

AGENDA

KEY COLONY BEACH CITY COMMISSION PUBLIC HEARING

Thursday, September 21, 2023 – 9:30 a.m.

Located at the Temporary Meeting Place for the City of Key Colony Beach,
at the Key Colony Inn Banquet Room, 700 W. Ocean Drive, Key Colony Beach
& Virtually via Zoom

[Zoom Login Information on Page 2 on the Agenda](#)

1. Call to Order, Pledge of Allegiance, Prayer, Roll Call

2. Agenda Additions, Changes & Deletions

3. Approval of Minutes: None

4. Administration of Oath to Witnesses

5. Citizen Comments and Correspondence

Sec. 2-90. - Public participation

(1) Public participation on agenda items: Members of the public may speak for three minutes on any agenda items; and may only speak once unless waived by a majority vote of the commission.

(2) Decorum. Members of the public shall not make inappropriate or offensive comments at a city commission meeting and are expected to comply with the rules of decorum that are established for commissioners. Individuals who violate any rules of the city commission may be ruled out of order by the mayor or on a point of order made by a commissioner. A majority vote of the city commission will rule on the point of order. An individual who violates the rules of decorum may be removed from the meeting at the direction of the mayor.

6. Disclosure of Ex-Parte Communications – Pg. 1

7. Appeal of Building Permit Denial Permit Application #B23-000027 1295 Coury Drive: Applicant appeals the decision of the Key Colony Beach's Building Official pursuant to Sec. 2-2, Sec. 6-14, and Sec. 101-170, for the denial of a building permit for the property located at 1295 Coury Drive, Key Colony Beach, Florida 33051.

a. Proof of Legal Publications – **Pgs. 2-6**

b. Presentation of Building Permit Denial – Building Official/City Attorney

c. Statement by Applicant/Representative – **Pgs. 7-14**

d. Planning & Zoning Board Recommendation

i. Review of Meeting Minutes – **Pgs. 15-33**

ii. Letter of Recommendation – **Pg. 34**

e. City Commission Discussion/Questions

f. Motion to approve, deny, or approve with conditions

8. Variance Request(s):

A. 521 9th Street – Owners: Jane & Jim Walther: Applicant requests a variance to the City of Key Colony Beach Code of Ordinances Chapter 101, Section 26 (11), to allow the installation of a pool within the 10' setback to 5' on one side of the lot. Current setback requirements are 10' feet.

a. Proof of Legal Publications & Affidavits of Mailing/Posting – **Pgs. 35-41**

b. Presentation of Variance Request – Building Department – **Pgs. 42-48**

c. Statement by Applicant/Representative

d. Planning & Zoning Board Recommendation

i. Letter of Recommendation – **Pg. 49**

ii. Review of Meeting Minutes (see Item 7 d(i))

- e. City Commission Discussion/Questions
- f. Motion to approve, deny, or approve with conditions

B. 160 13th Street – Owner: Jennifer Goldstein: Applicant requests a variance to the City of Key Colony Beach Land Development Regulations Article IV. Sec. 101-26 (2), to allow the installation of a tiki hut with a maximum floor area of 192 square feet. Current maxim floor area: 80 square feet with maximum roof overhang of 18 inches.

- a. Proof of Legal Publications & Affidavits of Mailing/Posting - **Pgs. 50-54**
- b. Presentation of Variance Request – Building Department – **Pg. 55-61**
- c. Statement by Applicant/Representative
- d. Planning & Zoning Board Recommendation
 - i. Letter of Recommendation – **Pgs. 62-63**
 - ii. Review of Meeting Minutes (see Item 7 d(i))
- e. City Commission Discussion/Questions
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C. Sunset Park Tiki Hut – Owner: City of Key Colony Beach: Applicant requests a review and confirmation of no variance requirements to the City of Key Colony Beach Land Development Regulations Article III, Section 101-19, for the replacement of the current Tiki Hut with dimensions of 9' x 9', to a Tiki Hut with the dimensions of 15' x 20' at Sunset Park, Key Colony Beach, Florida 33051

- a. Proof of Legal Publications & Affidavits of Mailing/Posting – **Pgs. 64-70**
- b. Presentation of Variance Request – Building Department – **Pgs. 71-87**
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 - i. Letter of Recommendation – **Pg. 88**
 - ii. Review of Meeting Minutes (see Item 7 d(i))
- e. City Commission Discussion/Questions
- f. Motion to approve, deny, or approve with conditions

9. Other Business

10. Adjournment

This meeting will be held at the temporary meeting place for the City of Key Colony Beach at the Key Colony Inn Banquet Hall at 700 W. Ocean Drive, Key Colony Beach and virtually via Zoom.

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://us02web.zoom.us/j/85900711642?pwd=TElFcE9SajhXQWhJMW8wYU5KcERBQT09>
Passcode: 889047

Or One tap mobile:

+13052241968,,85900711642#,,,,*889047# US
+16469313860,,85900711642#,,,,*889047# US

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 305 224 1968 or +1 646 931 3860 or +1 929 205 6099 or +1 301 715 8592 or +1 309 205 3325 or +1 312 626 6799 or +1 346 248 7799 or +1 360 209 5623 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000 or +1 669 444 9171 or +1 669 900 6833 or +1 689 278 1000 or +1 719 359 4580 or +1 253 205 0468 or +1 253 215 8782

Webinar ID: 859 0071 1642

Passcode: 889047

International numbers available: <https://us02web.zoom.us/j/85900711642?pwd=TElFcE9SajhXQWhJMW8wYU5KcERBQT09>

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Passcode: 889047

Or One tap mobile:

+13052241968,,85900711642#,,,,*889047# US
+16469313860,,85900711642#,,,,*889047# US

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 305 224 1968 or +1 646 931 3860 or +1 929 205 6099 or +1 301 715 8592 or +1 309 205 3325 or +1 312 626 6799 or +1 346 248 7799 or +1 360 209 5623 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000 or +1 669 444 9171 or +1 669 900 6833 or +1 689 278 1000 or +1 719 359 4580 or +1 253 205 0468 or +1 253 215 8782

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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).

NOTICE OF CONTINUANCE

**NOTICE IS HEREBY GIVEN,
THAT THE PLANNING & ZONING BOARD HEARING ON JULY 19, 2023,
HAS BEEN CONTINUED UNTIL:**

NEW DATE/TIME:

Planning & Zoning Hearing: August 16th, 2023, 9:30 a.m.
City Commission Public Hearing: September 21, 2023, 9:30 a.m.

LOCATION:

City of Key Colony Beach Temporary Meeting Place
at the Key Colony Inn Banquet Room,
700 W. Ocean Drive, Key Colony Beach, Florida 33051,

THE FOLLOWING AGENDA ITEMS HAVE BEEN CONTINUED:

Agenda Item 7. Appeal of Building Permit Denial Permit Application #B23-000027 1295 Coury Drive: Applicant appeals the decision of the Key Colony Beach's Building Official pursuant to Sec. 2-2, Sec. 6-14, and Sec. 101-170, for the denial of a building permit for the property located at 1295 Coury Drive, Key Colony Beach, Florida 33051.

8. VARIANCE REQUEST(s):

a. 521 9th Street – Owners: Jane & Jim Walther: Applicant requests a variance to the City of Key Colony Beach Code of Ordinances Chapter 101, Section 26 (11), to allow the installation of a pool within the 10' setback to 5' on one side of the lot. Current setback requirements are 10' feet.

b. Sunset Park Tiki Hut – Owner: City of Key Colony Beach: Applicant requests a review and confirmation of no variance requirements to the City of Key Colony Beach Land Development Regulations Article III, Section 101-19, for the replacement of the current Tiki Hut with dimensions of 9' x 9', to a Tiki Hut with the dimensions of 15' x 20' at Sunset Park, Key Colony Beach, Florida 33051

9. Review of Pool Side Setback Requirements to apply to all Zones of Key Colony Beach

Posted: July 19th, 2023

City Clerk, City of Key Colony Beach



Published Weekly
Marathon, Monroe County, Florida

PROOF OF PUBLICATION

STATE OF FLORIDA COUNTY OF MONROE

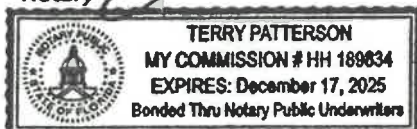
Before the undersigned authority personally appeared JASON KOLER who on oath, says that he is PUBLISHER of the WEEKLY NEWSPAPERS, a weekly newspaper published in Marathon, in Monroe County, Florida: that the attached copy of advertisement was published in said newspaper in the issues of: (date(s) of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

August 3, 2023

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 day of Aug 3, 2023
(SEAL)

Notary



CITY OF KEY COLONY BEACH
NOTICE OF CONTINUANCE
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THE PLANNING & ZONING BOARD
HEARING ON JULY 19, 2023, HAS
BEEN CONTINUED UNTIL:
NEW DATE/TIME:
Planning & Zoning Hearing:
August 16th, 2023, 9:30 a.m.
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LOCATION:
City of Key Colony Beach
Temporary Meeting Place at the
Key Colony Inn Banquet Room,
700 W. Ocean Drive, Key Colony
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of Key Colony Beach
Posted: July 19th, 2023
City Clerk, City of Key Colony
Beach
Publish:
August 3, 2023
The Weekly Newspapers

AFFIDAVIT OF POSTING

STATE OF FLORIDA
COUNTY OF MONROE

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

1. I am the Administrative Assistant to the City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the 3rd day of July, 2023 (no less than 14 days prior to the Planning & Zoning Public Hearing on July 19, 2023, and the City Commission Public Hearing on August 17, 2023) I posted the Notice of Hearing for the property at 1295 Coury Drive, Key Colony Beach, Florida, at the United States Postal Office and at City Hall.

Cheryl Baker

Signature

Sworn and subscribed before me this
3rd day of July, 2023.

Patricia Hyland
Notary Public, State of Florida
My commission expires: 9/30/23



X Personally known

Produced _____ as identification

**NOTICE IS HEREBY GIVEN,
THAT THE CITY OF KEY COLONY BEACH
WILL BE HOLDING PUBLIC HEARINGS ON:**

Planning & Zoning Hearing: Wednesday, July 19, 2023, 9:30 A.M.
City Commission Public Hearing: Thursday, August 17, 2023, 9:30 A.M.

LOCATION:

City of Key Colony Beach Temporary Meeting Place
at the Key Colony Inn Banquet Room,
700 W. Ocean Drive, Key Colony Beach, Florida 33051,

to hear an appeal filed by Kenneth Bohannon, Esq. on behalf of Nicholas Bauer, appealing the Building Official's decision pursuant to Sec. 2-2, Sec. 6-14, and Sec. 101-170, for the denial of a building permit for the property located at 1295 Coury Drive, Key Colony Beach, Florida 33051. This meeting will be available virtually via Zoom Meetings. Members of the public who wish to attend virtually may email cityclerk@keycolonybeach.net or call 305-289-1212, Ext. 2 for further instructions on attending via Zoom Meetings.

Applicant appeals the decision of the Key Colony Beach's Building Official pursuant to sec.2-2, Sec. 6-14 and Sec. 101-170 for the denial of a building permit for the property located at 1295 Coury Drive, Key Colony Beach, Florida 33051.

Interested parties may attend the Hearing and be heard with respect to the requested appeal. 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 Wednesday, July 19, 2023, or Thursday, August 17, 2023, but wish to comment, please direct correspondence to P.O. Box 510141, Key Colony Beach, FL 33051, or cityclerk@keycolonybeach.net and your comments will be entered into the record.

POSTED: On or before July 5th, 2023

PUBLISHED: On or before July 9th, 2023

City Clerk, 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)

July 6, 2023

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 day of July 6, 2023
(SEAL)

Notary



PUBLIC MEETING NOTICE
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A.M.
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Temporary Meeting Place at the
Key Colony Inn Banquet Room,
700 W. Ocean Drive, Key Colony
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to hear an appeal filed by
Kenneth Bohannon, Esq. on
behalf of Nicholas Bauer.

appealing the Building Official's
decision pursuant to Sec. 2-2,
Sec. 6-14, and Sec. 101-170, for
the denial of a building permit
for the property located at 1295
Corry Drive, Key Colony Beach,
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will be available virtually via
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virtually may email cityclerk@
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Applicant appeals the decision
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Beach, Florida 33051.

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If any person decides to appeal
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purpose may need to ensure
that a verbatim record of the
proceedings is made, which
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City Clerk, City of Key Colony
Beach
Publish:
July 6, 2023
The Weekly Newspapers



May 22, 2023

City of Key Colony Beach
P.O. Box 510141
Key Colony Beach, FL 33051

Re: Appeal of Building Permit Denial

Dear City Clerk and Planning and Zoning Committee,

On May 17, 2023, the applicant Nicholas Bauer, received the building permit denial which is attached as Exhibit "A". This letter shall serve as the applicant's appeal of the building official's decision pursuant to Sec. 2-2, Sec. 6-14 and Sec. 101-170.

- (1) Mr. Bauer's mailing address for the purpose of this appeal is c/o 221 North Causeway, Suite A, New Smyrna Beach, FL 32169.
- (2) This appeal arises from the rejection of Mr. Bauer building permit application by the city's building official. As detailed in Exhibit "A", the denial was based on Mr. Bryan's opinion that the presence of a "cloud on title" prevents the issuance of a building permit. Mr. Bryan cites Section 6-6 of the Key Colony Beach Code of Ordinances and Section 553.59, Florida Statutes.

The 1988 Owner's Plat Restriction which affects Mr. Bauer's property states that "Tract "A", as shown on the attached plat is hereby reserved and shall be appurtenant to designated lots within the subdivision as set forth in the Declaration of Covenants, Conditions and Restrictions, and shall be owned and maintained by Coury Subdivision No. Two Dock Owners Association, Inc."

Mr. Bauer readily acknowledges the existence of this restriction and is currently in the process of resolving the "cloud on title" through the judicial system. Despite recognizing the restriction in the plat, Mr. Bauer consistently asserts that (i) the restriction is unenforceable and (ii) any rights granted are private in

Phone: (386) 427-5227 – Facsimile: (386) 423-3909 – Email Info@CFLLawyer.com
221 N. Causeway, Suite A, New Smyrna Beach, FL 32169

nature and the enforcement or compliance with same falls on the affected private individuals and not the city. Consequently, Mr. Bauer, as the fee owner of the property, is entitled to the issuance of a building permit as explained herein.

According to Florida law, a plat restriction is considered both an easement and as a contract. Easements are divided into two categories: dominant and servient estates. The owner of a dominant estate has the right to use another person's property. The property burdened with an easement is called a servient estate. The parties to an easement are bound by the terms outlined within a recorded written contract which must describe the property and the terms or limitations of use. The recorded document is interpreted in the same manner as all other contracts within the state.

The most common example of an easement within Coury Estates is the existence of a utility easement. In the context of a utility easement, the utility provider owns the dominate estate and the individual lot owners own the servient estate. Within the recorded utility easement, the portion of the servient estate needed to provide utilities is described by legal description. Additionally, the rights of the utility provider are described. Generally, these rights are the right to access and maintain the utility connection. Except for those specifically described rights, the individual lot owners maintain all rights in their property.

When considering the plat restriction in this case, we cannot identify a dominant estate owner because the instrument does not specify or designate any lots to fulfill that role. Furthermore, the plat does assign or restrict the property's use for a specific purpose. These two points are significant for a couple of reasons.

Firstly, without the identification of a dominant estate owner, no rights can vest. Such identification could have occurred either by specific identification within the plat or within the "Declaration of Covenants, Conditions and Restrictions" mentioned in it. However, no such document was created or recorded, and as a result, no such document can be found within the public records of Monroe County.

Secondly, even if the developer identified one or more lots as the dominant estate owner, the rights of such an owner would be limited to the language explicitly stated in the granting document. In this case, the plat does impose any limitations or regulations on the property's future use,

thereby permitting the development of a single-family home on the property. Additionally, since the "Declaration of Covenants, Conditions and Restrictions" was never created or recorded, it cannot restrict the property's development.

The plat also mentions that Coury Subdivision No. Two Dock Owners Association, Inc. will be the owner of the property. However, the developer did not establish the business or transfer the property to it. Instead, in the year 2000, the developer transferred the property to Mr. Bauer's company. Subsequently, Mr. Bauer's father formed Coury Subdivision No. Two Dock Owners Association, Inc., which remains inactive, with the applicant being the sole owner of the company.

Finally, on this point, any right, title, or interest granted to other lot owners through the Plat is inherently private and remains unaffected by issuance of a building permit. As a private restriction, the city has firmly positioned itself as a non-interfering party in private disputes. This stance is supported by the adoption of Key Colony Beach Code of Ordinances Sec. 101-30 in 1995, explicitly stating that neither the city nor the building official bears the responsibility of enforcing or complying with private deed restrictions.

Having made the point that the city is not in the business of researching or insuring title, let's move on to the issuance of a building permit and when the city can deny issuance.

The city is bound by obligation to issue Mr. Bauer a building permit in accordance with Florida Statute 553.79, which governs the issuance and denial of building permits. According to the statute, the city, as the enforcing agency, is mandated to grant a permit for the construction of any building or structure that comply with the plans and specifications complying with the Florida Building Code, local construction standards, and appropriate zoning.

Moreover, the statute emphasizes that in cases where a permit is denied or revoked, the local enforcing agency must identify the specific aspects of the plan or project that fail to meet the applicable codes. Doing so allows the applicant to modify their plans to become compliant and move forward with the project.

The stated denial in this instance, fails to identify any portion of the plans or feature of the project which does not comport with the requirements of the Florida Building Code or local ordinance addressing construction standards. In the

absence of legitimate grounds for denial, it is the city's duty to fulfill. In the absence of grounds for denial, the city is required to perform the ministerial duty of issuance of the building permit.

Furthermore, paragraph (16) of Florida Statute 553.79 explicitly states that the city, as the enforcement agency, must issue a building permit for a single-family residential dwelling within 30 business days after receiving the permit application. If the city fails to meet the deadline, the permit application fee must be reduced by 10-percent for each subsequent business day. The reduction is calculated based on the original building fee. In this particular case, the applicant submitted his building permit application on January 27, 2023 and the denial was issued on May 17, 2023, indicating more than 77 business days have elapsed since the initial filing. As a result, the city is obligated to fully waive the building application fee for Mr. Bauer.

In conclusion, it is important to emphasize that the city's role does not extend to guaranteeing property titles or enforcing private agreements among landowners. Therefore, when evaluating a building permit application, the city's review should strictly adhere to assessing compliance with the Florida Building Code, local building ordinances, and zoning regulations. Given that the city's denial is founded on considerations that fall beyond the permissible scope of review, it is evident that Mr. Bauer's building permit application has been unjustly reject. To rectify this error, the city should promptly correct its stance and issue the building permit to Mr. Bauer without further delay.

- (3) The applicant became aware of the disputed action upon issuance of the denial on May 17, 2023.
- (4) The city has designated Mr. Bauer's property as R-1A. According to Sec. 101-10 of the city's code of ordinances, the R-1A zoning district allows for only one specific use: the construction of a "one unit detached dwelling" the conforms with the single-family residential category outlined in the comprehensive plan. However, by denying a building permit application, which otherwise compliant with Florida's Building Code and with the city's building standards, for the sole permissible use on the property, the city effectively deprives the owner of all economically beneficial or productive utilization. This can be seen as a taking of the property, entitling the applicant to fair and complete compensation from the city. It is crucial that the city rectifies this situation by promptly granting the building

permit and acknowledging the owner's right to use of their property.

- (5) The applicant requests the issuance of the building permit without delay.

Should you have any questions or concerns, please feel free to contact me. I remain,

Respectfully,



Kenneth Bohannon, Esq.

Board Certified Expert in Real Estate Law
Enc.

City of Key Colony Beach

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



5/17/2023

Dear Applicant,

The City of Key Colony Beach Building Department received a building permit request for the construction of a Single-Family Dwelling located at 1295 Coury Dr. Permit Application # B23-000027. It has been reviewed by the City's legal counsel and at this time counsel has recommended the City Building Department deny issuance of the requested permit. At this time the application will remain denied until directed otherwise. The applicant may elect to pursue an appeal process.

Please see below from City's Legal Council:

"Mr. Turner:

Per our prior discussion and review of this matter, this is to advise that the City not issue a building permit for the subject property at this juncture based on the "cloud of title" on the subject parcel. For reference, the language for the original subdivision Plat of Coury Subdivision No. Two, specifically Paragraph 5 therein, provides as follows:

"That Tract "A" as shown on the attached plat is hereby reserved and shall be appurtenant to designated lots within the subdivision as set forth in the Declaration of Covenants, Conditions and Restrictions, and shall be owned and maintained by Coury Subdivision No. Two Dock Owners Association, Inc."

Based on the aforementioned plat language restricting Tract A, and in accordance with the provisions of Section 6-6 of the Key Colony Beach Code of Ordinances and Section 553.59, Florida Statutes, the City Attorney has advised that the City not issue a building permit for construction on this parcel until such time as the issue of underlying interests and rights of the any other owners has been resolved and determined or adjudicated accordingly.

Please contact Mr. Smits if you have questions or would like to discuss further."

Roget V. Bryan P.A.

G.L. Leggett

City of Key Colony Beach Building Official

MINUTES
PLANNING & ZONING BOARD
REGULAR MEETING & PUBLIC HEARING

Wednesday, August 16, 2023 - 9:30 a.m.

Key Colony Inn Banquet Room, located at 700 W. Ocean Drive, Key Colony Beach, Florida 33051
& Virtually via Zoom Conferencing

1. Call to Order, Pledge of Allegiance & Roll Call: The Planning & Zoning Regular Meeting and Public Hearing was called to order by Chair George Lancaster at 9:30 am in the morning followed by the Pledge of Allegiance and Rollcall. **Present:** Chair George Lancaster, Vice-Chair Tom DiFransico, Lin Walsh, Bob Glassman, Mike Yunker. **Also present:** City Administrator Dave Turner, Building Assistant Karl Bursa, City Attorney Dirk Smits, Code Board Attorney Jim Dorl, Administrative Assistant Tammie Anderson, City Clerk Silvia Gransee.

Public Attendance: 6

2. Agenda Additions, Deletions, or Changes: None.

3. Citizen Comments & Correspondence: City Clerk Gransee informed on the following citizen correspondence:

07-09-2023, Steven Wenger, 100 13th Street, wrote in opposition to the issuance of a building permit for the property located at 1295 Coury Drive.

07-18-2023, Pam Nada-Caley, no address given, wrote in opposition to the issuance of a building permit for the property located at 1295 Coury Drive.

07-18-2023, Sandra Humphrey, 230 14th Street, wrote in opposition to the issuance of a building permit for the property located at 1295 Coury Drive.

There were no citizen comments.

4. Approval of Minutes: Chair Lancaster accepted the minutes as written with no objections from the Board.

5. Administration of Oath of Witnesses: City Clerk Gransee administered the Oath of Witness to all planning on testifying.

6. Disclosure of Ex-Parte Communication: Board member Mike Yunker informed under agenda item 8c. to have had discussions with those involved and having visited the site but this would not affect his vote. There were no other disclosures.

7. Appeal of Building Permit Denial Permit Application #B23-000027 1295 Coury Drive: Applicant appeals the decision of the Key Colony Beach's Building Official pursuant to Sec. 2-2, Sec. 6-14, and Sec. 101-170, for the denial of a building permit for the property located at 1295 Coury Drive, Key Colony Beach, Florida 33051.

Chair Lancaster introduced the agenda item. City Attorney Smits presented to the Board.

a. Proof of Legal Publications: City Attorney Smits asked for the proof of publications on pages 8 to 12 and the staff report on page 18 to be made part of the record. There were no objections. City Attorney Smits summarized the staff report to the Board. City Attorney Smits explained the determination of a cloud of title and the competing interests which might compromise other property owner rights if a building permit were issued. City Attorney Smits further asked for the lawsuit filed by Mr. Bauer to be entered into evidence. Chair Lancaster noted that the document was just received. City Attorney Smits stated this document to be for the record for establishment of facts, legal fees, and so forth.

b. Presentation of Building Permit Denial: City Attorney Smits asked for testimony from City Administrator Turner. City Administrator Turner testified to the address of the subject property and being aware of competing interests.

City Attorney Smits asked for the Proof of Publications to be called Exhibit A and the Staff Report Exhibit B. City Attorney Smits asked, based upon the submitted evidence, for the building permit to be denied.

c. Statement by Applicant/Representative: Attorney Michael Lyons introduced himself as the representative for Mr. Bauer. Attorney Lyons further introduced Amber Schmidt as a representative from the Home Designer Builder. Attorney Lyons asked for Attorney Bohannon's letter to be entered as Exhibit C. There were no objections from the City Attorney. Attorney Lyons called for testimony from Building Official (Assistant) Bursa. Building Assistant Bursa informed that the events transpired before his employment with the City of Key Colony Beach and stated no knowledge on the subject. Building Assistant Bursa testified on having no knowledge of any technical deficiency's nor knowledge of any other deficiencies.

Attorney Lyons called Amber Schmidt as his next witness. Ms. Amber Schmidt testified to her place of employment, job description, and having submitted the permitting submission for 1295 Coury Drive. Ms. Schmidt testified to the permitting and approval process, including the submission of a species evaluation form, which all were approved by the State. Ms. Amber Schmidt continued testifying on the permit application to the city and her impression on compliance and not receiving any feedback on deficiencies on the permit application or design of the home. Ms. Schmidt testified that she had no knowledge of code restrictions preventing the issuance of a building permit.

Attorney Lyons had no further questions.

City Attorney Smits asked for testimony. Ms. Schmidt testified to her place and time of employment with the company, having received not special training nor license, and the permit having been denied by staff.

City Attorney Smits had no further questions.

Attorney Lyons asked if negative feedback was received from the permit submission which Ms. Amber Lyons denied.

Attorney Lyons had no further witnesses and gave his closing argument. Attorney Lyons spoke about the consideration of the building permit and the evidence that was provided. Attorney Lyons gave arguments on why the permit should be issued and cited the City of Key Colony Beach's Code in support of his argument. Attorney Lyons spoke on the stated statute for reason of denial and informed of a possible scrivener's error for the statute to be non-existing. Attorney Lyons continued giving arguments on private rights and history on the property, and his interpretation of the plat language. Attorney Lyons asked for recommendation for approval to the City Commission consistent with the city's own code and prior actions.

City Attorney Smits corrected the previously mentioned scrivener's error by Attorney Lyons and gave the corrected statute as 553.79 as the basis for denial. There were no objections to the correction.

City Attorney Smits continued explaining that the lawsuit against the city alleges ownership interest and a motion to dismiss is pending in court. City Attorney Smits continued his argument on ownership interests which have to be cleared first.

Chair Lancaster asked for confirmation that the corporation that owns the easement is owned by Mr. Bauer and Mr. Bauer being the owner of the property. Attorney Lyons confirmed both and explained the original plat restriction.

d. Board Member Discussion/Questions

Vice-Chair DiFransico asked for clarification on Tract A in correlation to Lot 1295. Attorney Lyons confirmed for Tract A to be the only tract for 1295 Coury Drive and for the city not to own any property in the plat rights.

Vice-Chair DiFransico asked for clarification on the city's ordinances and the requirement of a clear title prior to the issuance of a building permit. City Attorney Smits explained the underlying basis of legit ownership interests, the original purpose of the lot, and the appurtenant right he believes cannot be extinguished. City Attorney Smits explained the alleged ownership interest by the applicant and cloud on the title. Vice-Chair DiFransico reiterated his question on the requirements of a clear title prior to the issuance of a building permit. City Attorney continued explaining ownership rights. Vice-Chair DiFransico stated his understanding of ownership to be a private issue and not to be injected into the building permit process and no awareness of such document being in existence. Vice-Chair DiFransico further commented on not having read the lawsuit document and his understanding of exercising government authority where it is not needed.

Board Member Lin Walsh asked if the city checks for clear titles before issuing a building permit. City Attorney Smits stated that the city is provided with evidence of ownership which is verified by staff. City Attorney Smits explained the situation was not standard but rather unique.

Attorney Lyons informed of showing only one deed of ownership and for it to be to the applicant. Chair Lancaster gave his understanding that when the permit was denied the lawsuit did not exist. City Attorney Smits stated to have been aware of the issue of competing interests and for denial to be the appropriate course of action for the city until the lawsuit is resolved.

Vice-Chair DiFransico asked if a permit would be issued if the applicant removed the city from the lawsuit. City Attorney Smits stated to have asked the question before and he believes it is being considered. City Attorney Smits gave further thoughts and comparison to the Inch Beach property. Vice-Chair DiFransico asked on property owner rights for permit appeals with similar deeds if issued by the city. City Attorney Smits gave his opinion of being able to do so.

Attorney Michael Lyons explained the wording of the deed document and the original plot that created the lot.

Board member Mike Yunker asked City Attorney Smits on correspondence received from a 13th Street resident stating 120 persons with interests in the property and if each person has the same right in applying for a building permit. City Attorney Smits explained that many of the people that were sued signed quit claim deeds and gave further thoughts on deed rights and plat exemptions on title insurance. Mike Yunker asked about the building permit rights of property owners at Inch Beach which City Attorney Smits stated to be tangled. Mike Yunker further asked on a response regarding the attorney's letter of May 22nd which City Attorney Smits did not have a specific reply but stated the focus to be the cloud of title and city's position to be the issue of competing interests.

Board member Bob Glassman asked on the purpose of quit-claim deeds for the property. City Attorney Smits explained the purpose of a quit-claim deed and how the signing of a quit-claim deed can result in the dismissal from the lawsuit. Attorney Michael Lyons explained the quit-claim deed process has been ongoing for years to attempt to clear the issue in the plat due to exemptions in the title insurance.

Board Member Glassman asked on the original owners that created the plat and their rights to any ownership. City Attorney Smits stated for the plat to have been created a long time ago and a corporation was supposed to be formed by the developer. Attorney Lyons stated for his clients to have received the property from the original developer which is the reason for the corporation that was formed.

e. Planning & Zoning Board Recommendation

Chair Lancaster asked for a motion of a recommendation to the City Commission.

MOTION: Motion made by Mike Yunker to deny the appeal and uphold the decision of the Key Colony Beach Building Department to deny the building permit. Chair Lancaster asked for a second. Lin Walsh seconded the motion.

DISCUSSION: Tom DiFransico disagreed with Mike Yunker and gave his opinion on city government causing interference and stated that the city should not hold a building permit before clear title is given. Mike Yunker disagreed with Vice-Chair DiFransico. Chair Lancaster agreed with Vice-Chair DiFransico and stated for a cloud on the title not being a city issue. Vice-Chair DiFransico gave further thoughts on possible responsibilities of the city.

Board Member Lin Walsh gave her disagreement with not listening to the City Attorney.

Chair Lancaster informed the Board's attorney for this matter to be Attorney Jim Dorl.

Attorney Jim Dorl explained his representation for the Board and further explained not being able to give an opinion on the issue but only recommendations on procedural rule.

There was no further discussion. Board member Mike Yunker restated his motion.

ON THE MOTION: Rollcall vote. Mike Yunker – Yes. George Lancaster – No. Lin Walsh – Yes. Tom DiFransico – No. Bob Glassman – Yes. The motion passed.

8. VARIANCE REQUEST(s):

A. 521 9th Street – Owners: Jane & Jim Walther: Applicant requests a variance to the City of Key Colony Beach Code of Ordinances Chapter 101, Section 26 (11), to allow the installation of a pool within the 10' setback to 5' on one side of the lot. Current setback requirements are 10' feet.

a. Proof of Legal Publications & Affidavits of Mailing/Posting: Included in the agenda packet.

b. Presentation of Variance Request: Chair Lancaster introduced the agenda item. City Administrator Dave Turner explained the matter of side setback requests to be currently under city review and staff recommending the approval of the requested variance.

Board Member Yunker asked if this request falls under previous granted requests which City Administrator Turner confirmed.

c. Statement by Applicant: No additional statement was given.

d. Applicant Questions & Responses: Included in agenda packet.

e. (f) Planning & Zoning Board Recommendation: Chair Lancaster asked for a motion.

MOTION: Motion made by Mike Yunker to approve the variance request for 521 9th Street. Bob Glassman seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

Chair Lancaster informed of having overlooked the Post Hearing Questions which City Clerk Gransee confirmed. Chair Lancaster proceeded to read the Post Hearing questions.

f (e) Post Hearing Questions:

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

Mike Yunker	YES
George Lancaster	YES
Lin Walsh	YES
Tom DiFransico	YES
Bob Glassman	YES

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

Bog Glassman	YES
George Lancaster	YES
Lin Walsh	YES
Tom DiFransico	YES
Mike Yunker	YES

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

Lin Walsh	YES
Bob Glassman	YES
Tim DiFransico	YES
Mike Yunker	YES
George Lancaster	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.

Tom DiFransico	YES
Mike Yunker	YES
Bob Glassman	YES
George Lancaster	YES

Lin Walsh YES

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

Mike Yunker YES
George Lancaster YES
Lin Walsh YES
Bob Glassman YES
Tom DiFransico YES

Chair Lancaster asked for a repeat of the motion.

MOTION: Motion made by Mike Yunker to approve. Bob Glassman seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

City Clerk Gransee informed the applicants on the upcoming City Commission meeting on September 21st.

B. 160 13th Street – Owner: Jennifer Goldstein: Applicant requests a variance to the City of Key Colony Beach Land Development Regulations Article IV. Sec. 101-26 (2), to allow the installation of a tiki hut with a maximum floor area of 192 square feet. Current maxim floor area: 80 square feet with maximum roof overhang of 18 inches.

a. Proof of Legal Publications & Affidavits of Mailing/Posting: Included in the agenda packet.

b. (d) Applicant Questions & Responses: City Clerk Gransee read the applicants statement.

c. (b) Presentation of Variance Request: Building Assistant Bursa spoke on behalf of Building Official Leggett and gave a report on his review of the variance request and recommended approval.

d (c). Statement by Applicant: Charlie Peterson, representative for the owner of the property, explained the available green space and no one being able to see the Tiki Hut unless from the water.

Mike Yunker stated for the Tiki Hut to be double the size than the current code allows and asked if similar approvals have taken place in past. Building Assistant Bursa could not answer to the question. Mike Yunker further asked if this approval would mean automatic approvals in the future. Building Assistant Bursa did not believe so and for this to be a side specific consideration with no automatic approval.

Tom DiFransico asked for the basis of the size limitation in the city's code and the question on unnecessary hardship and rational. Building Assistant Karl could not answer on the question of rational and for the decision of hardship to fall to the Board. Building Assistant Bursa confirmed no correspondence from the neighbors. Member Bob Glassman stated the Tiki could be attached to the house and could be made much larger. Building Assistant Bursa confirmed the fact. Bob Glassman expressed his concern on building something bigger than what the city has regulations for.

e. Post Hearing Questions

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

Mike Yunker YES
George Lancaster YES
Lin Walsh YES
Tom DiFransico YES
Bob Glassman NO

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

Bob Glassman	NO
George Lancaster	YES
Lin Walsh	YES
Tom DiFransico	NO
Mike Yunker	NO

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

Lin Walsh	YES
Bob Glassman	NO
Tim DiFransico	YES
Mike Yunker	YES
George Lancaster	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.

Tom DiFransico	YES
Mike Yunker	YES
Bob Glassman	NO
George Lancaster	YES
Lin Walsh	YES

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

Mike Yunker	YES
George Lancaster	YES
Lin Walsh	YES
Bob Glassman	NO
Tom DiFransico	YES

f. Planning & Zoning Board Recommendation: Chair Lancaster asked for clarification on how to proceed. City Attorney Smits explained the necessity of establishing all five criteria by majority vote. City Clerk Gransee confirmed question No. 2 not having established criteria. City Attorney Smits cited the city's code and the need for good and sufficient cause. Chair Lancaster stated to inform the Commission that only four out five criteria have been met which City Attorney Smits confirmed. Mike Yunker noted that the applicant noted in Question No. 2 that no hardship exists.

City Clerk Gransee confirmed on composing a letter of recommendation and for the matter to be heard by the City Commission in September.

The Commission discussed whether a motion for a recommendation is necessary.

MOTION: Motion made by Mike Yunker to deny the applicants variance request based upon failure to establish unnecessary hardship in Post Hearing Question No. 2. Chair Lancaster asked for a second. Vice-Chair Tom DiFransico seconded the motion.

DISCUSSION: City Clerk Gransee confirmed the motion.

ON THE MOTION: Rollcall vote. Unanimous approval.

C. Sunset Park Tiki Hut – Owner: City of Key Colony Beach: Applicant requests a review and confirmation of no variance requirements to the City of Key Colony Beach Land Development Regulations Article III, Section 101-19, for the replacement of the current Tiki Hut with dimensions of 9' x 9', to a Tiki Hut with the dimensions of 15' x 20' at Sunset Park, Key Colony Beach, Florida 33051

Chair Lancaster introduced the agenda item.

a. Proof of Legal Publications & Affidavits of Mailing/Posting: Included in the agenda packet.

b. Presentation of Variance Request: City Administrator Turner presented the variance request and reported that the Key Colony Beach Community Association made a donation to upgrade the Tiki Hut. City Administrator Turner informed having found no restrictions in the city's code and asked, for transparency reasons, for directions from the Planning & Zoning Board on how to move forward. City Administrator Turner explained no downside for the city and highwater mark requirements are being met. City Administrator Turner confirmed the older Tiki Hut to be relocated next to the bathroom which will not require a variance. City Administrator Turner informed the property being on the endangered species lists for tree snails and the tree cactus which are predominantly found in the tree or hedge line. City Administrator Turner confirmed for the property being surveyed prior to the work.

c. Statement by Applicant

d. Applicant Questions & Responses: Vice-Chair DiFransico asked of the necessity of a variance. City Administrator Turner explained there is none required to his knowledge and the purpose for the hearing is for conformation and transparency. City Administrator Turner informed on Building Assistant's Bursa's findings of no variance required. Mike Yunker asked about the need for approval from the Board. City Attorney Smits gave his opinion on recommendations to the City Commission and after discussion the Board decided that no Post Hearing questions are required.

e. Post Hearing Questions: Not required.

f. Planning & Zoning Board Recommendation: Chair Lancaster asked for a motion.

MOTION: Motion made by Mike Yunker to make a recommendation of approval on the basis of being exempt and no variance requirements are needed. Chair Lancaster asked for second. Bob Glassman seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

9. Discussion/Recommendation: Review on Pool Side Setback Requirements to apply to all Zones of Key Colony Beach Ordinance No. 2023-483 Pool Side Setback Amendment May 8, 2023.

Chair Lancaster introduced the agenda item. Building Assistant Bursa explained that during a review of the adopted pool side setback requirements additional language was discovered which granted the 5-foot setback requirements to all zones. Chair Lancaster stated that this was not the intention of the Board. City Attorney Smits explained for this to be a scrivener's error and the intended restriction still apply to the R2B zone. City Attorney Smits acknowledged for the scrivener's error to be corrected.

City Attorney Bryan recalled the original intent of the adopted ordinance and explained that the legislative intent will be clarified with an amendment in the following month.

Mike Yunker asked for clarification why the item is on the agenda in front of the Board.

City Clerk Gransee explained the original placement of the item on the agenda and the scriveners error discovered in the process.

The Board decided to table the discussion until the corrections in the ordinance have been made. City Attorney Smits agreed and stated that no permits will be granted outside of the R2B zone and owners will still need to go through a variance request.

Vice-Chair DiFransico asked for the Building Department to identify the reasons for rules on setbacks and criteria for establishment. Vice-Chair DiFransico further spoke on the ability for emergency vehicles to park between houses. City Administrator Turner explained that fire trucks will not go between structures and explained the purpose of the ordinance as originally intended.

10. Discussion/Recommendation on attendance requirements of Alternate Planning & Zoning Board members.

Board Member Mike Yunker spoke on the agenda item and asked for the process on attendance. City Clerk Gransee informed of contacting the alternates if no quorum is established. Chair Lancaster expressed that he would like alternates attending for any meeting if an opening is available. Mike Yunker agreed for if there is an opening an alternate should attend. Chair Lancaster spoke on his responsibility of approving absentees. City Clerk Gransee agreed and asked for the City Attorney to clarify any questions. Board member Lin Walsh spoke on the ability to receive permission to attend and vote via Zoom. City Attorney Smits explained the Attorney General's opinion on a physical quorum and attendance via zoom. City Clerk Gransee clarified the question. City Attorney Smits explained the Sunshine Law and stated to understand the problem and working on a solution. City Attorney Smits recalled an event of Sunshine Law Violations some years ago and the ramification it presented. City Attorney Smits explained the possibility of an entire meeting being void with a break in Sunshine Law prior. City Clerk Gransee explained the process of establishing a quorum and clarified the desired protocol.

Mike Yunker asked on the physical and zoom requirements and asked for alternates to be available to fill any open positions. Lin Walsh agreed with Mike Yunker and the importance of attending and participating. Bob Glassman spoke on the attendance of alternates. Chair Lancaster stated better communications going forward. City Clerk Gransee stated that the alternates are always copied on all meeting communications and explained going forward to establish availability with the alternates for every meeting. Lin Walsh recalled attendance as an alternate on the Utility Board. City Clerk Gransee stated that there has not been a prior issue. The Board agreed to replace any in-person absence of a regular board member with an alternate member in an attempt to have five in-person members at each meeting, prior to allowing any member to attend via Zoom. The Board had no further discussions.

11. Other Business

12. Adjourn: the meeting adjourned at 11:09 am.

Respectfully submitted,
Silvia Gransee
City Clerk

NOTICE OF CONTINUANCE

**NOTICE IS HEREBY GIVEN,
THAT THE PLANNING & ZONING BOARD HEARING ON JULY 19, 2023,
HAS BEEN CONTINUED UNTIL:**

NEW DATE/TIME:

Planning & Zoning Hearing: August 16th, 2023, 9:30 a.m.
City Commission Public Hearing: September 21, 2023, 9:30 a.m.

LOCATION:

City of Key Colony Beach Temporary Meeting Place
at the Key Colony Inn Banquet Room,
700 W. Ocean Drive, Key Colony Beach, Florida 33051,

THE FOLLOWING AGENDA ITEMS HAVE BEEN CONTINUED:

Agenda Item 7. Appeal of Building Permit Denial Permit Application #B23-000027 1295 Coury Drive: Applicant appeals the decision of the Key Colony Beach's Building Official pursuant to Sec. 2-2, Sec. 6-14, and Sec. 101-170, for the denial of a building permit for the property located at 1295 Coury Drive, Key Colony Beach, Florida 33051.

8. VARIANCE REQUEST(s):

a. 521 9th Street – Owners: Jane & Jim Walther: Applicant requests a variance to the City of Key Colony Beach Code of Ordinances Chapter 101, Section 26 (11), to allow the installation of a pool within the 10' setback to 5' on one side of the lot. Current setback requirements are 10' feet.

b. Sunset Park Tiki Hut – Owner: City of Key Colony Beach: Applicant requests a review and confirmation of no variance requirements to the City of Key Colony Beach Land Development Regulations Article III, Section 101-19, for the replacement of the current Tiki Hut with dimensions of 9' x 9', to a Tiki Hut with the dimensions of 15' x 20' at Sunset Park, Key Colony Beach, Florida 33051

9. Review of Pool Side Setback Requirements to apply to all Zones of Key Colony Beach

Posted: July 19th, 2023

City Clerk, City of Key Colony Beach



Published Weekly
Marathon, Monroe County, Florida

PROOF OF PUBLICATION

STATE OF FLORIDA COUNTY OF MONROE

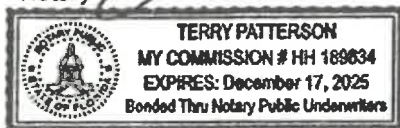
Before the undersigned authority personally appeared **JASON KOLER** who on oath, says that he is **PUBLISHER** of the **WEEKLY NEWSPAPERS**, a weekly newspaper published in Marathon, in Monroe County, Florida; that the attached copy of advertisement was published in said newspaper in the issues of: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

August 3, 2023

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 day of *Aug 3*, 2023
(SEAL)

Notary



CITY OF KEY COLONY BEACH
NOTICE OF CONTINUANCE
NOTICE IS HEREBY GIVEN, THAT
THE PLANNING & ZONING BOARD
HEARING ON JULY 19, 2023, HAS
BEEN CONTINUED UNTIL:
NEW DATE/TIME:
Planning & Zoning Hearing:
August 16th, 2023, 9:30 a.m.
City Commission Public Hearing:
September 21, 2023, 9:30 a.m.
LOCATION:
City of Key Colony Beach
Temporary Meeting Place at the
Key Colony Inn Banquet Room,
700 W. Ocean Drive, Key Colony
Beach, Florida 33051
THE FOLLOWING AGENDA ITEMS
HAVE BEEN CONTINUED:
Agenda Item 7. Appeal of Building
Permit Denial Permit Application
#B23-005527 1295 Courty Drive:
Applicant appeals the decision of
the Key Colony Beach's Building
Official pursuant to Sec. 2-2, Sec.
6-14, and Sec. 101-170, for the
denial of a building permit for the
property located at 1295 Courty
Drive, Key Colony Beach, Florida
33051.
8. VARIANCE REQUEST(s):
a. 521 9th Street - Owners: Jane &
Jim Walther: Applicant requests a
variance to the City of Key Colony
Beach Code of Ordinances Chapter
101, Section 26 (11), to allow the
installation of a pool within the
10' setback to 5' on one side of the
lot. Current setback requirements
are 10' feet.
b. Sunset Park Tiki Hut - Owner:
City of Key Colony Beach:
Applicant requests a review
and confirmation of no variance
requirements to the City of Key
Colony Beach Land Development
Regulations Article III, Section
101-19, for the replacement of the
current Tiki Hut with dimensions
of 9' x 9' to a Tiki Hut with the
dimensions of 15' x 20' at Sunset
Park, Key Colony Beach, Florida
33051.
9. Review of Pool Side Setback
Requirements to apply to all Zones
of Key Colony Beach
Posted: July 19th, 2023
City Clerk, City of Key Colony
Beach
Publisher:
August 3, 2023
The Weekly Newspapers

AFFIDAVIT OF POSTING

STATE OF FLORIDA
COUNTY OF MONROE

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

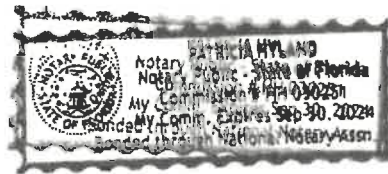
1. I am the Administrative Assistant to the City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the 3rd day of July, 2023 (no less than 14 days prior to the Planning & Zoning Public Hearing on July 19, 2023, and the City Commission Public Hearing on August 17, 2023) I posted the Notice of Hearing for the property at 1295 Coury Drive, Key Colony Beach, Florida, at the United States Postal Office and at City Hall.

Cheryl Baker

Signature

Sworn and subscribed before me this
3rd day of July, 2023.

Patricia Myland
Notary Public, State of Florida
My commission expires: 9/30/23



X Personally known

Produced _____ as identification

**NOTICE IS HEREBY GIVEN,
THAT THE CITY OF KEY COLONY BEACH
WILL BE HOLDING PUBLIC HEARINGS ON:**

Planning & Zoning Hearing: Wednesday, July 19, 2023, 9:30 A.M.
City Commission Public Hearing: Thursday, August 17, 2023, 9:30 A.M.

LOCATION:

City of Key Colony Beach Temporary Meeting Place
at the Key Colony Inn Banquet Room,
700 W. Ocean Drive, Key Colony Beach, Florida 33051,

to hear an appeal filed by Kenneth Bohannon, Esq. on behalf of Nicholas Bauer, appealing the Building Official's decision pursuant to Sec. 2-2, Sec. 6-14, and Sec. 101-170, for the denial of a building permit for the property located at 1295 Coury Drive, Key Colony Beach, Florida 33051. This meeting will be available virtually via Zoom Meetings. Members of the public who wish to attend virtually may email cityclerk@keycolonybeach.net or call 305-289-1212, Ext. 2 for further instructions on attending via Zoom Meetings.

Applicant appeals the decision of the Key Colony Beach's Building Official pursuant to sec.2-2, Sec, 6-14 and Sec. 101-170 for the denial of a building permit for the property located at 1295 Coury Drive, Key Colony Beach, Florida 33051.

Interested parties may attend the Hearing and be heard with respect to the requested appeal. 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 Wednesday, July 19, 2023, or Thursday, August 17, 2023, but wish to comment, please direct correspondence to P.O. Box 510141, Key Colony Beach, FL 33051, or cityclerk@keycolonybeach.net and your comments will be entered into the record.

POSTED: On or before July 5th, 2023

PUBLISHED: On or before July 9th, 2023

City Clerk, City of Key Colony Beach



Published Weekly
Marathon, Monroe County, Florida

PROOF OF PUBLICATION

STATE OF FLORIDA COUNTY OF MONROE

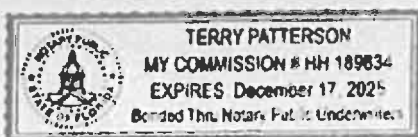
Before the undersigned authority personally appeared JASON KOLER who on oath, says that he is PUBLISHER of the WEEKLY NEWSPAPERS, a weekly newspaper published in Marathon, in Monroe County, Florida; that the attached copy of advertisement was published in said newspaper in the issues of: (date(s) of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

July 6, 2023

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 day of July 6, 2023
(SEAL)

Notary



PUBLIC MEETING NOTICE
NOTICE IS HEREBY GIVEN, THAT
THE CITY OF KEY COLONY
BEACH WILL BE HOLDING
PUBLIC HEARINGS ON:
Planning & Zoning Hearing:
Wednesday, July 19, 2023, 9:30
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City of Key Colony Beach
Temporary Meeting Place at the
Key Colony Inn Banquet Room,
700 W. Ocean Drive, Key Colony
Beach, Florida 33051,
to hear an appeal filed by
Kenneth Bohannon, Esq. on
behalf of Nicholas Bauer,

appealing the Building Official's
decision pursuant to Sec. 2-2,
Sec. 6-14, and Sec. 101-170 for
the denial of a building permit
for the property located at 1295
Corry Drive, Key Colony Beach,
Florida 33051. This meeting
will be available virtually via
Zoom Meetings. Members of
the public who wish to attend
virtually may email cityclerk@
keycolonybeach.net or call
305-289-1212, Ext. 2 for further
instructions on attending via
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Applicant appeals the decision
of the Key Colony Beach's
Building Official pursuant to
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Interested parties may attend
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respect to the requested appeal.
If any person decides to appeal
any decision made by the City
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to any matter considered at
the Variance Hearing, that
person will need a record of
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City Clerk, City of Key Colony
Beach
Publish:
July 6, 2023
The Weekly Newspapers

"B"

City of Key Colony Beach

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



5/17/2023

Dear Applicant,

The City of Key Colony Beach Building Department received a building permit request for the construction of a Single-Family Dwelling located at 1295 Coury Dr. Permit Application # B23-000027. It has been reviewed by the City's legal counsel and at this time counsel has recommended the City Building Department deny issuance of the requested permit. At this time the application will remain denied until directed otherwise. The applicant may elect to pursue an appeal process.

Please see below from City's Legal Council:

"Mr. Turner:

Per our prior discussion and review of this matter, this is to advise that the City not issue a building permit for the subject property at this juncture based on the "cloud of title" on the subject parcel. For reference, the language for the original subdivision Plat of Coury Subdivision No. Two, specifically Paragraph 5 therein, provides as follows:

"That Tract "A" as shown on the attached plat is hereby reserved and shall be appurtenant to designated lots within the subdivision as set forth in the Declaration of Covenants, Conditions and Restrictions, and shall be owned and maintained by Coury Subdivision No. Two Dock Owners Association, Inc."

Based on the aforementioned plat language restricting Tract A, and in accordance with the provisions of Section 6-6 of the Key Colony Beach Code of Ordinances and Section 553.59, Florida Statutes, the City Attorney has advised that the City not issue a building permit for construction on this parcel until such time as the issue of underlying interests and rights of the any other owners has been resolved and determined or adjudicated accordingly. Please contact Mr. Smits if you have questions or would like to discuss further."

Roget V. Bryan P.A.

G.L. Leggett

City of Key Colony Beach Building Official

"C"



May 22, 2023

City of Key Colony Beach
P.O. Box 510141
Key Colony Beach, FL 33051

Re: Appeal of Building Permit Denial

Dear City Clerk and Planning and Zoning Committee,

On May 17, 2023, the applicant Nicholas Bauer, received the building permit denial which is attached as Exhibit "A". This letter shall serve as the applicant's appeal of the building official's decision pursuant to Sec. 2-2, Sec. 6-14 and Sec. 101-170.

- (1) Mr. Bauer's mailing address for the purpose of this appeal is c/o 221 North Causeway, Suite A, New Smyrna Beach, FL 32169.
- (2) This appeal arises from the rejection of Mr. Bauer building permit application by the city's building official. As detailed in Exhibit "A", the denial was based on Mr. Bryan's opinion that the presence of a "cloud on title" prevents the issuance of a building permit. Mr. Bryan cites Section 6-6 of the Key Colony Beach Code of Ordinances and Section 553.59, Florida Statutes.

The 1988 Owner's Plat Restriction which affects Mr. Bauer's property states that "Tract "A", as shown on the attached plat is hereby reserved and shall be appurtenant to designated lots within the subdivision as set forth in the Declaration of Covenants, Conditions and Restrictions, and shall be owned and maintained by Coury Subdivision No. Two Dock Owners Association, Inc."

Mr. Bauer readily acknowledges the existence of this restriction and is currently in the process of resolving the "cloud on title" through the judicial system. Despite recognizing the restriction in the plat, Mr. Bauer consistently asserts that (i) the restriction is unenforceable and (ii) any rights granted are private in

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221 N. Causeway, Suite A, New Smyrna Beach, FL 32169

nature and the enforcement or compliance with same falls on the affected private individuals and not the city. Consequently, Mr. Bauer, as the fee owner of the property, is entitled to the issuance of a building permit as explained herein.

According to Florida law, a plat restriction is considered both an easement and as a contract. Easements are divided into two categories: dominant and servient estates. The owner of a dominant estate has the right to use another person's property. The property burdened with an easement is called a servient estate. The parties to an easement are bound by the terms outlined within a recorded written contract which must describe the property and the terms or limitations of use. The recorded document is interpreted in the same manner as all other contracts within the state.

The most common example of an easement within Coury Estates is the existence of a utility easement. In the context of a utility easement, the utility provider owns the dominate estate and the individual lot owners own the servient estate. Within the recorded utility easement, the portion of the servient estate needed to provide utilities is described by legal description. Additionally, the rights of the utility provider are described. Generally, these rights are the right to access and maintain the utility connection. Except for those specifically described rights, the individual lot owners maintain all rights in their property.

When considering the plat restriction in this case, we cannot identify a dominant estate owner because the instrument does not specify or designate any lots to fulfill that role. Furthermore, the plat does assign or restrict the property's use for a specific purpose. These two points are significant for a couple of reasons.

Firstly, without the identification of a dominant estate owner, no rights can vest. Such identification could have occurred either by specific identification within the plat or within the "Declaration of Covenants, Conditions and Restrictions" mentioned in it. However, no such document was created or recorded, and as a result, no such document can be found within the public records of Monroe County.

Secondly, even if the developer identified one or more lots as the dominant estate owner, the rights of such an owner would be limited to the language explicitly stated in the granting document. In this case, the plat does impose any limitations or regulations on the property's future use,

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thereby permitting the development of a single-family home on the property. Additionally, since the "Declaration of Covenants, Conditions and Restrictions" was never created or recorded, it cannot restrict the property's development.

The plat also mentions that Coury Subdivision No. Two Dock Owners Association, Inc. will be the owner of the property. However, the developer did not establish the business or transfer the property to it. Instead, in the year 2000, the developer transferred the property to Mr. Bauer's company. Subsequently, Mr. Bauer's father formed Coury Subdivision No. Two Dock Owners Association, Inc., which remains inactive, with the applicant being the sole owner of the company.

Finally, on this point, any right, title, or interest granted to other lot owners through the Plat is inherently private and remains unaffected by issuance of a building permit. As a private restriction, the city has firmly positioned itself as a non-interfering party in private disputes. This stance is supported by the adoption of Key Colony Beach Code of Ordinances Sec. 101-30 in 1995, explicitly stating that neither the city nor the building official bears the responsibility of enforcing or complying with private deed restrictions.

Having made the point that the city is not in the business of researching or insuring title, let's move on to the issuance of a building permit and when the city can deny issuance.

The city is bound by obligation to issue Mr. Bauer a building permit in accordance with Florida Statute 553.79, which governs the issuance and denial of building permits. According to the statute, the city, as the enforcing agency, is mandated to grant a permit for the construction of any building or structure that comply with the plans and specifications complying with the Florida Building Code, local construction standards, and appropriate zoning.

Moreover, the statute emphasizes that in cases where a permit is denied or revoked, the local enforcing agency must identify the specific aspects of the plan or project that fail to meet the applicable codes. Doing so allows the applicant to modify their plans to become compliant and move forward with the project.

The stated denial in this instance, fails to identify any portion of the plans or feature of the project which does not comport with the requirements of the Florida Building Code or local ordinance addressing construction standards. In the

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absence of legitimate grounds for denial, it is the city's duty to fulfill. In the absence of grounds for denial, the city is required to perform the ministerial duty of issuance of the building permit.

Furthermore, paragraph (16) of Florida Statute 553.79 explicitly states that the city, as the enforcement agency, must issue a building permit for a single-family residential dwelling within 30 business days after receiving the permit application. If the city fails to meet the deadline, the permit application fee must be reduced by 10-percent for each subsequent business day. The reduction is calculated based on the original building fee. In this particular case, the applicant submitted his building permit application on January 27, 2023 and the denial was issued on May 17, 2023, indicating more than 77 business days have elapsed since the initial filing. As a result, the city is obligated to fully waive the building application fee for Mr. Bauer.

In conclusion, it is important to emphasize that the city's role does not extend to guaranteeing property titles or enforcing private agreements among landowners. Therefore, when evaluating a building permit application, the city's review should strictly adhere to assessing compliance with the Florida Building Code, local building ordinances, and zoning regulations. Given that the city's denial is founded on considerations that fall beyond the permissible scope of review, it is evident that Mr. Bauer's building permit application has been unjustly reject. To rectify this error, the city should promptly correct its stance and issue the building permit to Mr. Bauer without further delay.

- (3) The applicant became aware of the disputed action upon issuance of the denial on May 17, 2023.
- (4) The city has designated Mr. Bauer's property as R-1A. According to Sec. 101-10 of the city's code of ordinances, the R-1A zoning district allows for only one specific use: the construction of a "one unit detached dwelling" the conforms with the single-family residential category outlined in the comprehensive plan. However, by denying a building permit application, which otherwise compliant with Florida's Building Code and with the city's building standards, for the sole permissible use on the property, the city effectively deprives the owner of all economically beneficial or productive utilization. This can be seen as a taking of the property, entitling the applicant to fair and complete compensation from the city. It is crucial that the city rectifies this situation by promptly granting the building

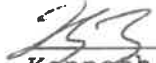
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permit and acknowledging the owner's right to use of their property.

- (5) The applicant requests the issuance of the building permit without delay.

Should you have any questions or concerns, please feel free to contact me. I remain,

Respectfully,



Kenneth Bohannon, Esq.
Board Certified Expert in Real Estate Law
Enc.

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



August 16, 2023

To: The City of Key Colony Beach Board of Commissioners

From: The Key Colony Beach Planning & Zoning Board

Re: Appeal of Building Permit Denial Permit Application #B23-000027 1295 Coury Drive.

The Planning & Zoning Board heard the applicant's request for an appeal to the decision of the Key Colony Beach's Building Official pursuant to Sec. 2-2, Sec 6-14, and Sec. 101-170 for the denial of a building permit for the property located at 1295 Coury Drive, Key Colony Beach, Florida 33051.

Planning & Zoning Board Recommendation:

Chair Lancaster asked for a motion of a recommendation to the City Commission.

MOTION: Motion made by Mike Yunker to deny the appeal and uphold the decision of the Key Colony Beach Building Department to deny the building permit. Chair Lancaster asked for a second. Lin Walsh seconded the motion.

DISCUSSION: Tom DiFransico disagreed with Mike Yunker and gave his opinion on city government causing interference and stated that the city should not hold a building permit before clear title is given. Mike Yunker disagreed with Vice-Chair DiFransico. Chair Lancaster agreed with Vice-Chair DiFransico and stated for a cloud on the title not being a city issue. Vice-Chair DiFransico gave further thoughts on possible responsibilities of the city.

Board Member Lin Walsh gave her disagreement with not listening to the City Attorney.

Chair Lancaster informed the Board's attorney for this matter to be Attorney Jim Dorl.

Attorney Jim Dorl explained his representation for the Board and further explained not being able to give an opinion on the issue but only recommendations on procedural rule.

There was no further discussion. Board member Mike Yunker restated his motion.

ON THE MOTION: Rollcall vote. Mike Yunker – Yes. George Lancaster – No. Lin Walsh – Yes. Tom DiFransico – No. Bob Glassman – Yes. The motion passed.

Final Recommendation: The Planning & Zoning Board recommends to deny the appeal and to uphold the decision of the Key Colony Beach Building Department to deny the building permit for the property located at 1295 Coury Drive.

A handwritten signature in cursive script, reading "George Lancaster".

George Lancaster, Planning & Zoning Chair

NOTICE OF CONTINUANCE

NOTICE IS HEREBY GIVEN,
THAT THE PLANNING & ZONING BOARD HEARING ON JULY 19, 2023,
HAS BEEN CONTINUED UNTIL:

NEW DATE/TIME:

Planning & Zoning Hearing: August 16th, 2023, 9:30 a.m.
City Commission Public Hearing: September 21, 2023, 9:30 a.m.

LOCATION:

City of Key Colony Beach Temporary Meeting Place
at the Key Colony Inn Banquet Room,
700 W. Ocean Drive, Key Colony Beach, Florida 33051,

THE FOLLOWING AGENDA ITEMS HAVE BEEN CONTINUED:

Agenda Item 7. Appeal of Building Permit Denial Permit Application #B23-000027 1295 Coury Drive: Applicant appeals the decision of the Key Colony Beach's Building Official pursuant to Sec. 2-2, Sec. 6-14, and Sec. 101-170, for the denial of a building permit for the property located at 1295 Coury Drive, Key Colony Beach, Florida 33051.

8. VARIANCE REQUEST(s):

a. 521 9th Street – Owners: Jane & Jim Walther: Applicant requests a variance to the City of Key Colony Beach Code of Ordinances Chapter 101, Section 26 (11), to allow the installation of a pool within the 10' setback to 5' on one side of the lot. Current setback requirements are 10' feet.

b. Sunset Park Tiki Hut – Owner: City of Key Colony Beach: Applicant requests a review and confirmation of no variance requirements to the City of Key Colony Beach Land Development Regulations Article III, Section 101-19, for the replacement of the current Tiki Hut with dimensions of 9' x 9', to a Tiki Hut with the dimensions of 15' x 20' at Sunset Park, Key Colony Beach, Florida 33051

9. Review of Pool Side Setback Requirements to apply to all Zones of Key Colony Beach

Posted: July 19th, 2023

City Clerk, City of Key Colony Beach



Published Weekly
Marathon, Monroe County, Florida

PROOF OF PUBLICATION

STATE OF FLORIDA COUNTY OF MONROE

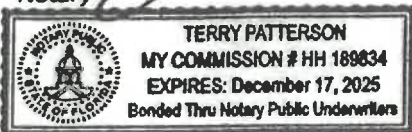
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August 3, 2023

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Sworn to and subscribed before me this day of Aug 3, 2023
(SEAL)

Notary




CITY OF KEY COLONY BEACH
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City of Key Colony Beach:
Applicant requests a review
and confirmation of no variance
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Colony Beach Land Development
Regulations Article III, Section
101-15, for the replacement of the
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of 9' x 9', to a Tiki Hut with the
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Park, Key Colony Beach, Florida
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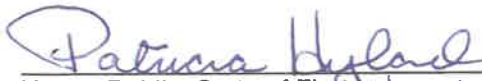
STATE OF FLORIDA
COUNTY OF MONROE

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

1. I am the Administrative Assistant to the City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the 16 day of June, 2023 (no less than 30 days prior to the Planning & Zoning Public Hearing on July 19, 2023, and the City Commission Public Hearing on August 17 2023) 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 at 521 9th Street, Key Colony Beach, Florida, 33051.

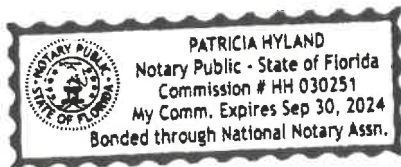

Signature

Sworn and subscribed before me this
16th day of June, 2023.


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 521 9th Street
From: The City of Key Colony Beach
Planning & Zoning Board **and** the City Commission for a Variance Request

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DATE/TIME:

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LOCATION:

City of Key Colony Beach Temporary Meeting Place
at the Key Colony Inn Banquet Room,
700 W. Ocean Drive, Key Colony Beach, Florida 33051,

to hear a Variance Request from James and Jane Walther, owners of the property located at 521 9th Street, Key Colony Beach, Florida 33051. This meeting will be available virtually via Zoom Meetings. Members of the public who wish to attend virtually may email cityclerk@keycolonybeach.net or call 305-289-1212, Ext. 2 for further instructions on attending via Zoom Meetings.

Applicant requests a variance to the City of Key Colony Beach Code of Ordinances Chapter 101, Section 26 (11), to allow the installation of a pool within the 10' setback to 5' on one side of the lot. Current setback requirements are 10' feet.

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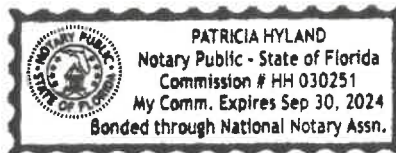
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Cheryl Baker

Signature

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3 day of July, 2023.

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



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at the Key Colony Inn Banquet Room,
700 W. Ocean Drive, Key Colony Beach, Florida 33051,

to hear a Variance Request from James and Jane Walther, owners of the property located at 521 9th Street, Key Colony Beach, Florida 33051. This meeting will be available virtually via Zoom Meetings. Members of the public who wish to attend virtually may email cityclerk@keycolonybeach.net or call 305-289-1212, Ext. 2 for further instructions on attending via Zoom Meetings.

Applicant requests a variance to the City of Key Colony Beach Code of Ordinances Chapter 101, Section 26 (11), to allow the installation of a pool within the 10' setback to 5' on one side of the lot. Current setback requirements are 10' feet.

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 Wednesday, July 19, 2023, or Thursday, August 17, 2023, but wish to comment, please direct correspondence to P.O. Box 510141, Key Colony Beach, FL 33051, or cityclerk@keycolonybeach.net and your comments will be entered into the record.

Posted: On or before Wednesday, July 5th, 2023

Published: On or before Monday, July 9th, 2023

City Clerk, 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)

July 6, 2023

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 day of July 6, 2023
(SEAL)

Notary



PUBLIC MEETING NOTICE NOTICE IS HEREBY GIVEN, THAT THE CITY OF KEY COLONY BEACH WILL BE HOLDING PUBLIC HEARINGS ON:

DATE/TIME:
Planning & Zoning Hearing: July
19th, 2023, 9:30 A.M.
City Commission Public Hearing:
Thursday, August 17, 2023,
9:30 A.M.

LOCATION:

City of Key Colony Beach
Temporary Meeting Place at the
Key Colony Inn Banquet Room,
700 W. Ocean Drive, Key Colony
Beach, Florida 33051,
to hear a Variance Request from
James and Jane Walther, owners
of the property located at 521
9th Street, Key Colony Beach,
Florida 33051. This meeting
will be available virtually via
Zoom Meetings. Members of
the public who wish to attend
virtually may email cityclerk@
keycolonybeach.net or call
305-289-1212, Ext. 2 for further
instructions on attending via
Zoom Meetings.

Applicant requests a variance
to the City of Key Colony Beach
Code of Ordinances Chapter
101, Section 26 (11), to allow
the installation of a pool within
the 10' setback to 5' on one
side of the lot. Current setback
requirements are 10' feet.
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 Wednesday, July
19, 2023, or Thursday, August
17, 2023, but wish to comment,
please direct correspondence
to P.O. Box 510141, Key Colony
Beach, FL 33051, or cityclerk@
keycolonybeach.net and your
comments will be entered into
the record.

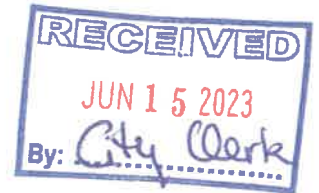
City Clerk, City of Key Colony
Beach

Publish:

July 6, 2023

The Weekly Newspapers

CITY OF KEY COLONY BEACH
P.O. BOX 510141
KEY COLONY BEACH, FL 33051-0141
305-289-1212 FAX: 305-289-1767



APPLICATION FOR VARIANCE

APPLICANT: JAMES + JANE WALTHER (561) 632-5125 (cell phone)
Property Owner Name Phone Number

521 9th St. Key Colony Beach 1/2 Lot 22, BK 10, Shelter Key
Street Address of Variance Lot Block Subdivision

P.O. Box 510743 Key Colony Beach, FL 33051
Mailing Address of Property Owner

Owners may have an agent complete this application and represent them at the hearings. In this case, owners must attach to this application a written, signed statement stating the name of the individual or business that may represent them in this matter.

Agent Name

Agent Phone Number

VARIANCE REQUESTED to: Land Development Regulations Chapter _____, Section _____
Code of Ordinances Chapter 101, Section 26 (11)

DESCRIPTION OF VARIANCE: Please describe the variance request in regard to type of structure, location on lot, distance from side, rear or front lot lines, or details of the variance, including the current rule in effect and the reason for the variance (for example, building would encroach into the setback by _____ feet). Also state if this is for future construction or existing conditions.

Concrete swimming pool for future construction
would encroach into the setback of only the adjoining
neighbor by 5 feet. Current rule in effect is 10 foot setback
on all side, rear and front lines (N/A) which all others
are in compliance with.

Please attach the following to this application:

- A sketch or site plan of the property showing the variance requested.
- Written responses to the five criteria (questions attached).
- Fee of \$700.00

Signature of Applicant

Jan Walther and Jane Walther 5-30-2023

Office Use Only

Date Filed 5-30-2023/6-15-2023

Date Paid 6-15-23 Check # 1108

Variance granted / denied on (date) _____

* corrected drawings

[Signature]
Signature of City Official

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?

Medical Needs (See attached Letter)

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

Without the proper size/length of pool, higher risk of injury/degeneration of spine-medical requirements (explained in attached doctor letter)

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?

No increase to public expense, no threat to public health & safety, or nuisance, and no threat to cause fraud or victimization of the public.

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?

We are not knowledgeable of the limitations or conditions of other properties in KCB, but in our property case, the placement of the dwelling and required setbacks are creating a limitation of the pool size needed to conduct a proper exercise regiment prescribed by my doctor in the letter attached.

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?

Not any special privilege to the applicant.

Office Use Only

Comments and Recommendation of the Building Official

PROPERTY OWNER / ADDRESS:
JAMES & JANE WALTHER
PO BOX 510743
KEY COLONY BEACH, FL 33051

PROJECT LOCATION:
521 9TH STREET
KEY COLONY BEACH, FL 33051

RE: - 0007670-000100
ALTERNATE KEY: - 0143629

LEGAL DESCRIPTION:
THE SOUTHERLY 1/2 OF LOT 12, BLOCK 10, ATTENDED PLAT
OF KEY COLONY BEACH, ACCORDING TO THE PLAT
THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 11 OF THE
PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.

FLOOD CRITERIA:

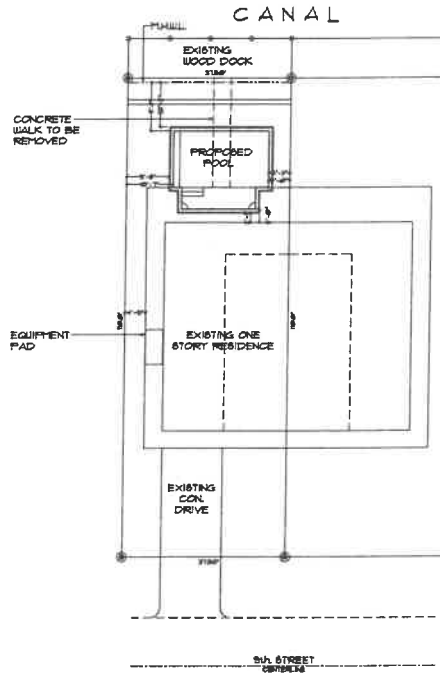
FLOOD ZONE - AE
BASE FLOOD ELEVATION - 6' NGVD.
DESIGN FLOOD ELEVATION - 7' NGVD. '78

STANDARD DESIGN CRITERIA:
WIND SPEED: 150 MPH PER A.S.C.E. - 7-16
EXPOSURE CATEGORY: - 10
IMPORTANCE FACTOR: - 1.0
INTERNAL PRESSURE COEFFICIENT - 0.18
BUILDING CODE: FLORIDA BUILDING CODE 2020
NEC 2011

SCOPE OF WORK:

1. REMOVE 4' CONCRETE WALK
2. NEW 448 S.F. SWIMMING POOL/COVERING LINE
3. NEW 28 S.F. EQUIPMENT PAD

ALL WORK TO BE DONE IN COMPLIANCE WITH THE
FBC 2020 11TH EDITION. ANY DETAILS NOT SHOWN ON
THESE PLANS SHEETS ARE TO BE ENGINEERED BY
OTHERS. THE ENGINEER SHOULD NOT BE MADE
LIABLE FOR DETAILS NOT SHOWN AS THEY ARE NOT
INCLUDED IN THE SCOPE OF WORK. THE SCOPE OF
WORK IS LIMITED TO THE DETAILS SPECIFIED ON THE
INCLUDED SHEETS. TO VERIFY THE VALIDITY OR
APPLICABILITY OF THE SEAL OR SIGNATURE,
CONTACT THE ENGINEER.



SITE PLAN

1" = 10'-0"



THREE GENTS LLC
JAMES A. WALTHER, P.E.
915 SANDOZ ROAD, SUITE 100, KEY COLONY BEACH, FL 33051

SWIMMING POOL PLANS

WALTHER RESIDENCE
521 9TH STREET
KEY COLONY BEACH, FL.

James A. Walther
Designer
88101 Overseas Highway
Islamorada, FL 33056
Phone: (305) 858-7554
email: jwalther@three-gents.com

DATE: 05/15/2024

PROJECT: SWIMMING POOL

REVISION: 01

DESCRIPTION: 01

DATE: 05/15/2024

PROJECT: SWIMMING POOL

REVISION: 01

DESCRIPTION: 01

DATE: 05/15/2024

PROJECT: SWIMMING POOL

REVISION: 01

DESCRIPTION: 01

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REVISION: 01

DESCRIPTION: 01

DATE: 05/15/2024

PROJECT: SWIMMING POOL

REVISION: 01

DESCRIPTION: 01

SWIMMING POOL PLANS
WALTHER RESIDENCE
521 9TH. STREET
KEY COLONY BEACH, FL.

FORM 1041-90 4-8-80

DRUG BY: BC QTY: 374

SP-2



To whom this may concern,

Mr. James Walther is a patient of mine who came in with an acute flare-up of his chronic low back pain. A proper examination and essential imaging was performed in order to properly diagnose and treat his pain. A diagnosis of M54.17 and M1.37 were made based on X-ray analysis and examination findings.

We performed decompression therapy which gave him much relief. I recommended to him that he use a local pool to help decompress his spine more regularly in order to have longer lasting benefits and decrease his risk of injury/degeneration in the future. I also recommended that he swim for his exercise rather than jogging to decrease the continuous stress on his lumbar spine.

Based on my medical opinion, it would be essential for my patient's spinal and overall health to make any necessary accommodations for his personal pool. This is to ensure he can have no restrictions when using his pool to continue maintaining his health based on my medical recommendations.

Please feel free to reach out to me at (352)-270-8869 at any time.

Sincerely,

A handwritten signature in black ink, appearing to read "Dr. Walther", with a long horizontal line extending to the right.

Dr. Patrick Walther D.C. B.S.



UNIVERSITY of
Western States

5-30-2023

To: City of Key Colony
Beach, FL

RE: 521 9th Street-Variance Request

My name is Lisa Oberdick and I reside at 531 9th Street in Key Colony Beach, FL. I am writing this letter to acknowledge and agree to my neighbor's request at 521 9th Street Key Colony Beach, FL, for a 5-foot variance on our bordering lot line to build their swimming pool.

Sincerely,

Lisa M. Oberdick

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



August 16, 2023

To: The City of Key Colony Beach Board of Commissioners

From: The Key Colony Beach Planning & Zoning Board

Re: Variance Request 521 9th Street – Owners: Jane & Jim Walther

The Planning & Zoning Board heard the applicant's request for a variance to the City of Key Colony Beach Code of Ordinances Chapter 101, Section 26 (11), to allow the installation of a pool within the 10' setback to 5' on one side of the lot. Current setback requirements are 10' feet.

Planning & Zoning Board Recommendation:

Post Hearing Questions Results:

- | | |
|------------------------------|--|
| 1) Chair George Lancaster | Yes on all 5 (five) Post Hearing Questions |
| 2) Vice-Chair Tom DiFransico | Yes on all 5 (five) Post Hearing Questions |
| 3) Board Member Mike Yunker | Yes on all 5 (five) Post Hearing Questions |
| 4) Board Member Bob Glassman | Yes on all 5 (five) Post Hearing Questions |
| 5) Board Member Lin Walsh | Yes on all 5 (five) Post Hearing Questions |

Final Recommendation: The Planning & Zoning Board recommends to approve the variance request for the property located at 521 9th Street.

A handwritten signature in black ink, appearing to read "George Lancaster", written over a horizontal line.

George Lancaster, Planning & Zoning Chair

AFFIDAVIT OF MAILING

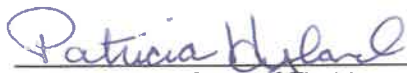
STATE OF FLORIDA
COUNTY OF MONROE

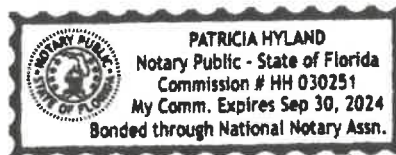
Before me, the undersigned authority, personally appeared Cheryl Baker, who, having been first duly sworn according to law, deposes and says:

1. I am the Administrative Assistant to the City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the 12 day of July, 20 23 (no less than 30 days prior to the Planning & Zoning Public Hearing on August 16, 2023, and the City Commission Public Hearing on September 21, 2023) 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 at 160 13th Street, Key Colony Beach, Florida, 33051.


Signature

Sworn and subscribed before me this
12TH day of JULY, 20 23.


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



☒ 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 160 13th Street

From: The City of Key Colony Beach Planning & Zoning Board & the City Commission

**NOTICE IS HEREBY GIVEN,
THAT THE CITY OF KEY COLONY BEACH WILL BE HOLDING
PUBLIC HEARINGS ON:**

DATE/TIME:

Planning & Zoning Hearing: Wednesday, August 16, 2023, 9:30 A.M.

City Commission Public Hearing: Thursday, September 21, 2023, 9:30 A.M.

LOCATION:

City of Key Colony Beach Temporary Meeting Place
at the Key Colony Inn Banquet Room,
700 W. Ocean Drive, Key Colony Beach, Florida 33051,

to hear a Variance Request from Charlie Petersen, agent to Jennifer Goldstein, owner of the property located at 160 13th Street, Key Colony Beach, Florida 33051. This meeting will be available virtually via Zoom Meetings. Members of the public who wish to attend virtually may email cityclerk@keycolonybeach.net or call 305-289-1212, Ext. 2 for further instructions on attending via Zoom Meetings.

Applicant requests a variance to the City of Key Colony Beach Land Development Regulations Article IV. Sec. 101-26 (2), to allow the installation of a tiki hut with a maximum floor area of 192 square feet. Current maxim floor area: 80 square feet with maximum roof overhang of 18 inches.

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 Wednesday, August 16, 2023, or Thursday, September 21, 2023, but wish to comment, please direct correspondence to P.O. Box 510141, Key Colony Beach, FL 33051, or cityclerk@keycolonybeach.net and your comments will be entered into the record.

Mailed: On or before Monday, July 17, 2023
City Clerk, City of Key Colony Beach

AFFIDAVIT OF POSTING

STATE OF FLORIDA
COUNTY OF MONROE

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

1. I am the Administrative Assistant to the City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the 24 day of July, 2023 (no less than 14 days prior to the Planning & Zoning Public Hearing on August 16, 2023, and the City Commission Public Hearing on September 21, 2023) I posted the Notice of Hearing for the property at 160 13th Street, Key Colony Beach, Florida, at the United States Postal Office and at City Hall.

Cheryl Baker
Signature

Sworn and subscribed before me this
24 day of July, 2023.

Silvia Grasse
Notary Public, State of Florida
My commission expires: 7-5-24



☒ Personally known

☐ Produced _____ as identification

**NOTICE IS HEREBY GIVEN,
THAT THE CITY OF KEY COLONY BEACH WILL BE HOLDING
PUBLIC HEARINGS ON:**

DATE/TIME:

Planning & Zoning Hearing: Wednesday, August 16, 2023, 9:30 A.M.
City Commission Public Hearing: Thursday, September 21, 2023, 9:30 A.M.

LOCATION:

City of Key Colony Beach Temporary Meeting Place
at the Key Colony Inn Banquet Room,
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to hear a Variance Request from Charlie Petersen, agent to Jennifer Goldstein, owner of the property located at 160 13th Street, Key Colony Beach, Florida 33051. This meeting will be available virtually via Zoom Meetings. Members of the public who wish to attend virtually may email cityclerk@keycolonybeach.net or call 305-289-1212, Ext. 2 for further instructions on attending via Zoom Meetings.

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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 Wednesday, August 16, 2023, or Thursday, September 21, 2023, but wish to comment, please direct correspondence to P.O. Box 510141, Key Colony Beach, FL 33051, or cityclerk@keycolonybeach.net and your comments will be entered into the record.

POSTED: On or before August 2, 2023

PUBLISHED: On or before August 6, 2023

City Clerk, 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 3, 2023

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 day of Aug 3, 2023
(SEAL)

Notary



CITY OF KEY COLONY BEACH PUBLIC HEARING NOTICE NOTICE IS HEREBY GIVEN, THAT THE CITY OF KEY COLONY BEACH WILL BE HOLDING PUBLIC HEARINGS ON:

DATE/TIME:

Planning & Zoning Hearing:
Wednesday, August 16, 2023,
9:30 A.M.

City Commission Public Hearing:
Thursday, September 21, 2023,
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LOCATION:

City of Key Colony Beach
Temporary Meeting Place at the
Key Colony Inn Banquet Room,
700 W. Ocean Drive, Key Colony
Beach, Florida 33051,
to hear a Variance Request from
Charlie Petersen, agent to Jennifer
Goldstein, owner of the property
located at 160 13th Street, Key
Colony Beach, Florida 33051. This
meeting will be available virtually
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the installation of a tiki hut with a
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overhang of 18 inches.

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If any person decides to appeal
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Commission of the City of Key
Colony Beach with respect to any
matter considered at the Variance
Hearing, that person will need a
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evidence upon which the appeal is
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If you are unable to attend the
Hearings on Wednesday, August
16, 2023, or Thursday, September
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please direct correspondence
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Beach, FL 33051, or cityclerk@
keycolonybeach.net and your
comments will be entered into
the record.

City Clerk, City of Key Colony
Beach

Printed
August 3, 2023
The Weekly Newspapers



CITY OF KEY COLONY BEACH
P.O. BOX 510141
KEY COLONY BEACH, FL 33051-0141
305-289-1212 FAX: 305-289-1767

APPLICATION FOR VARIANCE

APPLICANT: Jennifer Goldstein 954-263-1953
Property Owner Name Phone Number
160 13th Street Key Colony Beach FL 33051
Street Address of Variance Lot Block Subdivision
7221 NW 41st Street Coral Springs FL 33065
Mailing Address of Property Owner

Owners may have an agent complete this application and represent them at the hearings. In this case, owners must attach to this application a written, signed statement stating the name of the individual or business that may represent them in this matter.

Charlie Petersen 920-371-3107
Agent Name Agent Phone Number

VARIANCE REQUESTED to: Land Development Regulations Chapter IV, Section 101-26 (2)
Code of Ordinances Chapter _____, Section _____

DESCRIPTION OF VARIANCE: Please describe the variance request in regard to type of structure, location on lot, distance from side, rear or front lot lines, or details of the variance, including the current rule in effect and the reason for the variance (for example, building would encroach into the setback by _____ feet). Also state if this is for future construction or existing conditions.

Requesting the ability to increase the size of a proposed tiki hut in my backyard. The lot offers privacy on both sides of the lot so that neighbors on both side have visibility into our space. The lot size offers the opportunity for this property improvement which will add to the beautification of the home in addition to creating an outside living space while still preserving the natural landscape.

Please attach the following to this application:

- A sketch or site plan of the property showing the variance requested.
- Written responses to the five criteria (questions attached).
- Fee of \$700.00

Signature of Applicant [Signature]

Office Use Only

Date Filed 6-28-2023

Date Paid 6/28/2023 Check # 2356

Variance granted / denied on (date) _____

[Signature]
Signature of City Official

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.

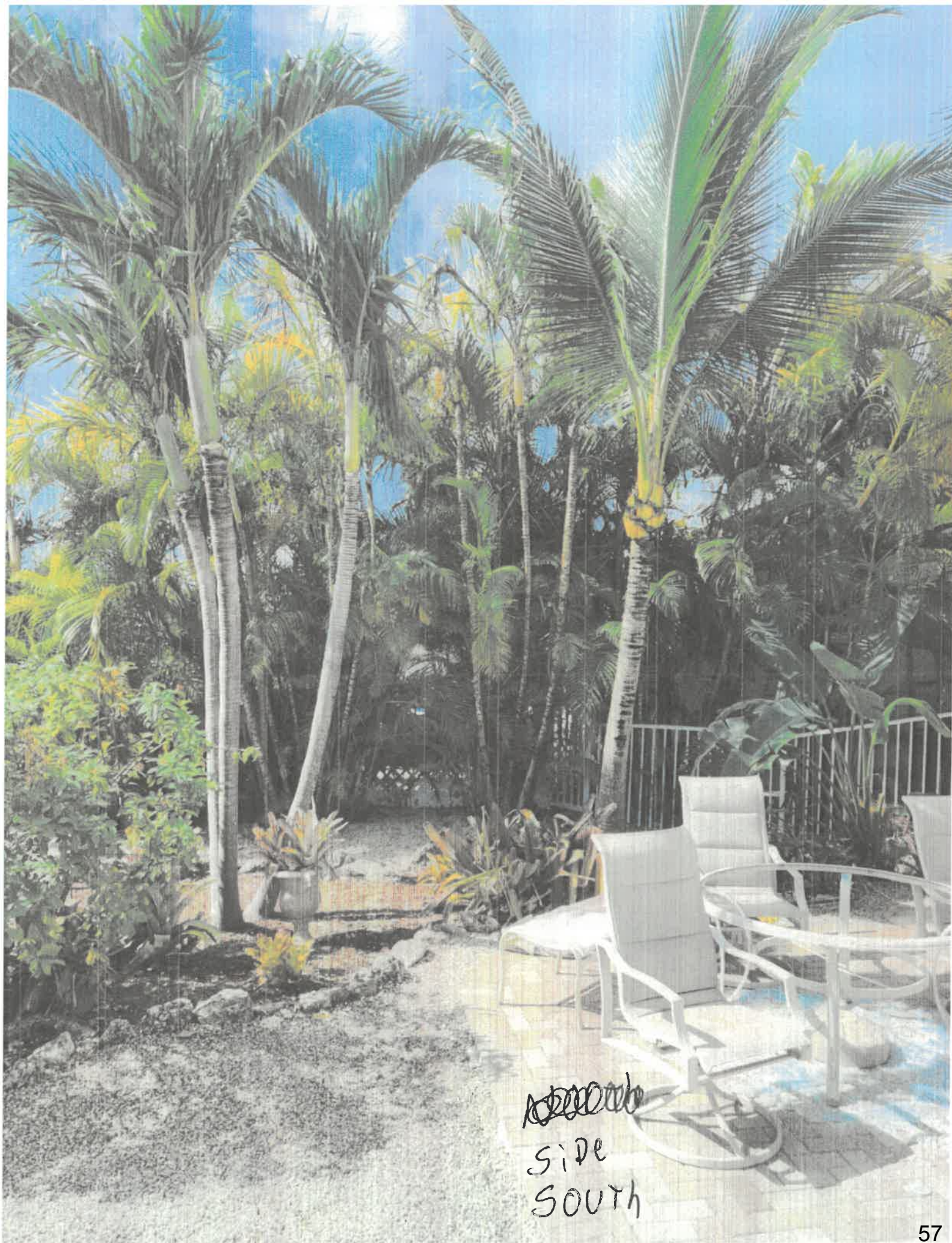
To assist the Planning & Zoning Committee and City Commission in evaluating this variance request, please answer the following questions:

1. What is the "good and sufficient cause" that explains why this variance should be granted?
The lot offers privacy on both sides of the lot so that neighbors on both side have visability into our space. The lot size offers the opportunity for this property improvement which will add to the beautification of the home in addition to creating an outside living space while still preserving the natural landscape.
2. What are the unnecessary hardships that would result if the variance is not granted?
By not granting the variance we would not be able to accomodate our whole family with seating under the tiki hut when we come to the house. While this doesn't create a "hardship" it would change the family bonding experience we are looking for in Key Colony Beach which was one reason for buying this vacation home.
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?
There will be no effect on the public by granting the variance, no risk to health or safety. Our property has mature landscape on both sides of the backyard which creates privacy so the neighbors won't even see the tiki hut from their homes.
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?
I am not sure how our property compares to other homes to properly answer this question but I do know that the lot size does offer plenty of space for us to create this tiki hut and still offer open square footage.
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?
I do not believe that this request would compromise any future neighborhood development patterns.

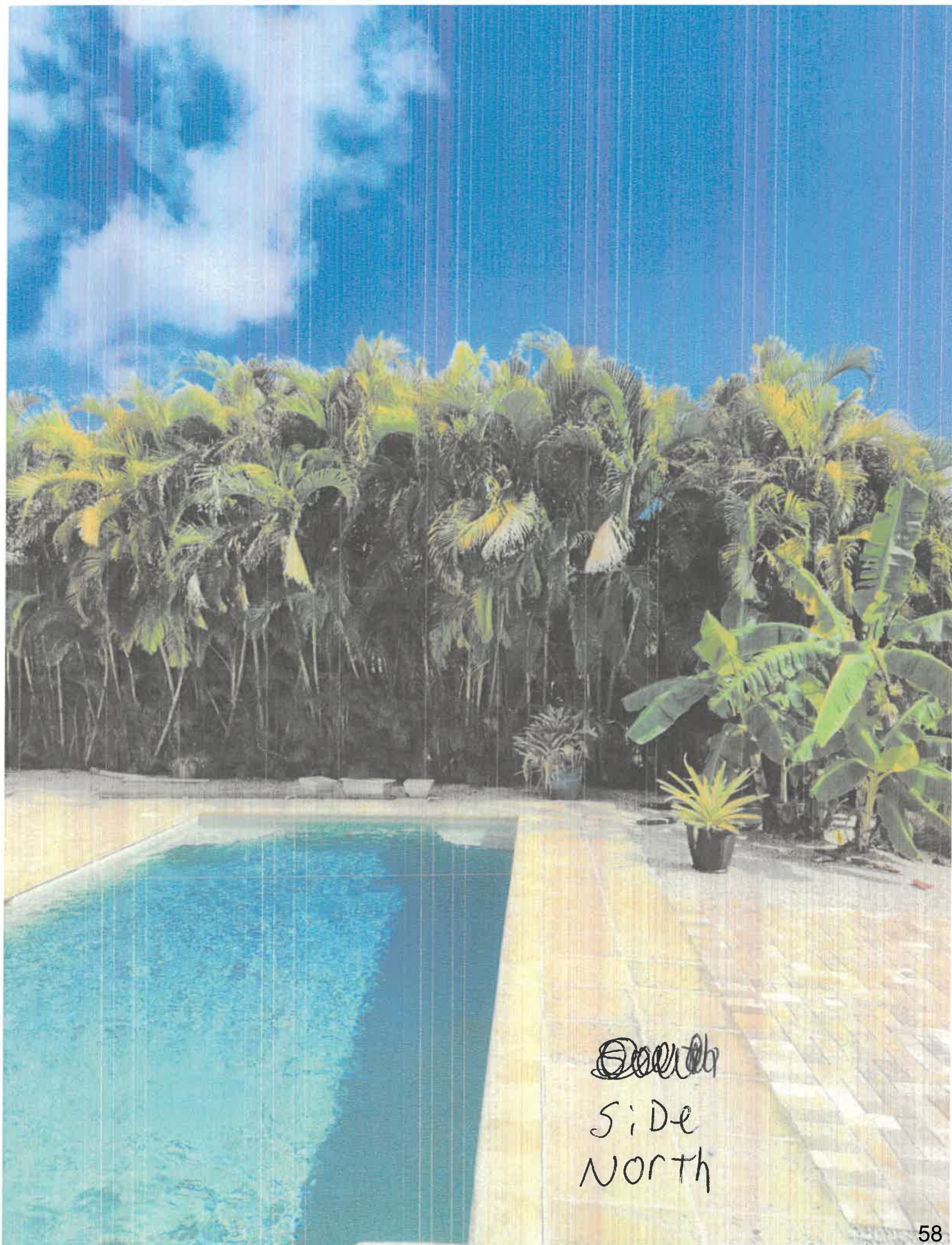
Office Use Only

Comments and Recommendation of the Building Official

The proposed tiki is 192 s.f. It is proposed outside of all required setbacks. The Applicant retains ample open space & has landscaping to act as an adequate visual buffer from neighboring properties. Recommend Approval. KWB 6/30/23



~~North~~
side
South



South
Side
North

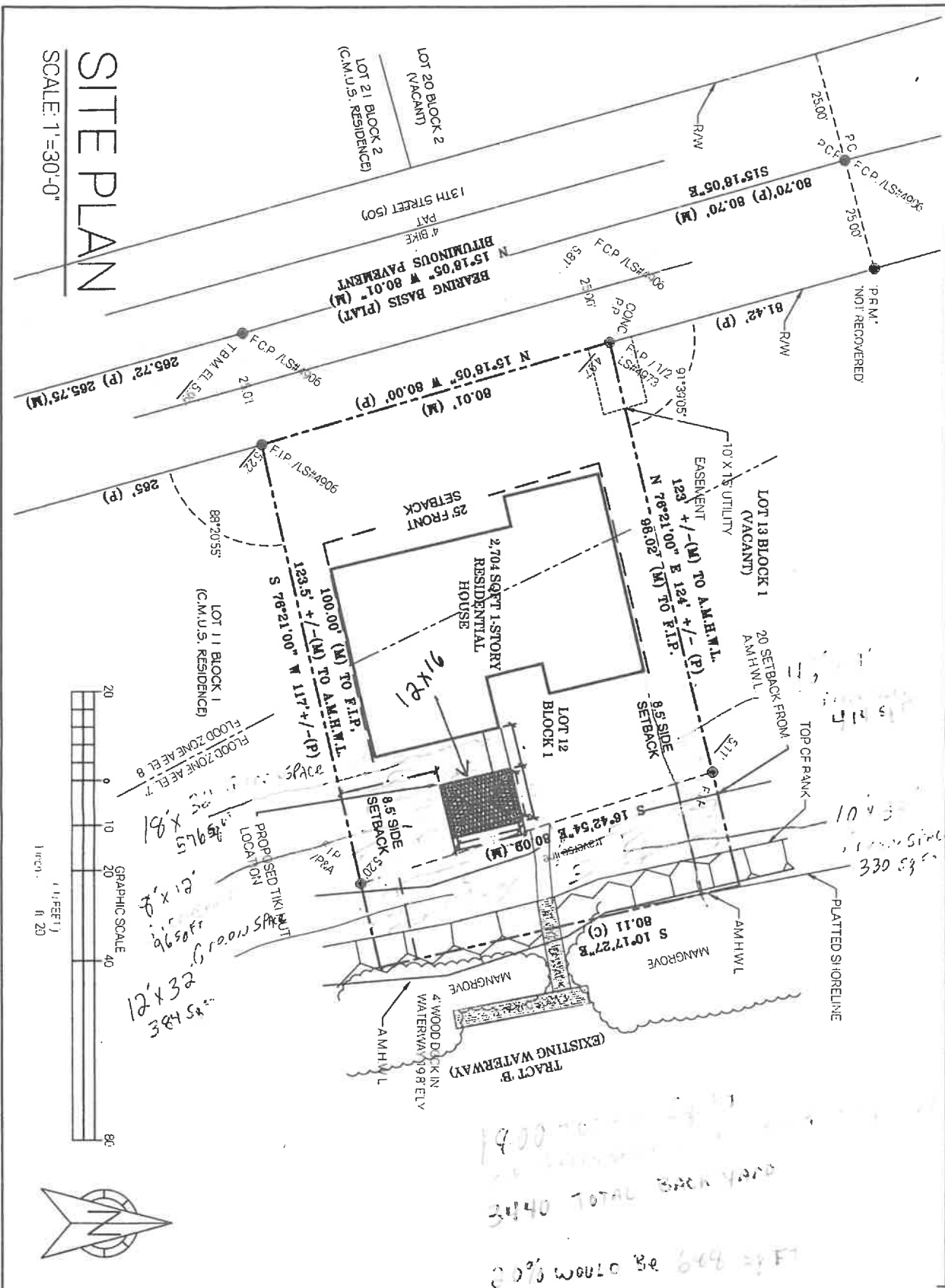
Subject Authorization of Representation
To: [Charlie Petersen <petersenrepair@yahoo.com>]
From Jennifer Goldstein <all3rjg@bellsouth.net>
Date Wed, Jun 28, 2023 at 11:46 AM

I give Charlie Petersen of Petersen Repair authorization to serve as my representative for all meetings with Key Colony Beach as it relates to the construction of my home at 160 13th Street Key Colony Beach FL 33051.

If there are any additional questions please call me at 954-263-1953

Warm regards,

Jennifer Goldstein



Sec. 101-26. - Accessory structures and uses.

- (1) *Antennas.* No satellite antenna larger than 24 inches in diameter may be installed in the front lot or attached to the front of any building.

- (2) *Dockside shelters.*

Maximum setback from water: 3 feet on canals and minimum 20 feet on Vaca Cut and 100 feet on the ocean.

Minimum side property line setback: 5 feet.

Maximum floor area: 80 square feet with maximum roof overhang of 18 inches.

Maximum height: 8 feet.

Such shelters shall not be located on docks.

- (3) *Dock boxes and fish-cleaning stations.* Dock boxes and fish-cleaning stations shall meet same setback requirements as dockside shelters.

Dock boxes shall be no larger than 3 feet wide by 3 feet high by 6 feet long.

Fish-cleaning stations shall be no larger than 30 inches by 60 inches, with or without an enclosed base.

- (4) *Flag poles.* May be located within any setback but shall not exceed 30 feet in height.

- (5) *Garages and tool sheds.* In the R-1 and R-2 districts, all garages, carports, tool sheds (except dock boxes and fish-cleaning stations) and structures determined to be similar in use by the city commission upon the recommendation of the planning and zoning committee must share a common wall or roof element with the principal building.

- (6) *Home occupation.* See section 101-34.

- (7) *Household pets.* As defined in article II.

- (8) *Lighting, outside.* Spot or flood lights installed on any lot or building shall not be directed toward any other residence next to or across the streets or canals where the glare adversely affects inhabitants nearby. Such lighting must be directed downward or be shielded to prevent glare projecting off the property.

- (9) *Ocean frontage.* In the R-3 district with ocean frontage and in the RH district, no accessory structure is permitted in the side yard.

- (10) *Accessory structures within the shoreline setback (including pools).* Except for pile supported structures, utility pilings, fences, boat ramps, docks, and walkways limited to 4 feet in width, no new development may occur within 20 feet of mean high water on Vaca Cut, within 100 feet of mean high water (MHW) on the ocean. The total combined area of accessory structures within the

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



August 16, 2023

To: The City of Key Colony Beach Board of Commissioners

From: The Key Colony Beach Planning & Zoning Board

Re: Variance Request 160 13th Street – Owner: Jennifer Goldstein

The Planning & Zoning Board heard the applicant's request for a variance to the City of Key Colony Beach Land Development Regulations Article IV, Sec. 101-26 (2), to allow the installation of a tiki hut with a maximum floor area of 192 square feet. Current maxim floor area: 80 square feet with maximum roof overhang of 18 inches.

Post Hearing Questions Results:

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

Mike Yunker	YES
George Lancaster	YES
Lin Walsh	YES
Tom DiFransico	YES
Bob Glassman	NO

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

Bob Glassman	NO
George Lancaster	YES
Lin Walsh	YES
Tom DiFransico	NO
Mike Yunker	NO

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

Lin Walsh	YES
Bob Glassman	NO
Tim DiFransico	YES
Mike Yunker	YES
George Lancaster	YES

City of Key Colony Beach

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Fax: 305-289-0247
www.keycolonybeach.net



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.

Tom DiFransico	YES
Mike Yunker	YES
Bob Glassman	NO
George Lancaster	YES
Lin Walsh	YES

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

Mike Yunker	YES
George Lancaster	YES
Lin Walsh	YES
Bob Glassman	NO
Tom DiFransico	YES

MOTION: Motion made by Mike Yunker to deny the applicants variance request based upon failure to establish unnecessary hardship in Post Hearing Question No. 2. Chair Lancaster asked for a second. Vice-Chair Tom DiFransico seconded the motion.

DISCUSSION: City Clerk Gransee confirmed the motion.

ON THE MOTION: Rollcall vote. Unanimous approval.

Final Recommendation: The Planning & Zoning Board recommends to deny the applicants variance request based upon failure to establish unnecessary hardship in Post Hearing Question No. 2.

A handwritten signature in black ink, appearing to read "George Lancaster". The signature is written in a cursive, flowing style.

George Lancaster, Planning & Zoning Chair

NOTICE OF CONTINUANCE

**NOTICE IS HEREBY GIVEN,
THAT THE PLANNING & ZONING BOARD HEARING ON JULY 19, 2023,
HAS BEEN CONTINUED UNTIL:**

NEW DATE/TIME:

Planning & Zoning Hearing: August 16th, 2023, 9:30 a.m.
City Commission Public Hearing: September 21, 2023, 9:30 a.m.

LOCATION:

City of Key Colony Beach Temporary Meeting Place
at the Key Colony Inn Banquet Room,
700 W. Ocean Drive, Key Colony Beach, Florida 33051,

THE FOLLOWING AGENDA ITEMS HAVE BEEN CONTINUED:

Agenda Item 7. Appeal of Building Permit Denial Permit Application #B23-000027 1295 Coury Drive: Applicant appeals the decision of the Key Colony Beach's Building Official pursuant to Sec. 2-2, Sec. 6-14, and Sec. 101-170, for the denial of a building permit for the property located at 1295 Coury Drive, Key Colony Beach, Florida 33051.

8. VARIANCE REQUEST(s):

a. 521 9th Street – Owners: Jane & Jim Walther: Applicant requests a variance to the City of Key Colony Beach Code of Ordinances Chapter 101, Section 26 (11), to allow the installation of a pool within the 10' setback to 5' on one side of the lot. Current setback requirements are 10' feet.

b. Sunset Park Tiki Hut – Owner: City of Key Colony Beach: Applicant requests a review and confirmation of no variance requirements to the City of Key Colony Beach Land Development Regulations Article III, Section 101-19, for the replacement of the current Tiki Hut with dimensions of 9' x 9', to a Tiki Hut with the dimensions of 15' x 20' at Sunset Park, Key Colony Beach, Florida 33051

9. Review of Pool Side Setback Requirements to apply to all Zones of Key Colony Beach

Posted: July 19th, 2023

City Clerk, City of Key Colony Beach



Published Weekly
Marathon, Monroe County, Florida

PROOF OF PUBLICATION

STATE OF FLORIDA COUNTY OF MONROE

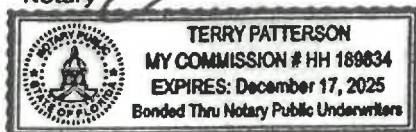
Before the undersigned authority personally appeared **JASON KOLER** who on oath, says that he is **PUBLISHER** of the **WEEKLY NEWSPAPERS**, a weekly newspaper published in Marathon, in Monroe County, Florida: that the attached copy of advertisement was published in said newspaper in the issues of: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

August 3, 2023

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 day of Aug 3, 2023
(SEAL)

Notary



CITY OF KEY COLONY BEACH
NOTICE OF CONTINUANCE
NOTICE IS HEREBY GIVEN, THAT
THE PLANNING & ZONING BOARD
HEARING ON JULY 19, 2023, HAS
BEEN CONTINUED UNTIL:
NEW DATE/TIME:
Planning & Zoning Hearing:
August 16th, 2023, 9:30 a.m.
City Commission Public Hearing:
September 21, 2023, 9:30 a.m.
LOCATION:
City of Key Colony Beach
Temporary Meeting Place at the
Key Colony Inn Banquet Room,
700 W. Ocean Drive, Key Colony
Beach, Florida 33051
THE FOLLOWING AGENDA ITEMS
HAVE BEEN CONTINUED:
Agenda Item 7: Appeal of Building
Permit Denial Permit Application
#B23-000027 1295 Coury Drive:
Applicant appeals the decision of
the Key Colony Beach's Building
Official pursuant to Sec. 2-2, Sec.
6-14, and Sec. 101-170, for the
denial of a building permit for the
property located at 1295 Coury
Drive, Key Colony Beach, Florida
33051.
8. VARIANCE REQUEST(s):
a. 521 9th Street - Owners: Jane &
Jim Walther: Applicant requests a
variance to the City of Key Colony
Beach Code of Ordinances Chapter
101, Section 26 (11), to allow the
installation of a pool within the
10' setback to 5' on one side of the
lot. Current setback requirements
are 10' feet.
b. Sunset Park Tiki Hut - Owner:
City of Key Colony Beach:
Applicant requests a review
and confirmation of no variance
requirements to the City of Key
Colony Beach Land Development
Regulations Article III, Section
101-15, for the replacement of the
current Tiki Hut with dimensions
of 9' x 9' to a Tiki Hut with the
dimensions of 15' x 20' at Sunset
Park, Key Colony Beach, Florida
33051.
9. Review of Pool Side Setback
Requirements to apply to all Zones
of Key Colony Beach.
Posted: July 19th, 2023
City Clerk, City of Key Colony
Beach
Publish:
August 3, 2023
The Weekly Newspapers

AFFIDAVIT OF MAILING


STATE OF FLORIDA
COUNTY OF MONROE

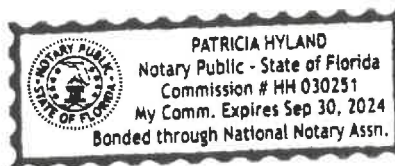
Before me, the undersigned authority, personally appeared Cheryl Baker, who, having been first duly sworn according to law, deposes and says:

1. I am the Administrative Assistant to the City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the 15 day of June, 20 23 (no less than 30 days prior to the Planning & Zoning Public Hearing on July 19, 2023, and the City Commission Public Hearing on August 17 2023) 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 Lot 8, Parcel-ID 0079873-0008000, Sunset Park, Key Colony Beach, Florida, 33051.


Signature

Sworn and subscribed before me this
15th day of June, 20 23.


Notary Public, State of Florida
My commission expires: 9/30/23



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 Sunset Park
From: The City of Key Colony Beach
Planning & Zoning Board **and** the City Commission for a Variance Request

**NOTICE IS HEREBY GIVEN,
THAT THE CITY OF KEY COLONY BEACH WILL BE HOLDING
PUBLIC HEARINGS ON:**

DATE/TIME:

Planning & Zoning Hearing: July 19th, 2023, 9:30 A.M.
City Commission Public Hearing: Thursday, August 17, 2023, 9:30 A.M.

LOCATION:

City of Key Colony Beach Temporary Meeting Place at the Key Colony Inn Banquet Room
700 W. Ocean Drive, Key Colony Beach, Florida 33051,

to hear a Variance Request from the City of Key Colony Beach, owners of the property located at Lot 8, Parcel-ID 0079873-000800, Sunset Park, Key Colony Beach, Florida 33051. This meeting will be available virtually via Zoom Meetings. Members of the public who wish to attend virtually may email cityclerk@keycolonybeach.net or call 305-289-1212, Ext. 2 for further instructions on attending via Zoom Meetings.

Applicant requests a review and confirmation of no variance requirements to the City of Key Colony Beach Land Development Regulations Article III, Section 101-19, for the replacement of the current Tiki Hut with dimensions of 9' x 9', to a Tiki Hut with the dimensions of 15' x 20' at Sunset Park, Key Colony Beach, Florida 33051. 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 Wednesday, July 19, 2023, or Thursday, August 17, 2023, but wish to comment, please direct correspondence to P.O. Box 510141, Key Colony Beach, FL 33051, or cityclerk@keycolonybeach.net and your comments will be entered into the record.

Mailed: On or before Friday, June 16, 2023
City Clerk, City of Key Colony Beach

AFFIDAVIT OF POSTING

STATE OF FLORIDA
COUNTY OF MONROE

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

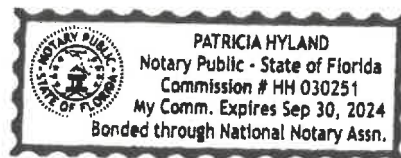
1. I am the Administrative Assistant to the City Clerk for the City of Key Colony Beach.
2. I hereby confirm that on the 3rd day of July, 2023 (no less than 14 days prior to the Planning & Zoning Public Hearing on July 19, 2023, and the City Commission Public Hearing on August 17 2023) I posted the Notice of Hearing for the property located at Lot 8, Parcel-ID 0079873-0008000, Sunset Park, Key Colony Beach, Florida, 33051, at the United States Postal Office and City Hall.

Cheryl Baker

Signature

Sworn and subscribed before me this
3rd day of July, 2023

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



X Personally known

Produced _____ as identification

**NOTICE IS HEREBY GIVEN,
THAT THE CITY OF KEY COLONY BEACH WILL BE HOLDING
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DATE/TIME:

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Applicant requests a review and confirmation of no variance requirements to the City of Key Colony Beach Land Development Regulations Article III, Section 101-19, for the replacement of the current Tiki Hut with dimensions of 9' x 9', to a Tiki Hut with the dimensions of 15' x 20' at Sunset Park, Key Colony Beach, Florida 33051. Interested parties may attend the Hearing and be heard with respect to the requested variance.

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If you are unable to attend the Hearings on Wednesday, July 19, 2023, or Thursday, August 17, 2023, but wish to comment, please direct correspondence to P.O. Box 510141, Key Colony Beach, FL 33051, or cityclerk@keycolonybeach.net and your comments will be entered into the record.

Posted: On or before Wednesday, July 5th, 2023

Published: On or before Monday, July 9th, 2023

City Clerk, 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)

July 6, 2023

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 day of July 6, 2023
(SEAL)

Notary



PUBLIC MEETING NOTICE
NOTICE IS HEREBY GIVEN THAT
THE CITY OF KEY COLONY
BEACH WILL BE HOLDING
PUBLIC HEARINGS ON:
DATE/TIME:

Planning & Zoning Hearing: July
19th, 2023, 9:30 A.M.

City Commission Public Hearing:
Thursday, August 17, 2023,
9:30 A.M.

LOCATION:

City of Key Colony Beach
Temporary Meeting Place at the
Key Colony Inn Banquet Room
700 W. Ocean Drive, Key Colony
Beach, Florida 33051.

To hear a Variance Request
from the City of Key Colony
Beach, owners of the property
located at Lot 8, Parcel ID
0079873-000800, Sunset Park,
Key Colony Beach, Florida
33051. This meeting will be
available virtually via Zoom
Meetings. Members of the
public who wish to attend
virtually may email cityclerk@
keycolonybeach.net or call
305-289-1212, Ext. 2 for further
instructions on attending via
Zoom Meetings.

Applicant requests a review
and confirmation of no
variance requirements to the
City of Key Colony Beach Land
Development Regulations
Article III, Section 101-19, for the
replacement of the current Tiki
Hut with dimensions of 9' x 9'; to
a Tiki Hut with the dimensions
of 15' x 20' at Sunset Park, Key
Colony Beach, Florida 33051.
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 Wednesday, July
19, 2023, or Thursday, August
17, 2023, but wish to comment,
please direct correspondence
to P.O. Box 510141, Key Colony
Beach, FL 33051, or cityclerk@
keycolonybeach.net and your
comments will be entered into
the record.

City Clerk, City of Key Colony
Beach

Publish:

July 6, 2023

The Weekly Newspapers

CITY OF KEY COLONY BEACH
P.O. BOX 510141
KEY COLONY BEACH, FL 33051-0141
305-289-1212 FAX: 305-289-1767

APPLICATION FOR VARIANCE

APPLICANT: City of Key Colony Beach 305-289-1212 EXT 2
Property Owner Name Phone Number
Sunset Park 8 Parcel 00079873-
Street Address of Variance Lot Block Subdivision 000800
600 Nest Ocean Dr KCB FL 33051
Mailing Address of Property Owner

Owners may have an agent complete this application and represent them at the hearings. In this case, owners must attach to this application a written, signed statement stating the name of the individual or business that may represent them in this matter.

City of Key Colony Beach 305-289-1212 EXT 2
Agent Name Agent Phone Number

VARIANCE REQUESTED to: Land Development Regulations Article III, Section 101-19
Code of Ordinances Chapter III, Section 101-19

DESCRIPTION OF VARIANCE: Please describe the variance request in regard to type of structure, location on lot, distance from side, rear or front lot lines, or details of the variance, including the current rule in effect and the reason for the variance (for example, building would encroach into the setback by _____ feet). Also state if this is for future construction or existing conditions.

Bringing This To P+Z To be Transparent in
building larger Tiki Hut in Sunset Park, 15' x 20' in size
See Attached zoning PR Zone
will follow all Building Codes & Standards

Please attach the following to this application:

- A sketch or site plan of the property showing the variance requested.
- Written responses to the five criteria (questions attached).
- Fee of \$700.00

Signature of Applicant

[Signature] city of KCB

Office Use Only

Date Filed 6-13-2023

Date Paid _____ Check # _____

Variance granted / denied on (date) _____

[Signature]
Signature of City Official

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?

submitting for public Review Variance NOT Needed per
Sec 101-19 PR district

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

if NOT approval City of Key Colony will lose donation of
complete Cost of structure.

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?

NO ON ALL Questions

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?

PR District Public Recreation

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 City as a whole would Benefit from project.

Office Use Only

Comments and Recommendation of the Building Official

Use is Permitted in PR Zoning with no size restriction
so variance is NOT Necessary. Applicant has ample open space
& structure is sited well outside of required setbacks and
will be below max allowable height. Recommend Approval
JLB 7/7/20

Sec. 101-19. - PR Public recreation district.

(1) *Intent.* This district is intended to accommodate the city's park, recreation and public golf course facilities. It conforms to the recreational category of the comprehensive plan.

(2) *Permitted uses.*

Public parks and related recreational facilities.

Public golf courses and related building facilities.

(3) *Site design standards.*

Building setback minimum of 25 feet.

Height maximum of 40 feet.

(Ord. No. 299-1995, 12-28-95; Ord. No. 346-2002, 11-4-02; Ord. No. 2021-469, § 2(Exh. A), 1-19-23)

Sec. 101-26. - Accessory structures and uses.

- (1) *Antennas.* No satellite antenna larger than 24 inches in diameter may be installed in the front lot or attached to the front of any building.

- (2) *Dockside shelters.*

Maximum setback from water: 3 feet on canals and minimum 20 feet on Vaca Cut and 100 feet on the ocean.

Minimum side property line setback: 5 feet.

Maximum floor area: 80 square feet with maximum roof overhang of 18 inches.

Maximum height: 8 feet.

Such shelters shall not be located on docks.

- (3) *Dock boxes and fish-cleaning stations.* Dock boxes and fish-cleaning stations shall meet same setback requirements as dockside shelters.

Dock boxes shall be no larger than 3 feet wide by 3 feet high by 6 feet long.

Fish-cleaning stations shall be no larger than 30 inches by 60 inches, with or without an enclosed base.

- (4) *Flag poles.* May be located within any setback but shall not exceed 30 feet in height.

- (5) *Garages and tool sheds.* In the R-1 and R-2 districts, all garages, carports, tool sheds (except dock boxes and fish-cleaning stations) and structures determined to be similar in use by the city commission upon the recommendation of the planning and zoning committee must share a common wall or roof element with the principal building.

- (6) *Home occupation.* See section 101-34.

- (7) *Household pets.* As defined in article II.

- (8) *Lighting, outside.* Spot or flood lights installed on any lot or building shall not be directed toward any other residence next to or across the streets or canals where the glare adversely affects inhabitants nearby. Such lighting must be directed downward or be shielded to prevent glare projecting off the property.

- (9) *Ocean frontage.* In the R-3 district with ocean frontage and in the RH district, no accessory structure is permitted in the side yard.

- N/A (10) *Accessory structures within the shoreline setback (including pools).* Except for pile supported structures, utility pilings, fences, boat ramps, docks, and walkways limited to 4 feet in width, no new development may occur within 20 feet of mean high water on Vaca Cut, within 100 feet of mean high water (MHW) on the ocean. The total combined area of accessory structures within the

shoreline setback may occupy 30 per cent of the principal shoreline setback on Vaca Cut excluding the first 20 feet from MHW, and 60 per cent of the principal shoreline setback along manmade canals including the first 10 feet from MHW except for pools and spas.

(11) *Swimming pools, spas, hot tubs.*

(a) Setbacks:

10 feet from side and rear lot lines and (MHW) on canals and 10 feet from sides and rear lot lines on dry lots;

25 feet from front lot line in all districts;

15 feet from side lot line in R-3 and RH districts;

100 feet from Ocean (MHW);

20 feet from MHW on Vaca Cut.

(b) [Pools, spas, and hot tubs:] Above grade pools are not permitted in any district. Prefabricated portable wading pools not over 18 inches in height above grade are permitted. Portable, plug in type spas or hot tubs no larger than 8'0" x 8'0" x 3'0" in height above grade are permitted when in compliance with the following:

1. Setbacks must comply with section 101-26(11)(a).
2. All controls, water heating and water circulating equipment are an integral part of the product and must be cord-connected to GFI outlet (no hard or permanent plumbing or electrical connections are permitted).
3. Must comply with SBCCI Standard Swimming Pool Code 1999 Edition (in particular Section 315, Protective Enclosure).
4. Must comply with City Code Chapter 6, section 6-2.3 which states that structures are designed to be securely anchored so as to withstand hurricane force wind and wave pressure.
5. A building permit must be approved and obtained prior to any installation.

(c) Drainage: Pool drainage shall not be piped to the city sewer system. See article VII. Pools cannot drain onto adjoining property or rights-of-way.

(d) Pool enclosures: Insect screening or other enclosures shall be permitted when the pool and its enclosure are not located within the required setback.

(12) *Tennis courts.*

(a) Tennis courts are permitted in all districts.

(b) In all districts, the required front, rear and side setbacks for tennis court fences shall conform to the same requirements as specified for buildings in article III.

- (c) In the R-1, R-2 and R-3 districts, a tennis court must be located on the same or adjacent lot as the residential structure.
 - (d) Use of the courts is limited to the property owners and their guests in the R-1, R-2 and R-3 districts.
 - (e) Lighting is permitted only in R-3, PR and RH districts.
 - (f) Lighting must be shielded to prohibit glare on surrounding property. All lights must be turned off after 10:00 p.m.
- (13) *Yard adornments.* Yard adornments are permitted in any front or rear yard area, but no yard adornment shall be permitted in any side setback. Yard adornments cannot be more than 48 inches high and not more than 9 square feet at the base. No more than 2 yard adornments are permitted in any front or rear yard area of a lot.

(Ord. No. 299-1995, 12-28-95; Ord. No. 316-1998, 8-13-98; Ord. No. 334-2001, 1-11-01; Ord. No. 348-2002, 11-27-02)

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.**



Legend

-  Centerline
-  Easements
-  Hooks
-  Lot Lines
-  Road Center
-  Rights of Way
-  Shoreline
-  Condo Building
- Key Names**
-  Subdivisions
-  Parcels

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Disclaimer

The Monroe County Property Appraiser's office maintains data on property within the County solely for the purpose of fulfilling its responsibility to secure a just valuation for ad valorem tax purposes of all property within the County. The Monroe County Property Appraiser's office cannot guarantee its accuracy for any other purpose. Likewise, data provided regarding one tax year may not be applicable in prior or subsequent years. By requesting such data, you hereby understand and agree that the data is intended for ad valorem tax purposes only and should not be relied on for any other purpose.

By continuing into this site you assert that you have read and agree to the above statement.

Summary

Parcel ID 00079873-000800
Account# 8992567
Property ID 8992567
Millage Group 50KC
Location Address VACANT LAND, KEY COLONY BEACH
Legal Description LOT 8 VISTA DEL SOL PB7-70 SHELTER KEY OR1798-2342/43
(Note: Not to be used on legal documents.)
Neighborhood 10041
Property Class STATE PARKS (8000)
Subdivision VISTA DEL SOL
Sec/Twp/Rng 08/66/33
Affordable Housing No

Owner

CITY OF KEY COLONY BEACH
 PO Box 510141
 Key Colony Beach FL 33051

Valuation

	2022 Certified Values	2021 Certified Values	2020 Certified Values	2019 Certified Values
+ Market Improvement Value	\$0	\$0	\$0	\$0
+ Market Misc Value	\$0	\$0	\$0	\$0
= Market Land Value	\$79,212	\$79,212	\$79,212	\$79,212
= Just Market Value	\$79,212	\$79,212	\$79,212	\$79,212
= Total Assessed Value	\$79,212	\$79,212	\$79,212	\$79,212
- School Exempt Value	(\$79,212)	(\$79,212)	(\$79,212)	(\$79,212)
= School Taxable Value	\$0	\$0	\$0	\$0

Historical Assessments

Year	Land Value	Building Value	Yard Item Value	Just (Market) Value	Assessed Value	Exempt Value	Taxable Value	Maximum Portability
2021	\$79,212	\$0	\$0	\$79,212	\$79,212	\$79,212	\$0	\$0
2020	\$79,212	\$0	\$0	\$79,212	\$79,212	\$79,212	\$0	\$0
2019	\$79,212	\$0	\$0	\$79,212	\$79,212	\$79,212	\$0	\$0
2018	\$79,212	\$0	\$0	\$79,212	\$79,212	\$79,212	\$0	\$0

The Maximum Portability is an estimate only and should not be relied upon as the actual portability amount. Contact our office to verify the actual portability amount.

Land

Land Use (8900)	Number of Units	Unit Type Square Foot	Frontage	Depth
	24,373.00		0	0

Sales

Sale Date	Sale Price	Instrument	Instrument Number	Deed Book	Deed Page	Sale Qualification	Vacant or Improved	Grantor	Grantee
6/6/2002	\$1,000,000	Warranty Deed	2342	1798	2342	G - Unqualified	Vacant		

View Tax Info

[View Taxes for this Parcel](#)

Map



No data available for the following modules: Buildings, Yard Items, Permits, Sketches (click to enlarge), Photos, TRIM Notice.

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Last Data Upload: 6/8/2023, 2:09:38 AM



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By continuing into this site you assert that you have read and agree to the above statement.

Summary

Parcel ID 00079870-000100
 Account# 8966222
 Property ID 8966222
 Millage Group 50KC
 Location Address VACANT LAND, KEY COLONY BEACH
 Legal Description 8 66 33 FAT DEER KEY PT LOT 1 SEC 8 OR 1630-1830/31 OR 1630-1834/35 Q/C OR 1799-245/46 CERT
 (Note: Not to be used on legal documents.)
 Neighborhood 10041
 Property Class STATE PARKS (8000)
 Subdivision
 Sec/Twp/Rng 05/66/33
 Affordable Housing No



Owner

CITY OF KEY COLONY BEACH
 PO Box 510141
 Key Colony Beach FL 33051

Valuation

	2022 Certified Values	2021 Certified Values	2020 Certified Values	2019 Certified Values
+ Market Improvement Value	\$0	\$0	\$0	\$0
+ Market Misc Value	\$23,524	\$23,524	\$23,524	\$23,524
+ Market Land Value	\$5,614	\$5,614	\$5,614	\$5,614
= Just Market Value	\$29,138	\$29,138	\$29,138	\$29,138
= Total Assessed Value	\$14,557	\$13,234	\$12,031	\$10,938
- School Exempt Value	(\$29,138)	(\$29,138)	(\$29,138)	(\$29,138)
= School Taxable Value	\$0	\$0	\$0	\$0

Historical Assessments

Year	Land Value	Building Value	Yard Item Value	Just (Market) Value	Assessed Value	Exempt Value	Taxable Value	Maximum Portability
2021	\$5,614	\$0	\$23,524	\$29,138	\$13,234	\$29,138	\$0	\$0
2020	\$5,614	\$0	\$23,524	\$29,138	\$12,031	\$29,138	\$0	\$0
2019	\$5,614	\$0	\$23,524	\$29,138	\$10,938	\$29,138	\$0	\$0
2018	\$5,614	\$0	\$23,524	\$29,138	\$9,944	\$29,138	\$0	\$0

The Maximum Portability is an estimate only and should not be relied upon as the actual portability amount. Contact our office to verify the actual portability amount.

Land

Land Use	Number of Units	Unit Type	Frontage	Depth
(8900)	0.66	Acreage	0	0
(9500)	0.04	Acreage	0	0

Yard Items

Description	Year Built	Roll Year	Size	Quantity	Units	Grade
WATER FEATURE	2008	2009	0 x 0	1	1 UT	1
WOOD DOCKS	2008	2009	8 x 20	1	160 SF	5
WOOD DOCKS	2008	2009	5 x 80	1	400 SF	4
TIKI	2008	2009	9 x 9	1	81 SF	5

Sales

Sale Date	Sale Price	Instrument	Instrument Number	Deed Book	Deed Page	Sale Qualification	Vacant or Improved	Grantor	Grantee
3/31/2000	\$1,200,000	Warranty Deed		1630	1831	G - Unqualified	Vacant		

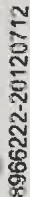
Permits

Number	Date Issued	Date Completed	Amount	Permit Type	Notes
11193	7/16/2019		\$56,000	Commercial	INSTALL NEW 10 X 20 FT BATH
10484	4/4/2018		\$27,000	Commercial	REPAIR OBSERVATION DECK, WALK RAILINGS, INSTALL IRRIGATION SYSTEM, SEWER LINE FOR NEW BATH, MISC ELECTRICAL & PLUMBING REPAIRS.
					INSTALL SOD & LANDSCAPING

View Tax Info

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Photos



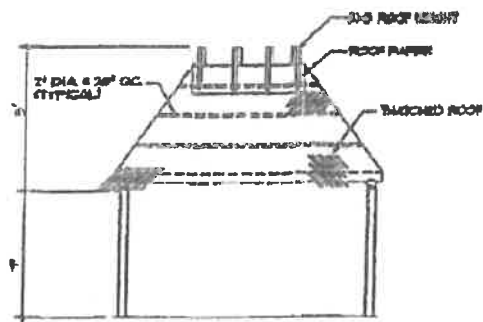
Map



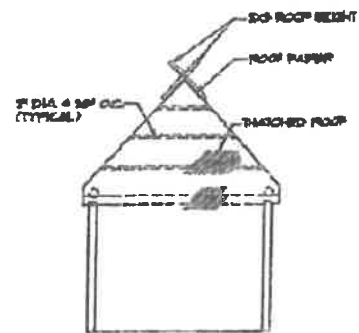
No data available for the following modules: Buildings, Sketches (click to enlarge), TRIM Notice.

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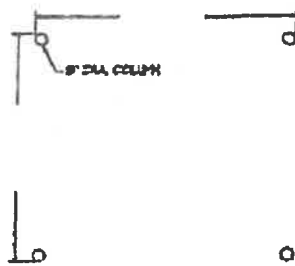
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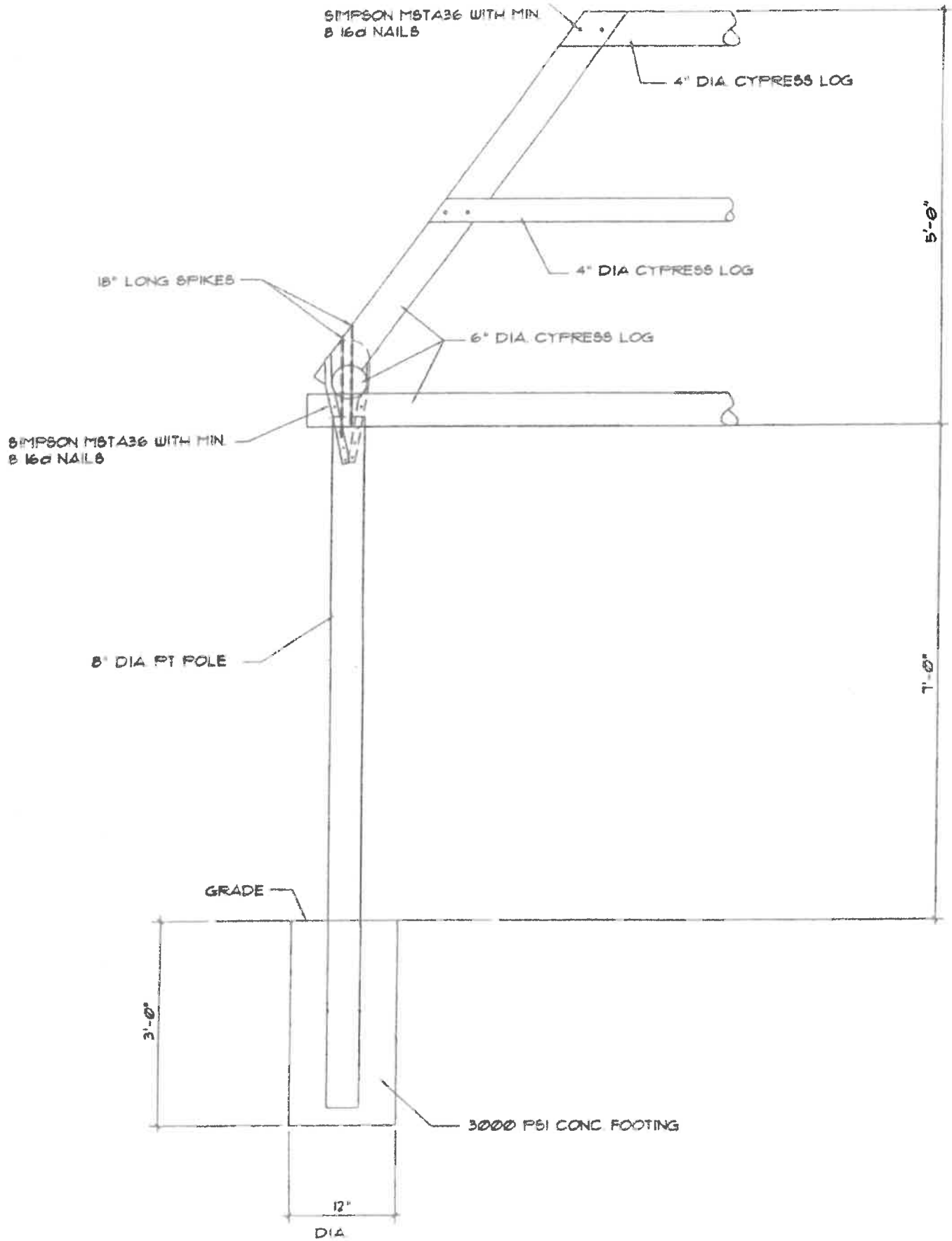
FRONT ELEVATION



SIDE ELEVATION



FLOOR PLAN
scale 1/4"=1'-0"





Overview



Legend

-  Hooks
-  Road Center
-  Rights of Way
-  Shoreline
-  Condo Building
-  Key Names
-  Subdivisions
-  Parcels

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www.keycolonybeach.net



August 16, 2023

To: The City of Key Colony Beach Board of Commissioners

From: The Key Colony Beach Planning & Zoning Board

Re: Variance Request Sunset Park Tiki Hut – Owner: City of Key Colony Beach

The Planning & Zoning Board heard the applicant's request for a review and confirmation of no variance requirements to the City of Key Colony Beach Land Development Regulations Article III, Section 101-19, for the replacement of the current Tiki Hut with dimensions of 9' x 9', to a Tiki Hut with the dimensions of 15' x 20' at Sunset Park, Key Colony Beach, Florida 33051.

Post Hearing Questions Results: Not needed.

MOTION: Motion made by Mike Yunker to make a recommendation of approval on the basis of being exempt and no variance requirements are needed. Chair Lancaster asked for second. Bob Glassman seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

Final Recommendation: The Planning & Zoning Board recommends to approve the Tiki Hut on the basis of exemption and no variance requirements are needed.

George Lancaster, Planning & Zoning Chair