

THE CITY OF KEY WEST
PLANNING BOARD
Staff Report



To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Melissa Paul-Leto, Planner Analyst

Meeting Date: June 21, 2018

Agenda Item: **Variance – 18 Merganser Lane- (RE# 00072081-000109)** – A request for variance to the minimum side setback requirement in order to construct a one and two story porch addition in the rear yard for property located within the Mixed Use Planned Redevelopment / Development (PRD) Zoning District applicable to the Key West Golf Club Development pursuant to Sections 90-395, 122-541 (5) b., of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

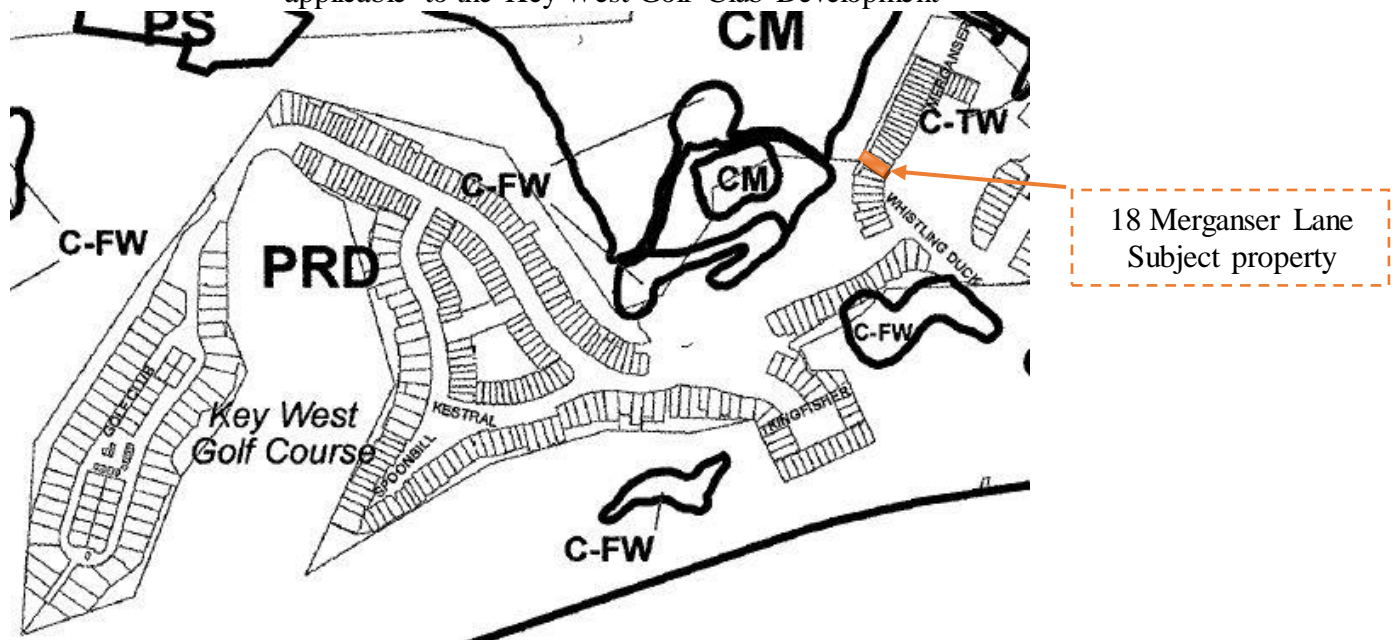
Request: The applicant is seeking a side setback variance in order to demolish an existing one story porch and construct a two story porch addition in the rear yard.

Applicant: Richard J. Milelli, Principle of Meridian Engineering, LLC

Property Owner: Leslie McComsey

Location: 18 Merganser Lane- (RE# 00072081-000109)

Zoning: Mixed Use Planned Redevelopment / Development (PRD) Zoning District applicable to the Key West Golf Club Development



Background/Request:

The property at 18 Merganser Lane is located within the Key West Golf Club Subdivision, and is one lot of record. The two story residential townhome that faces Merganser Lane is connected by design to another two story townhome.

The applicant is proposing to construct a two story porch addition and are relocating existing rear stairs located to the rear and side yard of the property. The proposed porch addition is a total of 210 square feet. The townhomes in the subdivision have been designed so that each property owner’s residence is encroaching into one of the required side yard setbacks. The plans submitted would require a variance to the minimum required side yard setback.

Included in the dimensional requirements for the Mixed Use Planned Redevelopment/ Development District (PRD) applicable to the Key West Golf Club development are as follows regarding the side setback:

Side: 5 feet (0 feet for air conditioning equipment, pool enclosures, pool equipment, carports and garbage enclosure areas) (2.5 feet for pools). Structures in existence on the effective date of the ordinance, however, shall be entitled to retain their existing side setbacks.

The following table summarizes the requested variance.

Relevant PRD Zoning District Dimensional Requirements: Code Section 122-541				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Lot Size	N/A	1,619 square feet	1,619 square feet	In compliance
Maximum Height	35 feet	N/A	25 feet 5 ½ inches to new porch roof peak	In compliance
Maximum building coverage	40% (647.6 Square feet)	29% (468 Square feet)	38.4% (622 Square feet)	In compliance
Maximum impervious surface	60% (971.4 Square feet)	37 % (600 Square feet)	41 % (662 Square feet)	In compliance
Minimum open space	35% (566.65 Square feet)	66 % (1,065 Square feet)	59 % (957 Square feet)	In compliance
Minimum front setback	5 feet	N/A	N/A	In compliance
Minimum side setback	5 feet	0” to joining building	0” to joining building	Variance Required -5 feet
Minimum side setback	5 feet	11 feet 7 5/16 th inch	11 feet 7 5/16 th inch	In compliance
Minimum rear setback	5 feet	18 feet 1 ½ inches	6 feet 10 ½ inches to new porch 1 st stair	In compliance

Process:

Planning Board Meeting:	June 21, 2018
Planning Board Meeting:	May 17, 2018
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 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 LDR's state the side setback requirements for the PRD district allow structures in existence on the effective date of the ordinance, however, shall be entitled to retain their existing side setbacks. However, any further encroachment to the side setback requires a setback variance. The applicant is proposing to extend the side setback encroachment. 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.***

The proposed new two story porch addition to the rear and side of the property was created by the property owner.

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 property owner may maintain their current side setback encroachment. The plans submitted require special privileges to go beyond the PRD zoning district's side yard dimensional requirements.

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 PRD Zoning District. An addition to a rear yard porch is not a hardship. 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. However, they are 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 being in compliance with all of 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 received one public comment of support 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**.