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|-------------------------------------|------------------------------|
| 1.) POOL HEATER. | 5.) POOL. |
| 2.) AIR CONDITIONING UNIT (ZONE 1). | 6.) WOOD PLANK POOL DECK. |
| 3.) AIR CONDITIONING UNIT (ZONE 2). | 7.) WOOD PLANK SUN DECK. |
| 4.) RECLAIMED BRICK PAVING. | 8.) 5-V CRIMP METAL ROOFING. |



NOTE: THIS SITE PLAN WAS CREATED REFERENCING A SURVEY BY J. LYNN O'FLYNN, INC., PSM DATED: 12.18.2009.

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AYER RESIDENCE
HARC - VARIANCE PROPOSAL
512 MARGARET STREET
KEY WEST, FL 33040

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of
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Handwritten signature/initials: DC Tap