

THE CITY OF KEY WEST
PLANNING BOARD
Staff Report



To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Daniel Sobczak, AICP-C, Planner II

Meeting Date: April 22nd, 2021

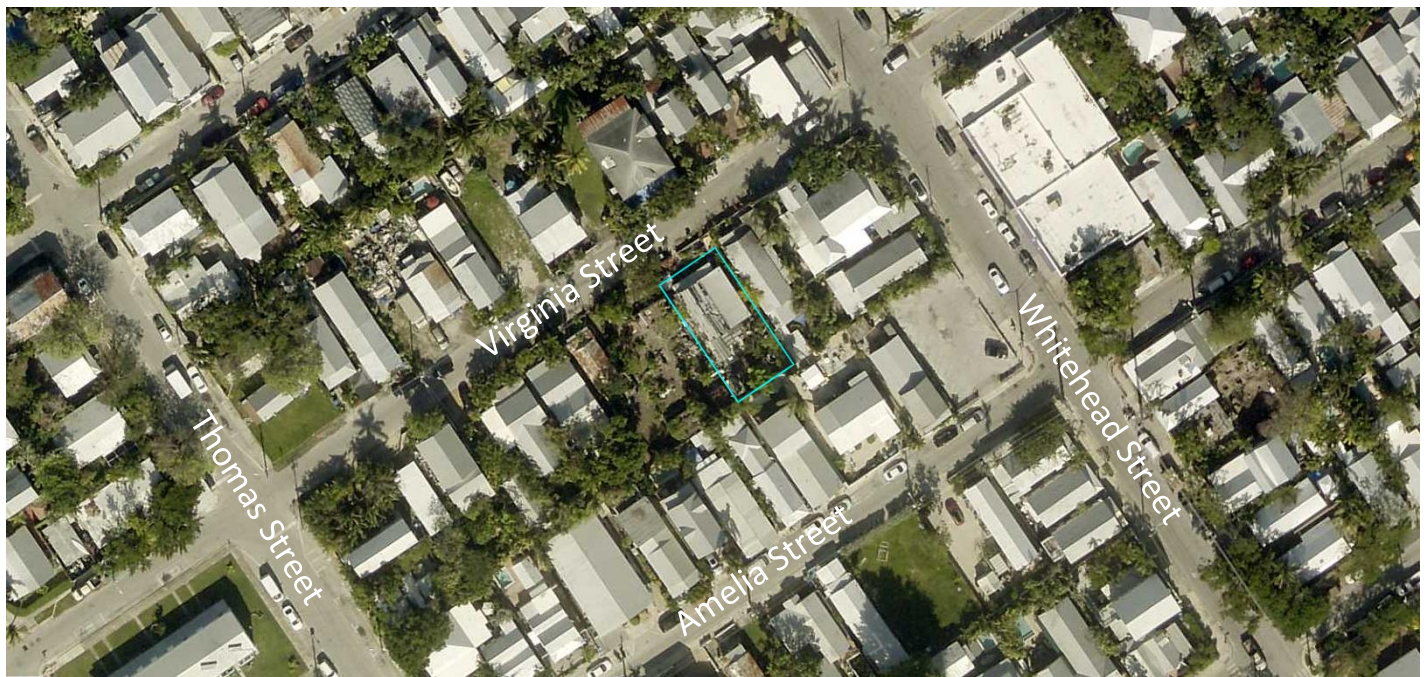
Application: **Variance** - 324 Virginia Street (RE# 00025990-000000) - A request to the maximum allowed building coverage, minimum allowed rear setback, minimum allowed front setbacks, and minimum required off-street parking in order to construct a rear dwelling unit for a property located in the Historic Medium Density Residential (HMDR) zoning district pursuant to Sections 90-395, 108-572 (1), 122-600 (4)a., and 122-600(6). of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The applicant is requesting a variance to building coverage, rear and front setbacks, and off-street parking minimums in order to construct a rear dwelling unit.

Applicant: Trepanier and Associates, Inc.

Property Owner: Lykins Leasing LLC.

Location: 324 Virginia Street (RE# 00025990-000000)



Background:

The subject parcel is located at 324 Virginia Street near the corner of Whitehead Street and Virginia Street. According to the Historical Architectural Review Commission, the current residential structure was constructed in 1923. The structure is of frame vernacular and is a historically significant contributing structure to the Key West Historic District. The parcel is surrounded by HMDR zoned properties in all directions.

In 2019 the applicant received a Buildback Letter establishing that there was historically a second residential dwelling unit on the property that is exempt from the Building Permit Allocation System (PBAS) pool. As such, the applicant has the rights to build a second residential dwelling unit on the property.

The applicant is proposing to renovate and raise the nonconforming front structure currently in the required front and side setbacks. The applicant is also proposing to construct a second residential dwelling unit in the rear of the property within the required rear setback and increase nonconforming building coverage from 47% to 53%. The Planning Department has asked the applicant to add additional landscaping on the south and west side of the proposed structure to increase privacy for the property owner and surrounding property owners per Policy 1-1.1.14 and Article VI or Chapter 108 of the Land Development Regulations.

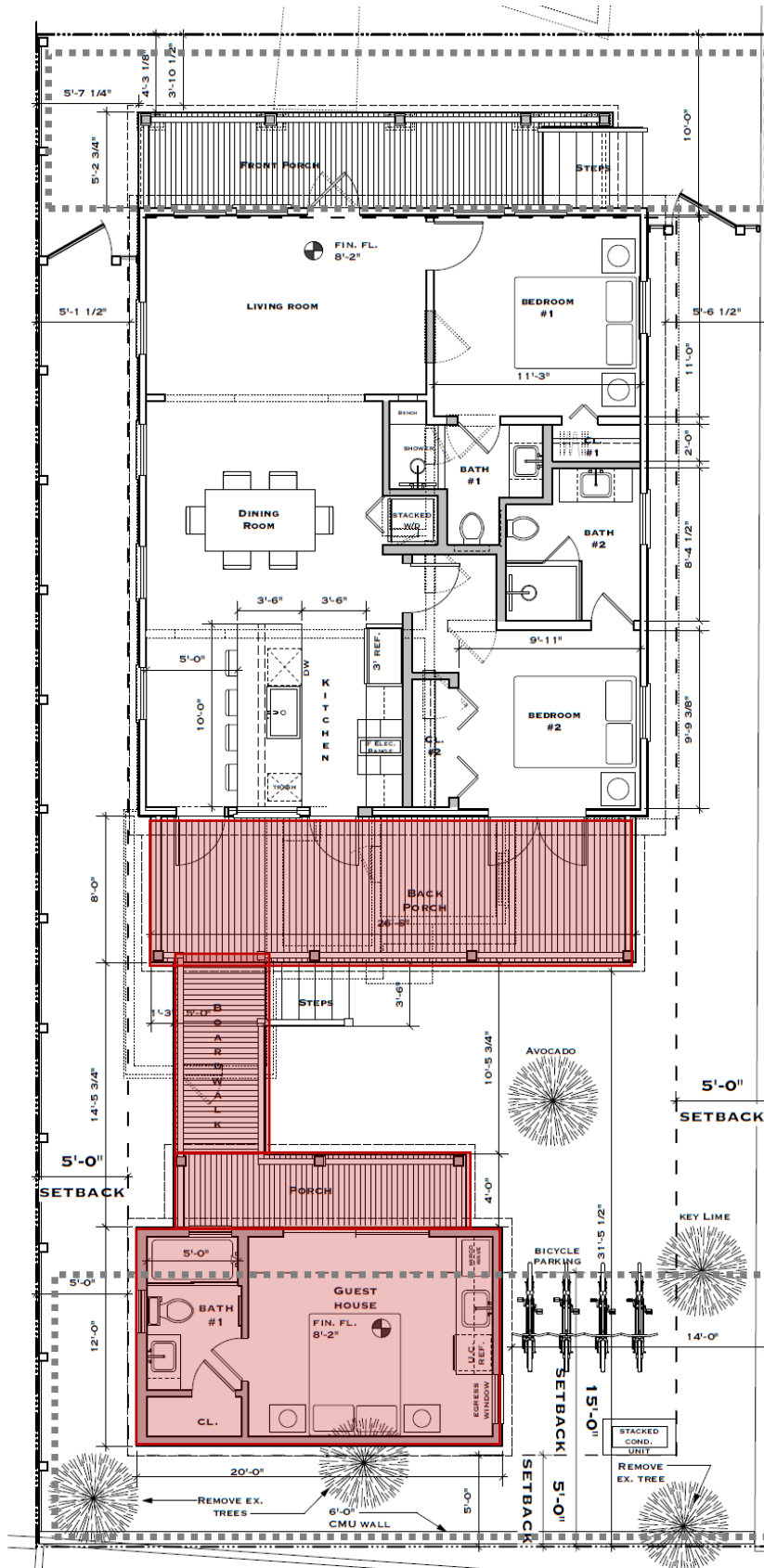
Proposed Development:

The site table below details the current and proposed site data for the property. Three variances are proposed for this development.

Site Data Table				
	Code Required	Existing	Proposed	Variance Request
Zoning	HMDR			
Flood Zone	AE			
Size of Site	4,000 sqft			
Height	30	16'11"	20'2"	n/a
Front Setback	10'	3'10"	3'10.5"	6'1.5"
Side Setback	5'	2'9"	5'	n/a
Rear Setback	15'	n/a	5'	10'
Building Coverage	40% -- 1,324 sqft	47% -- sqft	53.3% -- sqft	13.3% -- sqft
Impervious Surface	60% -- 1,968 sqft	48% -- 1,578 sqft	54.7% -- 1,811 sqft	n/a
Open Space	35% -- 1,158	52.5% -- 1,737 sqft	45% -- 1,500 sqft	n/a
Off-Street Parking	1 per Dwelling unit	0	0	2 off-street parking spaces

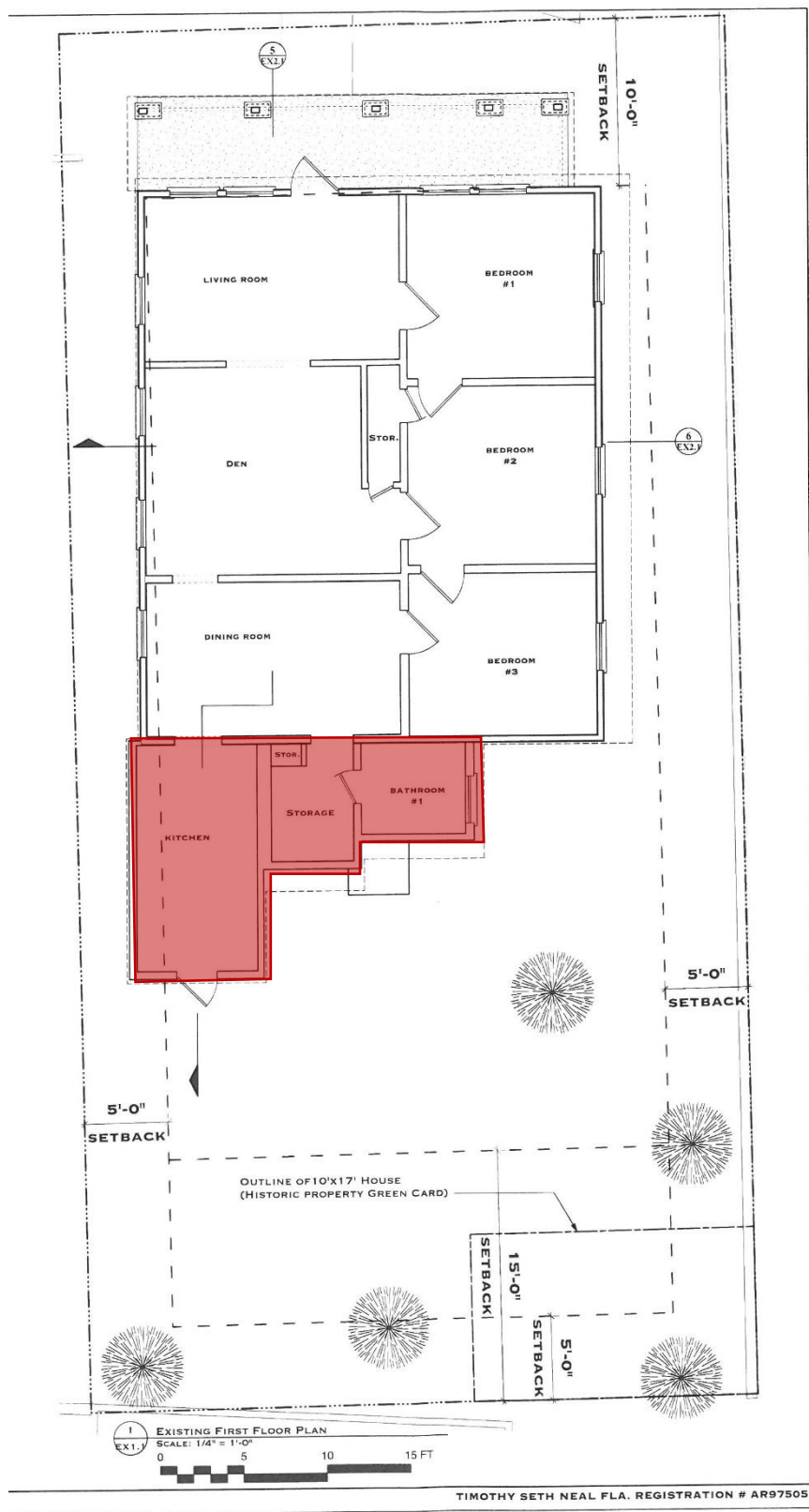
Proposed Updated Site Plans, 324 Virginia St., submitted by applicant

- Proposed new structures
- Front and Rear Setbacks



1 SITE PLAN & FLOOR PLAN
A1.1 SCALE: 1/4" = 1'-0"

Existing Site Plans, 324 Virginia St., submitted by applicant



The applicant proposed to raise the front structure, straighten the front structure, and demolish the rooms indicated in red.

Process:

Planning Board Meeting:	Mar. 18 th , 2021 – Postponed due to neighbor objection regarding windows looking into their yard.
Local Appeal Period:	10 Days
Planning renders to DEO for review:	Up to 45 days

Staff Analysis - Evaluation:

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 parcel located at 324 Virginia St. is smaller than the code required minimum lot size, the parcel is 3,311 sq.ft. and the minimum size for lots in HMDR is 4,000 sq.ft. Like many structures in the Key West Historic District, the subject structure at 324 Virginia is historic and has largely remained in the same building footprint, albeit the accessory structure in the rear of the lot has been removed. The applicant's current proposed project will raise the historic structure as well as create a new residential dwelling unit in the rear of the structure in the code required setbacks. The lot does not currently have an off-street parking spot, due to the size of the lot, the applicant has proposed a bike parking area in the rear of the property.

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 conditions of the parcel have largely remained the same. Due to the historic nature of the property, the historic structure was constructed in the setbacks and on an angle, the applicant has proposed to straighten the house and reposition it outside of the site setbacks. The main structure's porch will remain in the front setbacks. The applicant's addition of the rear structure will be in the rear setback, to mitigate for privacy the applicant has agreed to plant privacy landscaping between the second dwelling unit and the property line. Due to the configuration of the historic existing structure, there is not an opportunity to place the required two (2) off-street parking spaces on the lot.

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.*

The Land Development Regulations require setbacks and limits building coverage in order to ensure life safety, general welfare, health standards, and aesthetics. The rear structure will be constructed within the rear setbacks, however a residential dwelling unit per code, must meet a rear setback of 15-feet. The applicant has chosen to reduce the noncompliance of the main structure by straightening the building and removing it from the side setbacks.

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 parcel located at 324 Virginia Street is similar to most lots in the zoning district and is smaller than the 4,000 sq.ft. minimum lot size. The Land Development Regulation's required setbacks are designed to provide open space around and between structures for health, safety, privacy, and aesthetic purpose. Strict compliance with the minimum setbacks required for the HMDR zoning district would not pose a significant hardship on the applicant as the applicant, could move the structure closer to their existing single-family structure. However, the code does allow habitable accessory structures such as pool houses, etc. to be five feet from property lines. Literal interpretation of the provisions of the Land Development Regulations would not deprive the applicant of rights commonly enjoyed by other surrounding properties under the terms of this ordinance.

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 and/or structure. It is reasonable that the applicant could amend their plans to fit all or most of the proposed structures within the buildable space of the parcel and outside the required setbacks, as well as reducing the overall size of the structures to meet the code required maximums.

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 variance will not be in harmony with the general intent of the land development regulations, the creation of a rear dwelling unit in the rear setback may cause privacy concerns between surrounding property owners. As such the applicant has agreed to planting privacy landscaping along the length of the proposed rear dwelling unit.

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 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.

The Planning Department has not received any submitted public comment for the variance request as of the date of this report, however there was public opposition at the Planning Board Meeting on March 18th, 2021. As such the application was postponed and the applicant addressed the opposition and updated their proposed project.

Recommendation:

The proposed elevation of the existing single-family structure and the construction of a second rear single-family structure will trigger a variance for front setbacks, rear setbacks, and an overage in building coverage. The proposed rear dwelling unit is in accordance with a 2019 Buildback Letter which established that the property owner had the rights to two dwelling units. The property owner has agreed to adding landscaping along the length of the new dwelling unit on the west and south sides of the property to mitigate any potential privacy issues. The applicant has also suggested placing a bike parking in the rear to mitigate the need for two (2) code required off-street parking spaces. The variance to the minimum required front setback, minimum required rear setback, maximum allowed building coverage, and required off-street parking does not meet the criteria stated in Section 90-395. The Planning Department recommends **denial**.

If the Planning Board chooses to approve the variance, the Planning Department recommends the following conditions:

1. The proposed construction shall be consistent (except for conditions of approval listed below) with the plans submitted and dated 3/23/2020 by T.S. Neal, PA.
2. Install gutters and downspouts on the rear structure that drain into a swale.