



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

**To:** Chairman and Planning Board Members

**Through:** Patrick Wright, Planning Director

**From:** Vanessa Sellers, Planner II

**Meeting Date:** April 18, 2019

**Agenda Item:** **Variance – 403-405 Caroline Street (RE # 00001610-000000)** – A request for a variance to off-street parking requirements for property located within the Historic Residential/Office (HRO) zoning district pursuant to sections 90-395 and 108-572 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

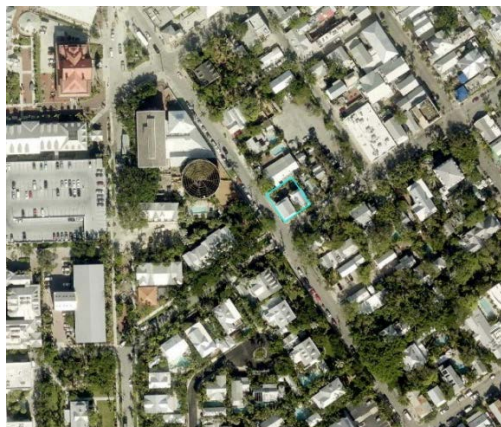
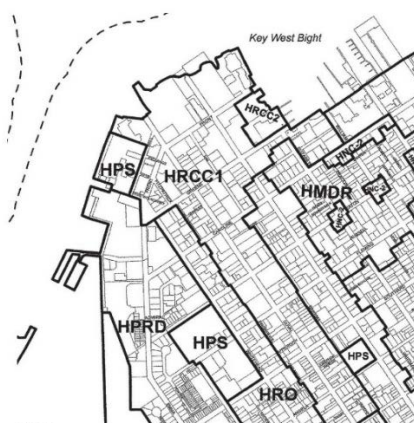
**Request:** The applicant is requesting a variance from an off-street parking space requirement of five (5) spaces. The applicant is proposing one (1) space. The need for additional parking is the result of a reduction and conversion of residential dwelling units to a commercial use in the form of a civic and cultural activity with associated retail. The current use of the property requires three (3) spaces.

**Applicant:** Trepanier & Associates, Inc.

**Property Owner:** Valsin Marmillion and Juan Pisani

**Location:** 403-405 Caroline Street

**Zoning:** Historic Residential/Office (HRO)



**Background:**

The property at 403-405 Caroline Street is located on the corner of Whitehead Street and Caroline Street. It is located within the HRO zoning district and it is within the Key West Historic District boundaries. The property currently contains three (3) single-family residential dwelling units and one (1) off-street parking space. The applicant is proposing to eliminate two (2) of the residential dwelling units and redevelop the property to include one (1) single-family dwelling unit and one (1) commercial unit. The commercial unit will encompass 497-square-feet of floor area. The use most closely resembles a use as described by section 108-572 (3), which requires one (1) space per 150-square-feet of floor area. Therefore, the off-street parking requirement for the proposed uses is one (1) space for the residential use and four (4) spaces for the commercial use.

The following table summarizes the requested variance:

| <b>Relevant HRO Zoning District Dimensional Requirements: Code Section 122 - 930</b> |   |                 |                 |   |
|--|---|-----------------|-----------------|---|
| <b>Dimensional Requirement</b>   | <b>Required/ Allowed</b>                  | <b>Existing</b> | <b>Proposed</b> | <b>Change / Variance Required?</b>                      |
| Maximum height   | 30'                                       | <30'            | No Change       | No  |
| Minimum lot size   | 5,000 SF                                  | 4,620 SF        | No Change       | No  |
| Maximum density  | 16 du/acre (1.7)                          | 3               | 1               | No  |
| Maximum FAR  | 1.0                                       | N/A             | <1.0            | No  |
| Maximum building coverage  | 50%                                       | No Change       | No Change       | No  |
| Maximum impervious surface   | 60%                                       | No Change       | No Change       | No  |
| Minimum open space (mixed-use)   | 20% for commercial<br>35% for residential | No Change       | No Change       | No<br>(improves upon with reduction of residential use) |
| Minimum front setback  | 5'  | No Change       | No Change       | No  |
| Minimum side setback   | 5'  | No Change       | No Change       | No  |
| Minimum street-side setback  | 5'  | No Change       | No Change       | No  |
| Minimum rear setback   | 10'                                       | No Change       | No Change       | No  |
| <b>Relevant Off-Street Parking Requirements: Code Section 108-572</b>                |   |                 |                 |   |
| Minimum off-street parking   | Current use:<br>3 spaces                  | 1 space         | 1 space         | <b>Yes (expansion of a noncomplying parcel)</b>         |
|  | Proposed use:<br>5 spaces                 |                 |                 |   |

**Process:**

**Planning Board Meeting:** April 18, 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 parcel is noncomplying in size, lot depth, and off-street parking requirements and the existing structures sit within the front, street-side, and side-yard setbacks. The parcel also has a nonconforming density of three (3) residential units where a maximum of one (1) is permitted. However, these conditions and circumstances are not peculiar and are applicable to other land, structures, or buildings in the HRO 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.***

The applicant is proposing to convert existing residential floor area to nonresidential floor area, which will trigger the need for additional off-street parking. A listing for 403 Caroline Street in the 1981 Polk City Directory has the names of three (3) lawyers, which lends staff to recognize a probable law office in the space at that time. However, since that time, the space was used for residential purposes. The applicant is proposing to convert 497-square-foot of the residential area back to nonresidential floor area. 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.***

Although the subject parcel is within the historic commercial pedestrian-oriented area, section 122-27 of the Land Development Regulations discourages the expansion of site nonconformities and section 108-573 (b) (3) provides that off-street parking regulations shall apply whenever the amount of nonresidential floor area is increased due to a conversion of residential floor area to nonresidential floor area. The off-street parking requirement for the proposed uses is five (5) spaces. The applicant is proposing one (1) space.

Therefore, 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 parcel at 403-405 Caroline Street is limited in land area and, thus, the amount of off-street parking it 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. Although one reason the historic commercial pedestrian-oriented area and the Duval Loop were implemented was to help alleviate parking difficulties, they were not introduced to waive off-street parking requirements for expansions of site nonconformities.

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

Due to the non-compliance with all the standards for considering variances, the granting of the requested variance 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 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 public comment for the variance request as of the date of this report.

**RECOMMENDATION:**

Pursuant to section 108-573 (b) (3), when a property is located within the historic commercial pedestrian-oriented area, parking requirements shall be applied whenever the amount of nonresidential floor area is increased due to a conversion of residential floor area to nonresidential floor area.

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 floor plans submitted with the application. No approval granted for any other work or improvements shown on the plans other than the conversion of the first-floor apartment to 497-square-feet of nonresidential floor area.
2. This parking variance is valid only if the cultural and civic activity with associated/accessory commercial sales as a conditional use in the HRO zoning district is approved by the Planning Board.