

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



To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Melissa Paul-Leto, Planner Analyst

Meeting Date: June 21, 2018

Agenda Item: **Variance – 1231 Washington Street – (RE# 00041410-000000) - A request for variances to the minimum side and rear yard setback requirements, as well as the minimum open space requirements in order to construct a pool house in the rear side yard and expand decking. The property is located within the Historic Medium Density Residential (HMDR) Zoning District pursuant to Sections 90-395, 122-600 (6) (b), 122-600 (6) (c), and 108-346 (b) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

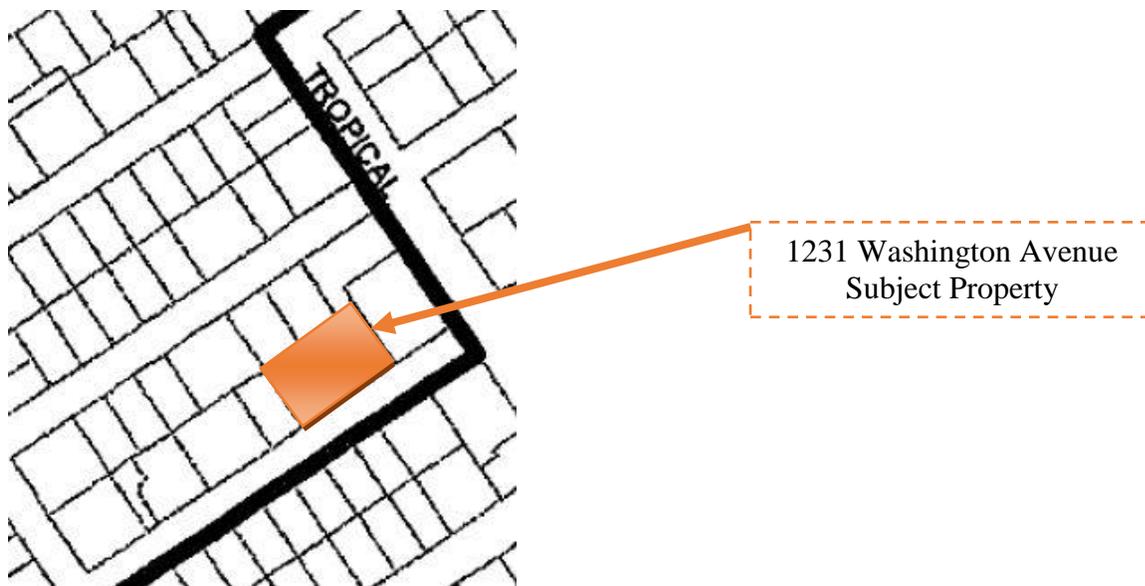
Request: The applicant is seeking side, rear setback variances, and the minimum open space requirement in order to construct a pool house and expand decking.

Applicant: Thomas E. Pope, P.A.

Property Owner: Susan & Rick DeKeyser

Location: 1231 Washington Street – (RE# 00041410-000000)

Zoning: Historic Medium Density Residential (HMDR) zoning district



Background/Request:

The property at 1231 Washington Street faces Washington Street near the corner of Tropical Avenue and is one lot of record. The lot has an existing one story concrete block framed residential structure, a shed on the side of the property, and a shed in the rear and side yard of the property. The existing shed located to the rear and side yard of the property is the area of work that requires the following variance requests.

The applicant is proposing to re-construct the existing shed into a pool house. This will entail demolishing the existing shed in order to construct the proposed pool house. The pool house will be using the same footprint as the existing shed and will require side and rear yard variances. The covered deck connected to the principle structure located to the rear yard will be enclosed in order to create a workout room for the property owners. The applicant is proposing to construct a deck to connect the proposed enclosure to the proposed pool house. The addition of the deck will require a variance to the minimum open space requirement.

The following table summarizes the requested variances.

Relevant HMDR Zoning District Dimensional Requirements: Code Section 122-600				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Maximum Height (Pool house)	30 Feet	11 Feet 3/4 Inches	11 Feet 3/4 Inches	In compliance
Minimum lot size	4,000 Square Feet	4,705 Square Feet	4,705 Square Feet	In compliance
Maximum building coverage	40% (1,882 Square feet)	46.2% (2,172 Square Feet)	46.2% (2,172 Square Feet)	Existing Non-conformity In compliance
Maximum impervious surface	60% (2,823 Square feet)	58.7 % (2,760 Square Feet)	58.7 % (2,760 Square Feet)	Existing Non-conformity In compliance
Minimum open space (Expanding decking)	35% (1,646 Square Feet)	35% (1,654 Square Feet)	32% (1,526 Square Feet)	Variance Required 120 Square Feet
Minimum front setback	10 feet	21 Feet 7 Inches	21 Feet 7 Inches	In compliance
Minimum side setback (Shed)	5 feet	0 Feet	0 Feet	Variance Required -5 Feet
Minimum side setback (Principle structure)	5 feet	6 Feet 5 Inches	6 Feet 5 Inches	In compliance
Minimum rear setback (Shed)	5 feet	0 Feet	0 Feet	Variance Required -5 Feet

Process:

Planning Board Meeting:

June 21, 2018

Planning Board Meeting:

April 19, 2018

HARC:

TBD

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 land, structure, and building involved do not have special conditions or circumstances involved that any other property located within the HMDR zoning district possesses. The property is currently non-conforming with the maximum allowed building coverage, impervious surface, and minimum allowed side, rear setbacks requirements. The lot size exceeds conformity at 4,705square feet whereas the minimum lot size for the district is 4,000 square feet.

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 has chosen to demolish the existing shed and reconstruct a new accessory structure in the same dimensional footprint as well as add decking to the property. The existing shed is non-conforming with side and rear minimum setback requirements. The choice to build back in the same footprint and three dimensional envelope and add decking is created 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.***

Granting the minimum side, rear required yard setbacks, and minimum open space requirements will confer special privileges to the applicant that is denied by the Land Development Regulations to other lands, buildings or structures in the same 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.***

Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the HMDR Zoning District. A pool house and decking are not hardships. Therefore, hardship conditions do not exist.

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 Variance request is 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 been fully met by the applicant for the variance 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.

Pursuant to Code Section 90-392, in granting such application the Planning Board must make specific affirmative findings respecting each of the matters specified in Code Section 90-394.

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 these 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**.