



**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**

To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Vanessa Sellers, Planner II

Meeting Date: July 18, 2019

Agenda Item: **Variance – 1403 Washington Street (RE # 00041560-000000) -** A request for a variance to the minimum side yard setback requirement in order to replace two (2) existing central A/C condensers with two (2) new central A/C condensers within the side yard setback at property located within the Single-Family (SF) zoning district pursuant to the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

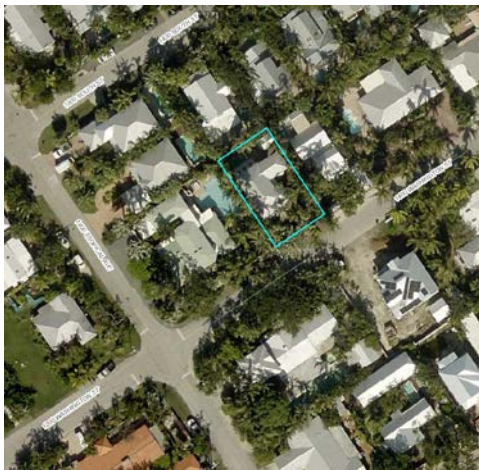
Request: The applicant is seeking a variance in order to replace two (2) existing central A/C condensers with two (2) new central A/C condensers within the side yard setback. The existing side yard setback is 1-foot (5-feet required).

Applicant: Adele V. Stones

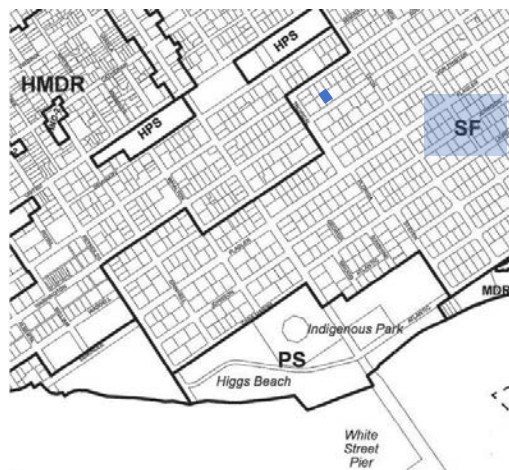
Property Owner: Adele V. Stones & Jeffrey J. Cardenas

Location: 1403 Washington Street, Key West, Florida

Zoning: Single-Family (SF)



Aerial image of the subject property.



Zoning map of the subject property.

Background:

The property at 1403 Washington Street is located between Tropical Avenue and Leon Street and it is one lot of record. The existing nonconforming structure is located within the side yard setback and the parcel contains two (2) noncomplying central A/C condensers within the side yard setback. The property is not located within the Key West Historic District and it does not contain a contributing structure.

The applicant is proposing to replace the two (2) existing central A/C condensers with two (2) new central A/C condensers. However, pursuant to City Code section 122-28 (b), all noncomplying accessory structures to the principal building or structure (e.g., a shed, pool, fence, etc., but not including a condominium clubhouse) shall require a variance in order to be enlarged, reconstructed, or replaced, either voluntarily or involuntarily.

The following table summarizes the requested variance:

Relevant SF Zoning District Dimensional Requirements: Code Section 122 - 238				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Maximum height	25' plus an additional five feet for nonhabitable purposes if the structure has a pitched roof	25'-0"	No change	No
Minimum lot size	6,000-SF	4,945-SF	No change	No
Maximum density	8 d/u per acre	1 d/u	No change	No
Maximum building coverage	35%	35%	No change	No
Maximum impervious surface	50%	50%	No change	No
Minimum open space (residential)	35%	No change	No change	No
Minimum front setback	30' or the average depth of front yards on developed lots within 100' each side, but not less than 20'	30'-0"	No Change	No
Minimum side setback	5'	1'-0" (west)	1'-0" (west)	YES
		5'-0" (east)	5'-0" (east)	No
Minimum rear setback	25' or 20' when abutting an alley	25'-0"	No change	No

Process:

Planning Board Meeting: July 18, 2019
Local Appeal Period: 10 days
DEO Review Period: up to 45 days

Analysis – Evaluation for Compliance with the Land Development Regulations:

The criteria for evaluating a variance are listed in Section 90-395 of the City Code. The Planning Board, before granting a variance, must find all of the following:

1. ***Existence of special conditions or circumstances. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district.***

The land, structure, and buildings do not have any special conditions or circumstances involved that any other property located within the SF zoning district possess. The primary structure is noncomplying to the minimum side yard setback. However, other lots in the area are similarly nonconforming.

NOT IN COMPLIANCE.

2. ***Conditions not created by applicant. That the special conditions and circumstances do not result from the action or negligence of the applicant.***

The primary structure and existing central A/C condensers are within the required side yard setback and are nonconforming. The applicant is proposing to maintain the nonconformity by replacing the two (2) existing central A/C condensers with two (2) new central A/C condensers. Therefore, the conditions are generated from specific actions initiated by the applicant.

NOT IN COMPLIANCE.

3. ***Special privileges not conferred. That granting the variance requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings, or structures in the same zoning district.***

Section 122-238 (6) A. 2. of the Land Development Regulations states the minimum side setback for single-family structures within the Single-Family (SF) zoning district is 5-feet. Therefore, the replacement of two (2) existing central A/C condensers with two (2) new central A/C condensers within the required side yard setback would confer special privileges upon the applicant.

NOT IN COMPLIANCE.

4. ***Hardship conditions exist. That literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.***

The proposed location for the two (2) new central A/C condensers is within the required side yard. Although it is the same location of the existing A/C condensers, the applicant could choose another location on the parcel. Therefore, hardship conditions do not exist. Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the SF zoning district.

NOT IN COMPLIANCE.

5. ***Only minimum variance granted. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.***

The variances requested are not the minimum required that will make possible the reasonable use of the land, building, or structure. However, they are the minimum necessary to accommodate the request.

NOT IN COMPLIANCE.

6. ***Not injurious to the public welfare. That the granting of the variance will be in harmony with the general intent and purpose of the land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.***

The granting of the requested variance would not be injurious to the area involved and otherwise detrimental to the public interest.

IN COMPLIANCE.

7. ***Existing nonconforming uses of other property not the basis for approval. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.***

Existing non-conforming uses of other properties, use of neighboring lands, structures, or buildings in the same district, or other zoning districts, are not the basis for this request.

IN COMPLIANCE.

Concurrency Facilities and Other Utilities or Service (Section 108-233):

It does not appear that the requested variances will trigger any public facility or utility service capacity issues.

The Planning Board shall make factual findings regarding the following:

That the standards established by Section 90-395 of the City Code have been met by the applicant for a variance.

The standards established by Section 90-395 of the City Code have not been fully met by the applicant for the variances requested.

That the applicant has demonstrated a “good neighbor policy” by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by these neighbors.

The Planning Department has not received any public comment for the variance request as of the date of this report.

RECOMMENDATION:

Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variances be **denied**.

However, if the Planning Board approves the request, staff would like to require the following condition:

General Condition:

1. The proposed development shall be consistent with the boundary survey sketch submitted with the application. No approval granted for any other work or improvements shown on the survey other than the placement of two (2) new central A/C condensers within the required side yard.