



**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, Corradino

Meeting Date: June 16<sup>th</sup>, 2022

Agenda Item: Variance - 1202 Royal Street (RE# 00029450-000000) - A request for a variance to exceed the maximum rear yard coverage for accessory structures, and a request for variances from the side and rear setback requirements for a noncomplying accessory structure, for a property located within the Historic Medium Density Residential (HMDR) Zoning District pursuant to Section 90-395, Section 122-28(b), Section 122-600, and Section 122-1181 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is proposing to alter an accessory structure in the rear of the property to accommodate a pool in the rear yard. The applicant is requesting variances from the Land Development Regulations for properties zoned HMDR, to exceed the maximum rear yard coverage for accessory structure by 65% and to allow setback variances for the rear accessory structure of 4 FT. 11 IN. from the rear setback and 1 FT. 9 IN. from the north side setback.

Applicant: Amy VanderMeer

Property Owner: Gail J. Piotrkowski 2002 Inter Vivos

Trust Location: 1202 Royal Street (RE# 00029450-  
000000)

Zoning: Historic Medium Density Residential (HMDR)



*Background/Request:*

The original request appeared before the Planning Board on April 21<sup>st</sup>, 2022, where the item was postponed allowing the Applicant time to revise their proposal. Under the revised submission for the May 2022 Planning Board meeting, the applicant has improved the site plan to eliminate the need for variances from: 1) Required Building Coverage, and 2) Impervious Surface Area ratios.

Under the revised scope of work, the Applicant is proposing to modify the rear accessory structure to improve the site's building coverage ratios, the maximum rear-yard coverage with accessory structures percentage, and to accommodate a pool. The previously proposed gazebo was eliminated from the scope of work. Under the new revision, the applicant intends to demolish approximately 340 SF from the rear accessory structure. In doing so, the applicant proposes to reconfigure the interior of the rear structure, but it will remain habitable space with a bedroom and kitchen facilities.

In order to effectuate the proposal, the applicant is requesting the following variances, from:

- Sections 122-600(6) (b) & (c) to permit a 1 FT. 9 IN. side setback and 4 FT. 2 IN. rear setback for the altered structure; and
- Sec. 122-1181 to cover approximately 65% of the required rear yard, when the maximum allowed by code is 30%.

The variances are being requested in accordance with Section 122-28(b) of the City's LDRs. The Code section requires a variance approval to reconstruct a noncomplying accessory structure to a principal building with a dwelling unit. The setback requests result from the alteration of the rear structure.

The applicant cited the property's existing conditions as a constraint for the redevelopment. The lot does not conform to the minimum site area. The existing accessory structure does not comply with the required setbacks, and the lot exceeds the maximum. The proposed renovation will eliminate the noncomplying site conditions in regard to building coverage and impervious surface.

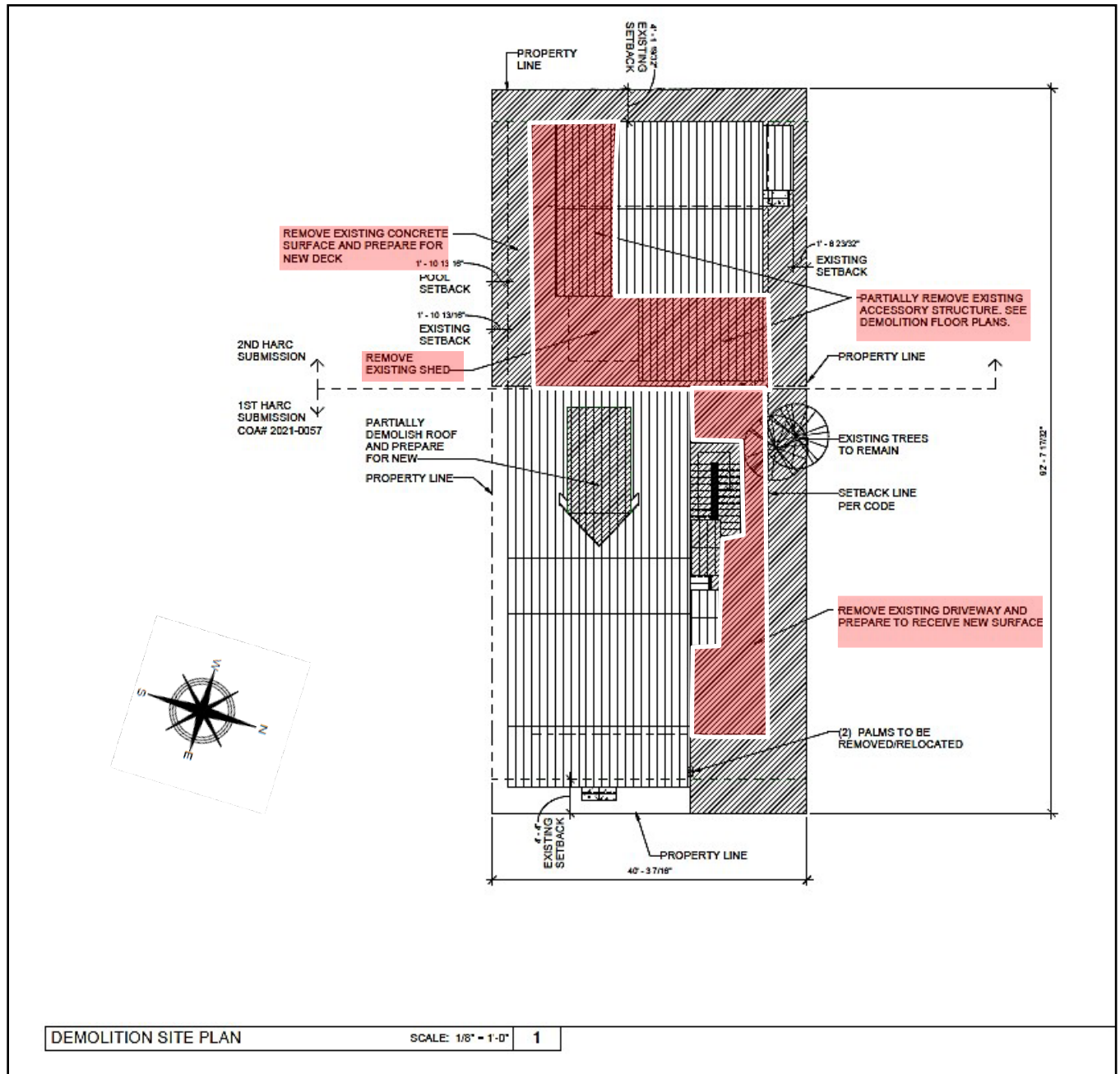


Below is a survey of the subject property. The property is developed with two frame structures and a shed. The site's existing building coverage is 2119 SF or 57% of the total lot area, while the impervious surface area ratio is approximately 99% of the site. The area of interest for the proposed scope of work is highlighted in yellow.



## **Demolition Plan**

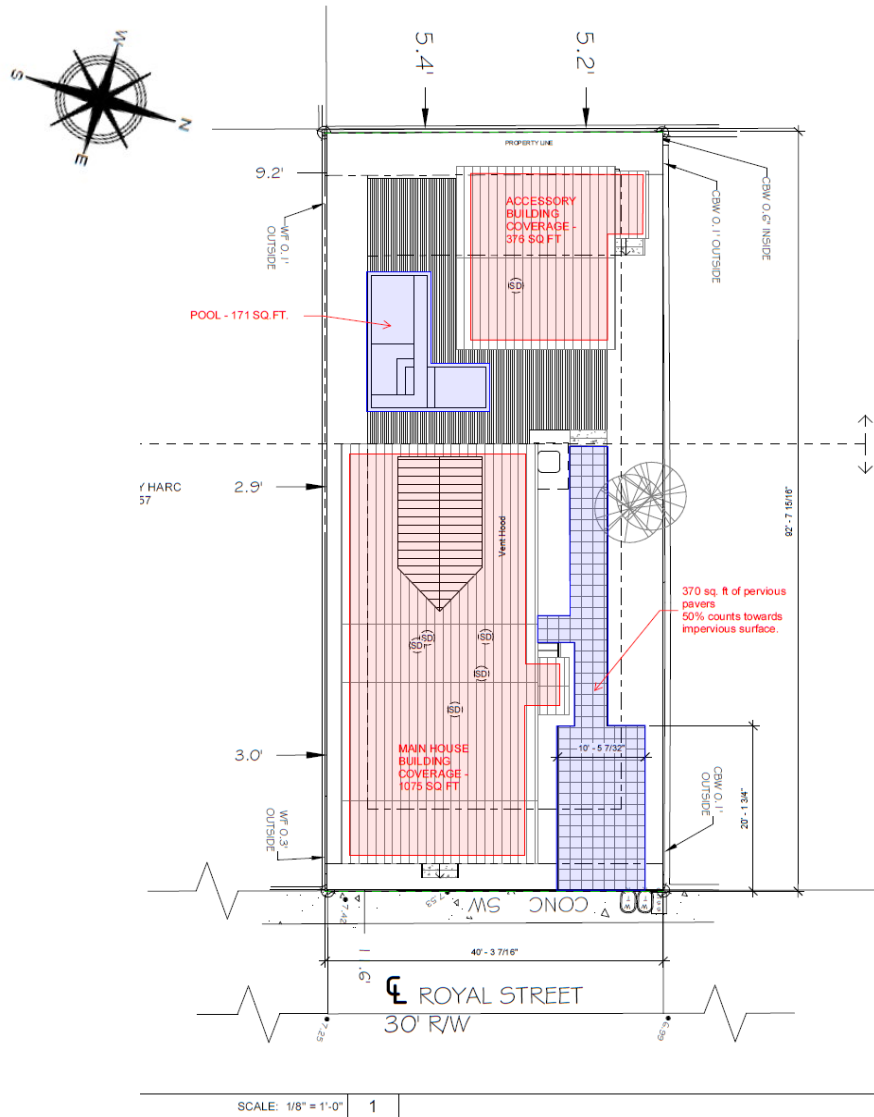
The accessory structure in the rear of the property is approximately 693 SF. The applicant is proposing to alter the structure by demolishing 340 SF. The interior of the space is proposed to remain equipped as habitable space. An existing shed, driveway, and concrete surface will also be demolished. The total building area to be demolished from the site is approximately 415 SF.



**Proposed Site Plan:**

Below is the new proposed site plan. In the original presentation to the Planning Board, the applicant prepared a site plan that included alterations to the rear structure and installation of a pool and gazebo in the rear yard. After the April 21st, 2022, Planning Board meeting, the applicant revised the site plan to increase the demolition area of the accessory structure by approximately 73 SF for a total of 340 SF and is proposing to use pervious pavers to allow a 50% credit towards impervious surface coverage. Finally, the new site plan excludes the proposed gazebo from the original submission.

Under the revised site plan, the building coverage and impervious surface ratios will come into compliance with the HMDR requirements. However, due to the partial modification of the rear accessory structure, the applicant will still require the setback variances per Sec. 122-28(b).



**Site Data Table**

1202 ROYAL STREET				
	CODE REQUIRED	EXISTING	PROPOSED	COMMENTS
ZONING	HMDR			n/a
FLOOD ZONE	AE 6			n/a
MINIMUM LOT SIZE	4,000 SF.	3718 SF.	n/a	Legal nonconforming
HEIGHT	30 FT.	20 FT.	20 FT.	Complies
DENSITY (16 DU/ACRE)	1.36	3	3	1 of the 3 units is unusable
FRONT SETBACK	10 FT.	7.5 FT.	n/a	Legal noncomplying
SOUTH SIDE SETBACK	5 FT.	1 FT. 11 IN. (PRINCIPAL STRUCUTRE)	5 FT. (POOL)	Complies
NORTH SIDE SETBACK	5 FT.	1 FT. 9 IN.	1 FT. 9 IN.	Variance Request -3 FT. 3 IN.
REAR SETBACK	15 FT.	4 FT. 2 IN.	4 FT. 2 IN.	Variance Request -10 FT. 8 IN.
MAXIMU M BUILDING COVERAGE	40% -- 1487 SF.	57% -- 2120 SF.	39% -- 1451 SF.	Complies
MAXIMUM IMPERVIOUS SURFACE	60% -- 2231 SF.	100% -- 3718 SF.	49% -- 1807 SF.	Complies
MAXIMUM ACCESSORY COVERAGE	30%	99%	65%	Variance Request +35%  * IMPROVEMENT OF 34%

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

- **Sec. 122-600(6)** – Minimum setbacks:  
 (b): Side: 5 feet  
 (c): Rear: 15 feet
- **Sec. 122-1181** – Permitted and restricted uses

The variances for the rear and side setbacks are being requested in accordance with Section 122-28(b) of the City's LDRs. The Code section requires a variance approval to reconstruct a noncomplying accessory structure. The accessory structure is being modified; however, no changes are proposed for the structure's existing noncomplying rear and side setbacks.

In addition to altering the accessory structure, the applicant is proposing to modify the site's lot coverage ratios, including impervious surface, and rear yard coverage for accessory structures. The scope of work brings the site's lot coverage ratios into compliance. However, the rear yard will exceed the permitted rear yard accessory structure coverage by approximately 35%, an improvement of approximately 27% from the original proposal given the removal of the originally proposed gazebo.

Process:

Development Review Committee:	N/A
Planning Board:	April 21, 2022 (postponed)
Planning Board:	May 19, 2021
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 parcel located at 1202 Royal Street does not conform to the minimum lot size required by Code. Per the LDRS, the minimum lot size for properties in the HMDR zoning district is 4000 SF, while the subject property has a lot size of 3717.6 SF. The site's noncompliance is exacerbated by the structures on the property which exceed the building coverage allowances and do not comply with the minimum setback requirements. These conditions are typical for many lots in the historic district and do not present a special circumstance. In August 2021, the current owner purchased the property. While the proposed redevelopment of the site may reduce the property's noncompliance with the LDRs, the applicant is requesting relief from the code.

**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 site's impervious surface area, building coverage, rear yard coverage, and required setbacks do not comply with the current zoning regulations. The current property owner purchased the home in 2021 with the existing conditions. The new owner intends to alter and reduce their noncompliance

#### **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 Land Development Regulations set maximum building coverage, impervious surface ratios, and setbacks to ensure life safety, general welfare, health standards, and aesthetics. The proposed demolition of portions of the rear structure results in the need for the rear and site setback variance requests. The proposed accessory structure (a pool) will comply with the development standards. The proposed redevelopment seeks to improve the site's building coverage and impervious surface ratio to be in compliance; however, the site will still exceed the Code allowances for rear yard accessory coverage by approximately 65%, or approximately 35% over what is permitted by code.

#### **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.*

The parcel is substandard and does not meet the minimum lot size required, which creates limitations for the property owner. The existing noncompliant structures were in existence prior to the purchase by the current property owner. Staff notes that the proposed pool will comply with required setbacks.

#### **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.*

There are multiple existing non-complying conditions (building coverage and impervious surface, rear yard coverage, and setbacks) on this property. The variances requested are not the minimum required that will make possible the reasonable use of the land, however it is the minimum to retain the existing rear structure for habitable space and to provide accessory structures for the property owner's reasonable use of the land.

#### **PARTIALLY 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 are in harmony with the intent of the land development but may be detrimental to neighboring properties. Staff is recommending a condition of approval as it relates to stormwater management on the site. Considering the setbacks of the altered accessory structure are minimal and noncomplying, it is prudent the applicant supplements the structure's roof with rain gutters that discharge onto a landscaped area within the property's boundaries.

#### **NOT 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:**

Based on the existing conditions, the Planning Department recommends to the Planning Board DENIAL of the proposed variances given all review criteria have not been met.

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 K2M Architects and dated May 6, 2022.
2. The property owner shall install rain-gutters along the eaves of the roof for the reconstructed accessory structure. The property owner shall ensure the downspout is directed to discharge back onto the property, preferably onto a landscaped swale area.
3. Prior to issuance of building permits the applicant shall surrender one non-transient residential dwelling unit to the City of Key West to be added to the BPAS Beneficial Use pool from property at 1202 Royal Street (RE# 00029450-000000)
4. Prior to issuance of a Certificate of Occupancy for the building in the rear of the property, all buildings on the property shall be equipped with a fire sprinkler system, in accordance with any federal and local regulations.