

RESOLUTION NUMBER 2010-038

A RESOLUTION OF THE KEY WEST PLANNING BOARD GRANTING VARIANCES FOR A NON-CONFORMING CONTRIBUTING BUILDING FOR IMPERVIOUS SURFACE, BUILDING COVERAGE, STREET SIDE YARD, FRONT YARD, AND REAR YARD SETBACK REQUIREMENTS FOR A RENOVATION PROJECT, IN THE CL ZONING DISTRICT FOR PROPERTY LOCATED AT 1901 FLAGLER AVENUE, (RE# 00045080-000000), PER SECTIONS 122-390 (4)a. AND b., 122-390 (6) a., AND c., AND SECTION 122-28 (e) OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 122-28(e) of the Code of Ordinances provides that if a mixed use property is voluntarily replaced within the footprint of a non-complying existing structure the reconstruction/replacement that exceeds 66 % of the assessed value of the structure shall require a variance; and

WHEREAS, Section 122- 390 (6) a., b., and c., of the Code of Ordinances provides that the maximum dimensional requirements for setbacks in the CL zoning district are 20% of lot depth for buildings over 25 feet in height, which is ten feet in the front yard and rear yards, and fifteen feet on the side, and twenty feet on the street side; and



Chairman


Planning Director

WHEREAS, the applicant requested a variance to allow improvements which exceed 66% of the value of the existing structure and requested variances to impervious surface ratio, building coverage, front, rear and side yard setbacks; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on November 9, 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 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


Chairman

Planning Director

properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant; and

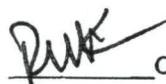
WHEREAS, the Planning Board finds that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure; and

WHEREAS, the Planning Board finds that the 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 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 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,


Chairman

Planning Director

Florida:

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

Section 2. That for variances for a non-conforming contributing building listed in the historic architectural survey for impervious surface, building coverage, front yard, rear yard, side yard and street side setback requirements, for a renovation project in the Limited Commercial (CL) zoning district for property located at 1901 Flagler Avenue (RE # 00045080-000000), per Sections 122-390 (4)a. and b., 122-390 (6) a., b., and c., and Section 122-28 (e) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida, as shown on the attached site plans dated September 20, 2010 with the following conditions:

1. Tree Commission approval is required prior to building permit issuance.

Section 3. 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 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 this variance is wholly or partly necessary, or the failure to complete new


Chairman

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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 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.

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 will be rendered to the Florida Department of Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit 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 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.

Section 8. 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

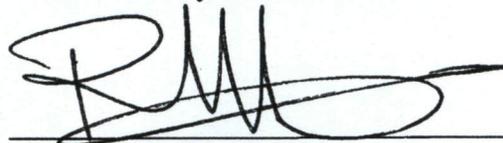

Chairman

Planning Director

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 special meeting held this 9th day of November, 2010.

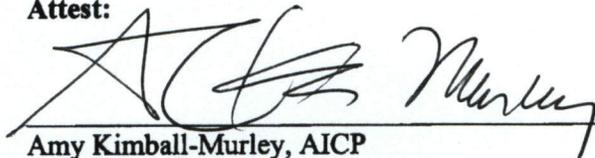
Authenticated by the Chairman of the Planning Board and the Planning Director.



Richard Klitenick, Chairman
Key West Planning Board

11/10/2010
Date

Attest:



Amy Kimball-Murley, AICP
Planning Director

11/10/2010
Date

Filed with the Clerk:



Cheryl Smith, City Clerk

11-16-10
Date


Chairman

Planning Director

Site Plans

Ann
Rull

VARIANCE APPLICATION FOR:

1901 FLAGLER AVENUE

KEY WEST, FLORIDA

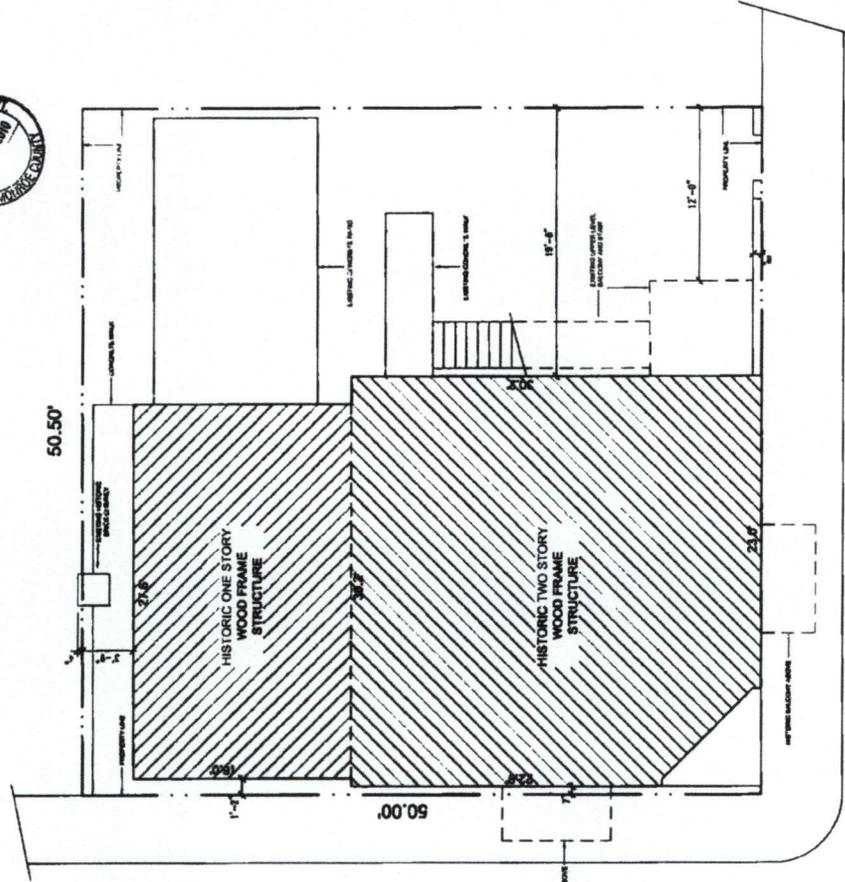
VARIANCE APPLICATION FOR:
1901 FLAGLER AVENUE
KEY WEST, FLORIDA

DAVID KNOLL

KEY WEST, FL. (203) 745-8611

DATE OF ISSUE:
9/17/10

NO.	REVISIONS	DATE



EXISTING SITE PLAN
1/16" = 1'-0"

EXISTING LOT COVERAGE
 LOT AREA: 2,200 SQ. FT. 14.3% COVERAGE
 1. MAXIMUM: 1,000 SQ. FT. (5.5%)
 2. MINIMUM: 500 SQ. FT. (2.3%)

11/10/10
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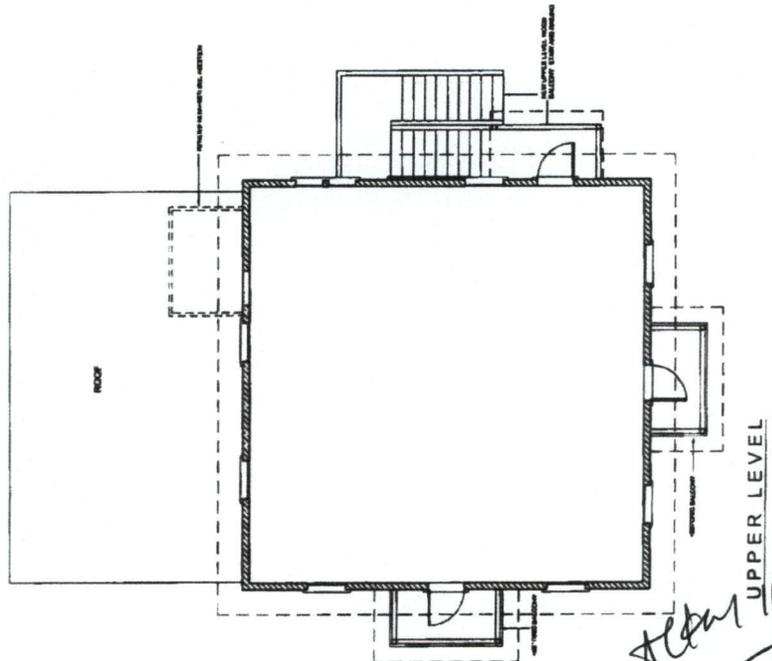
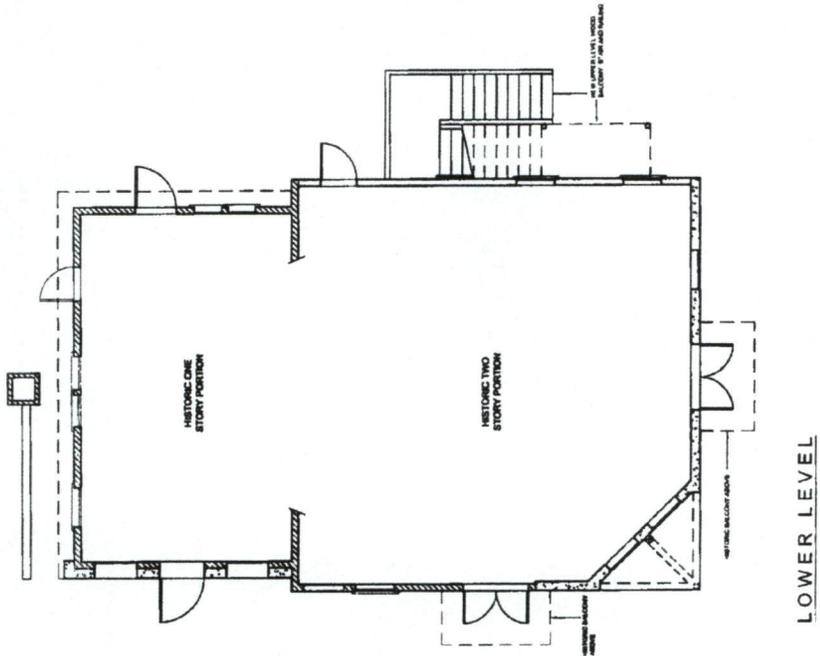
VARIANCE APPLICATION FOR:
 1901 FLAGLER AVENUE
 KEY WEST, FLORIDA

D A V I D K N O L L
 A R C H I T E C T
 P O S T O F F I C E
 1 5 0 5 1 7 5 8 6 1 1

4
 SHEET NO.

NO.	REVISIONS	DATE

DATE OF ISSUE:
 9/17/10



PROPOSED FLOOR PLANS
 1:10

Alex
 RUC

