



THE CITY OF KEY WEST
PLANNING BOARD Staff Report

To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Kimberly Barua, Corradino Group

Meeting Date: November 18, 2021

Agenda Item: **Variance – 1426 6th St (RE# 00045600-000000)** A request for a variance for exceeding the allowed maximum building coverage as well as front setback and rear setback for an accessory structure at a residence in the Single Family Residential (SF) zoning district pursuant to Sections 90-395 and 112-238 of the City of Key West Land Development Regulations.

Request: The applicant is proposing to build a structure over a portion of the existing house as well as a walk-in closet on the opposite side of the house. A request for Variance to exceed the maximum building coverage as well as the rear and the front setbacks is needed.

**Applicant/
Property Owners:** Dana Balmaceda

Location: 1021 6th St (RE # 00045600-000000)

Zoning: Single-Family Residential (SF) zoning district

Background/Request:

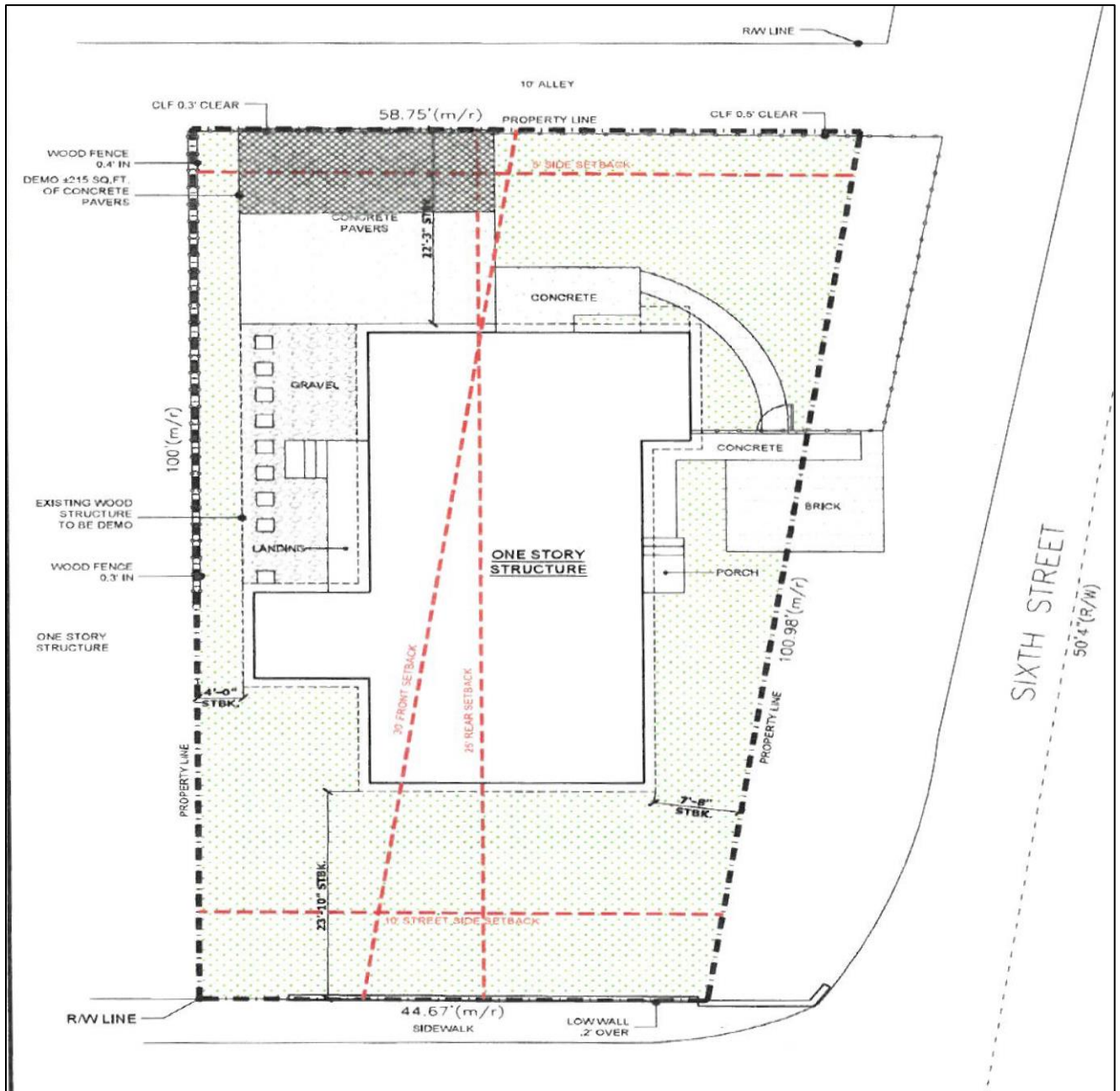
The subject parcel is one lot of record and is located within the Single Family Residential (SF) zoning district on the corner of 6th Street and Flagler Avenue. The lot includes a 1 story concrete block structure. The applicant is proposing to add a second story bedroom with living area and wetbar with an exterior staircase. The applicant is also requesting to build a walk-in closet. Both would be considered an addition, not an accessory building as originally proposed, given the Code definition of accessory structure, “*Accessory structure* means a subordinate structure that is detached from the principal structure and located on the same parcel or property, the use of which is incidental to that of the principal structure.”

A request for variance to surpass maximum building coverage is needed. The code requires 35%. The applicant is requesting 40%. A second request is for the front setback for the Single Family zoning district. The code requires 30’ while the applicant is requesting 7’10”; the existing home is already located 7’8” from the 6th Street ROW. The applicant’s proposed additions also require a variance to the required 25’ rear setback; the existing home is already at four feet (4’) from the rear property line and the additions would also be at four feet (4’).

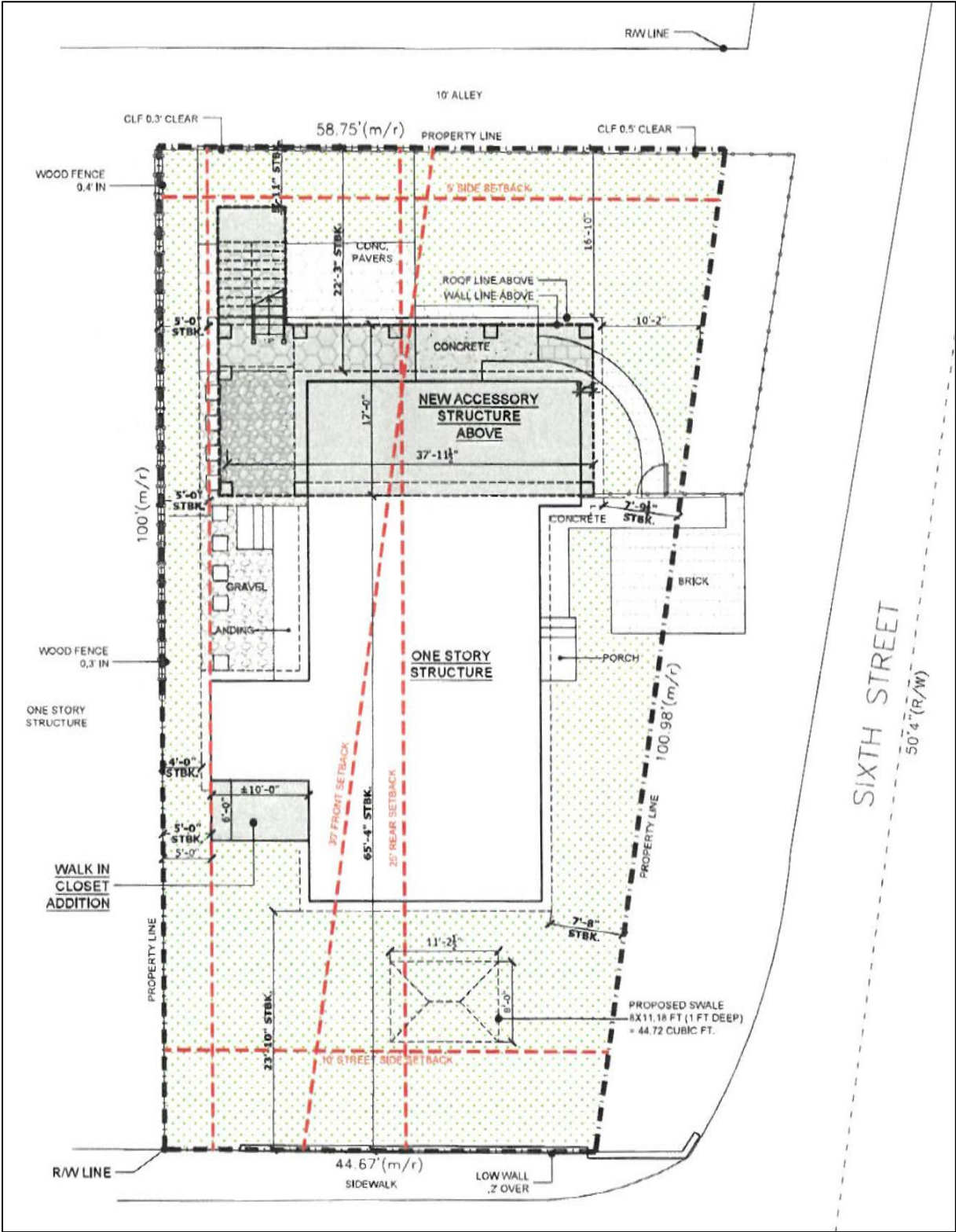
It should be noted that given the shape of the lot and the orientation of the home towards 6th Street, the front and rear setbacks actually intersect the principal structure. The application would not be able to construct an addition without a variance.



Existing Site Plan, submitted by the applicant



Proposed Site Plan, submitted by the Applicant.



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

Site Data Table

Dimensional Requirement	Required/Allowed	Existing	Proposed	Variance Request
Height	25 + 5 feet	15'5"	25'3"	In compliance
Front Setback	30 feet	7'8"	7'10"	22'2"
Side Setback	5 feet	22'3"	5'11"	In compliance
Street Side Setback	10 feet	23'10"	No change	In compliance
Rear Setback	25 feet	4'0"	4'0"	21'
Building Coverage	35% (1,810 sqft)	31% (1,583 sqft)	40% (2,065 sqft)	5% or 255 sqft
Impervious Surface	50%	46.8%	46.8%	In compliance

Process:

Planning Board Meeting: November 18, 2021

HRAC: 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 building located at 1426 6th Street has been in the same or a similar configuration since being constructed in the 1960's.

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 residence was constructed in 1963 and the lot is of an irregular shape. No development could occur on this lot within the required setbacks unless the home were re-oriented to face (front) Flagler Avenue, which may require significant renovation or reconstruction. The applicant purchased the home in 2009. The proposal of the addition is created 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.*

The Land Development Regulations set maximum setbacks and building coverage to ensure life safety, general welfare, health standards, and aesthetics. The proposed addition would be requested to fall almost exactly within the area already occupied by the existing historic home.

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 the other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.*

The Land Development Regulation's allowable building coverage and setbacks are designed to curtail over development on lots as well as ensuring sustainability of the block by regulations. Applicant is seeking to build more habitable space above flood elevation. Home is in the AE8 flood zone. Applicant could adjust their proposal to add the second story structure smaller or on the other side of the house, where there is more room within the setback boundaries, however, without changing the overall orientation of the structure, the site is extensively constricted by the SF zoning setbacks.

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. The applicant is requesting the addition of more room in the house.

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 would not be in harmony with the general intent of the land development regulations but would not be injurious to the area involved or detrimental to the public interest or welfare. The applicant could construct a second story addition without seeking a variance, but it may require extensive renovation or reconstruction and would require reorienting the “front” to Flagler Avenue.

NOT IN COMPLIANCE

7. *Existing nonconforming uses of other property shall not be considered as 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 the request.

IN COMPLIANCE

The Planning Board shall make factual findings regarding the following:

That the standards established by the City Code have been met by the applicant for a variance.

The standards established by the City Code have not 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 the neighbors.

The Planning Department has not received any public comment for the variance request as of the date of the report.

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 or 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 increase or has the effect of the 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:

The proposed construction of additions to the principal structure would add to the existing noncompliance of the property. However, unless the existing historic house were to be renovated or reconstructed to change the “front” from 6th Street to Flagler Avenue, the overlapping front and rear setbacks render the lot unbuildable.

Given the applicant is not in full compliance with all relevant criteria, the Planning Department recommends to the Planning Board **DENIAL** of the proposed variance.

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 signed, sealed and dated **11/13/2021** by Artibus Design.
2. The proposed second story addition shall not be utilized as a rental unit and is not permitted to be developed with a full kitchen.