

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



To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Ginny Haller, Planner II

Meeting Date: July 20, 2017

Agenda Item: **Variances – 306 Peacon Lane (RE# 00003620-000000)** A request for variances to maximum impervious surface ratio and open space requirements in order to install 220 square feet of brick pavers in the front yard on property located within the Historic Medium Density Residential (HMDR) Zoning District pursuant to Section 90-395, 122-600(4)(b), and 108-346(b) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

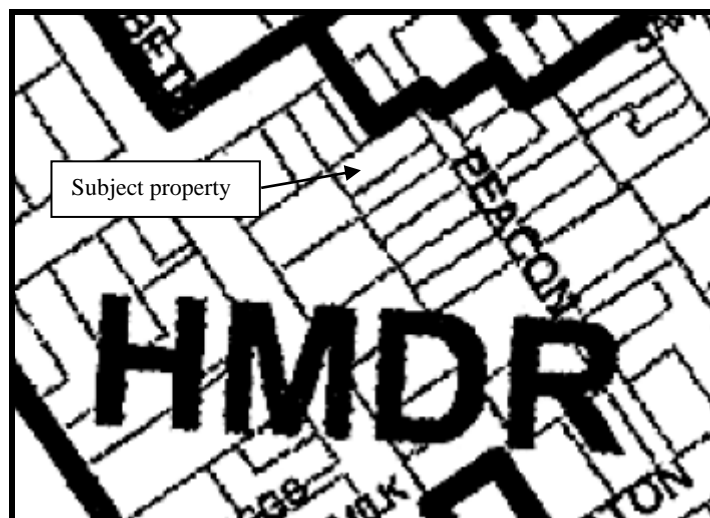
Request: Variances to maximum impervious surface ratio and open space requirements in install 220 square feet of brick pavers in the front yard of a single-family residential dwelling unit on the property.

Applicant: Robert L. Delaune, Architect, PA

Owner: Jennifer Stephens

Location: 306 Peacon Lane (RE # 00003620-000000)

Zoning: Historic Medium Density Residential (HMDR)



Background and Request:

The subject property is located in the 300 block of Peacon Lane bound by Caroline Street, Elizabeth and William Streets within the HMDR Zoning District. The property is located within the Key West Historic District and the wood-frame single-family home was built circa 1906. The lot size is nonconforming at approximately 3,023 square feet where the minimum lot size for the HMDR 4,000 square feet.

The applicant proposes to install 220 square feet of brick pavers in the front yard to allow for vehicle parking. As shown on the site plan, the proposal is to install a retention swale on northeast side of the dwelling unit. The applicant is requesting variances to impervious surface ratio and open space requirements as part of the proposed construction. The following table summarizes the requested variances:

Relevant Land Development Regulations: Code Section 122-600				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Impervious Surface Ratio	60%	58.8% (1,777 sq. ft.)	66% (1,997 sq. ft.)	Variance Requested
Open Space	35%	32% (953 sq. ft.)	24% (733 sq. ft.)	Variance Requested

Process:

Planning Board Meeting: July 20, 2017
Local Appeal Period: 30 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 lot size is nonconforming at approximately 3,023 square feet where the minimum lot size for the HMDR 4,000, however other lots in the area are similarly nonconforming. The land and building involved are located on the property within the HMDR Zoning District and were developed before the adoption of the current Land Development Regulations (LDRs). Therefore, all of the existing nonconformities on the property were established prior to the current LDRs as were many other buildings and lots in the HMDR district.

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 existing nonconforming lot and front and side setbacks were not created by the property owner. The applicant states brick pavers existed at the front of the property until approximately 2011 when they were removed by the previous owner. The proposal is to install a 38' X 2' (19 c.f.) retention swale within the northeastern side setback in order to mitigate the stormwater runoff on the property.

The additional nonconformities will be created by the applicant due to the nature of the design.

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 existing condition of the nonconforming lot size was not created by the owner or applicant. The conditions of the variances to impervious surface ratio and open space requirements were created by the applicant. Therefore, granting the requested variances would confer special privileges upon the applicant that are denied by the LDRs to other lands, buildings and structures in the HMDR zoning district.

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.**

Although hardship conditions do not exist, the applicant states that the approval of the variances would allow the property to have a hard surface parking space for the single-family residence.

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.**

Due to not being in compliance with all of the standards for considering variances, the granting of the requested variances would be injurious to the area involved and otherwise detrimental to the public interest.

NOT 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 variance will trigger any public facility 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 public comment regarding the requested variance.

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 increases or has the effect of 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 permitted by the Comprehensive Plan or the LDRs.

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**.