



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

To: Chairman and Planning Board Members

Through: Roy Bishop, Planning Director

From: Vanessa Sellers, Planner II

Meeting Date: November 21, 2019

Agenda Item: **Variance – 1217 Varela Street, 1221 Varela Street, & 1127 United Street (RE # 00033140-000000, 00033110-000000, 00033100-000000)** – A request for a variance to the required 32 off-street parking spaces for properties located within the Historic Medium Density Residential (HMDR) Zoning District pursuant to Sections 90-395 and 108-572 (3) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is requesting a variance from an off-street parking space requirement of thirty-two (32) spaces. The current educational institution use of the properties at 1221 Varela Street and 1127 United Street requires twenty-nine (29) spaces. The need for three (3) additional parking spaces is the result of a conversion of a residential dwelling unit at 1217 Varela Street to a community facility use in the form of an educational institution and day care. The additional classroom seats (14 proposed) will trigger the need for three (3) additional parking spaces, for a total of thirty-two (32). The applicant is proposing zero (0) spaces.

Applicant: Serge Mashtakov, P.E. of Artibus Design, LLC

Property Owner: Montessori Children's School of Key West, Inc.

Location: 1217 Varela Street, 1221 Varela Street, & 1127 United Street

Zoning: Historic Medium Density Residential (HMDR)

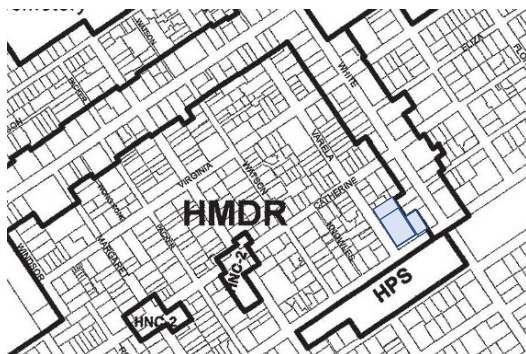


Image of a portion of the Official Zoning Map of the City of Key West.

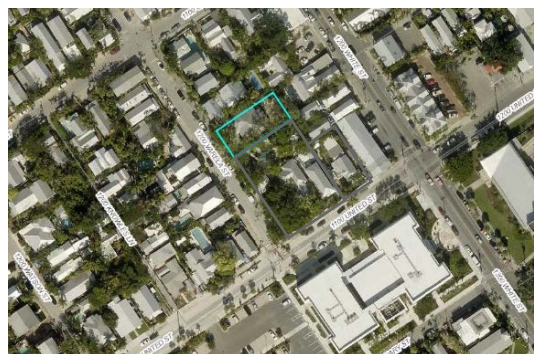


Image of an aerial view of the subject property.

Background:

The properties at 1221 Varela Street and 1127 United Street operate as the Montessori Children's School of Key West, founded in 1972. On January 4, 2019, the Montessori Children's School of Key West, Inc. purchased the neighboring property at 1217 Varela Street, containing a 1,442-square-foot single-family residence. The applicant seeks to expand the educational institute use of the school into the single-family residence property.

Pursuant to section 108-575 (5), whenever a building or use is enlarged in floor area, number of dwelling units, seating capacity or in any other manner so as to create a need for a greater number of parking spaces than that existing, such spaces shall be provided in accordance with the section. *Any parking deficiency shall be brought into conformity concurrently with the enlargement or change of use.* The existing school presently has a parking deficiency of twenty-nine (29) spaces.

The applicant is requesting a variance to the minimum required number of off-street parking spaces as required by section 108-572 (3). Although the expansion of the educational institution in the single-family residence triggers the need for three (3) additional spaces, any existing parking deficiency shall be brought into conformity concurrently with the enlargement or change of use, therefore, the applicant is requesting a parking variance for the total required number of spaces of thirty-two (32).

The following table summarizes the requested variance:

Relevant HMDR Zoning District Dimensional Requirements: Code Section 122 - 600				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Variance Required?
Maximum height	30'	No Change	No Change	No
Minimum lot size	4,000 SF	No Change	No Change	No
Maximum density	16 du/acre	1	0	No
Maximum FAR	1.0	0.244	No Change	No
Maximum building coverage	40%	31.33%	No Change	No
Maximum impervious surface	60%	56.06%	56.16%	No
Minimum open space	20%	46.63%	46.48%	No
Minimum front setback	10'	No Change	No Change	No
Minimum side setback	5'	No Change	No Change	No
Minimum street-side setback	7.5'	No Change	No Change	No
Minimum rear setback	15'	No Change	No Change	No
Relevant Off-Street Parking Requirements: Code Section 108-572				
Minimum off-street parking	32 spaces	Educational Institution: 0 spaces Single Family: 2 spaces	0 spaces	Yes

Process:

Planning Board Meeting:	November 21, 2019
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 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 educational institution at 1221 Varela Street and 1127 United Street has been in operation since before the 1997 adoption of the current off-street parking requirements of section 108-572. In addition, the parcels are unable to accommodate the minimum number of required parking spaces. However, these conditions and circumstances are not peculiar and are applicable to other land, structures, or buildings in the HMDR zoning 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.***

Pursuant to section 108-575 (5), whenever a building or use is enlarged in floor area, number of dwelling units, seating capacity or in any other manner so as to create a need for a greater number of parking spaces than that existing, such spaces shall be provided in accordance with this section. Any parking deficiency shall be brought into conformity concurrently with the enlargement or change of use.

The applicant is proposing to convert 1,442-square-feet of residential floor area to nonresidential floor area and increase the seating capacity of the educational institution. The conditions and circumstances 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 122-27 of the Land Development Regulations discourages the expansion of site nonconformities. The off-street parking requirement for the existing uses (educational institution and single-family residential) is thirty (30) spaces. The off-street parking requirement for the expanded proposed use (educational institution) is thirty-two (32) spaces. The applicant is proposing zero (0) spaces.

Permitting the conversion of existing residential floor area to nonresidential floor area without the required minimum number of off-street parking spaces 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 parcels at 1217 Varela Street, 1221 Varela Street, and 1127 United Street are limited in land area and, thus, the amount of off-street parking they can provide. However, the applicant is proposing to increase the existing nonconformity by converting existing residential floor area to nonresidential floor area, creating the need for additional parking above the current demand.

Literal interpretation of the provisions of the Land Development Regulations would not deprive the applicant of rights commonly enjoyed by other properties in the HMDR 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 variance requested 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.***

The granting of the requested variance would not be injurious to the area involved and 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 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.

As of the date of this report (November 5, 2019), the Planning Department received seventeen (17) public comments regarding the variance (and conditional use) request. Thirteen (13) of the comments are in support of the expansion and four (4) comments are in opposition of the expansion.

RECOMMENDATION:

Pursuant to **section 108-571**, parking shall be provided in all districts at the time any building or structure is erected or enlarged or increased in capacity by a change of use or the addition of dwelling units, transient units, floor area, seats, beds, employees or other factors impacting parking demand as stated in this article. The parking spaces shall be delineated on a development plan if required pursuant to article II of this chapter. If a development plan is not required, the applicant shall submit a scaled drawing which shall be approved by the building official and filed with the building department. The land comprising approved parking spaces required by the land development regulations shall be maintained as off-street parking spaces in perpetuity and shall not be used for other purposes unless there is a city-approved change in land use on the premises which warrants a change in the design, layout, or number of required parking spaces.

Pursuant to **section 108-572 (3)**, public or private schools shall provide a minimum of 1 space per 5 seats or 1 space per 150 square feet of floor area in the main assembly hall, whichever is greater.

Pursuant to **section 108-575 (5)**, whenever a building or use is enlarged in floor area, number of dwelling units, seating capacity or in any other manner so as to create a need for a greater number of parking spaces than that existing, such spaces shall be provided in accordance with this section. Any parking deficiency shall be brought into conformity concurrently with the enlargement or change of use.

Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for a variance be **DENIED**.

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

General Conditions:

1. The proposed development shall be consistent with the plans submitted by Serge Mashtakov, P.E. No approval granted for any other work or improvements shown on the plans other than the conversion of the single-family house at 1217 Varela Street to nonresidential floor area.

2. This parking variance is valid only if the educational institution as a conditional use in the HMDR zoning district is approved by the Planning Board.