

# **AGENDA**

## **KEY COLONY BEACH CITY COMMISSION PUBLIC HEARING**

Thursday, September 22, 2022 – 9:30 a.m.

Temporary City Hall & Virtually Via Zoom Conferencing

Zoom Meeting ID: 867 1647 2448

<https://us02web.zoom.us/j/86716472448>

- 1. *Call to Order, Pledge of Allegiance, Prayer, Roll Call***
- 2. *Administration of Oath to Witnesses***
- 3. *Citizen Comments***
- 4. *Disclosure of Ex-Parte Communications – Pg. 1***
- 5. *Proof of Publications, Affidavit of Mailing/Posting Notices – Pgs. 2-6***
- 6. *Review of Meeting Minutes***
  - a. Planning & Zoning Hearing Minutes 04-20-2022 – Pgs. 7-13*
  - b. City Commission Public Hearing Minutes 05-26.2022 – Pgs. 14-15*
  - c. City Commission Public Hearing Minutes 06-09-2022 – Pgs. 16-17*
  - d. Special Master Hearing Minutes 08-26-2022 – Pgs. 18-21*
- 7. *Variance Request: 200 15th Circle – Owner: Thomas E. Carden***

*Applicant requests a Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6'-8". Current maximum height is 30'0".*

*The Applicant further requests a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'.*

- a. Presentation of Variance Request – Building Department – Pgs. 22-33*
- b. Statement by Applicant*
- c. Planning & Zoning Board Recommendation – Pgs. 34-35*
- e. Special Master Findings & Recommendation*

### **8. *Commissioner Comments***

### **9. *Motion to Approve, Deny, or Approve with Conditions***

### **10. *Adjournment***

“Members of the public may speak for three minutes and may only speak once unless waived by a majority vote of the commission.”

Letters submitted to the city clerk to be read at the Commission Meeting will be made part of the record but not read into record. Persons who need accommodations in order to attend or participate in this meeting should contact the city clerk at 305-289-1212 at least 48 hours prior to this meeting in order to request such assistance. If a person decides to appeal any decision made with respect to any matter considered at any meeting, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

## **EX-PARTE COMMUNICATIONS**

An ex-parte communication is defined as:

any contact, conversation, communication, writing, correspondence, memorandum or any other verbal or written communication that takes place outside a public hearing between a member of the public and a member of a quasi-judicial board, regarding matters which are to be heard and decided by said quasi-judicial board.

Site visits and expert opinions are also considered ex-parte communications.

In the event that someone contacts a Board Member about a quasi-judicial matter outside of a public meeting, at such time that particular issue is brought before the Board, the Board Member should state on the record:

the existence of any ex-parte communication,  
the nature of the communication,  
the party who originated the ex-parte communication, and  
whether or not the ex-parte communication affects your ability to impartially consider the evidence presented.

Similarly, any correspondence received by a Board Member must be forwarded to the Board Clerk.

Note: The term "Board Member" would include all members of the Code Enforcement Board, the Planning & Zoning Committee, and the City Commission when they are acting in a quasi-judicial capacity (for example, but not limited to, code violation hearings and variance hearings).

# AFFIDAVIT OF MAILING

**STATE OF FLORIDA  
COUNTY OF MONROE**

Before me, the undersigned authority, personally appeared Silvia Gransee, who, having been first duly sworn according to law, deposes and says:

1. I am City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the 22nd day of July, 2022 (no less than 30 days prior to the Special Master Hearing on August 26, 2022) I mailed the Notice of Hearing by first class U.S. mail to the address on file with the Monroe County Property Appraiser's Office for all property owners within 300 feet of the property located at 200 15<sup>th</sup> Circle

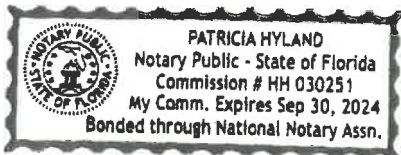
Silvia Gransee  
Signature

Sworn and subscribed before me this  
22<sup>nd</sup> day of July, 2022.

Patricia Hyland  
Notary Public, State of Florida  
My commission expires: 9/30/24

X Personally known

Produced \_\_\_\_\_ as identification



# City of Key Colony Beach

PO Box 510141 Key Colony Beach, Florida • Phone# 305-289-1212 • Fax# 305-289-1767



To: Property Owners within 300 feet of 200 15<sup>th</sup> Circle  
From: The City of Key Colony Beach  
Subject: Special Master & Public Hearing for a Variance Request

## **CITY OF KEY COLONY BEACH** **NOTICE OF SPECIAL MASTER & PUBLIC HEARING**

**The City of Key Colony Beach will hold a Special Master Hearing and Public Hearing on:**

**Special Master Hearing: Friday, August 26, 2022, 10:30 A.M.**  
**City Commission Public Hearing: Thursday, September 22, 2022, 9:30 A.M.**

**NOTICE IS HEREBY GIVEN** that the City of Key Colony Beach, Florida, will hold a **Special Master Hearing on Friday, August 26, at 10:30 A.M.**, and a **City Commission Public Hearing, on September 22, 2022, at 9:30 A.M.**, at a Temporary City Hall located at 600 W. Ocean Drive, Key Colony Beach, Florida, 33051, to hear a Variance Request from Thomas E. Carden, Owner of 200 15<sup>th</sup> Circle. This meeting will be available virtually via Zoom Meetings. Members of the public who wish to attend virtually may email [cityclerk@keycolonybeach.net](mailto:cityclerk@keycolonybeach.net) or call 305-289-1212, Ext. 2 for further instructions on attending via Zoom Meetings.

Applicant requests a Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6'-8'. Current maximum height is 30'0".

The Applicant further requests a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'.

Interested parties may attend the Hearing and be heard with respect to the requested variance.

If any person decides to appeal any decision made by the City Commission of the City of Key Colony Beach with respect to any matter considered at the Variance Hearing, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

If you are unable to attend the Hearings on Friday, August 26, 2022, or Thursday, September 22, 2022, but wish to comment, please direct correspondence to P.O. Box 510141, Key Colony Beach, FL 33051, or [cityclerk@keycolonybeach.net](mailto:cityclerk@keycolonybeach.net). and your comments will be entered into the record.

# AFFIDAVIT OF POSTING

**STATE OF FLORIDA  
COUNTY OF MONROE**


Before me, the undersigned authority, personally appeared Silvia Gransee, who, having been first duly sworn according to law, deposes and says:

1. I am the City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the 12 day of August, 2022 (no less than 14 days prior to the Special Master Hearing on August 26, 2022) I posted the Notice of Hearing for the Property at 200 15<sup>th</sup> Circle at the local United States Postal Service and City Hall.

Further affiant saith not.

  
\_\_\_\_\_  
Signature

Sworn and subscribed before me this  
12<sup>th</sup> day of August, 2022.

  
Notary Public, State of Florida  
My commission expires: 6/5/2026

Personally known

\_\_\_\_ Produced \_\_\_\_\_ as identification



**CITY OF KEY COLONY BEACH**  
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**Posted:** On or before August 12, 2022  
City of Key Colony Beach



Published Weekly  
Marathon, Monroe County, Florida

**PROOF OF PUBLICATION**

**STATE OF FLORIDA  
COUNTY OF MONROE**

Before the undersigned authority personally appeared JASON KOLER who on oath, says that he is PUBLISHER of the WEEKLY NEWSPAPERS, a weekly newspaper published in Marathon, in Monroe County, Florida: that the attached copy of advertisement was published in said newspaper in the issues of: (date(s) of publication)

August 11, 2022

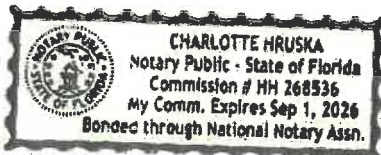
Affiant further says that the said WEEKLY NEWSPAPERS is a newspaper published at Marathon, in said Monroe County, Florida, and that the said newspaper has heretofore been continuously published in said Monroe County, Florida, once each week (on Thursday) and has been qualified as a second class mail matter at the post office in Marathon, in Monroe County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement. The affiant further says that he has neither paid nor promised any person, firm, or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper(s) and that The Weekly Newspapers is in full compliance with Chapter 50 of the Florida State Statutes on Legal and Official Advertisements.

Sworn to and subscribed before me this 11 day of Aug, 2022.

(SEAL)

Charlotte Hruska

Notary



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City of Key Colony Beach  
Publish:  
August 11, 2022  
The Weekly Newspapers

**MINUTES**  
**PLANNING & ZONING BOARD**  
**REGULAR MEETING AND PUBLIC HEARING**

Wednesday, April 20, 2022 - 9:30 a.m.  
Marble Hall

**1. Call to Order/Pledge of Allegiance/Roll Call:** Chairperson Joey Raspe called the meeting to order at 9:30 a.m. in the morning followed by the Pledge of Allegiance and Roll Call.

**Present:** Chair Joey Raspe, Mike Yunker, Tom DiFransico. **Excused:** George Lancaster, Lin Walsh. **Also Present:** City Administrator Dave Turner, City Clerk Silvia Gransee, City Attorney Ryan Benninger, Building Official Gerard Roussin, Building Inspector Gerald Leggett.

**Public Attending:** 3 Marble Hall

**2. Approval of Minutes:** The Planning Zoning Board accepted the minutes from March 16, 2022, as written.

**3. Administration of Oath to Witnesses:** City Clerk Silvia Gransee administered the Oath of Witness to all wishing to give testimony in today's hearing.

**4. Citizen Comments and Correspondence:** City Clerk Silvia Gransee reported not having received any citizen correspondence and there were no comments from the audience.

Chair Joey Raspe stated that Board Member DiFransico would like to add an agenda item. Board Member Tom DiFransico stated that with all the information that was received on the R2B Zoning comments by the Board that he believes the Board should address the issue. Board Member DiFransico further stated that he is aware that a workshop will be held but was unsure if the Board could talk about the issue at this meeting or at the later meeting. City Attorney Ryan Benninger stated that the Commission had already addressed the matter but if there would be some discussion it would be permissible, but as far as he is aware the workshop will address further discussion. Chair Joey Raspe asked if the Planning & Zoning Board will be part of the workshop which Attorney Ryan Benninger stated he will check on. City Clerk Gransee also stated that the topic was not an agenda item, and that the public was not aware of the topic being discussed.

**5. Disclosure of Ex-Parte Communication** – Board Member Tom DiFransico stated that himself and City Attorney Ryan Benninger had a phone conversation on Monday where some of the agenda items were briefly discussed, but which will not affect any of his decisions he will be making today. City Attorney Ryan Benninger confirmed that this conversation does not fall under the Ex-Parte Communication Act. Board Member Mike Yunker stated regarding Item 8 on the agenda, Ordinance 2022-473, stated that he is the General Manager for Castillo de Sol Condominium and that he has been reviewing the ordinance and had a lot of discussion with other Condominium Managers regarding this type of ordinance. Board Member Yunker stated that he does not believe that this will affect his decisions but wanted it known to the Board and have guidance from the City Attorney if he should excuse himself from the issue.

**6. Proof of Publications:** All affidavits and legal notices were accepted as sufficient.

**7. Variance Request:** Chair Raspe read the variance request for 200 15<sup>th</sup> Circle – Owner: Thomas E. Carden. Chair Joey Raspe stated that the variance request is a two-part request for height and setback, and that both will be addressed separately. Chair Raspe further stated that the first variance request to be addressed is the height



setback.

**a) Height Variance Request**

*Mr. Thomas Carden, owner of 200 15<sup>th</sup> Circle, made his statement to the Planning & Zoning Board. Mr. Thomas Carden stated that it is difficult to build a two-story house above flood on stilts with the upcoming changes in flood maps. Mr. Carden continued by saying that he is only two feet above flood with the current design, and that is why he is requesting the variance.*

*Building Official Gerard Roussin stated that the Building Department does support the request for a height variance as they do understand the upcoming changes in the FEMA flood maps and proposed LDR changes once the Comp Plan is finished. Building Official Roussin stated that this request would be within the proposed new LDR's even though the variance is a little bit more than what has been granted in the past, as far as the 34-foot height the Board has somewhat adopted, but the Building Department would fully support the variance request as is. Board Member Tom DiFransico asked Building Official Roussin if this design incorporates the additional 2-foot free board that was incorporated at CRS. Building Official Gerard Roussin stated that he does not believe the design incorporates the additional 2 foot of free board, but he stated that the height is still there if needed. Board Member DiFransico stated that he believes that if the variance was granted based upon the new LDR's, the new requirements of the new LDR's should be in place when granting a variance. Building Official Roussin stated that he does not know if that can be legally done as it is not part of the code and does not know if that could be legally mandated and that should be a question for the city attorney. Chair Joey Raspe asked the Building Official if once the LDR is approved, if it then becomes part of the City's rule to have the additional 2 feet of free board incorporated. Building Official Roussin confirmed the question and stated that a sticking point of adopting the additional 2 feet of free board was the CRS ranking for the city, as well as looking at properties that were being redeveloped, to give them their second floor of living space if the first floor was brought into code along with the 2 feet of free board. Building Official Roussin stated that this property does not require this at this time and believes that when the new maps come out this property's elevations will go down one foot compared to now. Building Official Roussin further stated that the Building Department fully supports this variance but would not ask for the free board at this time. Mr. Thomas Carden stated that he could make it work since he is only a couple of feet off. Board Member Tom DiFransico stated that this goes back to the question if it is necessary for CRS as it does not look like it is. Building Official Roussin stated that it is not necessary at this time as the official LDR's have not been adopted yet. Building Official Roussin explained that once the Comp Plan comes back and is adopted, the LDR changes will be sent back to the State to be reviewed and if approved they will be sent back for adoption. Building Official Gerard Roussin stated that the time frame for the Comp Plan has taken longer than anticipated with no prediction on an exact date. City Administrator Dave Turner stated that if it would be 5 years ahead of time, it would be advantageous to build to the new heights and to the new 2-foot free board, and it would cost the homeowner less in flood insurance and it would go to the rating for the city. Board Member DiFransico stated that he agrees with City Administrator Turner but that the Board could not mandate the owner. City Administrator Turner agreed but restated that it would be advantageous for the homeowner. Mr. Thomas Carden stated that he is willing to do it and he can make it work. Building Official Roussin stated that for any new homes that are being built right now, the owners have to sign paperwork that explain that new flood maps, as well as possible new LDR's are coming out, and that owners are aware of it and it should not catch anyone by surprise. Board Member DiFransico asked Building Official Gerard Roussin how the new proposed height requirements concur with the houses in the neighboring area. Building Official Roussin stated that there have been four or five new houses on 14<sup>th</sup> Street that had been granted a variance of 34 feet, and that the average eye should not notice a difference between a 36'6" and a 34' feet house. Building Official Roussin stated that in his opinion it should not stand out.*

*Chair Joey Raspe continued the hearing by reading the applicants questions and responses. The Board had no*

additional questions for the Building Official nor the applicant on the height variance request.

**Height Variance Request - Post Hearing Questions:** Chairperson Joey Raspe read the Post Hearing Questions to the Planning & Zoning Board.

1. Has the applicant shown good and sufficient cause to grant the variance?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

2. Will denial of the variance result in unnecessary hardship to the applicant?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

3. Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat to or nuisance, or cause fraud or victimization of the public?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

4. The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

5. Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

**b) Setback Variance Request**

Chair Joey Raspe read the setback variance request for 200 15<sup>th</sup> Circle.

Building Official Gerard Roussin explained that the owner is requesting a setback variance of 8'6" where the current standard for the city is 25' from the mean high-water line. The Building Official further explained that rear setbacks have been an issue, and that there have been variance approvals and disapprovals with rear yard setback issues. Building Official Roussin further explained that the property looking at the lot from 15<sup>th</sup> Circle is between 100 and 110 feet deep and the right side of the property is probably around 75 to 85 feet deep. Building Official Roussin stated that the setback issue can be either addressed with a variance or with a request of leaving the setback. Building Official Roussin further stated that the Building Department does not have an issue with granting a rear yard setback and that this would fall to the Planning and Zoning Commission for a decision.

Mr. Thomas Carden stated that his property is a unique lot, and explained, that by looking at the adjacent house and its design, that if he would build his house in the same design he still would be behind that house. Mr. Thomas Carden further explained that usually setbacks are for line-of-sight to have houses uniform and even with the encroachment he still would be behind 210 15<sup>th</sup> Circle. Chair Joey Raspe stated that he had not that particular drawing which Mr. Carden provided to the Board. Mr. Carden continued to explain to the Board the particulars of the drawing. Board Member Tom DiFransico asked Mr. Carden on when he purchased the lot which Mr. Carden stated was about a year ago. Chair Joey Raspe asked Mr. Carden if the setback of the house he is living in now is measured to the other side of 14<sup>th</sup> Street or if it is measured to the canal. Mr. Carden replied that it is measured to the mean waterline of the canal. Mr. Carden further stated that he dredged the canal and made sure that he maintained 25 feet. Chair Joey Raspe stated that it looks like the canal comes closer to Mr. Carden's house which Mr. Carden confirmed. Mr. Carden continued explaining that his lot is an angle, L-shaped lot and a lot bigger lot. Board Member DiFransico asked Building Official Roussin what the purpose is of the 25-foot setback. Building

Official Roussin explained that one of the main reasons for the setback is an area for a pool, an enclosure, or something similar, and also is part of the stormwater area to not run into the canal. Board Member Tom DiFransico further asked if there are other requirements for a pool and runoffs which Building Official Roussin confirmed. Chair Joey Raspe stated that it is important to remember that this property not always had canal bottom which Mr. Carden replied that the canal always had water but was not maintained. Mr. Carden continued to show the Board the original plat. Board Member DiFransico asked Mr. Carden if he had tried to rotate the house to maintain the setback. Mr. Carden stated that it is almost impossible to fit a house on this property with the setback requirements and that he does not want a house that is only 18 feet deep. Mr. Carden continued by saying that he does not believe that there is any house in Key Colony Beach that is only 18 feet deep. Chair Joey Raspe stated that at its shallowest point Mr. Carden should have 25 feet of house, which Mr. Carden stated that there are still overhangs, stairs, and balconies to consider, unless he makes it look like a box which would not match the community. Mr. Carden further stated that it would be really hard to make a deep house, unless he got rid of the front and back porch, but than it would look like a box, which he stated would bring a lot of complaints because it would not look like it belongs in Key Colony. Board Member DiFransico asked Mr. Carden if the depth looking from 15<sup>th</sup> Circle is 95 feet. Mr. Carden replied that his understanding of the city's ordinance is, that it measures the high waterline, so it does not matter how deep the lot is and that his mean high-water line is 75 feet. The Board did not have any additional questions for Mr. Carden and neither did the Building Official.

Chair Joey Raspe continued the hearing by reading the applicants questions and responses. Chair Joey Raspe stated in response to the question on unnecessary hardship, that ordinances are written to be strictly adhered to and that it does not create a hardship to follow an ordinance and to what it says. Chair Joey Raspe stated that everyone is supposed to do what the ordinance says. Chair Joe Raspe asked Mr. Thomas Carden why he feels that it creates a hardship to follow the rules of the city. Mr. Thomas Carden replied that he has the smallest lot in the zoning district and that the 25-foot setback was created because everyone had bigger lots on 14<sup>th</sup> Street and 15<sup>th</sup> Circle and that he himself has one of the smallest lots which creates a hardship for him. Board Member Tom DiFransico commented that this hardship was not self-created, and that Mr. Carden knew about the property line as well as the waterline when he purchased the property. Mr. Carden replied that the canal was not dredged and that he did not know exactly where the dredging would lead. The Board commented that Mr. Carden was one of the proponents for the dredging which Mr. Carden confirmed and further stated he paid for it as well. Mr. Carden further commented that the principle of setbacks is line-of-sight and that his house does not go back any further back than any other houses on that street. Mr. Carden continued explaining the layout of his house in comparison to neighboring houses. Board Member Mike Yunker asked Mr. Carden if the submitted print had his current house on its which Mr. Carden confirmed. Chair Joey Raspe stated that one of his issues is the safety issue of being closer to the canal and he would rather see the house sitting closer to the street. Mr. Carden replied if that is what the Board wants, he could do it, but he believes it looks stupid and that people would not like it. Chair Joey Raspe stated that he lives on 12<sup>th</sup> Street and that he had to adjust the size of his house due to the lot size and that he never thought about asking for a variance request. Mr. Carden stated that he wants to be a good steward to the Community and wants his house to look like it belongs. Mr. Carden further stated that there are other houses that look terrible and are an embarrassment to Key Colony and he does not want that, but he probably will if he does not get his variance. Mr. Carden said that 14<sup>th</sup> Street and 15<sup>th</sup> Circle are beautiful streets and that the Board wants to make sure that the houses all look the same. The Board had no further comments or questions on the hardship question.

Chair Joey Raspe continued reading the applicants questions and answers. Chair Joey Raspe asked if there were any additional questions for the Building Official or Mr. Carden. Board Member Mike Yunker asked Building Official Roussin if the square footage of the lot makes it a reasonable size to build a home that would fit into the perimeters of the setbacks. Building Official Gerard Roussin stated that on any lot within the city a house can be built within the perimeters and believes that the minimum square footage for the area is either 1,200 or 1,300

square feet. Building Official Roussin further stated that a house could be built within the perimeters, but it probably would not be the house someone would want to build. Building Official Roussin stated that the question is a double-edged sword question since a house can be built within the perimeters, but it probably would not look like it belongs.

The Board had no other discussions or questions on the variance request.

**Setback Variance Request - Post Hearing Questions:** Chairperson Joey Raspe read the Post Hearing Questions to the Planning & Zoning Board.

1. Has the applicant shown good and sufficient cause to grant the variance?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – no. Roll call vote: 2 – YES. 1 – NO.

2. Will denial of the variance result in unnecessary hardship to the applicant?

Roll call: Mike Yunker – yes, Tom DiFransico – no, Joey Raspe – no. Roll call vote: 1 – YES. 2 – NO.

3. Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat to or nuisance, or cause fraud or victimization of the public?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – no. Roll call vote: 2 – YES. 1 – NO.

4. The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – No. Roll call vote: 2 – YES. 1 – NO.

5. Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – no. Roll call vote: 2 – YES. 1 – NO.

**d. Planning & Zoning Board Recommendation:**

**MOTION:** Motion made by Tom DiFransico, seconded by Joey Raspe, to approve the granting of the requested height variance for 200 15<sup>th</sup> Circle.

**ON THE MOTION:** Roll Call vote. Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Unanimous approval. The Height Variance Request was granted.

**MOTION:** Motion made by Tom DiFransico, seconded by Joey Raspe, to disapprove the granting of the requested setback variance for 200 15<sup>th</sup> Circle.

**ON THE MOTION:** Roll Call vote. Mike Yunker – no, Tom DiFransico – yes, Joey Raspe – yes. 1 – NO, 2 – YES. The Setback Variance Request was denied.

**8. Ordinance 2022-473: AN ORDINANCE OF CITY OF KEY COLONY BEACH, FLORIDA, AMENDING CHAPTER 6, ARTICLE II (“DANGEROUS STRUCTURES”) OF THE CODE OF ORDINANCES OF THE CITY OF KEY COLONY BEACH BY AMENDING SECTION 6-97, WHICH SHALL PROVIDE FOR A CERTIFICATION AND RECERTIFICATION PROCESS FOR EXISTING AND FUTURE MULTISTORY STRUCTURES**

Chair Joey Raspe read Ordinance No. 2022-473.

Building Official Gerard Roussin explained the ordinance and its correlation to the Surfside collapse in Miami. Building

Official Roussin further stated that what the City is looking for is a shorting of time for inspections on waterfront properties, commercial properties, R3, RH, and the type of designations that do not apply to single family or duplex homes. Building Official Roussin further stated that this ordinance only applies to 2-stories and above, multi family, resort/hotel, commercials, or condos. Building Official Roussin further stated that they are looking for a every 10-year inspection for buildings that are over 17 years old and would like to have a recertification every 10 years. Building Official Roussin continued by saying that current recertifications are every 40 years. Building Official Roussin further stated that a 40-year recertification on a building is pretty much a lifespan of a building and that they are trying to avoid this issue. Building Official Roussin explained that a private engineer will do electrical and structural inspections with certain time frames of having issues addressed including permits, engineering drawings on how repairs are being made. Building Official Roussin further said that this is a safe ordinance and well deserved after seeing what happened. Chair Joey Raspe asked Building Official Roussin if the Building Department provides the engineer or if it is an independent person. Building Official Roussin clarified that it is an independent company that Building hires and that the report gets reviewed by the Building Department. Board Member DiFransico asked if the engineer has to be approved the by Building Department which Building Official Roussin explained does not but has to be a state certified engineer. Board Member DiFransico asked for clarification for the wording in the proposed ordinance regarding the certification requirements on page 32. Building Official Roussin stated that the Building Department knows most local engineers and that this would pertain to out-of-town engineers as the Building Department would need to see their certification. Board Member DiFransico stated that he has several comments on the drafting of the ordinance. Board Member DiFransico stated that the qualification requirements on page 32, and middle of 33, state different requirements and that he is questioning the different requirements. Building Official Roussin stated that a qualified building inspector is not a structural engineer, and the structural engineer is a better degree than what they hold. Board Member DiFransico and Building Official Roussin continued to talk about the different qualifications for engineers. Board Member DiFransico suggested that the ordinance be redrafted regarding the qualifications to make it clearer to understand. Board Member DiFransico further commented on the timing of 90 days for the inspection and report to the city, following 60 days to complete repairs. Board Member DiFransico stated that the time frames do not seem right to him and further said that some repair work might take longer then 60 days. Board Member DiFransico asked the Building Official to adjust the timing which Building Official Roussin stated can be accomplished either with a longer time frame or verbiage of that a permit has been applied for. Board Member DiFransico clarified that he would leave the exact verbiage to Building Official Roussin. Chair Joey Raspe asked the Building Official if he would be comfortable with giving extensions which Building Official Roussin confirmed. Building Official Roussin further explained that it is understood what the work situation in the Keys looks like with getting things done in a timely manner and that there is not a huge workforce to draw from. Board Member DiFransico further asked Building Official Roussin to define what a multi-story building looks like and suggested to define the meaning in the ordinance. Board Member DiFransico further asked for a definition of a threshold building on page 34. Building Official Roussin explained that a threshold is a any type of visum construction, and that as part of the new Florida Building Code a Threshold Inspector is needed for new buildings. Board Member DiFransico suggested to Building Official Roussin to define the meaning of a threshold building which Building Official Roussin agreed to. City Attorney Ryan Benninger asked if it is the Boards recommendation to add a definitions section, which Board Member DiFransico stated would be his personal recommendation or have it somewhere else referred to for explanation. Board Member Mike Yunker asked if the purpose of the ordinance is to bring any required structure up to current electrical code or if this is to address any safety issues in the electric. Building Official Roussin stated that it is safety only and no one can be forced to upgrade to current code. Board Member Mike Yunker further asked for clarification on verbiage on page 32 and asked for clarifications on the definitions of minor structures on page 33 and the occupant load of 10 or less. Building Official Roussin explained that the 10-load occupancy refers to multi-family units and is a different standard than low-load occupancy. Board Member Mike Yunker asked how qualifications on multi-units were calculated which Building Official was not certain on but would follow up on. Board Member Mike Yunker further asked on the definition on how square footage applies for minor buildings, which Building Official Roussin was not sure on, but stated will be made part of their definitions section that will be added to the ordinance after being researched. Board Member Yunker asked Building Official Roussin on why the proposed ordinance applies to condos but not to single family residences. Building Official Roussin explained that he does not know the answer to that question, especially knowing that many single-family residences have major spalling, but believes that the property owners rights might be different for single-family residences compared to multi-family residences with condo associations. Chair Joey Raspe stated that this might be comparable to being a third party being responsible as opposed to being the actual homeowner. Building Official Roussin stated that he does not believe that there will be any problems in the city as most buildings do their repairs and normal

*maintenance when it is supposed to be done. Building Official Roussin stated that the proposed ordinance will give the city a little bit more teeth when asking for inspection to be done in a timely manner and a good step forward in the safety process. Upon discussion with City Attorney Ryan Benninger the Board agreed upon the ordinance to be redrafted and presented back to the Planning and Zoning Board at next month's meeting.*

*9. There was no other business.*

*10. The meeting adjourned at 10:26 a.m.*

*Respectfully*

*Silvia Gransee*

*City Clerk*

**ADOPTED: May 18<sup>th</sup>, 2022**

*Silvia Gransee*

*City Clerk*

# MINUTES

## KEY COLONY BEACH CITY COMMISSION PUBLIC HEARING

Thursday, May 26, 2022 – 9:30 a.m.

City Hall Auditorium & Virtually Via Zoom Conferencing

**1. Call to Order, Pledge of Allegiance, Prayer, Roll Call:** *The Public Hearing by the Key Colony Beach City Commission was called to order by Mayor Trefry at 9:30 a.m. followed by the Pledge of Allegiance, Prayer, and Roll Call.*

**Present:** *Mayor Trefry, Vice-Mayor Harding, Commissioner Sutton, Commissioner Beth Ramsay-Vickrey, Secretary-Treasurer DeNeale* **Also Present:** *City Administrator Dave Turner, City Clerk Silvia Gransee, City Attorney Ryan Benninger, Public Works Supervisor Mike Guarino, Building Official Gerard Roussin, Officer Joe Burden, Code Enforcement Officer Stacy Stahl,*

**Public:** *7 Marble Hall, 6 Virtual*

**2. Administration of Oath to Witnesses:** *City Clerk Gransee read the Oath of Witness to all planning on testifying.*

**3. Citizen Comments:** *City Clerk Gransee reported on not having received any citizen correspondence.*

**4. Disclosure of Ex-Parte Communications:**

*Commissioner Beth Ramsay-Vickrey reported on attending a ride-a-long with Building Official Roussin and stopping in front of the property in question. Commissioner Ramsay-Vickrey stated that no discussion took place about the property. Commissioner Beth Ramsay-Vickrey further stated that she had let Building Official Roussin know that she will pose questions on the two neighboring lots regarding variances, setbacks, and shoreline erosion, and asked the Building Official to bring updated google maps to the meeting. Commissioner Ramsay-Vickrey stated that none of these questions were answered ahead of today's meeting and the conversation will not affect her decision making.*

*Commissioner DeNeale asked City Attorney Ryan Benninger if emails from the applicant to the Commission are considered ex-Parte communications. City Attorney Benninger asked if the emails were addressed to the council at large, which Commissioner DeNeale replied that they were addressed personally to him and the other Commissioners. In addition, Commissioner DeNeale stated that they were addressed to the City Clerk with the Commission courtesy copied. Mayor Trefry clarified that these communications happened post Planning & Zoning Meeting and prior to the appeal. City Clerk Silvia Gransee stated that the two emails that were received from Mr. Carden were accepted as a statement by the applicant and were added to the agenda packet as such. City Attorney Ryan Benninger stated his understanding that the two emails received by the applicant were made part of applicant's statement. Commissioner DeNeale stated that this is not the way he read it and explained, that the emails were send to the City Clerk with the language of "I am writing this email to justify my variance request for the rear setback and providing clarification" with the Commission courtesy copied. Commissioner DeNeale stated that it was not*

stated to the City Clerk with the request to be added to the package. City Attorney Ryan Benninger stated that out of abundance of caution this communication should be considered ex-Parte communication. Commissioner DeNeale explained that these two emails bothered him and that it would sway his judgement. Mayor Trefry agreed that it would sway her judgement also. Commissioner DeNeale further said that he has not seen anything like this before, and he does not like it and it would sway his judgement in this proceeding. Mayor Trefry asked for recommendation from legal on how to proceed. City Attorney Ryan Benninger asked if the recommendation was needed now or after the meeting. Mayor Trefry stated that the Commission has never been in a comparable situation, and that she has never been in a position where something would color her judgement to approve or deny a variance and asked the City Attorney if they should recuse themselves or how to proceed.

City Attorney Ryan Benninger requested a 10-minute recess to look into the matter. Mayor Trefry stated that the Commission will do a 10-minute recess and will reconvene at 9:46 a.m. City Attorney Benninger requested two additional 10-minute recesses and the meeting reconvened at approximately 9:50 a.m.

After recess, City Attorney Ryan Benninger stated that legal is prepared to make a recommendation on the matter. City Attorney Benninger stated that legal's position and recommendation to the council is, if there is a concern with the issue and a quorum will not be available today to consider Mr. Carden's variance request, that it would be appropriate for a motion to postpone the matter to the next scheduled meeting. City Attorney Benninger continued saying that this will allow legal to do more research on the matter and that this is an issue of first impression, and he is unfortunately not able to address this matter on the fly. City Attorney Benninger stated that out of respect of due process for the applicant this is the City Attorney's considered response. Mayor Trefry stated that she will entertain a motion to table the matter until legal has more information and to be addressed in the future.

**MOTION:** Motion made by Commissioner Sutton, seconded by Commissioner DeNeale, to table the matter.

**ON THE MOTION:** Roll call vote. Unanimous approval.

Mayor Trefry stated to Mr. Carden that the Commission wants to be absolutely fair to him. Mr. Thomas Carden stated that he understands and reiterated that he addressed the City Clerk in the emails and cc'd the Commission which is his legal obligation to do.

**5. Adjournment:** The meeting adjourned at 9:56 a.m.

Respectfully submitted,  
*Silvia Gransee*  
City Clerk

**ADOPTED:** June 9, 2022  
*Silvia Gransee*  
City Clerk



# **MINUTES**

## **KEY COLONY BEACH CITY COMMISSION PUBLIC HEARING**

Thursday, June 9, 2022 – 9:30 a.m.

City Hall Auditorium & Virtually Via Zoom Conferencing

**1. Call to Order, Pledge of Allegiance, Prayer, Roll Call:** *The Public Hearing by the Key Colony Beach City Commission was called to order by Mayor Trefry at 9:30 a.m. followed by the Pledge of Allegiance, Prayer, and Roll Call.*

**Present:** *Mayor Trefry, Vice-Mayor Harding, Commissioner Sutton, Commissioner Beth Ramsay-Vickrey, Secretary-Treasurer DeNeale* **Also Present:** *City Administrator Dave Turner, City Clerk Silvia Gransee, City Attorney Dirk Smits, City Attorney Ryan Benninger, Public Works Supervisor Mike Guarino, Building Inspector Gerald Leggett, Corporal Jamie Buxton, Code Enforcement Officer Stacy Stahl, Fire Chief John Johnson, Administrative Assistant Christine McLeod.*

**Public:** *7 Marble Hall, 9 Virtual*

**2. Administration of Oath to Witnesses:** *City Clerk Gransee read the Oath of Witness to all planning on testifying.*

*City Attorney Dirk Smits advised Mayor Trefry to add an item to the agenda. Mayor Trefry stated that under agenda item 3 a. she will entertain a motion to refer the variance to a Special Master. The Commission had no objection.*

**3. Citizen Comments:** *City Clerk Gransee reported on not having received any citizen correspondence or comments.*

*Paul Savage, Attorney with Law Offices at 2555 Ponce-de-Leon Boulevard, Coral Gables, Florida, representing Casa-del-Sole. Mr. Savage stated that he has the house at 711 West Ocean Drive and that he received the notice of variance application as a property owner within 300 feet. Mr. Savage commented on hearing a motion, that the case may not be heard today and wanted to make sure that they were notified and that all variance procedures are followed including the findings of hardship. Mr. Savage concluded that they want to monitor any variances in the area and would appreciate any guidance from the city attorney on where the case is going next.*

*City Attorney Dirk Smits stated that if this case is referred to Special Master the procedures of notice will be followed. Commissioner DeNeale questioned the address that Mr. Savage had given at 711 West Ocean, which Mr. Savage corrected as his property being at 721 West Ocean and that he had a variance case concerning 711 West Ocean and thanked the Commissioner for the correction in record. Commissioner DeNeale stated that the property is outside of 300 feet which Mayor Trefry agreed to, and asked City Attorney Smits if this is for information purposes. City Attorney Dirk Smits stated that it depends on the outcome of the motion and if the case gets deferred to a Special Master, and the issue of standing can be addressed then.*

*A. Mayor Trefry stated, that on advice of counsel, she is calling for a motion to refer the variance*

for 200 15<sup>th</sup> Circle in its entirety to a Special Master as selected by the City Attorney.

**MOTION:** Motion made by Commissioner Sutton, seconded by Commissioner Ramsay-Vickrey, to refer the variance for 200 15th Circle in its entirety to a Special Master as selected by the City Attorney.

**DISCUSSION:** Vice-Mayor Harding asked City Attorney Dirk Smits to explain the current proceedings. City Attorney Dirk Smits explained that at the last time the variance was in front of the Commission, two Commissioners expressed on the record that there would be an issue with being fair and unbiased. City Attorney Smits further explained that because of the requirements of a change to the recommendation from the Planning & Zoning Board, which requires four out of five votes, which the Commission currently does not have, is the purpose behind the Special Master. City Attorney Dirk Smits elaborated that the applicant is entitled to due process in accordance with quasi-judicial proceedings and will need to get due process by other means. City Attorney Smits further explained that a Special Master will make a report of recommendation and finding of fact and conclusions of law which will come back before the Commission for approval. The City Attorney continued saying that the Commission will give the Special Master's report great deference and make their decision based on that. City Attorney Smits stated that the bias will be eliminated, and due process will be afforded to the applicant which is the reason behind today's proceedings. City Attorney Dirk Smits stated that legal recommended this process and that a memo is available for reading.

**ON THE MOTION:** Roll call vote. Unanimous approval.

**4. Adjournment:** Mayor Trefry asked for a motion to adjourn.

**MOTION:** Motion made by Commissioner Ramsay-Vickrey, seconded by Vice-Mayor Harding, to adjourn the meeting.

**ON THE MOTION:** Mayor Trefry called the meeting adjourned.

The meeting adjourned at 9:37 a.m.

Respectfully submitted,

*Silvia Gransee*

City Clerk

**ADOPTED: June 23, 2022**

*Silvia Gransee*

City Clerk

**MINUTES**  
**CITY OF KEY COLONY BEACH**  
**SPECIAL MASTER HEARING**

Friday, August 26, 2022 – 10:39 a.m.  
Temporary City Hall & Virtually Via Zoom Conferencing

**1. Call to Order:** Judge Taylor called the Hearing to order at 10:39 a.m.

**Present:** Judge Sandra Taylor, City Attorney Dirk Smits, City Administrator Dave Turner, City Clerk Silvia Gransee, Building Official Lenny Leggett, Police Chief Kris DiGiovanni, Planning & Zoning Chair Joey Raspe. **Also present:** Thomas Carden & Spouse.

**2. Administration of Oath to Witnesses:** Judge Tylor swore in all witnesses.

**3. Prior Meeting Agendas & Minutes**

- a) April 20, 2022, Planning & Zoning Agenda & Minutes
- b) May 26, 2022, City Commission Agenda & Minutes
- c) June 9, 2022, City Commission Agenda & Minutes

City Attorney Dirk Smits explained that the included minutes in the agenda packet were for review for Judge Taylor and were admitted as such into the record.

**4. Proof of Publications, Affidavit of Mailing/Posting Notices:** Judge Taylor accepted and adopted the proof of publications and affidavit notices into the record.

**5. Variance Request: 200 15th Circle – Owner: Thomas E. Carden**

Applicant requests a Variance to Land Development Regulations Chapter 101, Section 101–10 (8) height variance of 6'-8'. Current maximum height is 30'0".

The Applicant further requests a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'.

Judge Taylor asked for confirmation that the height variance was approved and today's meeting addresses the setback variance request only. City Attorney Smits confirmed Judge Taylor's question.

**a. Presentation of Variance Request:** Building Official Gerald Leggett stated that Mr. Thomas Carden is requesting a rear yard variance of 8 foot 6 inches with a current setback of 25 feet. The Building Official further stated that Mr. Carden was approved for they height variance request. Building Official Leggett continued saying that he has no further testimony and will wait for this hearing's outcome before prior review.

**b. Planning & Zoning Board:** Chair Joey Raspe stated that this variance request represents a safety issue for the Planning & Zoning Board, and the Board is trying to make sure that the City's residents and properties stay safe. Chair Joey Raspe continued explaining the Planning & Zoning Board's standpoint of that Mr. Carden knew the size and shape of the lot when he bought it, as he had already built a house on the lot next to it. Planning and Zoning Chair Raspe further stated that Mr. Carden knows the height and setback restrictions for the City of Key Colony Beach, and that today's building requirements are more restrictive than in the past due to storm protection. The Planning & Zoning Chair stated that the Board agreed to grant the height variance for Mr. Carden. Mr. Raspe further stated that the Board wants to protect Mr. Carden and his property, as well as neighboring properties, by not allowing the building to encroach into the setback near the water. Chair Raspe stated that the Planning & Zoning Board denied Mr. Carden's request for a setback for 8 foot 6 inches into the 25-foot setback as it presents a 35 percent increase in what Mr. Carden is asking for.

City Attorney Smits asked Planning & Zoning Chair Raspe if he would like to adopt the Planning & Zoning Board's report from the agenda packet pages 135 to 148. Chair Raspe confirmed the question and City Attorney Smits stated that the report has been adopted as part of the city's presentation.

**c. Statement by Applicant:** Mr. Thomas Carden thanked Judge Taylor for her consideration of his rear yard setback request and presented his statement. (Please contact the City Clerk at [cityclerk@keycolonybeach.net](mailto:cityclerk@keycolonybeach.net) for a copy of the statement).

City Attorney Smits asked Mr. Carden if he would like to submit a copy of the statement for the record which Mr. Carden agreed upon.

Judge Taylor asked Planning & Zoning Board Chair Raspe to explain the difference between Mr. Carden's house and the house mentioned in Mr. Carden's statement. Chair Joey Raspe explained the setback difference to the house Mr. Carden was referring to and explained that it was a very small part of the house that went into the encroachment. Mr. Carden disagreed with the explanation and stated that the house is the biggest house on the biggest lot in Key Colony that is currently being built. Mr. Carden continued explaining what areas of his house would be encroaching into the setback and showed the areas of encroachment on a poster board. Mr. Carden further stated his disagreement in the setback approval for that particular house compared to his house. Judge Taylor asked Mr. Carden if her understanding is correct, that Mr. Carden states that his house with a 25-foot setback does not encroach more than the house with 50-foot setback, which Mr. Carden confirmed. Mr. Carden further compared the differences in square footage, setbacks, encroachments, and how his house fits on his lot.

Judge Taylor asked Chair Joey Raspe on the impact on surrounding homeowners if the setback variance request would be granted. Chair Raspe explained that Mr. Carden's house is on a canal, and the house Mr. Carden is referencing to is on the ocean facing a big body of water with no

neighbors around. Chair Raspe continued saying that he believes that the owner of that particular lot bought the house for that reason and did not buy a small lot and try to build a big house on it. Planning & Zoning Board Chair Raspe stated that the approval of one variance request does not affect another variance request, and that each is an individual case with individual circumstances. Mr. Carden disagreed with the statement.

Judge Taylor asked if Mr. Carden had any questions, he would like the judge to ask. Mr. Carden stated his belief that Chair Joey Raspe should have excused himself and continued saying that he has a statement he would like to read.

Judge Taylor told Mr. Carden to go ahead with his statement. Mr. Thomas Carden stated that he believes that Mr. Joey Raspe should have recused himself since they had words in the past well before his variance request. Mr. Carden continued saying Mr. Raspe and his wife sell Real Estate together and that he has told them, that it is unethical to list a 2-bedroom house as a 3-bedroom house. Mr. Thomas Carden further stated that a 3-bedroom home is worth more than a 2-bedroom home and this is why "they lie". Mr. Carden continued saying that the Raspe's stated to him that the city approved those bedrooms. Judge Taylor interrupted Mr. Carden's statement at that point and asked Mr. Carden if his statement was pertaining to his property. Mr. Carden stated that it sort of does, and further stated that Mr. Joey Raspe is biased because (he) Mr. Carden had already made complaints to the city about Mr. Raspe and his wife selling stuff in the city and lying about the circumstances. Judge Taylor stated that she does not believe it is appropriate to make Mr. Carden's, or Mr. Raspe's, feelings or beliefs part of the record. Mr. Joey Raspe stated that he is not a licensed realtor and further stated that he does not know what Mr. Carden is talking about. Mr. Raspe stated that his wife is a licensed realtor but he himself is not.

Judge Taylor asked Chair Joey Raspe if he believes he can be fair and impartial which Mr. Raspe confirmed. Judge Taylor asked if Mr. Raspe was ever in a situation before where disputes arose and where he had to disqualify himself. Planning & Zoning Chair Raspe answered that he has not been in a similar situation before and the only time he had to recuse himself, involved where a project was going up, a condominium complex on West Ocean, where he recused himself under advisement from the city's legal department.

Judge Taylor asked City Attorney Smits on the standards on disqualification in a quasi-judicial setting. City Attorney Smits explained that there are a series of ex-Parte questions that have to be answered, as well as questions that pertain to being impartial, which set the standard for disqualification. City Attorney Smits further stated that he believes this goes more towards bias than disqualification, and everything that occurred has been included in the record.

Judge Taylor stated that she will review all documents after the conclusion of the hearing.

City Attorney Smits asked that all follow-up questions or testimony should occur via zoom which all parties agreed upon.

Chair Joey Raspe stated that he has no cross-examination for Mr. Carden and explained that the issue has already been in front of the Planning & Zoning Board. Chair Joey Raspe continued saying that the Planning & Zoning Board was ready to present the variance request to the

*Commission, however, two of the Commissioners excused themselves from the vote for concern of bias due to communication received by Mr. Thomas Carden. Mr. Joey Raspe continued explaining that this is the reason for the Special Master hearing, as a majority vote of four could not be achieved with the two Commissioners having recused themselves.*

*City Attorney Dirk Smits stated that all of the discussions are in the minutes that were submitted with the agenda packet which City Clerk Gransee confirmed.*

*d. **Post Hearing Questions:** City Attorney Dirk Smits further explained that the Post-Hearing questions will be incorporated into the Report of Recommendation from Judge Taylor. City Attorney Smits continued explaining that these are the questions that will be asked of the City Commission and based on the record of testimony from Mr. Carden and Staff, Judge Taylor will make her recommendation. Judge Taylor stated that the presentation was very thorough and she will be able to review all materials that were provided. Mr. Carden agreed upon sharing his poster presentation with Judge Taylor for review. Judge Taylor stated that she would like to drive by the properties for a visual inspection which all parties agreed upon. The parties further stipulated to taking photographs.*

*e. **Special Master Recommendation** – Reserved.*

*6. **Motion to Approve, Deny, or Approve with Conditions** – Reserved.*

*7. **Adjournment:** The meeting adjourned at 10:39 a.m.*

*Respectfully submitted,  
Sylvia Gransee  
City Clerk*



# **Applicant Questions and Responses-**

Summarizing Land Development Code 101-171 (5)(a): Variances shall be approved only if the applicant can demonstrate a good and sufficient cause, that denial would result in unnecessary hardship, it will not be contrary to the public interest, that special conditions exist, and that it will not confer any special privilege on the applicant. Please see the attached pages for the entire city codes relating to Variances.

To assist the Planning & Zoning Committee and City Commission in evaluating this variance request, please answer the following questions:

1. What is the "good and sufficient cause" that explains why this variance should be granted?

This lot has a unique and deviated feature that the other adjacent lots do not have.

2. What are the unnecessary hardships that would result if the variance is not granted?

Unnecessary hardship would result from the strict application of the ordinance and would make designing a home on this lot very difficult.

The hardship is not a self-created hardship and the hardship resulted from conditions that are peculiar to this property.

3. If this variance is granted, would there be any increase to public expense that would not otherwise occur? Would it create a threat to public health and safety? Would it create a nuisance? Or cause fraud or victimization of the public?

The variance if granted would not cause any increases to public expense or create a threat to public health and safety. The variance would not cause a nuisance. The proposed location of the building into the rear yard setback still would be behind the adjacent home. See reference point of line of sight on the drawing for the adjacent home.

4. What are the unique or peculiar physical/geographical circumstances or conditions that apply to this property, but do not apply to other properties in the same zoning district?

This lot has a unique and deviated feature that the other adjacent lots do not have. The property, when originally platted was designed with the rear property line at an angle making the right side of the lot dramatically shorter in depth than the adjacent lots.

5. If the variance is granted, would it confer upon the applicant any special privilege that is denied to other properties in the immediate neighborhood in terms of the established development pattern?

No, it just would make this lot useable like every other lot and still have the same rear line of sight of the adjacent properties.

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## **Office Use Only**

### **Comments and Recommendation of the Building Official**

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**Applicant Questions and Responses-**  
**LAND DEVELOPMENT REGULATIONS - Section 101-171. Variances.**

- (1) **Initiation.** Any owner, agent, lessee or occupant of land or a structure may apply in writing to the city clerk for a variance, on that land, from the requirements of this chapter, except that no request for a use variance will be considered. Details must be included with the request and be filed with the city clerk together with the established fee for a variance. If the applicant is other than the owner of the property, the written consent of the owner for the variance requested must be submitted with the application. When the petitioner is a public agency, the city commission may authorize the waiver or reduction of the fee.
- (2) **Planning and zoning committee procedure.**
- (a) Upon receipt of a written request, the city clerk will deliver the request to the planning and zoning committee.
  - (b) The planning and zoning committee shall make an investigation of the conditions pertaining to the requested variance in advance of the public hearing by the city commission. This investigation shall be at a duly noticed meeting. Mailing of notice of the meeting shall be made by the city to all property owners within three hundred (300) feet of the boundaries of the property which is the subject of the variance request.
  - (c) The planning and zoning committee, shall make their recommendation to the city commission in writing, based upon the standards in (5) below. They may recommend approval or disapproval of the variance or may recommend approval of the same subject to such specified conditions as it may deem to be necessary or advisable in furtherance of the provisions of this chapter. Reasons for the recommendation shall be stated.
- (3) **City commission procedure.**
- (a) After receipt of the planning and zoning committee report, the city commission shall give notice in a newspaper stating the date, time and place of a city commission public hearing as provided for in section 101-173.
  - (b) After their public hearing the city commission may approve or disapprove the requested variance or may approve the same subject to specified conditions as it may deem to be necessary or advisable in furtherance of the provisions of the zoning ordinance. If the applicant desires to present evidence not presented to the planning and zoning committee, the matter shall be returned to the planning and zoning committee for further deliberation and recommendation unless the city commission finds by majority vote that the new evidence is insignificant or unsubstantial.
  - (c) The commission shall state reasons for their decision, based on the standards detailed in (5) below.
  - (d) The decision of the city commission shall be final. No new request for similar action concerning the same property may be made to the city commission or planning and zoning committee for a period of not less than six (6) months after the date of said decision by the city commission.
- (4) **Effective period.**  
A building permit application must be submitted within twelve (12) months of variance approval otherwise the approval expires. Any extension of up to twelve (12) months may be granted by the city commission for good cause.

## **Applicant Questions and Responses-**

### **(5) Standards for granting variances.**

#### **(a) Specific criteria:**

- (1) The applicant shall demonstrate a showing of good and sufficient cause;**
- (2) Failure to grant the variance would result in unnecessary hardship to the applicant;**
- (3) Granting the variance will not result in increased public expenses, create a threat to public health and safety, create a public nuisance, or cause fraud or victimization of the public;**
- (4) Property has unique or peculiar circumstances, which apply to this property, but which do not apply to other properties in the same zoning district;**
- (5) Granting the variance will not give the applicant any special privilege denied other properties in the immediate neighborhood in terms of established development patterns.**



#### **(b) Recommendations to the city commission.**

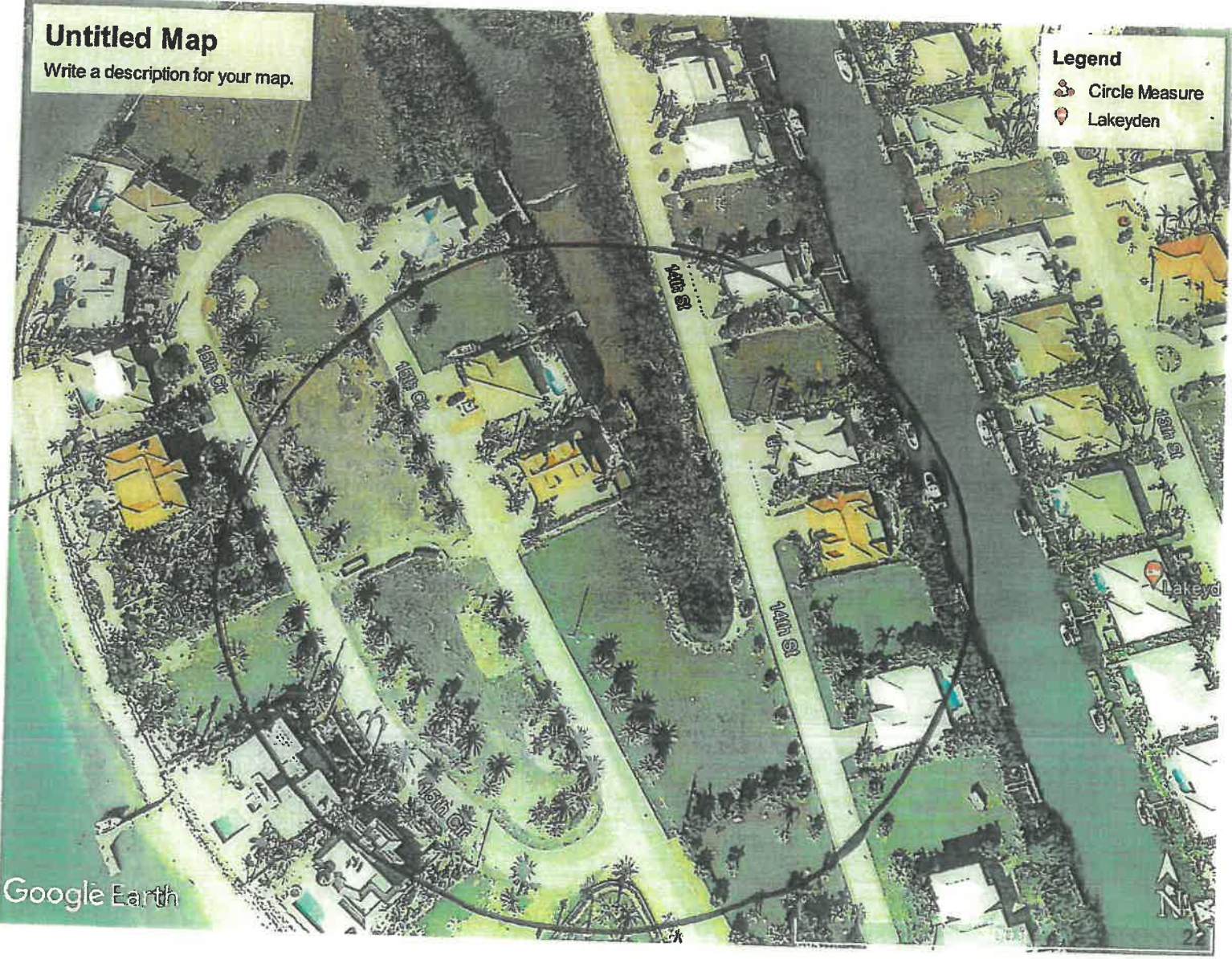
- (1) If all 5 specific criteria are met, then the planning & zoning committee shall recommend approval to the city commission. Approval by the city commission would be by majority vote of the city commission.  
If the planning & zoning committee finds the five (5) specific criteria are not met, they shall recommend disapproval of the variance unless they specifically find that the granting of the variance will have minimal adverse effect on other citizens of the city or on the city. Approval of a variance where all five (5) specific criteria are not met shall require a favorable vote of four-fifths (4/5) of the city commission.**
- (2) Conditions: The planning and zoning committee may recommend, and the city commission may prescribe, appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.**
- (3) Use Variance: Under no circumstances shall the city commission grant a variance to permit a use not generally permitted in the zoning district. No nonconforming use of neighboring lands, structures or buildings in the zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.**

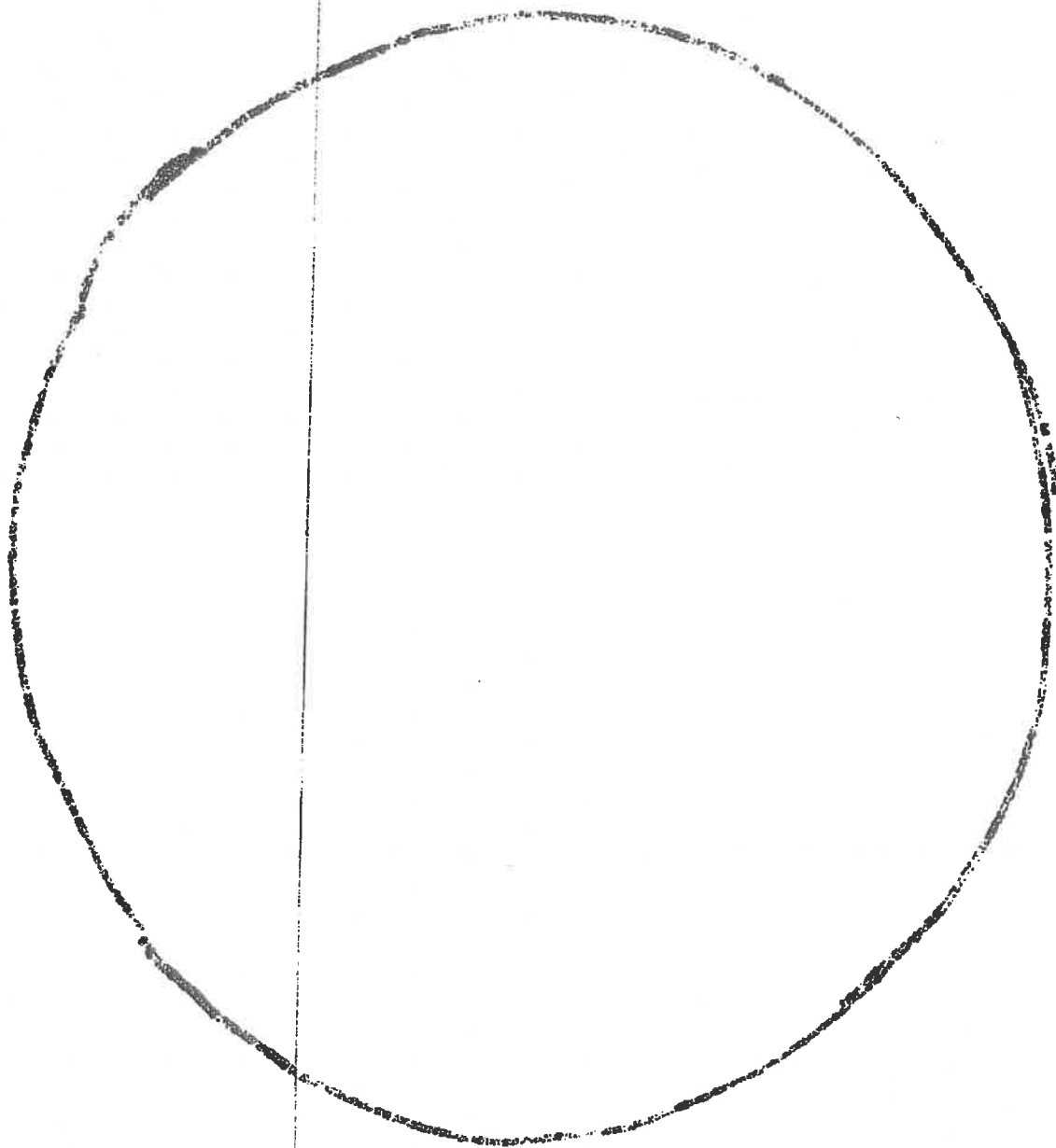
# Untitled Map

Write a description for your map.

## Legend

-  Circle Measure
-  Lakeyden





**(A) Building Particulars:**

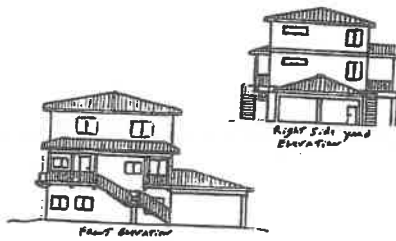
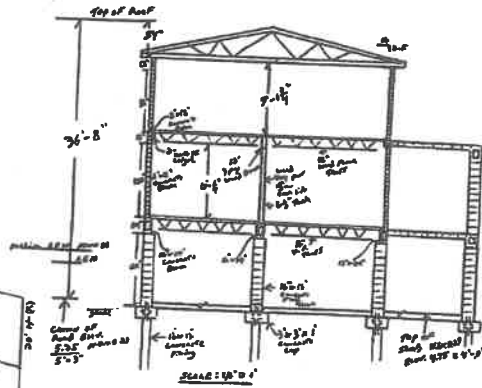
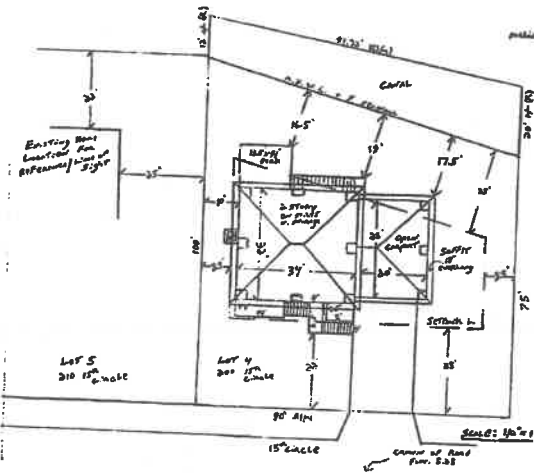
- (1) All exterior corners shall be set to side yard by 36" which is allowed per sec. 101.02 (c)
- (2) All front porch and stairs shall project into the front yard setback by 3 feet, which is allowed per sec. 101.02 (c)
- (3) The driveway shall encroach into the rear yard setback by 5'-6"
- (4) The back staircase shall project into the rear yard setback by 6'-0"
- (5) The open carport shall encroach into the rear yard setback by 7'-6"
- (6) The building height to the top of the roof shall be 36'-8" from the corner of the road, which is a projection past the building height of 36'-0"

**(B) Materials:**

- (1) Roofs 1, 2 and 3 require a minimum of 2" x 6" into the rear yard setback.
- (2) Roofs 4 and 5 require a minimum of 6'-8" above the 36' max building height. Building height is measured from the corner of the road per Article 11 Definitions.

Sheet Number  
Lot 4 and 5  
115-370-0100

Working 8.2A







**(A) Building Restrictions:**

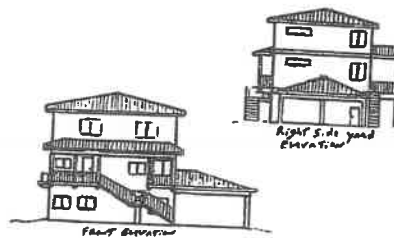
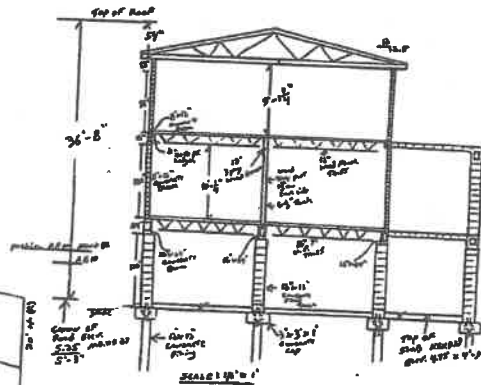
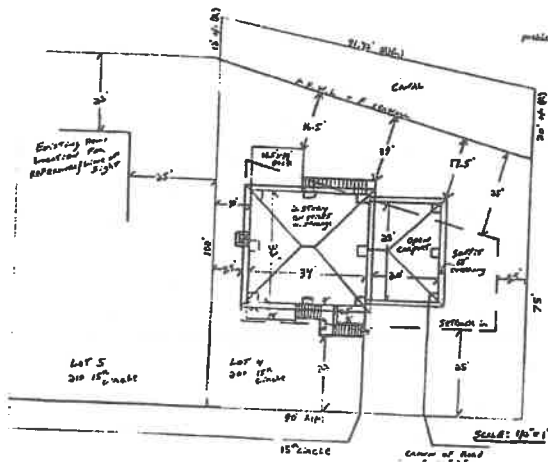
- (1) The maximum projection into the side yard is 4' which is assumed for 10'-0" (B)
- (2) Front porch, porch and staircase projects into the front yard setback of 3 feet, which is assumed for 10'-0" (B)
- (3) The maximum rear projection into the rear yard setback is 5'-5"
- (4) The main staircase projects 2' into the rear yard setback of 6'-0"
- (5) The open carport encroachment into the rear yard setback is 7'-6"
- (6) The building height at the top of the roofridge is 31'-8" from the corner of the road, which is a projection past the building height of 6'-8"

**(B) Setbacks:**

- (1) Section 3, 4 and 5 require a setback of 5'-6" into the rear yard setback.
- (2) Section 6 needs a minimum height of 6'-8" above the 3' main building height. Building height is measured from the corner of the road per Article 11 Definitions.

zoning: R2A

Home # 200200  
Lot 4, 500 sq. ft. lots  
315-720-5200



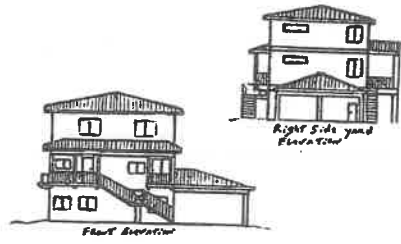
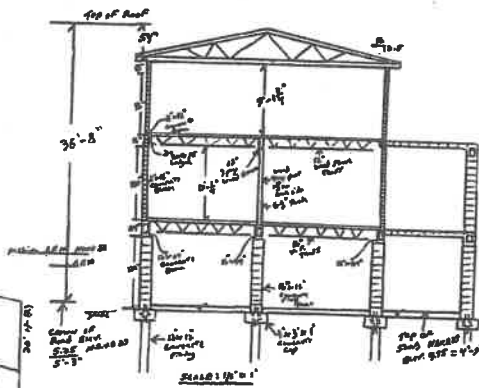
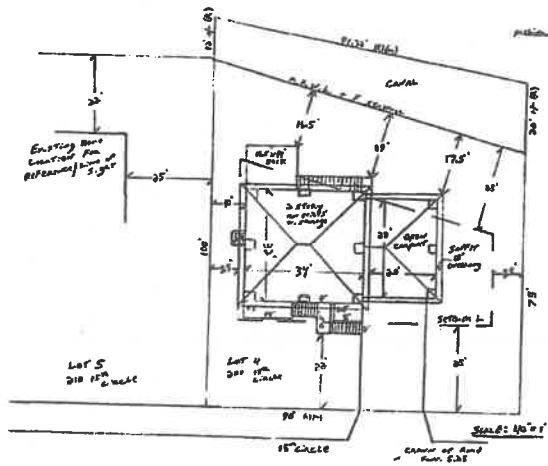


- (A) Building restrictions:
- (1) All front setbacks must be 20' from the front yard setback line.
  - (2) All front setbacks must be 10' from the front yard setback line.
  - (3) All front setbacks must be 5' from the front yard setback line.
  - (4) All front setbacks must be 3' from the front yard setback line.
  - (5) The building height to the top of the roof must be 20' from the corner of the road, which is a projection past the building height of 20'.

- (B) Requirements:
- (1) Section 3, 4 and 5 require a minimum of 6'-6" into the front yard setback.
  - (2) Section 6 must be a minimum height of 6'-6" above the 20' rear building height. Building height is measured from the corner of the road per Article 11.

Section 6.3A

Section 6.3A  
Lot 4 20' 0" setback  
215-770-5200



(A) Building Projections:

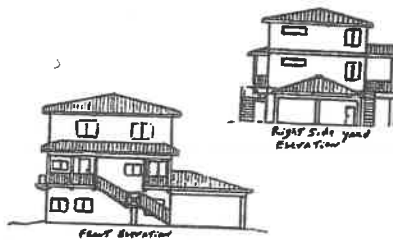
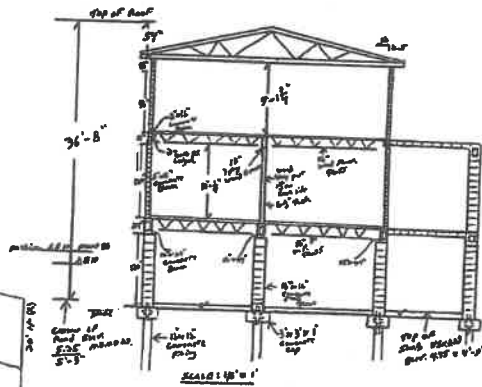
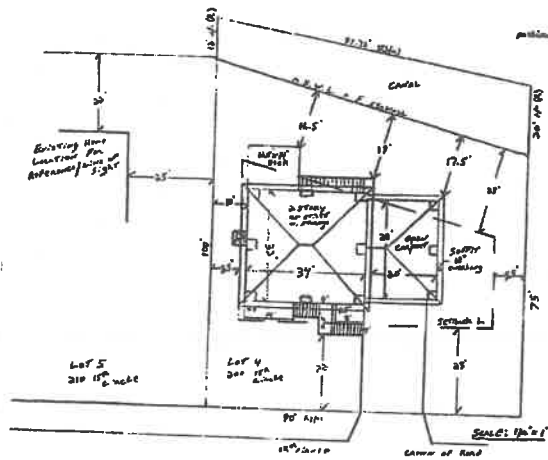
- (1) All projections perpendicular to the side yard by 24" which is assumed per sec. 10-1-2 (a)
- (2) Front porch projection and structure project into the front yard setback by 3 feet, which is assumed per sec. 10-1-2 (b)
- (3) All rear yard beam perpendicular to the rear yard setback by 2'-6"
- (4) The beam structure project into the rear yard setback by 8'-0"
- (5) The rear corner perpendicular to the rear yard setback by 7'-6"
- (6) The building height to the top of the roofridge is 36'-8" from the ground at the rear, which is a projection past the building height of 42'-0"

Setings: B2A

Shawn Escobar  
Lot 5, 200 W. 2nd St.  
SP-72-200

(B) Dimensions:

- (1) Number 1, 4 and 5 require a minimum of 8'-6" into the rear yard setback.
- (2) Number 6 needs a minimum setback of 6'-8" from the 2nd rear building height. Building height is measured from the ground at the rear per Article 11 Definitions.



# City of Key Colony Beach

P.O. Box 510141, Key Colony Beach, FL 33051-0141 • Phone: 305-289-1212  
Fax: 305-289-0247  
www.keycolonybeach.net



April 20, 2022

To: The City of Key Colony Beach Board of Commissioners

From: The Key Colony Beach Planning & Zoning Board

Re: 200 15th Street – Owner: Thomas E. Carden

The Planning & Zoning Board heard the applicant requests for a Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6'-8'. Current maximum height is 30'0".

### Post Hearing Questions Results:

- |                                |  |
|--------------------------------|--|
| 1) Chairperson Joey Raspe      | YES - on all 5 (five) Post Hearing Questions |
| 2) Vice-Chair George Lancaster | **Excused**                                  |
| 3) Board Member Mike Yunker    | YES - on all 5 (five) Post Hearing Questions |
| 4) Board Member Lin Walsh      | **Excused**                                  |
| 5) Board Member Tom DiFransico | YES - on all 5 (five) Post Hearing Questions |

**MOTION:** Motion made by Tom DiFransico, seconded by Joey Raspe, to approve the granting of the requested height variance for 200 15<sup>th</sup> Circle.

**ON THE MOTION:** Roll Call vote. Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Unanimous approval. The Height Variance Request was granted.

**Final Recommendation:** The Planning & Zoning Board recommends to the City of Key Colony Beach Board of Commissioners for the requested height variance for the property at 200 15<sup>th</sup> Circle to be approved.

  
Joey Raspe, Chairperson

# City of Key Colony Beach

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Fax: 305-289-0247  
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April 20, 2022

To: The City of Key Colony Beach Board of Commissioners

From: The Key Colony Beach Planning & Zoning Board

Re: 200 15th Street – Owner: Thomas E. Carden

The Planning & Zoning Board heard the applicants request for a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8'6". Current rear yard minimum is 25'.

## **Post Hearing Questions Results:**

- |                                |   |
|--------------------------------|---|
| 1) Chairperson Joey Raspe      | NO - on all 5 (five) Post Hearing Questions   |
| 2) Vice-Chair George Lancaster | **Excused**   |
| 3) Board Member Mike Yunker    | YES - on all 5 (five) Post Hearing Questions  |
| 4) Board Member Lin Walsh      | **Excused**   |
| 5) Board Member Tom DiFransico | YES - on No. 1 (one), No. 3 (three), No. 4 (four),<br>NO - on No. 5 (five), No. 2 (two) |

**MOTION:** Motion made by Tom DiFransico, seconded by Joey Raspe, to disapprove the granting of the requested setback variance for 200 15th Circle.

**ON THE MOTION:** Roll Call vote. Mike Yunker – no, Tom DiFransico – yes, Joey Raspe – yes. 1 – NO, 2 – YES. The Setback Variance Request was denied.

**Final Recommendation:** The Planning & Zoning Board recommends to the City of Key Colony Beach Board of Commissioners for the requested setback variance for the property at 200 15<sup>th</sup> Circle to be disapproved.

  
\_\_\_\_\_  
Joey Raspe, Chairperson