

**THE FIRST ITEM IS
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 I

Meeting Date: January 17, 2019

Agenda Item: **Variance – 715 Fleming Street - (RE# 00006200-000000)** – A request for variances to the maximum allowed building coverage, and minimum rear setback requirements to construct a one story covered porch. The property is located within the Historic Medium Density Residential (HMDR) zoning district pursuant to Sections 90-395, 122-600(4)(a), 122-600(6)(c), of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is seeking variances for the maximum allowed building coverage and minimum rear setback requirements to construct a one story covered porch attached to the rear of the principle structure.

Applicant: Kevin Melloncamp

Property Owner: 5 Higgs Lane, LLC.

Location: 715 Fleming Street - (RE# 00006200-000000)

Zoning: Historic Medium Density Residential (HMDR) zoning district



Background/Request:

The existing one-story concrete block structure is located within the HMDR zoning district and is considered a contributing structure.

The applicant is proposing to construct a one story covered porch to the rear of the principle structure. The rear covered porch triggers variances to the maximum building coverage and minimum rear yard setback requirements.

The variance request was postponed to the February 21st Planning Board as the January plans did not include the pool equipment which was relocated from a shed to the side of the property. The revised plans include the additional building coverage requested for the variance needed.

Relevant HMDR Zoning District Dimensional Requirements: Code Section 122-600				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Minimum Height	30 feet	13 feet 5 inches	8 feet 11 inches	In compliance
Minimum lot size	4,000 sq. ft.	3,200 sq. ft.	3,200 sq. ft.	Existing non-conformity In compliance
Maximum building coverage	40% (1,280 sq. ft.)	48% (1,534 sq. ft.)	52% (1,676 sq. ft.)	Variance Required (12%) = 396 sq. ft.
Maximum impervious surface	60% (1,920 sq. ft.)	52% (1,653 sq. ft.)	57% (1,834 sq. ft.)	In compliance
Minimum open space	35% (1,120 sq. ft.)	48% (1,537 sq. ft.)	40% (1,292 sq. ft.)	In compliance
Minimum front setback	10 feet	5 feet 9 inches	5 feet 9 inches	Existing non-conformity In compliance
Minimum side setback	5 feet	5 feet	5 feet	In compliance
Minimum side setback	5 feet	12 feet, 2 ½ inches	12 feet, 2 ½ inches	In compliance
Minimum rear setback	15 feet	14 feet, 10 inches	14 feet, 10 inches	Variance Required = - 2 inches

Process:

Planning Board Meeting:	February 21, 2019
Planning Board Meeting:	January 17, 2019 (Postponed by staff)
Planning Board Meeting:	December 20, 2018(Cancelled meeting)
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 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 conditions of the one-story single-family structure pre-dates the dimensional requirements of the current LDR's, and therefore is legally non-conforming to some dimensional requirements in the HMDR zoning district. The applicant could have chosen a covered deck dimension that did not trigger the rear yard setback.

The land should have more than enough square footage to accommodate the 40% maximum allowed building coverage. Therefore, there are no special conditions or circumstances that exist that are peculiar to the land, structures or buildings involved.

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 proposed conditions are created by the applicant. This variance request is a result of the actions of the applicant proposing to construct a covered porch in the rear yard which triggers the property's building coverage and rear yard setback requirements to go over the amount permissible in the HMDR zoning district.

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 maximum allowed building coverage variance for the covered porch 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. The applicant currently has a covered porch in the rear yard. They are proposing to enclose that covered porch and

construct another covered porch adjacent to the enclosure. The existing property is non-conforming with building coverage and the rear setback requirements. 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 following 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 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**.

If Planning Board chooses to approve the request for variances, then staff suggests the following condition:

1. The proposed development shall be consistent with the plans dated, September 19, 2018 by Hugo Araque, P.A. No approval granted for any other work or improvements shown on the plans other than the rear yard covered porch.