

**RESOLUTION NUMBER 2010-030**

**A RESOLUTION OF THE KEY WEST  
PLANNING BOARD GRANTING A  
MODIFICATION TO RESOLUTION 2010-002  
FOR PROPERTY LOCATED AT 1831 HARRIS  
AVENUE (RE# 00049510-000000); PROVIDING  
FOR AN EFFECTIVE DATE.**

**WHEREAS,** On February 4, 2010 the Planning Board approved after-the-fact variance Resolution 2010-002 with three conditions as follows:

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. 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; and

**WHEREAS,** On April 3, 2010, the time frame for condition number three expired and the applicant had not submitted a Lawful Unit Determination request to the Planning Department or otherwise resolved the proposed residential use of the rear yard structure; and

  
Chairman  
  
Planning Director

**WHEREAS**, On April 14, 2010, the applicant submitted a Lawful Unit Determination; and

**WHEREAS**, because the applicant did not meet the time certain requirements for submittal in Condition 3, the applicant requested to modify Planning Board Resolution 2010-002; and

**WHEREAS**, this matter came before the Planning Board at a duly noticed public hearing on August 19, 2010; and

**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 a modification to the variance approved per Planning Board Resolution 2010-002, is hereby granted for property located at 1831 Harris Avenue (RE# 00049510-000000), 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.
2. After-the-fact building permits are required to be issued for the addition.

  
Chairman  
  
Planning Director

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.

**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.

**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

  
Chairman  
Planning Director

authority respecting the property.

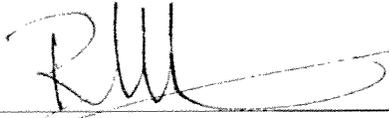
**Section 6.** This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

**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.

  
\_\_\_\_\_ Chairman  
\_\_\_\_\_ Planning Director

Read and passed on first reading at a meeting held this 19 day of August, 2010.

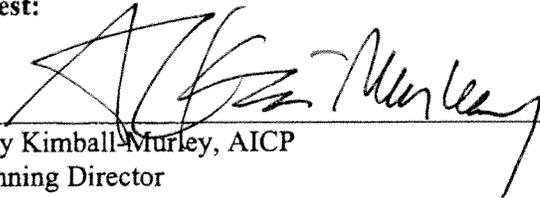
Authenticated by the Chairman of the Planning Board and the Planning Director.



Richard Klitěnick, Chairman  
Key West Planning Board

9/1/2010  
Date

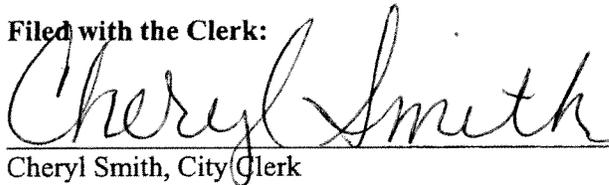
**Attest:**



Amy Kimball-Murley, AICP  
Planning Director

9/2/2010  
Date

**Filed with the Clerk:**



Cheryl Smith, City Clerk

9-2-10  
Date

  
Chairman  
  
Planning Director