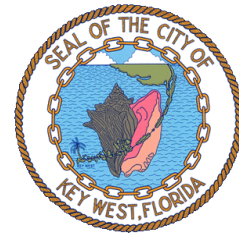


**THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report**



**To:** Chairman and Planning Board Members

**From:** Angela Budde, Planner I

**Through:** Patrick Wright, Planning Director

**Meeting Date:** August 15, 2019

**Agenda Item:** **Variance -1112 Varela Street (RE# 00032930-000000)** – A request for variances to minimum open space and maximum impervious surface ratio requirements to remove the existing wood decking to replace with stone pavers on a property located within the Historic Medium Density Residential (HMDR) Zoning District pursuant to Sections 90-395, 108-346 (b) and 122-600 (4)(b) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida

**Request:** The applicant is proposing site modifications to the rear of the property by removing the existing wood decking surrounding the inground pool to replace with stone pavers.

**Applicant:** Kevin Mellencamp

**Property Owner:** Kamico Holdings, LLC.

**Location:** 1112 Varela Street (Re# 00032930-000000)

**Zoning:** Historic Medium Density Residential (HMDR) Zoning District

**Background:**

The property at 1112 Varela Street is a one-story home located within the Historic Medium Density Residential (HMDR) Zoning District between Catherine and Virginia Streets. The single-family residence is in the Historic District, considered an altered contributing structure and is recognized on the 1926 Sanborn map.



Zoning Map



Aerial Map

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?
Flood Zone	X			
Maximum height	30 Feet	13 Feet 6 Inches	No change	No
Minimum lot size	4,000 Square Feet	3,099 Square Feet	No change	No
Maximum floor area ratio	1.0	.46	No change	No
Maximum building coverage	40%	46%	No change	No
Maximum impervious surface	60% (1,859 Square Feet)	54%	72%	Yes
Minimum open space	35% (1,085 Square Feet)	46%	28%	Yes
Minimum front setback	10 Feet	12 Feet	No change	No
Minimum right-side yard setback (North)	5 Feet	2 Feet	No change	No
Minimum left-side yard setback (South)	5 Feet	1 Foot 8 Inches	No change	No
Minimum rear setback	15 Feet	31 Feet	No change	No

Table

**Process:**

Planning Board Meeting: August 15, 2019  
HARC: TBD  
Local Appeal Period: 10 days  
DEO Review Period: up to 45 days



Front of home



Pool and deck



Wood deck and pool

**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 existing structure is legally nonconforming to right-side and left-side yard setbacks, as well as building coverage requirement. However, legally nonconforming site characteristics are not uncommon in the City, and therefore do not generate the existence of special conditions or circumstances that any other property located within the HMDR Zoning District possesses.

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 site modifications that exceed the maximum impervious ratio coverage by 12 %, (372 square feet), an overall increase by 18%. The proposal will also generate a deficit of 7% (217 square feet) below the minimum open space requirement, an overall reduction by 18%. The proposed modifications create new non-conformities to the property that are generated from 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 122-32 (d) of the Land Development Regulations provides that a non-conforming use shall not be extended, expanded, enlarged, or increased in intensity. Though the wood decking predates the current property owners, the expanding of the impervious surface ratio and reducing the open space ratio 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.***

The applicant states the decking is unsafe. However, the applicant currently has existing use of the site without the variance approval. Therefore, hardship conditions do not exist. Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the HMDR Zoning District.

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, it is 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.*

It does not appear that granting of the variance will be injurious to the area involved or otherwise detrimental to the public interest.

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 standard established by Section 90-395 of the City Code have not 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**.

However, if the Planning Board approved this request, staff would like to require the following conditions:

### **General Conditions:**

1. The proposed development shall be consistent with the plans dated May 6, 2019 by Hugo Araque, Registered Architect, Architect Design Builders, Inc. No approval granted for any other work or improvements shown on the plans other than the proposed removal of the existing wood decking surrounding the inground pool located in the rear of the property to be replaced with stone pavers.
2. No impacts are authorized to occur to any regulated trees or palms, including their roots and canopy branches, during demolition or construction.
3. Trees near and within the project area will be protected during construction. Trees located within the work area that may need to be removed would require approval from the Urban Forestry Manager.

### **Conditions required to be completed prior to issuance of a building permit.**

4. The owner shall obtain a Certificate of Appropriateness for the proposed construction.