

RESOLUTION NUMBER 2010-002

A RESOLUTION OF THE KEY WEST PLANNING BOARD GRANTING A VARIANCE TO SIDE YARD SETBACK REQUIREMENTS FOR PROPERTY LOCATED AT 1831 HARRIS AVENUE (RE# 00049510-000000), PURSUANT TO SECTIONS 122-238(6)a(2) OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 122-238(6)a(2) of the Code of Ordinances provides that the maximum side yard setback allowed is five feet for buildings in the single-family (SF) zoning district; and

WHEREAS, the applicant requested a variance to allow for a reduced sideyard setback requirement; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on January 21, 2010; 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 land, structures or buildings in the same district; and

WHEREAS, the Planning Board finds that the special conditions do not result from the


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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 variances granted are the minimum variance that will make possible the reasonable use of the land, building or structure; and

WHEREAS, the Planning Board finds that the grant of the variances 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 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


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other districts shall be considered grounds for the issuance of a 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 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 variances to dimensional requirements for the sideyard setback requirement per Section 122-238(6)a (2) from the allowed five feet to the 1.33 feet proposed, under the Code of Ordinances of the City of Key West, Florida, is hereby granted for property located at 1831 Harris Avenue (RE#00049510-000000), as shown on the attached plans dated April 15, 2009, with the following conditions:

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.

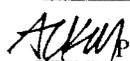

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Planning Director

2. After-the-fact building permits are required to be issued for the addition.
3. Within 30 days the applicant will submit a Lawful Unit Determination or otherwise resolve any existing or proposed residential use of the rear yard structure.

Section 3. It is a condition of these variances 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 variances are wholly or partly necessary 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 submit a full and complete application for permits for new construction for which these variances are wholly or partly necessary, or the failure to complete new construction for use and occupancy pursuant to these variances in accordance with the terms of a City building permit issued upon timely application as described in Section 3 hereof, shall immediately operate to terminate these variances, which variance shall be of no force or effect.


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Section 5. These variances do 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 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.


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Read and passed on first reading at a special meeting held this 21 day of January, 2010.

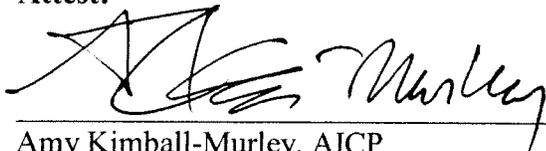
Authenticated by the Chairman of the Planning Board and the Planning Director.



Richard Klitenick, Chairman
Key West Planning Board

2/4/2010
Date

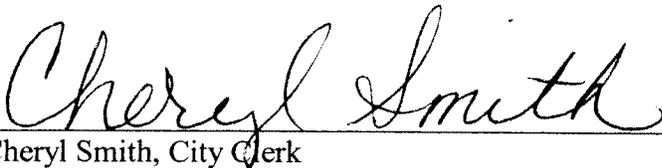
Attest:



Amy Kimball-Murley, AICP
Planning Director

2/4/2010
Date

Filed with the Clerk:



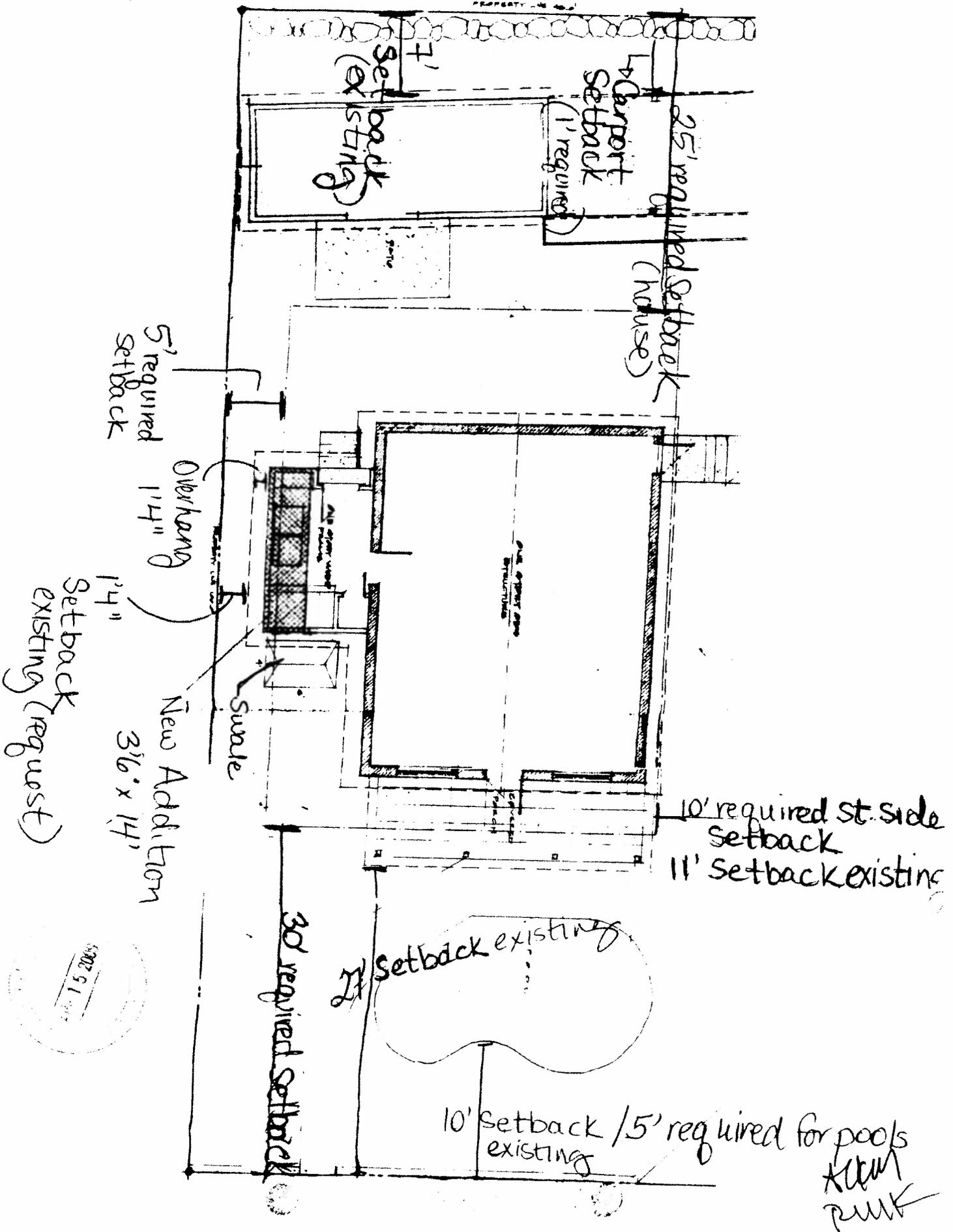
Cheryl Smith, City Clerk

2-4-10
Date

_____ Chairman

_____ Planning Director

PROPERTY LINE



AKUM
RUMK



1571 HARRIS AVE. (10)

02/07/2008

ARMY
RUC