



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

To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Vanessa Sellers, Planner I

Meeting Date: March 15, 2018

Agenda Item: **Variance – 3722 Eagle Avenue (RE # 00052200-000000; AK # 1052841)** – A request for a variance to maximum allowable building coverage and maximum allowable impervious surface in order to construct a 2-story single-family structure, a rear terrace, a swimming pool plus pool equipment pad, and an accessory structure on 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 variances in order to construct a 2-story single-family structure, a 440-square-foot rear terrace, a 430-square-foot swimming pool plus pool equipment pad, and a 61-square-foot accessory structure. The proposed building coverage is 45.6 percent, and the maximum allowable is 35 percent. The proposed impervious surface is 58.7 percent, and the maximum allowable is 50 percent.

Applicant: Trepanier & Associates, Inc. c/o Owen Trepanier

Property Owner: John & Amy Tahtabrounian

Location: 3722 Eagle Avenue

Zoning: Single Family (SF) Zoning District



Background:

The property at 3722 Eagle Avenue is located between 19th Street and 20th Street, and is one lot of record. It is located within the SF Zoning District, and does not contribute to the Key West Historic District. In 2013, the previous 3-bedroom / 2-bathroom single-family structure at 3722 Eagle Avenue was demolished. Today, the property remains vacant.

The applicant is proposing to construct a 2-story single-family structure, a 440-square-foot rear terrace, a 430-square-foot swimming pool plus pool equipment pad, and a 61-square-foot accessory structure. Although the proposed plans comply with the setback requirements in Section 122-238 of the Land Development Regulations, the plans submitted would require a variance to the maximum allowable building coverage and the maximum allowable impervious surface in the SF zoning district.

The following table summarizes the requested variance:

Relevant Single Family (SF) Zoning District Dimensional Requirements: Code Section 122-238				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Maximum height	25'	(vacant)	24.5'	No
Minimum lot size	6,000 SF	6,000 SF	No Change	No
Maximum density	8 dwelling units per acre	0	1	No
Maximum building coverage	35%	0% (0 SF)	45.6% (2,738 SF)	Yes
Maximum impervious surface	50%	(vacant)	58.7% (3,524 SF)	Yes
Minimum open space	35%	100% (6,000 SF)	48% (2,906 SF)	No
Minimum front setback	20'	(vacant)	20'	No
Minimum side setback	5'	(vacant)	5'	No
Minimum street-side setback	10'	N/A	N/A	No
Minimum rear setback (abutting an alley)	20'	(vacant)	20'	No

Process:

Planning Board Meeting: March 15, 2018
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 property is in the AE EL:7 flood zone, and the building code requires that the new construction be built above flood level. Also, there is a need for the property to be wheelchair accessible. However, given that the previously existing one-story residential dwelling unit was demolished and this is an entirely new design, it is difficult for staff to find good and sufficient cause that the house, terrace, pool, and accessory structure plans cannot be designed in compliance with the maximum allowable building coverage and impervious surface. Therefore, special conditions or circumstances do not exist.

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 applicant is proposing to construct a new, 2-story primary residential structure, a 400-square-foot terrace, a 430-square-foot swimming pool, and a 61-square-foot accessory structure. Therefore, the conditions are generated from the 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 122-27 of the Land Development Regulations discourages the expansion of site nonconformities. Therefore, increasing the maximum allowable building coverage and increasing the maximum allowable impervious surface in order to construct a 2-story primary residential structure, a rear terrace, a swimming pool, and an accessory structure 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.***

Although the property owner requires that the property be wheelchair accessible, the property is vacant and the applicant chose a design that does not comply with the maximum allowable building coverage and impervious surface requirements of the zoning district. Literal interpretation of the provisions of the land development regulations would not deprive the applicant of rights commonly enjoyed by other properties in the Single Family (SF) zoning district under the terms of this ordinance and would not work unnecessary and undue hardship on the applicant.

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 non-compliance with all 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 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 this request, staff would like to require the following conditions:

General Conditions:

The proposed development shall be consistent with the plans dated February 21, 2018 by the Styer Group. No approval granted for any other work or improvements shown on plans other than the proposed construction.

