

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



**To:** Chairman and Planning Board Members

**Through:** Katie P. Halloran, Planning Director

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

**Meeting Date:** April 22, 2021

**Agenda Item:** **Variance – 615 Rear Grinnell Street – (RE# 00010860-000000)** - A request for variances in order to construct a roof over an existing deck on property located within the Historic High Density Residential (HHDR) zoning district pursuant to sections 90-395, 122-630 (6) b., 122-630 (6) c., and 122-630 (4) b., of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

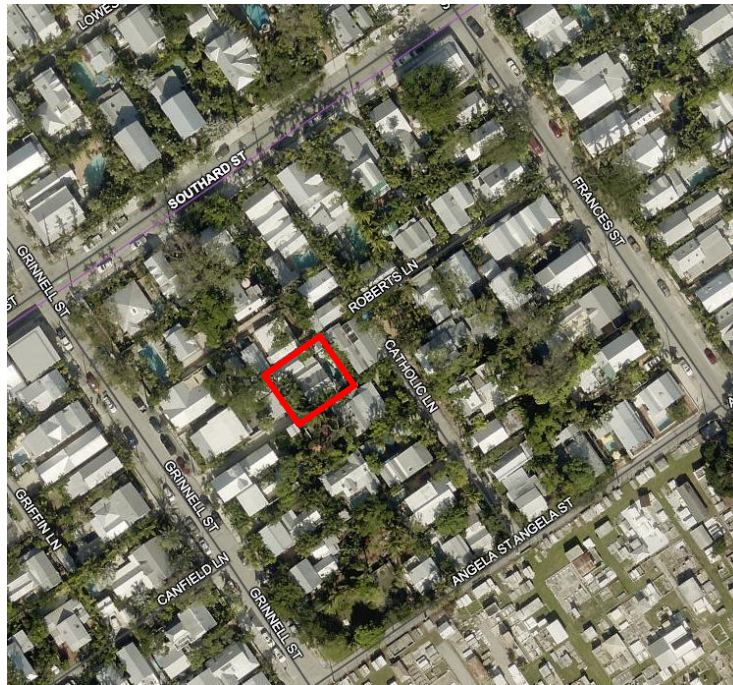
**Request:** The applicant is proposing to construct a roof over an existing deck area.

**Applicant:** Serge Mashtakov, P.E. Artibus Design

**Property Owner:** Todd and Cynthia Leff

**Location:** 615 Rear Grinnell Street – (RE# 00010860-000000)

**Zoning:** Historic High Density Residential (HHDR) zoning district



**Background/Request:**

The subject property is located between Angela and Southard Streets, facing Grinnell Street. The parcel size is 3,094 square feet and is one lot of record. Per HARC, the structure at 615R Grinnell is listed as historic and contributing to the Key West Historic District. The year built is listed as circa 1890, and the structure is present on Sanborn maps dating back to 1892. There have been additions and alterations to the structure over time, but the footprint of the main structure remains substantially like its historic form. The current owner purchased the property three years ago. The property is accessed from a one-way lane off Grinnell Street. There is an existing deck to the side of the property connected to the home. The property owner is requesting to add a roof over the deck. The proposed design would require variances to the minimum side yard setback, minimum rear yard setback, and the maximum impervious surface ratio.



*“Photo taken by the Property Appraiser’s office c 1965; 615 Rear Grinnell Street; built 1890’s; SQR 56, Pt Lot 3”*

**Process:**

**Planning Board Meeting:**

April 22, 2021

- The applicant postponed to respond to a e-comment objection. Please see the response letter attached in the agenda.

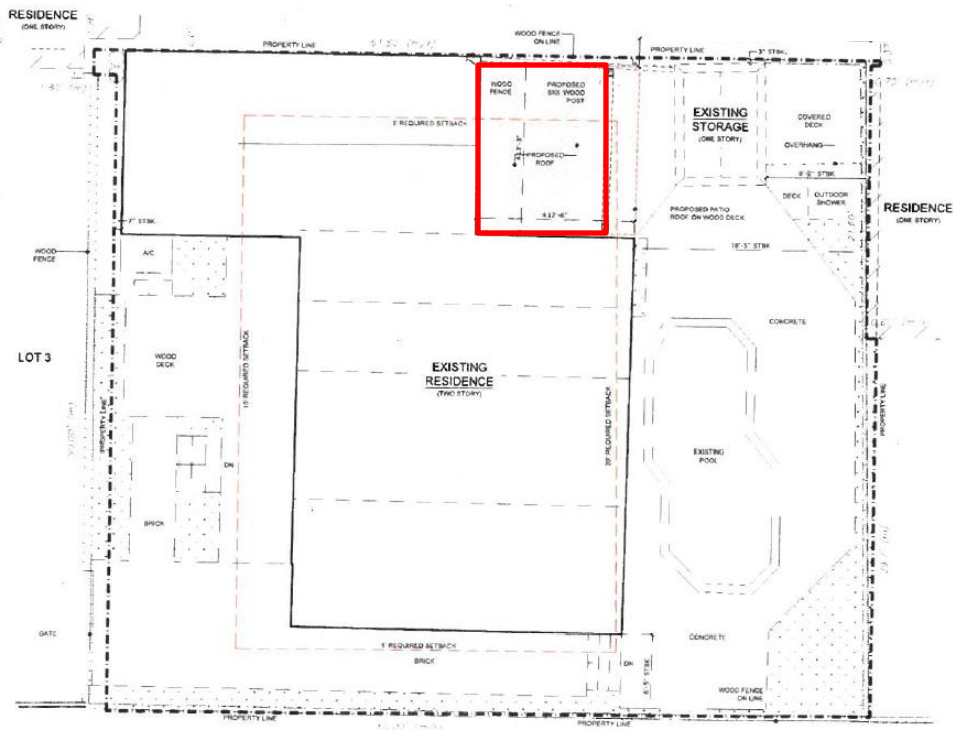
**Planning Board Meeting:**

March 18, 2021

**Local Appeal Period:**

30 days

**DEO Review**



**PROPOSED SITE PLAN**  
SCALE: 3/16" = 1'-0"

*Proposed Site Plan – The Red Rectangle is the proposed roof over the existing deck*



*Subject deck area*



*Subject deck area*

The applicant is proposing to remove the shade sail that is connected to poles and construct a roof over the existing deck. Based on the plans submitted, the proposed design would require variances to the following dimensional requirements:

- The required minimum side yard setback in the (HHDR) zoning district is 5 feet or 10 percent of lot width to a maximum of 15 feet, whichever is greater. The lot is forty-nine (49) feet wide. Ten percent of 49 is 4.9. The minimum side setback would be 5 feet for this parcel. The existing side setback is 0.0 feet. The applicant is proposing 7 inches with a roof over the deck. This increases the three-dimensional envelope and results in increasing the minimum side setback non-conformity.
- The minimum rear yard setback in the (HHDR) zoning district is 20 feet. The existing rear yard setback is 18.5 feet. The applicant is proposing 18.3 feet.
- The required maximum impervious surface ratio is 60 percent, or 1,856 square feet. The existing impervious surface on the site is 72.90 percent, or 2,256 square feet. The applicant is proposing 78.23 percent, or 2,421 square feet.

**Relevant HHDR Zoning District Dimensional Requirements: Code Section 122-630**

<b>Dimensional Requirement</b>	<b>Required/Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Flood Zone	X			
Maximum Height	30 feet	24.5 feet NGVD	No change	In compliance
Minimum Lot Size	4,000 SF	3,094 SF	3,094 SF	Existing non-conformity
Maximum Building Coverage	50 % 1,547 SF	44.3 % 1,371 SF	49.64 % 1,536 SF	In compliance
<b>Maximum Impervious Surface Ratio</b>	<b>60 % 1,856 SF</b>	<b>72.90 % 2,256 SF</b>	<b>78.23 % 2,421 SF</b>	<b>Variance Required (18.23 %) = 753 SF</b>
Minimum Open Space	35 % 1,082.89 SF	9.15 % 574 SF	9.15 % 574 SF	Existing non-conformity
Minimum Front Yard Setback	10 feet	7 inches	7 inches	Existing non-conformity
<b>Minimum N.W. Side Yard Setback</b>	<b>5 feet or 10 percent of lot width to a maximum of 15 feet, whichever is greater. The property has a 30-foot lot width. Five (5) feet is the required side setback for the property.</b>	<b>0 feet (existing single-family home)</b>	<b>7 inches (Proposed roof over existing deck)</b>	<b>Variance Required -4.5 feet</b>
Minimum Side Yard Setback	5 feet or 10 percent of lot width to a maximum of 15 feet, whichever is greater.	6.5 feet	6.5 feet	In compliance
<b>Minimum Rear Yard Setback</b>	<b>20 feet</b>	<b>18.5 feet</b>	<b>18.3 feet</b>	<b>Variance Required -1.11 foot</b>

**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 dimensions and size of the parcel pre-dates the dimensional requirements of the current LDR's, and therefore is legally non-conforming in the HHDR zoning district. However, the applicant could dismiss the proposed roof over deck. Therefore, there are no special conditions or circumstances.

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.***

This variance request is a result of the actions of the applicant proposing to construct a roof over their existing deck.

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. Therefore, allowing a roof to be constructed in an area that is already encroaching into the side setback, 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.***

Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the HHDR zoning district. The property owner may choose alternative shading from the sun for the deck other than constructing a roof. 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.

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:**

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.***

The Planning Department has received two letters of support for the variance requests 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 design shall be consistent with the plans dated, December 12, 2021 by Serge Mashtakov, P.E., Artibus Design.
2. Per Utilities: A gutter shall be installed along the porch roof, and downspout directed to retain the stormwater onsite.