



THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report

**To:** Chairman and Planning Board Members

**Through:** Katie P. Halloran, Planning Director

**From:** Mario Duron, AICP, The Corradino Group

**Meeting Date:** May 19<sup>th</sup>, 2022

**Agenda Item:** **Variance --- 532 Margaret Street (RE# 00008110-000000)- Variance-** 532 Margaret Street (RE# 00008110-000000) – A request for variances from the required front, rear, and side setbacks, a variance request for exceeding the maximum building coverage and impervious surface ratio, and a variance request for exceeding the minimum open space required for property located within the Historic Neighborhood Commercial – 2 (HNC-2) Zoning District pursuant to Sections 90-395, 122-28(b), 122-840, and 108-346 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

**Request:** The applicant is proposing to rebuild deteriorating exit stairs and balcony to code, rebuild a cooler addition, and make improvements to the site's noncomplying lot coverage ratios and open space requirements.

**Applicant:** William P. Horn, Architect, PA

**Property Owner:** Bean Job, LLC (Bob Pollman)

**Location:** 532 Margaret Street

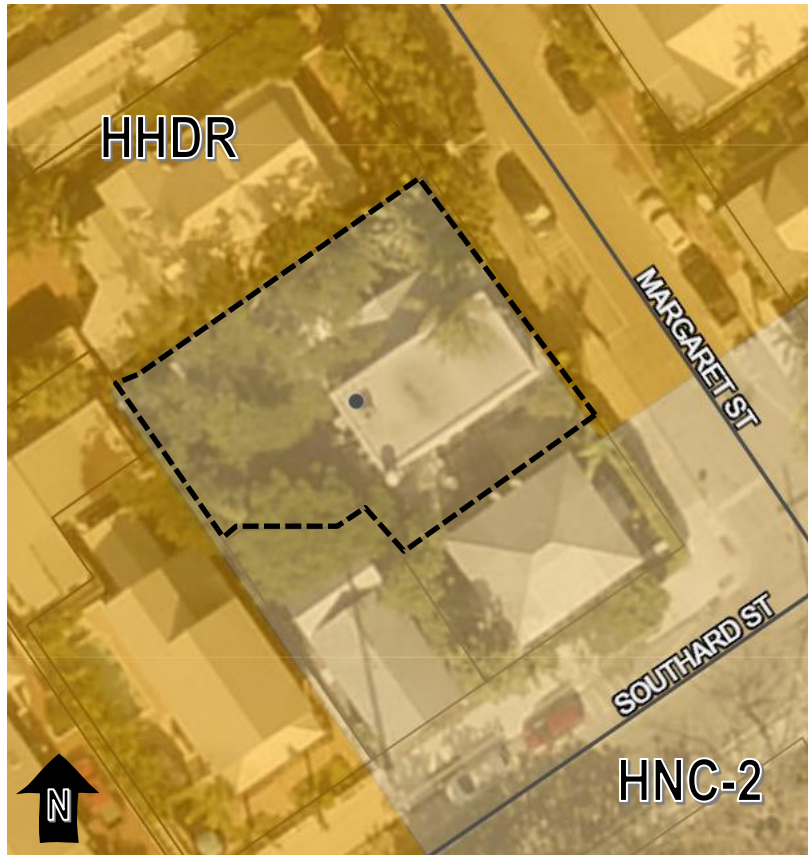
**Zoning:** Historic Neighborhood Commercial (HNC-2)



1. Photo of subject property from Margaret Street



2. Section photo of the restaurant's outdoor covered patio area.



3. The property is zoned HNC-2 and is flanked by the Historic High Density Residential zoning district along the front, north side, and rear property lines.

**Background/Request:**

The subject property at 532 Margaret Street is within the Historic Neighborhood Commercial 2 (HNC-2) zoning district, near the intersection of Margaret & Southard Street. The property is developed with a two-story principal structure that houses a restaurant on the ground level and residential unit on the second floor. A one-story accessory structure in the rear of the property is equipped with a restroom.

The Applicant is proposing to renovate the principal structure and make other improvements to the site. These include, rebuilding a deteriorating exit stair and balcony that encroach into the front setback, rebuilding a cooler addition that impacts building coverage, and removing some of the existing covered patio areas to improve the site's noncomplying open space area.

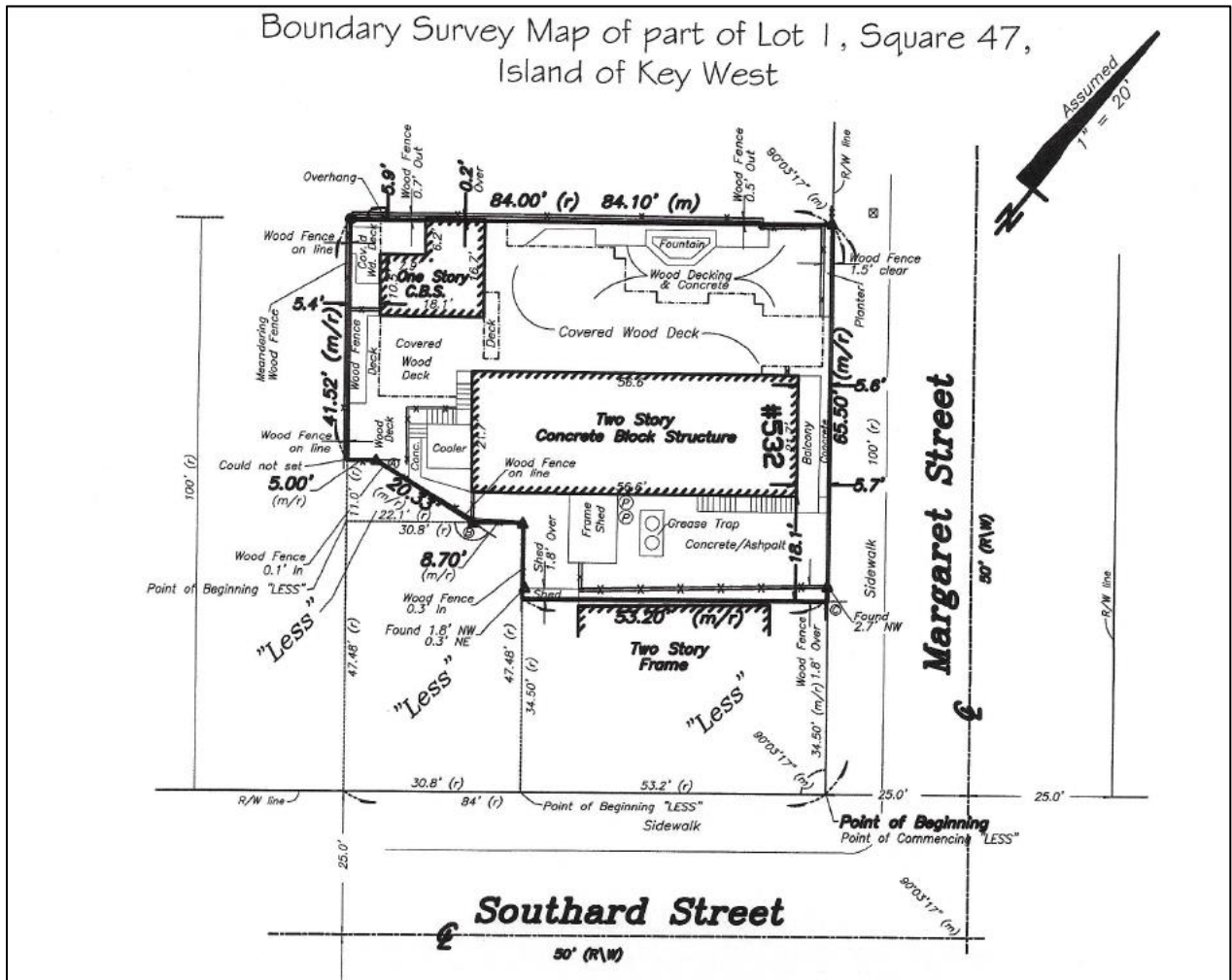
The proposed scope of work will require variances from the following sections of the Code:

- Sec. 122-840(4) Minimum Lot Coverage; for exceeding building coverage and impervious surface ratio.
- Sec 122-804(6) Minimum Setbacks; for encroaching on the required rear, side, and front yard setback.
- Sec. 108- 346(b) Nonresidential uses shall provide a minimum of 20 percent open space.

Survey:

The Property's survey below highlights the irregular lot shape and existing building configurations. The lot is approximately 26 SF less than the required 5000 SF minimum lot area required for properties in the HNC-2 district. The current building coverage is approximately 3095 SF, or 62.2% of the site. The existing impervious surface ratio is 83.4% of the site, or approximately 4150 SF, while the site's open space is 8.2% or 407.9 SF of the total lot area.

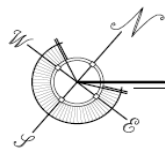
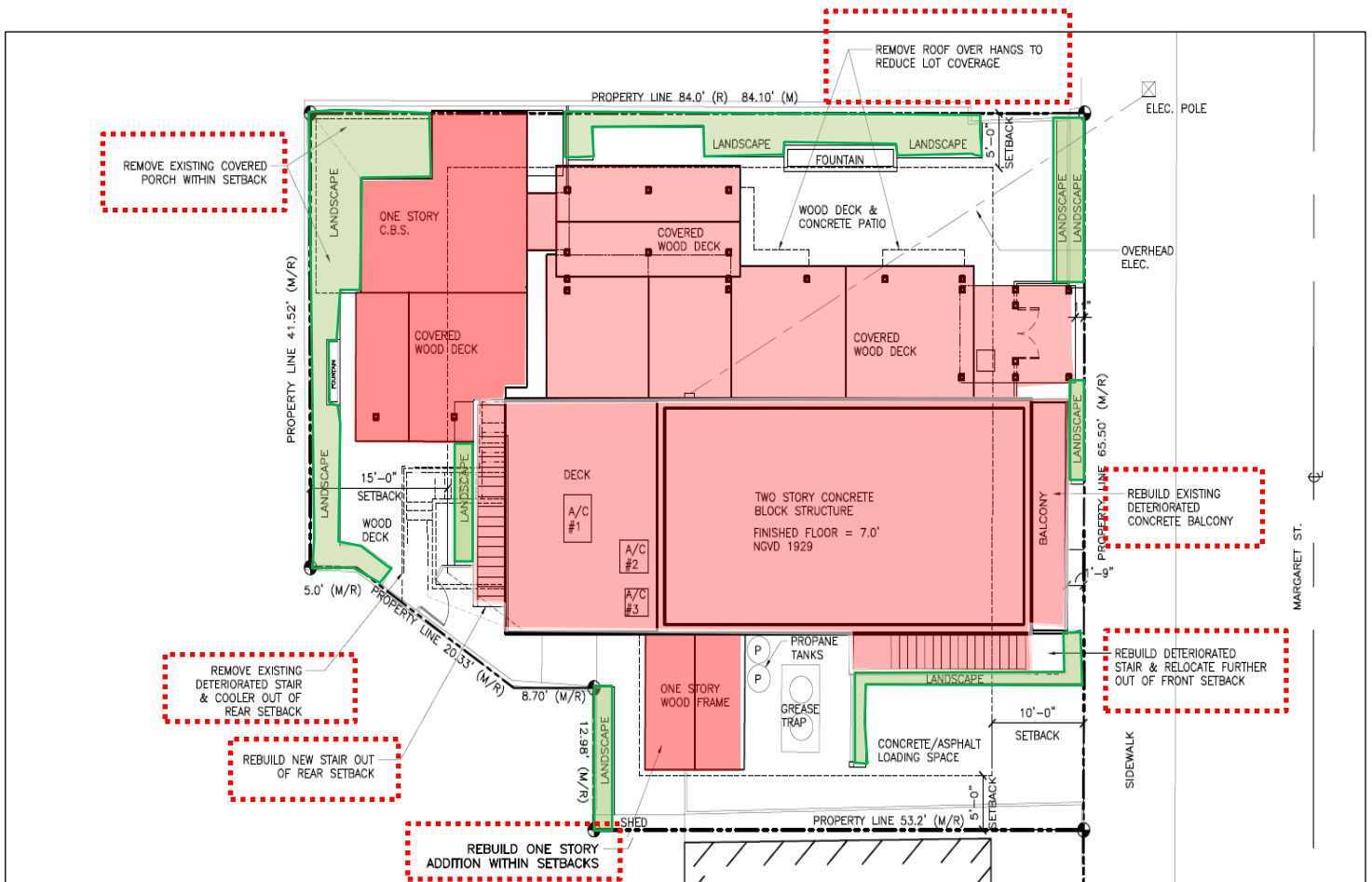
The principal structure is set back approximately 5.6 FT from the front property line, however the balcony projects into the required setback resulting in a front setback of 1 FT 9 IN. An accessory structure in the rear of the property is built with a zero-side yard lot line and is approximately 5.4 FT. setback from the rear property line.



**Proposed Site Plan:**

In addition to the exterior and interior modifications to the principal structure, the Applicant is proposing the following to mitigate the variance requests:

1. Remove approximately 32.5 SF of roof overhangs over an existing concrete patio to moderately improve the building lot coverage ratio;
2. Remove an existing covered porch and convert area to open space/landscaping;
3. Remove an existing deteriorated stair and cooler encroaching the rear setback;
4. Rebuild a one-story addition to the principal structure with complying setbacks;
5. Rebuild a new stair out outside the rear setback; and
6. Rebuild a deteriorated stair within an improved front setback encroachment.



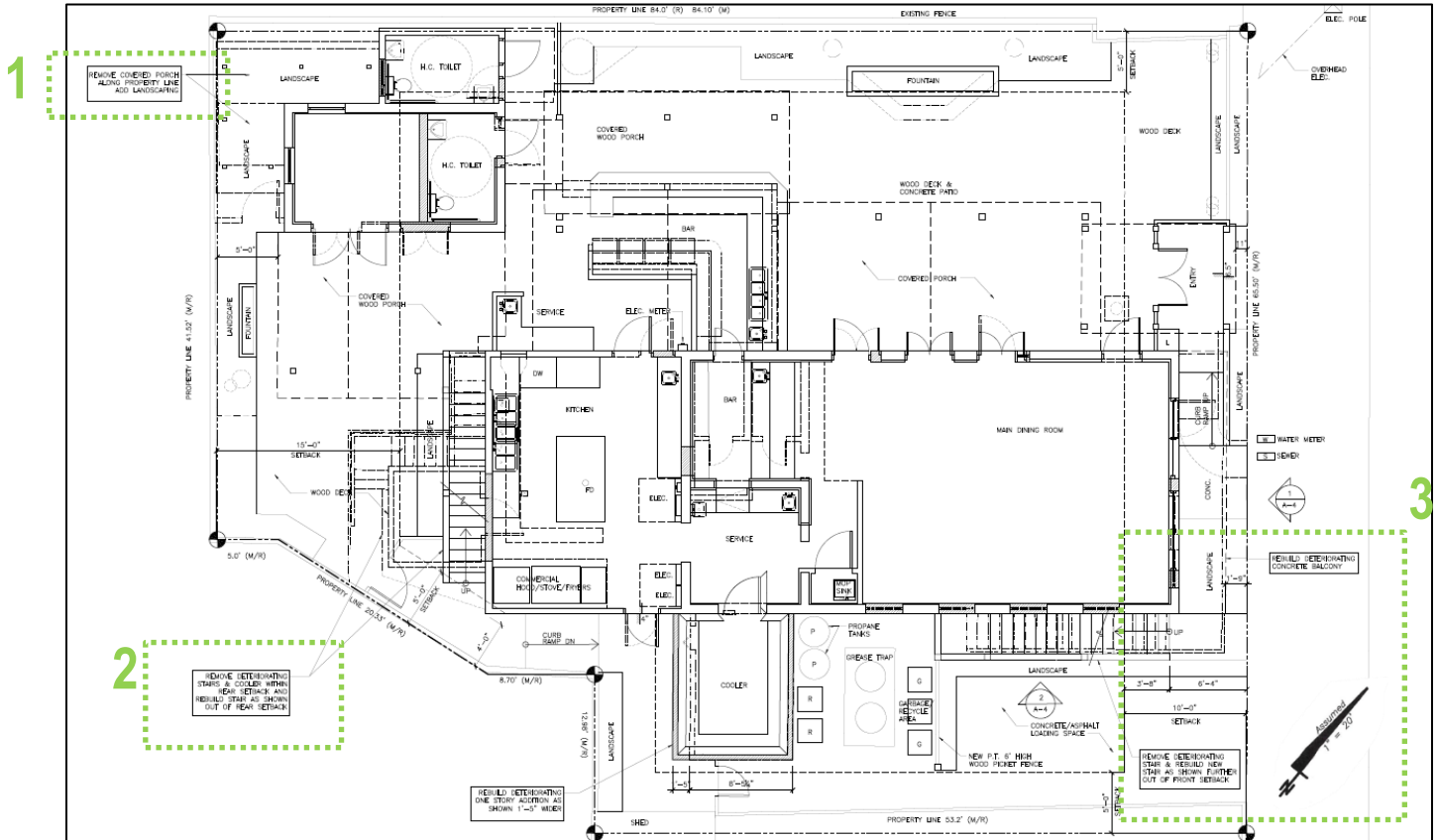
**PROPOSED SITE PLAN**

SITE PLAN BASED ON INFORMATION OBTAINED FROM SURVEY PREPARED BY J. LYNN O'FLYNN, INC. DATED ON 12-02-21.

SCALE: 1/8"=1'-0"

**Proposed Floor Plans:**

The proposed floor plans for the first and second levels highlight the reconfigured interior space and uses. The one-story addition to the principal structure will be used for a cooler. The second level apartment will be accessible via the rebuilt stairs in the front and rear of the structure.



1. The removal of the existing covered porch will improve the site's building coverage and encroachment over the north side yard and rear yard setback. However, an existing accessory structure that is not being modified has a zero setback from the north side yard property line. While there is an improvement, there are existing noncomplying conditions that will not be modified. A covered wood deck with a 5-foot setback will also remain on site without modification, resulting in noncomplying rear setback of 5 feet.
2. The demolition and reconstruction of the rear stairs outside of the rear yard setback improve the structure's encroachment into the rear setback, however, its relocation will have an encroachment of 1 foot into the required side yard setback along the south property line. A variance is being requested for the rear and for the south side yard encroachment.
3. The proposed improvements along the property's front yard setback will reduce the encroachment into the front yard as the exterior stairs are proposed to be pushed back approximately 6 FT from the front property line. While the new location of the stairs improves the encroachment of the front setback, an existing balcony being rebuilt with the same footprint will only have a setback of 1 foot 9 inches.

Site Data Table

<b>532 MARGARET STREET</b> (PLANNING STAFF ANALYSIS)				
	CODE REQUIRED	EXISTING	PROPOSED	COMMENTS
Zoning	HNC-2			n/a
Flood Zone	AE 6	7 FT.		n/a
Maximum Density	16 du/acre or 1.76 units	1		n/a
Maximum FAR	1.0 (5000 SF)	79.3% (3976.67 SF.)	79.3% (3,945.51 SF.)	Complies
Minimum Lot Size	5,000 SF.	4,974 SF.	n/a	Legal Nonconforming
Height	30 FT.	22 FT.	n/a	Complies
Front Setback	10 FT.	1 FT. 9 IN.	1 FT. 9 IN.	<b>Variance Request- 8 FT 3 IN</b>
N. Side Setback	5 FT.	0 FT.	0 FT.	Legal Non-Complying
S. Side Setback	5 FT.	3 FT.	4 FT.	<b>Variance Request- 1 FT</b>
Rear Setback	15 FT.	0 FT.	5 FT.	<b>Variance Request- 10 FT</b>
Building Coverage	40% -- 2000 SF.	62.2% -- 3,095.2 SF.	61.5% -- 3,063.9 SF.	<b>Variance Request</b> 21.5%, or +1063.91 over max.
Impervious Surface	60% -- 3000 SF.	83.4% -- 4,150.9 SF.	79.2% -- 3,940.2 SF.	<b>Variance Request</b> 19.2%, or +940.17 over max.
Open Space	20% -- 1000 SF	8.2% -- 407.9 SF.	13.4% -- 666.8 SF.	<b>Variance Request</b> 6.6%, or -333.2 SF. <b>under min.</b>

The applicant is requesting variances pursuant to following sections of the City of Key West Land Development Regulations:

- **Sec. 122-840(4)(a):** Maximum lot coverage; 40 percent => to provide 61.5%  
**(b):** Maximum impervious surface ratio; 60 percent => to provide 79.2%
- **Sec 122-840(6)(a):** Front 10 FT. => to provide a 1 FT. 9 IN. front setback  
**(b):** Side 5 FT. => to provide a 0 FT. north side setback & a 4 FT. south side setback  
**(c):** Rear 15 FT. => to provide a 5 FT. rear setback.
- **Sec. 108- 346(b):** Nonresidential minimum of 20 percent open space => to provide 13.4% open space

The scope of work improves some of the existing noncomplying site conditions:

- **Building Coverage:** reduction of 31.3 SF from existing building coverage, or approximately 1%
- **Impervious Surface Ratio:** reduction of 210.7 SF from existing impervious surface area, or 4.2%
- **Open Space:** increase of 258.9 SF of open space, or an improvement of 5.2%
- **South Side Setback:** stairs to be removed from rear setback will encroach 1 FT. into required 5 FT. side yard, when existing encroachment is 2 FT. into side yard.
- **Rear Setback:** existing covered porch built with a zero-rear setback, demolition of structure results in a 5 FT. rear setback.

**Process:**

Development Review Committee: N/A  
Planning Board: May 19, 2022  
HARC: TBD  
Local Appeal Period: 10 days  
DEO Review: Up to 45 days

**Staff Analysis- Evaluation:**

The criteria for evaluating a variance are listed in Sections 90-391 through 397 of the City of Key West Land Development Regulations (LDRs). The Planning Board before granting a variance must find all 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 existing dimensions and size of the parcel as well as the structure pre-date requirements of the current Land Development Regulations, and therefore were legally conforming in the HNC-2 zoning district. The applicant is replacing a deteriorating staircase and balcony and relocating an existing stair out of the rear setback. The request is to make safety improvements to the property, although there remains an encroachment into setbacks. There are no special conditions nor circumstances that render the land, structures or buildings that are special to this property.

**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 conditions are being generated by the Applicant's request to improve the site. However, some of the improvements being proposed are a result of life safety concerns and are to bring non-conformities more in line with the current Land Development Regulations.

**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.*

The property is currently nonconforming with respect to the lot size, setbacks, maximum building coverage, open space and impervious surface. The proposed design would reduce some of the dimensional standard noncompliance.

**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 the other properties in this same*



*zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.*

Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the HNC-2 zoning district. Surrounding properties have similar constraints. The property is currently noncomplying with respect to lot size, setbacks, building coverage, impervious surface, and open space.

**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 only minimum requirement that will make possible the reasonable use of the land, building and/or structure. However, some of the proposed improvements will improve safety concerns and reduce site noncompliance to dimensional standards.

**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 variances would be in harmony with the general intent of the land development regulations and would not be injurious to the area involved or detrimental to the public interest or welfare. In fact, improvements are being made that will better retain storm water on site, and provide an improved stair case critical for egress during emergencies.

**IN COMPLIANCE**

- 7. Existing nonconforming uses of other property shall not be considered as 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 the requested variance 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 the City Code have been met by the applicant for a variance.***

The standards established by the City Code have not been fully met by the applicant for the variances requested.

***That the applicant has demonstrated "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 variances requested as of the date of this report.

***The Planning Board shall not grant a variance to permit a use not permitted by right or as a conditional use in the zoning district involved or any use expressly or by implication prohibited by the terms of the ordinance in the zoning district.***

No use not permitted by right or as a conditional use in the zoning district involved or any use expressly or by implication prohibited by the terms of the ordinance in the zoning district would be permitted.

***No nonconforming use of neighboring lands, structures, or buildings in the same 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.***

No such grounds were considered.

***No variance shall be granted that increase or has the effect of the increasing density or intensity of a use beyond that permitted by the comprehensive plan or these LDRs.***

No density or intensity of a use would be increased beyond that which is permitted by the comprehensive plan or Land Development Regulations.

**RECOMMENDATION:**

The variance requests to the minimum requirements do not meet all the criteria stated in Section 90-395. The Planning Department recommends denial.

If the Planning Board chooses to approve the variances, the Planning Department recommends the following conditions:

1. The proposed construction shall be consistent with the signed and sealed plans prepared by William P. Horn Architect, P.A., dated 03-16-2022.
2. Install and maintain gutters on all structures, including the covered deck and route collected rainwater to landscaped areas.