

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



**To:** Chairman and Planning Board Members

**Through:** Roy Bishop, Planning Director

**From:** Melissa Paul-Leto, Planner I

**Meeting Date:** January 16, 2020

**Agenda Item:** **Variance – 605 Simonton Street - (RE# 00012150-000000)** – A request for variances to the maximum allowed building coverage and minimum side yard setback requirements to construct an exterior staircase and deck on property located within the Historic Neighborhood Commercial (HNC-1) zoning district pursuant to Sections 90-395, 122-810 (4)(a), and 122-810 (6)(b) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

**Request:** The applicant is proposing to reconstruct the rear exterior egress staircase and deck on the second floor with new composite decking on treads and landings.

**Applicant:** A2O Architecture

**Property Owner:** Sun Source Realty, LLC

**Location:** 605 Simonton Street - (RE# 00012150-000000)

**Zoning:** Historic Neighborhood Commercial (HNC-1) zoning district



**Background/Request:**

The subject parcel is one lot of record and is located within the HNC-1 zoning district near the corner of Southard Street, facing Simonton Street. The lot includes a historic two-story concrete block structure which has a second-floor egress staircase with deck to the rear of the property.

The applicant is proposing to replace the existing rear exterior staircase and deck to come in compliance with building code. The proposed deck is larger, and the staircase is extended with new composite decking on treads and landings. The deck and exterior staircase raise the existing non-conforming building coverage. The size of the proposed deck encroaches into the minimum side yard setback.

<b>Relevant HNC-1 Zoning District Dimensional Requirements: Code Section 122-810</b>				
<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Minimum Height	35 feet	8 feet 9 inches exterior staircase	8 feet 9 inches exterior staircase	In compliance
Minimum lot size	4,000 square feet	3,532 square feet	3,532 square feet	Existing non-conformity In compliance
<b>Maximum building coverage</b>	<b>50% 1,766 square feet</b>	<b>69% 2,437 square feet</b>	<b>70.8% 2,500 square feet</b>	<b>Variance Required (20.8%) =1,766</b>
Maximum impervious surface	60% 2,119.2 square feet	90.5% 3,202 square feet	88.5% 3,128 square feet	Improving non-conformity In compliance
Minimum open space	20% 706.4 square feet	9.6% 339 square feet	12.3% 435 square feet	Improving non-conformity In compliance
Minimum front setback	5 feet	Existing	No change	Existing non-conformity In compliance
<b>Minimum side setback</b>	<b>5 feet</b>	<b>2 feet</b>	<b>2 feet 4 inches</b>	<b>Variance Required -2 feet 6 inches</b>
Minimum rear setback	15 feet	16 feet 10 inches	16 feet 10 inches	In compliance

**Process:**

**Planning Board Meeting:**

January 16, 2020

**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 and size of the parcel pre-dates the dimensional requirements of the current LDR's, and therefore is legally non-conforming to some dimensional requirements in the HNC-1 zoning district. The applicant is reconstructing the staircase to meet building code requirements. The existing egress deck has a 32-inch clearance. The minimum building code requirement is 36 inches. The staircase is extending in width and length to meet the minimum 41-inch width requirement. Therefore, there are special conditions or circumstances that exist that are peculiar to the land, structures or buildings involved.

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.***

This variance request is a result of the actions of the applicant proposing to reconstruct the second-floor deck and staircase in compliance with the building code.

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 and minimum side yard setback variances for the exterior deck and egress staircase 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 deprive the applicant of rights commonly enjoyed by other properties in the HNC-1 zoning district. The applicant is reconstructing the staircase and deck for it to meet building code requirements. It is currently non-compliant. Therefore, hardship conditions do exist.

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.***

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, December 19, 2019 by Aileen Osborn, P.A., A2O Architecture. No approval granted for any other work or improvements shown on the plans other than for the second-floor deck, exterior

staircase and new composite decking on treads and landings.

2. Elevation of proposed gravel shall be set no higher than existing concrete or property line, whichever is lower. Drainage shall not be allowed to cross property lines.
3. Any potential impacts to right of way will require a temporary right of way permit.